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WEDNESDAY, MAY 10, 1978

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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: May 8, 1978]

presidential documents

[3195-01]

Title 3—The President

Proclamation 4568 • **May 9, 1978**

Application of Certain Laws of the United States to the Northern Mariana Islands

By the President of the United States of America

A Proclamation

The Northern Mariana Islands, as part of the Trust Territory of the Pacific Islands, are administered by the United States under a Trusteeship Agreement between the United States and the Security Council of the United Nations (61 Stat. 3301). The United States has undertaken to promote the political development of the Trust Territory toward self-government or independence and to protect the rights and fundamental freedoms of its people.

In accordance with those obligations, the United States and the Northern Mariana Islands have entered into a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Public Law 94-241; 90 Stat. 263). Section 1004(a) of the Covenant provides that if the President finds a provision of the Constitution or laws of the United States to be inconsistent with the Trusteeship Agreement, the application of that provision to the Northern Mariana Islands may be suspended.

Certain provisions of law restrict jury service in Federal District Courts to United States citizens. The vast majority of the inhabitants of the Northern Mariana Islands are not citizens of the United States and consequently may not participate as jurors in proceedings before the United States District Court for the Northern Mariana Islands. They may also be deprived of the right to have their cases heard before juries selected at random from a fair cross-section of their community. These results would be contrary to the obligations assumed by the United States in the Trusteeship Agreement.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, including Section 1004(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, do hereby find, declare and proclaim as follows:

Any provision of the Constitution or laws of the United States which prescribes United States citizenship as a qualification for service on a grand or petit jury in the District Court for the Northern Mariana Islands, including that provision contained in Section 1865(b)(1) of Title 28 of the United States Code, would be inconsistent with the Trusteeship Agreement if applied to a citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled, within the meaning of Section 1005(e) of the Covenant, in the Northern Mariana Islands.

Therefore, the application to such individual of any of these provisions is suspended until the termination of the Trusteeship Agreement for the Former Japanese Mandated Islands in the Pacific (61 Stat. 3301).

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

Jimmy Carter

[FR Doc. 78-12931 Filed 5-9-78; 12:39 pm]

rules and regulations

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

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

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q; Docket No. R-0027]

PART 217—INTEREST ON DEPOSITS

Withdrawals from Savings Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On February 2, 1978, the Board of Governors of the Federal Reserve System invited public comment on a revised proposed amendment to Regulation Q (Interest on Deposits) that would permit banks that are members of the Federal Reserve System to arrange with their depositors for the automatic transfer of funds from depositors' savings accounts to demand deposit (checking) and other accounts to cover checks drawn by depositors or to replenish or maintain a minimum balance in such accounts (43 FR 5008). The period for receipt of public comment on the proposed amendment expired on March 20, 1978. After consideration of the comments submitted and the views expressed therein, the Board has determined to adopt the proposed amendment with modifications, effective November 1, 1978. The amendment adopted differs slightly from the proposal in that it does not require the imposition of an interest forfeiture. However, the Board encourages member banks to develop charges for automatic transfers to reflect the costs of providing the service to depositors. The Board will monitor the development of this new service, including its competitive effects among various types of banks and nonbank depository institutions, and will review the appropriateness of making any modifications on or before the first anniversary of the effective date of this amendment.

As adopted, the transfer service is entirely voluntary, and automatic transfers may not be made unless previously authorized in writing by the depositor. In addition, the automatic transfer service will be available only to individuals and not to business and other organizations or governmental units. For purposes of this provision, a partnership is considered to be a business or other organization. The automatic transfer service will provide depositors with an alternative to existing arrangements, such as automatic overdraft loans, when there are insufficient funds in depositors' checking accounts. The service should also increase the efficiency of the Federal Reserve's check clearing operations by reducing the number of return items processed by the System.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen L. Raiken, Associate General Counsel, 202-452-3625 or Gilbert T. Schwartz, Senior Attorney, 202-452-3623 Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In response to notice published in the FEDERAL REGISTER (43 FR 5008), the Board has received and carefully reviewed almost 1,400 comments on the proposed amendment. A majority of those responding (52.2 percent) favored adoption of the proposal. Of the 382 commercial banks commenting, 254 (66.5 percent) favored adoption of the proposed amendment; 517 individuals responded, with 424 (82 percent) in favor of adoption; 370 savings and loan associations (100 per cent of those responding) opposed adoption of the proposal. Those responding in favor generally commented that the proposal represents a convenience and benefit to consumers and that it would save overdraft charges that would be assessed if the service were not available. Those opposed to the proposal principally commented that the proposal would authorize the payment of interest on demand deposits in violation of law (12 U.S.C. 371a) and that it would pre-empt Congressional action by creating nationwide negotiable order of withdrawal (NOW) accounts. Others commented that the proposal would give commercial banks an unfair competitive advantage over savings and loan associations and other thrift institutions. (A detailed summary of comments received is available upon request from the Board's Office of Public Affairs, telephone 202-452-3204; 3215.

After consideration of the issues presented, the Board finds that this amendment would provide significant benefits to the public in the form of an additional convenient savings deposit withdrawal service. The amendment should also increase the efficiency of the Federal Reserve's check clearing operations by reducing the number of return items processed by the System. Consequently, the Board has determined to adopt the proposal, effective November 1, 1978.

The Board believes that the automatic transfer service does not violate the prohibition against the payment of interest on demand deposits. Section 19(a) of the Federal Reserve Act (12 U.S.C. 461) authorizes the Board to define the terms "savings deposit" and "demand deposit." Pursuant to section 19, the distinction drawn in the Board's regulations between savings and demand deposits is that a bank must reserve the right to require at least 30 days notice prior to withdrawal from a savings deposit, while demand deposits are available on demand. The amendment does not alter this basic distinction, and member banks will continue to be required to reserve the right to impose at least a 30-day notice period on intended withdrawals of savings deposits as presently required in section 217.1(e) of Regulation Q (12 CFR Part 217).

Further, it is the Board's view that the amendment does not authorize member banks to establish NOW accounts, which involve the use of negotiable orders of withdrawal to effect transfers of funds directly from savings accounts for payments to third parties. Section 1832(a) of Title 12 of the United States Code prohibits the drawing of negotiable or transferable instruments for the purpose of making transfers to third parties against a deposit or account on which interest or dividends are paid except in the six New England States. The Board's amendment does not authorize member banks to permit depositors to draw negotiable or transferable instruments against interest bearing savings accounts for the purpose of making transfers to third parties and does not affect the restriction that, outside of New England, member banks may

permit depositors to draw negotiable instruments only against noninterest bearing demand deposit accounts. The amendment only permits member banks to arrange in advance with depositors to withdraw funds automatically from a depositor's savings account to be transferred to a noninterest bearing demand deposit account against which checks may be drawn or other accounts. The effect of the amendment, therefore, is to provide depositors with a withdrawal service that is identical in its essential elements to withdrawal services that banks already are authorized to offer to depositors such as withdrawals in person or via telephone.

In adopting this amendment, the Board has given careful consideration to its potential effect on the competitive balance among financial institutions, and has determined that adoption of the service will not seriously affect the flow of funds to thrift institutions under the existing ceiling rate structure. The amendment only enables member banks to offer an additional deposit withdrawal and transfer service similar to the preauthorized bill payment and telephone withdrawal services that both banks and savings and loan associations are presently permitted to offer. Thus, this additional service is likely to affect mainly the composition of commercial bank deposit liabilities, as depositors use the added convenience to hold somewhat less funds in demand deposit accounts that bear no interest and somewhat more in savings accounts.

The amendment, as adopted, is in essentially the form proposed, but with one modification. As proposed, the amendment would have required a forfeiture of interest in an amount no less than the amount of interest actually earned during the previous 30 days on the funds transferred from savings to checking accounts. As adopted, the amendment does not require the imposition of an interest forfeiture. This modification was adopted after consideration of comments received that indicated that the proposed required forfeiture of interest would necessitate substantial and costly operational changes by banks offering the automatic transfer service and would significantly lessen the benefits to consumers of the automatic transfer service. In order to maximize benefits to consumers, the Board has determined to adopt the amendment without a required interest forfeiture. However, during the first year after the effective date, the Board will monitor the effects of the automatic transfer service, including its effect on the competitive structure among banks and thrift institutions. The Board intends to work with the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation to gather information concerning the effects of the proposal on banks, savings and loan associations and other thrift institutions. Not later than one year after the effective date, the Board will review available data and will report its findings to the public.

Although the amendment does not require the imposition of an interest forfeiture, on the basis of comments received, the Board expects that banks will impose service charges that reflect, among other factors, the costs of providing the service to depositors. The Board believes that such charges imposed by member banks are appropriate. Accordingly, the Board encourages all member banks to evaluate their costs for providing the automatic transfer service and, in light of competitive circumstances, to develop charges for the service. Member banks are urged to impose such charges in the form of an interest forfeiture to afford depositors the opportunity to report such amounts as interest forfeited for income tax purposes to the extent permissible under Federal and State law.

The amendment does not impose a minimum denomination requirement on the amount of savings funds that may be transferred automatically. However, member banks may, if so desired, impose such a minimum denomination requirement.

Member banks will continue to be required to reserve the right to impose at least a 30-day notice period on intended automatic withdrawals of savings deposits as presently required in § 217.1(e) of Regulation Q (12 CFR Part 217). It is required that such reservation specifically be called to the depositor's attention and be stated prominently in written arrangements authorizing the transfer service entered into by banks and their depositors. In addition, as in all advertisements, announcements, and solicitations, member banks are expected to describe accurately the terms and conditions under which savings deposits may be automatically withdrawn and transferred pursuant to this rule.

The amendment will not affect arrangements whereby a thrift institution has agreed with its customer to transfer funds automatically or otherwise to the customer's demand deposit account at a member bank in accordance with a preauthorized agreement. Similarly, the amendment does not affect the ability of a member bank to use a depositor's savings deposit in satisfaction of a debt where the bank is authorized to do so under local law.

Under the terms of the proposal announced by the Board on February 2, member banks would be required to maintain data on funds transfers via the automatic transfer service in a manner that would facilitate data collection by the Board. In this connection, the Board has determined that member banks should maintain the following data on a monthly basis with regard to the automatic transfer service: the total amount of savings deposits subject to automatic transfer, the total amount of savings funds actually transferred, the number of such automatic transfers during the month, and the interest forfeiture or other charges imposed by the bank.

In view of the comments received which indicated that a delayed effective date of 60 days, as proposed by the Board in its February 2 release, was not sufficient, the Board has determined that the amendment will become effective on November 1, 1978. The Board believes that delaying the effective date of the amendment for approximately six months will provide sufficient time for member banks to effect the operational and marketing changes necessary to introduce the automatic transfer service in an orderly and beneficial fashion.

Pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461, 371b), effective November 1, 1978, the Board of Governors amends § 217.5(c) (2) and (3) of Regulation Q (12 CFR 217.5(c) (2) and (3)) to read as follows:

§ 217.5 Withdrawal of savings deposits.

* * * * *

(c) *Manner of payment of savings deposits.* * * *

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, withdrawals may be permitted by a member bank to be made automatically or as a normal practice from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to a written authorization from the depositor to make such payments or transfers in order to cover checks or drafts drawn upon the bank or to maintain a specified balance in or to make periodic transfers to such accounts. In accordance with § 217.1(e)(2), a member bank must reserve the right to require the depositor to give notice in writing of an intended withdrawal not less than 30 days before such withdrawal is made. Such notice shall be prominently disclosed and specifically brought to the depositor's attention at the time the automatic transfer service is authorized. A member bank may not require a depositor to authorize such automatic transfers to be made from savings deposits.

(3) A member bank may permit depositors to maintain deposits subject

to negotiable orders of withdrawal where authorized by Federal law.

* * * * *

By order of the Board of Governors, May 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-12699 Filed 5-9-78; 8:45 am]

[1505-01]

Title 19—Customs Duties

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

[T. D. 78-99]

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

Correction

In FR Doc. 78-8181, appearing at page 13058 in the issue of Wednesday, March 29, 1978, the first line of the second column on page 13060 should read, "'section 141.11(b)' for the reference 'section 8.6(n)' wherever it appears."

[4310-02]

Title 25—Indians

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

SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

PART 113—ALASKA NATIVE FUND

Recognition of Assignments of Future Interests

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

ACTION: Final rules.

SUMMARY: These regulations implement section 31 of the Alaska Native Claims Settlement Act, as amended by section 4 of the Act of November 15, 1977, which gives the Secretary of the Interior the authority to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund.

EFFECTIVE DATE: May 10, 1978.

ADDRESS: Assistant Director, Financial Management, Office of Administration, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Louis H. Conger, Jr., Bureau of Indian Affairs, 202-343-6342.

SUPPLEMENTARY INFORMATION: Section 4 of the Act of November 15, 1977 (Pub. L. 95-178; 91 Stat. 1369, 1370; 43 U.S.C. 1628), amended the Alaska Native Claims Settlement Act by adding a new section 31 which provides as follows:

(a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsection (j) or (m) of section 7 of this Act.

(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserve the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.

These rules implement that provision.

Prior to the enactment of that provision, it had been determined that the Secretary had no authority to recognize such assignments of a Regional Corporation's future interest in the Alaska Native Fund. Comptroller General Opinion No. B-108439 (November 16, 1976). The cited opinion stated that recognition of such an assignment by the Secretary was prohibited by the terms of the so-called Anti-Assignment Act (31 U.S.C. 203). However, the opinion acknowledged that the Act did not prohibit a Regional Corporation from assigning its right to future distributions from the Alaska Native Fund. Only Secretarial recognition of such an assignment was prohibited by the Anti-Assignment Act. Absent such recognition, the Secretary is obliged only to make distributions of the Alaska Native Fund as directed by the payee Regional Corporations; he cannot be bound by the terms of the assignment.

Government recognition of assignments of these claims against the United States in effect provides the assignee with a secured interest in the future distributions. After recognition, a Regional Corporation is no longer able to direct the Secretary to make payments of its share of the Alaska Native Fund in a manner inconsistent with the terms of the assignment. The Act of November 15, 1977, now gives the Secretary the authority to create such a secured interest. This will enable Regional Corporations to borrow the necessary capital for development projects at reduced interest rates. However, the new authorization permits the Secretary only to recognize such assignments to the extent that the Regional Corporation is not required to distribute those funds pursuant to subsection (j) or (m) of section 7 of the Settlement Act. Those provisions require a Regional Corporation to redistribute a certain percentage of its Alaska Native Fund share to the Village Corporations in its region and to certain stockholders.

The following rules have been formulated to require that a Regional Corporation provide evidence that the Corporation's Board of Directors has authorized an assignment, and that it specifically intended that the Secretary recognize that assignment. These rules would not require that the Secretary substitute his business judgment for that of the Regional Corporation in determining whether to recognize a validly executed assignment.

DRAFTING INFORMATION

Proposed rules were published on March 2, 1978 (43 FR 8557). Interested persons were given until April 3, 1978, to submit written comments. Nine comments were received, six from representatives of Regional Corporations. The following changes were made in the proposed rules.

In response to one suggestion, the definition of "Assignee" in § 113.2 was clarified. In addition, the definition of "Payee" was broadened to include savings institutions insured by the Federal Savings and Loan Insurance Corporation and federally insured credit unions. The regulation also requires that payees be capable of receiving payment through the United States Treasury's Financial Communication System.

Referring to § 113.3(c), two commenters questioned the need to require that a Regional Corporation designate an eligible payee to receive its quarterly distributions, in the absence of a recognized assignment. This provision was inserted to insure the speedy and safe delivery of the quarterly distributions, without an unnecessary loss of interest. The provision is also a reflection of the current practice of all Regional Corporations.

Another commenter, speaking on behalf of a Village Corporation, expressed the view that priority should not be given to selected creditors of a Regional Corporation when that corporation has outstanding obligations to Village Corporations within its region. This concern was addressed by adding a new subsection (b) to § 113.4, repeating language from section 31(a) of the Act. This addition is intended to emphasize that Village Corporation and stockholder entitlements under section 7(j) of the Act remain unaffected by recognition of a validly executed assignment of a Regional cor-

poration's future interests in the Fund.

Several comments were received in response to the application process of proposed § 113.4(c). One questioned the requirement of subsection (c)(2) that the assignment be of a "fixed sum." The commenter stated that under most credit financing arrangements it is impossible to predict the amount which will ultimately be paid to the creditor and which is also the amount for which a recognized assignment is desired to secure the creditor's interest. He proposed that assignments be made and recognized on a "standby basis," i.e., that they remain in effect until canceled by the parties.

The decision was made to retain the "fixed sum" requirement, rather than to permit the recognition of "open-ended" assignments. The latter would make it difficult for the Regional Corporation to enter into additional assignments of its future interests in the Fund. Secondly, such assignments would also depend entirely on the good faith of the assignee/creditor to agree upon cancellation when the Regional Corporation believes it has paid its obligation in full. Thus, when a contractual dispute arises between the parties to an open-ended assignment, the assignee could unfairly refuse to agree to request cancellation of the Secretary's recognition—even where the amount financed is but a small fraction of the Regional Corporation's ultimate entitlement from the Fund. Rather, the authors of these regulations thought that the parties to a proposed assignment could in all cases agree upon a reasonable amount to secure the assignee's interest, and then seek recognition of an assignment of that amount.

The Deputy Comptroller General of the General Accounting Office offered the comment that the requirement of proposed § 113.4(c)(4) (now (d)(4)), that the applicant Regional Corporation submit a resolution of it's Board of Directors authorizing the assignment, may be inadequate in some circumstances. He pointed out that Alaska Statutes §§ 10.05.435-.44 require shareholder approval of mortgages or pledges of all or substantially all of the property or assets of an Alaska corporation, if not made in the usual and regular course of business. The authors of these regulations thought it unlikely that an assignment of a fixed amount of a Regional Corporation's future interests in the Alaska Native Fund would fall in the category of transactions requiring shareholder approval. But a requirement was added to the regulation that the applicant must submit evidence of stockholder approval, when required by Alaska law.

In response to three other comments, the requirements of proposed subsection (c)(5) were clarified in several respects. The primary change was the revision of paragraph (c)(5)(ii) (now (d)(5)(ii)), to emphasize that all claims of the United States against the assignor may be asserted against the assignee.

Two commenters criticized the requirement of proposed § 113.4(d) that an applicant Regional Corporation be current in its transmittal of annual audit reports to the Secretary pursuant to section 7(o) of the Act. A number of Regional Corporations have been delinquent in this respect. Section 7(d) of the Act provides that a Regional Corporation "shall be eligible for the benefits of this chapter so long as it is organized and functions in accordance with this chapter." 43 U.S.C. 1606(d). The question of the Secretary's authority and responsibility in this regard is currently under study within the Department, and the proposed requirement has thus been deleted as premature.

In response to a comment of the Deputy Comptroller General, proposed § 113.4(e)(1)(iii) has been revised for purposes of clarity.

One commenter suggested that the register of recognized assignments provided for in § 113.5 also reflect the date of receipt of applications for recognition, and that priority among assignments by a single Regional Corporation be established by reference to that date of receipt. The first suggestion was adopted, but not the second. Section 113.7 provides a more effective way of determining priority among assignments. Rather than institutionalizing a "race of the applications" and making creditors' rights dependent upon the vagaries of the mail system, it was thought that the Regional Corporation should have the responsibility of arranging priority among its assignees for whom there are competing applications for recognition. The Assistant Secretary is expected to defer to that judgment. Of course, once an assignment is recognized, a Regional Corporation may not re-establish priorities without the concurrence of the recognized assignees.

Four commenters were critical of proposed § 113.6, contending that the Secretary had no business prohibiting re-assignment of a Regional Corporation's future interests in the Fund. The proposed section, however, did not prohibit re-assignment, but only prohibited Secretarial recognition of such transactions since the Secretary's authority extends only to recognition of assignments "made by Regional Corporations." Nevertheless, because of the confusion created by proposed § 113.6(a), it has been rewritten to clarify the point that assignees may make "sub-assignments" but that the Assistant Secretary has no authority to recognize them.

In response to one comment, proposed § 113.10(a) was rewritten to require the Assistant Secretary to inform an applicant Regional Corporation of his reasons for denial of the application. The proposed provision had only required the transmittal of such information upon a Regional Corporation's petition for reconsideration.

These regulations were authored by employees of the Division of Financial Management of the Bureau of Indian Affairs, and attorneys in the Division of Indian Affairs of the Office of the Solicitor, U.S. Department of the Interior. The principal authors were Louis H. Conger, Jr., Bart Wright, and Margaret Daniels of the Bureau of Indian Affairs, and Scott Keep and Tim Vollmann of the Solicitor's Office.

NOTE.—The Department of the Interior has determined that these regulations do not have major economic consequences requiring preparation of a regulatory analysis in accordance with section 3 of Executive Order 12044 (March 23, 1978).

Considerable interest has already been expressed in these regulations by both Regional Corporations and their creditors. Within two weeks of enactment of the Act of November 15, 1977, the Department began to receive copies of assignments and requests for their recognition. Meanwhile, two Regional Corporations have indicated that recognition of new assignments may be needed as soon as possible to implement financial arrangements critical to those Corporations' futures. Because the Regional Corporations appear to desire implementation of this program as soon as possible, and because these final rules are not significantly changed from the proposed rules published on March 2, 1978, it has been determined that there is good cause for making these regulations effective upon publication, rather than waiting 30 days as otherwise required by the Administrative Procedure Act, 5 U.S.C. 553(d).

These regulations are promulgated in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 1.2A(1).

Subchapter J of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by adding a new Part 113, as follows:

Sec.
113.1 Scope and purpose.
113.2 Definitions.
113.3 Payment of shares in the Fund in the absence of recognition of an assignment.
113.4 Recognition of assignments.
113.5 Register of recognized assignments.
113.6 Sub-assignment.
113.7 Multiple assignments.
113.8 Disclaimer.
113.9 Cancellation of assignments.
113.10 Decision; finality.

AUTHORITY: Sec. 25 and 31, Pub. L. 92-203, 85 Stat. 715, as amended by Pub. L. 95-178, 91 Stat. 1370 (43 U.S.C. 1624, 1628).

§ 113.1 Scope and purpose.

(a) The regulations in this part shall apply to all future distributions of the Alaska Native Fund pursuant to section 6 of the Alaska Native Claims Settlement Act (43 U.S.C. 1605), except money reserved for the payment of attorney and other fees as provided in section 20 of the Act (43 U.S.C. 1619).

(b) These regulations are not intended (1) to alter the distribution formula of section 6 of the Act (43 U.S.C. 1605), or the redistribution formulas of sections 7(j) or 7(m) of the Act (43 U.S.C. 1606(j), (m)); or (2) to require the distribution of money in the Fund when not authorized by the Act, or when the money has been set aside in an escrow or reserved account pursuant to an order of a court of competent jurisdiction.

(c) The regulations in this part are intended to implement section 31 of the Act (43 U.S.C. 1628) which authorizes the Secretary to recognize validly executed assignments of a Regional Corporation's rights to receive payments from the Fund.

§ 113.2 Definitions.

As used in the regulations in this part.

Act means the Alaska Native claims Settlement Act, as amended (Pub. L. 92-203, 85 Stat. 715, 43 U.S.C. 1601 et seq.; Pub. L. 95-178, 91 Stat. 1370).

Assignee means the person or entity receiving from a Regional Corporation an assignment of certain of the corporation's future interests in the Fund.

Assignor means a Regional Corporation which has assigned to another certain of its future interests in the Fund.

Assistant Secretary means the Assistant Secretary for Indian Affairs, U.S. Department of the Interior, or his authorized representative.

Fund means the Alaska Native Fund created by section 6 of the Act (43 U.S.C. 1605).

Payee means the recipient of a distribution from the Fund. The payee must be a financial corporation such as a bank, credit union, or savings and loan association which is insured under the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Federal Savings and Loan Insurance Corporation, respectively. The payee must be capable of receiving payment through the United States Treasury's Financial Communication System.

Regional Corporation means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of the Act.

Secretary means the Secretary of the Interior.

§ 113.3 Payment of shares of the Fund in the absence of recognition of an assignment.

(a) All money in the Fund shall be distributed by the Assistant Secretary at the end of each three months of the fiscal year among the Regional Corporations on the basis of the relative numbers of Natives enrolled in each region.

(b) Except as otherwise authorized in the regulations in this part, a Regional Corporation's quarterly share of the Fund shall be made payable to the Regional Corporation through a payee designated by the Regional Corporation.

(c) A Regional Corporation may designate a payee of its quarterly share at any time, and may change that designation at any time, *provided that* the Assistant Secretary receive written notification of any such designation or change in designation at least ten (10) days before the quarterly distribution date. Any such designation must include the name and address of the payee and the identifying American Banking Association number.

§ 113.4 Recognition of assignments.

(a) Upon application of a Regional Corporation, as provided in paragraph (c) of this section, the Assistant Secretary shall recognize a validly executed assignment of that portion of a future interest in the Fund not subject to the redistribution provisions of sections 7(j) and 7(m) of the Act. A future interest which is not subject to those redistribution provisions shall be referred to in this section as an "assignable future interest" or the "assignable portion of a quarterly distribution."

(b) Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsections (j) or (m) of section 7 of the Act.

(c) Upon recognition of such an assignment, the Assistant Secretary shall distribute the amount assigned to the payee designated by the parties to the assignment, and shall continue to pay the amount assigned to that payee, except as provided by §§ 113.6(b) and 113.9.

(d) A Regional Corporation's application for recognition of an assignment of a future interest in the Fund (1) shall be addressed to the Assistant Secretary for Indian Affairs, Attn.: Assistant Director, Financial Management, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20240; (2) shall specifically request that the Assistant Secretary recognize an assignment of a fixed sum to which the Regional Corporation may be entitled from the Fund; (3) shall designate a payee of the amount assigned; (4) shall be accompanied by a duly-adopted resolution of the Board of Directors of the Regional Corporation, which resolution authorizes the making of the assignment and the application for recognition of that assignment by the Secretary of the Interior, or evidence of stockholder approval when required by Alaska state law; and (5) shall be accompanied by one executed copy and three facsimile copies of a validly executed assignment of all or a portion of the Regional Corporation's assignable future interest in the Fund, which assignment shall contain the following language:

(i) The parties to this assignment agree to seek recognition of this assignment by the Secretary of the Interior, as authorized by section 4 of the Act of November 15, 1977, Pub. L. 95-178 (91 Stat. 1369, 1370).

(ii) It is understood by the parties to this assignment that in the event the Secretary of the Interior recognizes this assignment, the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has, or may have, against the Assignor Corporation.

(e)(1) An assignment may provide that: (i) All of the assignable portion of each quarterly distribution be paid to the payee designated in the application for recognition of assignment;

(ii) A fraction of the assignable portion of each quarterly distribution be paid to the designated payee; or that

(iii) The assignable portion of each quarterly distribution, up to a stated maximum amount, be paid to the designated payee.

(2) Other formulas for assignment of assignable future interests may be recognized if (i) such a formula clearly identifies what portion of each affected quarterly distribution is to be paid to the designated payee, and (ii) the formula will permit the Assistant Secretary to set priorities in accordance with § 113.7 when subsequent application is made for recognition of additional assignments.

§ 113.5 Register of recognized assignments.

The Assistant Secretary shall maintain and make available for inspection by the public a register of requests for recognition of assignments and assignments recognized by him pursuant to the regulations in this part. Such register shall list the name of the Regional Corporation; the name and address of the assignee; the name, address, American Banking Association number, and account number for deposit of the payee of the amount assigned; the amount assigned; the amount paid at each quarterly distribution under the terms of the assignment; and the date of the Assistant Secretary's recognition.

§ 113.6 Sub-assignment.

(a) Nothing in the regulations in this part shall prohibit an assignee from

making a valid sub-assignment of a Regional Corporation's rights to receive payments from the Fund. However, the Assistant Secretary has no authority and shall not recognize any sub-assignment by the assignee of any future interest of a Regional Corporation in the Fund.

(b) The Assistant Secretary may accept a re-designation of a new payee of an assignment recognized by the Assistant Secretary, upon application of an authorized official of the assignee in accordance with § 113.3(c).

§ 113.7 Multiple assignments.

(a) The Assistant Secretary may recognize more than one assignment of a Regional Corporation's future interests in the Fund. A second or later assignment of a Regional Corporation's future interest in the Fund, when recognized in accordance with § 113.4, shall be recognized subject to assignments already recognized.

(b) The Assistant Secretary shall not recognize an assignment of a Regional Corporation's future interest in the Fund if he has more than one outstanding application from that Corporation seeking recognition of such future interests. If more than one application from a Regional Corporation is pending before the Assistant Secretary, he shall notify both the Regional Corporation and the assignees of the assignments sought to be recognized, and seek a written consensus on the priorities to be established. In the Absence of such a consensus, the Assistant Secretary shall not recognize any such assignment.

§ 113.8 Disclaimer.

The Assistant Secretary does not guarantee by any action taken pursuant to the regulations in this part that the entitlement of a Regional Corporation to any quarterly distribution of the Fund shall be of any given amount, or that the cumulative entitlement of that Corporation will reach any given sum.

§ 113.9 Cancellation of assignments.

(a) The Assistant Secretary shall cancel his recognition of an assignment upon joint application of the assignee and Regional Corporation involved. Such application must include a resolution of the Board of Directors of the Regional Corporation, and a validly executed agreement between the Regional Corporation and assignee cancelling the assignment and authorizing the Secretary of the Interior to cancel his recognition of the assignment.

(b) Such cancellation of recognition of an assignment shall be reflected in the register compiled by the Assistant Secretary as provided in § 113.5.

§ 113.10 Decision; finality.

(a) A decision of the Assistant Secretary not to recognize an assignment of a future interest in the Fund shall inform the Regional Corporation what defects, if any, remain in its application for recognition, and shall provide the corporation with an opportunity to cure those defects.

(b) A decision of the Assistant Secretary to recognize an assignment of a Regional Corporation's future interest in the Fund shall not be subject to reconsideration or administrative appeal, and shall therefore be final for the Department.

Dated: April 28, 1978.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-12703 Filed 5-9-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 777-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart T—United States Marshals Service

DELEGATING CONTRACTING AUTHORITY FOR THE SUPPORT OF CERTAIN FEDERAL PRISONERS TO THE DIRECTOR, UNITED STATES MARSHALS SERVICE

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice Appropriation Act, 1978, has transferred from the Bureau of Prisons to the United States Marshals Service the appropriations for the supervision and support in non-Federal institutions of United States prisoners who are in the custody of the United States Marshals (Pub. L. 95-86, 91 Stat. 425). Under the resulting realignment of functions the United States Marshals Service has become responsible for the contracting with non-Federal authorities for the detention in non-Federal facilities of prisoners who are in its custody. This Order delegates to the Director, United States Marshals Service, the authority provided for in section 4002, title 18, United States Code, for the contracting with the proper authorities in any State, Territory, or political subdivision thereof for the imprisonment, subsistence, care, and proper employment of such Federal prisoners.

EFFECTIVE DATE: April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Hall, Director, United States Marshals Service, Washington, D.C. 20530 (202-739-5345).

By virtue of the authority vested in me by U.S.C. § 301 and 28 U.S.C. §§ 509, 510, Section 0.111 of Subpart T of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new paragraph (o) immediately after paragraph (n) to read as follows:

§ 0.111 General functions.

* * * * *

(o) Contracting with the proper authorities of any State, Territory or political subdivision thereof, for the imprisonment, subsistence and care of Federal prisoners under the custody of the U.S. Marshals including contracting for such physical improvements as may be required.

Dated: April 27, 1978.

MICHAEL J. EGAN,
Acting Attorney General.

[FR Doc. 78-12637 Filed 5-9-78; 8:45 am]

[3410-11]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 212—ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

PART 295—USE OF MOTOR VEHICLES OFF FOREST DEVELOPMENT ROADS

Final Rules

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations on the administration of the Forest Development Transportation System and use of vehicles off Forest Development Roads. The action is necessary to reflect an earlier amendment which consolidated all regulations on prohibited acts. The effect of the rule will be to clarify existing regulations, consolidate administrative regulations relating to roads and trails, and specify that certain regulations concern vehicles that travel off Forest Development Roads.

EFFECTIVE DATE: May 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Willard Clementson, 703-235-8074 or William Holman, 202-447-4228.

SUPPLEMENTARY INFORMATION: On September 16, 1977, a notice of proposed amendment to the regula-

tions on the administration of the Forest Development Transportation System and use of vehicles off Forest Development Roads was published in the FEDERAL REGISTER 42 FR 46553. This action was necessary because of an earlier amendment which consolidated all regulations on prohibited acts in 36 CFR Parts 261.

Interested persons were given until October 17, 1977, to submit written data, views or objections. All comments received were given full and careful consideration in developing final regulations. The full text of such comments are on file and available for public inspection in Room 4148, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Many comments received concerned format, style of expression, grammatical preferences and clarification. Consideration of the more substantive comments received are summarized as follows:

Comment. The regulations are too general in that they do not provide direction to look at the specific type of off-road vehicle responsible for environmental damage.

Response. The language in §§ 295.2, 295.3 and 295.5 has been revised.

Comment. The regulations fail to incorporate the very important consideration of recreational benefit to users of motorized vehicles on Forest lands.

Response. The regulation has been rewritten to take care of this concern. (§ 295.2)

Comment. Clarify what is meant by the word "use" in § 295.4(b).

Response. Clarified by using the term *"vehicle use"*.

Comment. Insure that regulations do not allocate lands to single use such as recreation.

Response. The regulations in Part 295 deal with the administration of vehicles off roads with no intention to allocate Forest lands to a single use. Regulations pertaining to multiple use of the National Forests are contained in other parts of Title 36 Code of Federal Regulations.

Comment. Vehicle closures in emergency situations should be temporary.

Response. Comment is incorporated, see § 295.3.

Comment. Undesignated Forest lands should be closed to off-road vehicle(s) pending designation under the land management planning process.

Response. Off-road vehicle plans have been completed and are being implemented on 150 National Forests out of 154 National Forests. Within these Forests, areas have been designated as "open for off-road vehicles," "open to off-road vehicles but with restrictions" or "closed to off-road vehicle use." Some closures have been made within the four National Forests without completed plans to protect sensitive areas or minimize conflicts. The plans and closures have been developed in keeping with Section 3 of Executive Order 11644 as amended May 24, 1977.

Comment. Proposed amendment should contain additional and more specific guidelines to carry out the intent of the executive orders regarding operation of vehicles off roads.

Response. The regulations as amended reflect the purpose and intent of the executive orders. We are revising the direction in FSM 2350 to include guidelines for consideration of environmental effects, monitoring of effects, law enforcement and future review of off-road vehicle plans.

Comment. Lands categorized as wilderness study areas or inventoried roadless areas should be closed to off-road vehicles.

Response. Actions that adversely affect the wilderness characteristics of wilderness study area and inventoried roadless areas will not be permitted until detailed studies are completed and decisions made regarding their final disposition as Wilderness. If it is determined that motorized vehicle use will cause irreversible adverse effects on wilderness values, such areas will be closed to motorized vehicle use on a case-by-case basis.

Comment. Areas where wilderness study has been completed and are awaiting Congressional designation as wilderness should be closed to off-road vehicles.

Response. Those areas where off-road vehicles are causing or likely to cause irreversible effects to wilderness values, will be closed to such use on a case-by-case basis.

Comment. The regulations should be flexible enough to allow administrative discretion at local levels within reasonable limits.

Response. The regulations provide broad guidelines within which Forest Supervisors have the authority to develop off-road vehicle plans based on an assessment of environmental conditions.

Comment. The regulations should include more specific guidelines to require annual evaluations and reports.

Response. Monitoring will take many forms depending on use and resource capability. Resource managers must have flexibility to monitor based on specific situations including local needs and resource capability. Procedures for monitoring are included in FSM 2350.

Other than reflected above, there are no other changes of substance.

These actions were taken pursuant to the requirements of the Administrative Procedures Act (5 U.S.C. 553), adopted by this Department as a matter of policy on July 24, 1971, (36 FR 13804).

As a result of this process the following changes in 36 CFR Chapter II are made:

1. Section 212.7(a) is revised to read as follows:

§ 212.7 Road system management.

(a) *Traffic rules.* Rules set forth under 36 CFR Part 261 and this section shall apply to all forest development roads under the jurisdiction of the Forest Service except when in conflict with written agreement.

(1) *General.* Traffic on roads is subject to State traffic laws where applicable except when in conflict with the rules established under 36 CFR Part 261.

(2) *Specific.* The following specific traffic rules shall apply unless different rules are established in 36 CFR Part 261.

(i) The load, weight, length, height, and width limitations of vehicles shall be in accordance with the laws of the States wherein the road is located. Greater or lesser limits may be imposed and these greater or lesser limits shall be established as provided in 36 CFR Part 261.

(ii) Roads, or segments thereof, may be restricted to use by certain classes of vehicles or types of traffic as provided in 36 CFR Part 261. Classes of vehicles are defined to include, but not be limited to, distinguishable groupings such as passenger cars, buses, trucks, motorcycles, automobiles, 4-wheel drive vehicles and tailers. Types of traffic are defined to include, but not be limited to, groupings such as commercial hauling, recreation and administrative.

(iii) Roads, or segments thereof, may be closed to all vehicle use as provided in 36 CFR Part 261.

(iv) Additional rules may be imposed as provided in 36 CFR Part 261.

§ 212.7 [Amended]

2. Section 212.7(b) is revoked and reserved.

3. Section 212.20 is revised to read as follows:

§ 212.20 National Forest development trail system operation.

(a) *Forest development trails.* Forest development trails shall be identified on a map available to the public at the offices of the Forest Supervisors and District Rangers and shall be marked on the ground by appropriate signs which reasonably bring their location to the attention of the public.

(Sec. 1, 30 Stat. 35, as amended, Sec. 205, 72 Stat. 907; (16 U.S.C. 551, 23 U.S.C. 205).)

4. Section 212.21 is revised to read as follows:

§ 212.21 Pacific Crest National Scenic Trail.

The Pacific Crest National Scenic Trail as defined by the National Trails Systems Act, 82 Stat. 919, shall be ad-

ministered primarily as a footpath and horseback riding trail by the Forest Service in consultation with the Secretary of the Interior. The use of motorized vehicles may be authorized by the Federal Agency administering the segment of trail involved when use of such vehicles is necessary to meet emergencies or to enable landowners or land users to have reasonable access to their lands or timber rights.

(Sec. 1, 30 Stat. 35, as amended: (16 U.S.C. 551), sec. 205, 72 Stat. 907 (23 U.S.C. 205), and 82 Stat. 919 (16 U.S.C. 1241 et seq.).)

6. Part 295 is retitled as shown above and revised as follows:

Sec.
295.1 Applicability.
295.2 Planning and designation for use of vehicles off forest development roads.
295.3 Public participation.
295.4 Public information.
295.5 Monitoring effects of vehicle use off forest development roads.
295.6 Revision of off-road vehicle management plans.

AUTHORITY: 30 Stat. 35, as amended (16 U.S.C. 551): 50 Stat. 525, as amended (7 U.S.C. 1011): E.O. 11644, 11989 (42 FR 26959).

§ 295.1 Applicability.

The regulations in the following parts pertain to administrative designation and location of specific areas and trails of National Forest System lands on which the use of vehicles traveling off National Forest development roads is allowed, restricted or prohibited. Prohibitions regarding use of vehicles off roads is provided in 36 CFR Part 261.

§ 295.2 Planning and designation for use of vehicles off forest development roads.

(a) On National Forest System lands, the continuing land management planning process will be used to allow, restrict, or prohibit use by specific vehicle types off roads. This process will include coordination with appropriate Federal, State and local agencies. The planning process will analyze and evaluate current and potential impacts arising from operation of specific vehicle types on soil, water, vegetation, fish and wildlife, forest visitors and cultural and historic resources. If the analysis indicates that the use of one or more vehicle types off roads will cause considerable adverse effects on the resources or other forest visitors, use of the affected areas and trails by the vehicle type or types likely to cause such adverse effects will be restricted or prohibited until such time as the adverse effects can be eliminated as provided in 36 CFR Part 261.

(b) Off-road vehicle management plans shall provide vehicle management direction aimed at resource protection, public safety of all users, minimizing conflicts among users, and provide for diverse use and benefits of the National Forests. Designation of areas and trails shall be in accordance with the following:

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas.

However, this does not preclude the use of any fire, military, emergency, or law enforcement vehicle for emergency purposes, or the use of any combat or combat support vehicle for national defense purposes, or registered motorboats, or vehicle use expressly authorized by the Chief, Forest Service, under a permit, lease, license, or contract.

§ 295.3 Public participation.

The public shall be provided an opportunity to participate in the process of allowing, restricting, or prohibiting use of areas and trails to one or more specific vehicle types off forest development roads. Sixty days advance notice will be given to allow for public review of proposed or revised designations. In emergency situations, temporary designations up to one year in length may be made or revised without public participation if needed to protect the resources and/or to provide for public safety.

§ 295.4 Public information.

In addition to the requirements of 36 CFR 261.51, information and maps will be published and made available to the public, describing:

(a) The regulation of vehicular use.

(b) Time periods when use is allowed, restricted or prohibited.

(c) The type of vehicle regulated.

§ 295.5 Monitoring effects of vehicle use off forest development roads.

The effects of use by specific types of vehicles off roads on National Forest System lands will be monitored. If the results of monitoring, including public input, indicate that the use of one or more vehicle types off roads is causing or will cause considerable adverse effects on the factors and resource values referred to in § 295.2, the area or trail suffering adverse effects will be immediately closed to the responsible vehicle type or types until the adverse effects have been eliminated and measures have been implemented to prevent future recurrence as provided in 36 CFR Part 261. Forest Supervisors may delegate immediate closure authority to District Rangers or other forest officers in order to facilitate timely actions to meet these objectives. Designations, use restrictions, and operating conditions will be revised as needed to meet changing conditions.

§ 295.6 Revision of Off-road vehicle management plans.

Forest Supervisors will annually review off-road vehicle management plans and temporary designations implemented since the last annual review. If the plan needs revision, the public will be given the opportunity to participate in the review as stated in § 295.3.

M. RUPERT CUTLER,
Assistant Secretary for Conservation, Research, and Education.

MAY 3, 1978.

[FR Doc. 78-12760 Filed 5-9-78; 8:45 am]

[4110-35]

Title 42—Public Health

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

PART 448—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

Medicaid Eligibility—Various Provisions to Implement Recent Statutory Changes and To Clarify Existing Rules

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

ACTION: Final rule; correction.

SUMMARY: This document corrects several technical errors in a final rule implementing various statutory changes in eligibility for the Medicaid program (Title XIX, Social Security Act). The final rule was published at 43 FR 9810 on March 10, 1978.

FOR FURTHER INFORMATION, CONTACT:

Mary Kenesson, 202-472-6551. In FR Doc. 78-6284 appearing at pages 9810-9816 in the FEDERAL REGISTER of Friday, March 10, 1978, the following corrections are made:

1. On page 9813, under item 1 of the amendatory language "new paragraph (c)(7) is added." is changed to read "paragraph (d) is revised.".

2. On page 9814, second column, insert five asterisks, following paragraph § 448.1(d)(iii) to indicate that paragraph (e) under § 448.1 is not revised.

3. On page 9814, third column, under item 3, the amendatory language "In § 448.3, paragraphs (b)(1)(ii), (8) and (9) are revised." is changed to read "In § 448.3, paragraphs (b)(1)(ii), (7), (8) and (9) are revised."

4. On page 9815, second column, under § 448.10(b) "(b) * * *" is changed to read "(2) * * *".

5. On page 9815, third column, insert five asterisks following the section heading "§ 448.21 Financial eligibility—Medical assistance programs" and before "(a) State plan requirements * * *" to indicate that the introductory note remains in the regulation.

6. On page 9816 under § 448.60, paragraph (b)(11) is incorrectly coded. The correct coding appears below:

§ 448.60 Institutional status.

* * * * *

(b) *Definitions.* * * *

* * * * *

(11) "Publicly operated community residence which serves no more than 16 residents" is defined in 20 CFR 416.231(b)(6)(i).

(i) A publicly operated community residence means:

(A) It must be publicly operated as defined in § 416.231(b)(2); and

(B) It must be designed and planned to serve no more than 16 residents, or the plan and design was changed to serve no more than 16 residents; and

(C) It must be serving 16 or fewer residents; and

(D) It must make available some services beyond food and shelter such as social services, or help with personal living activities, or training in socialization and life skills; occasional or incidental medical or remedial care may also be provided (as defined in 45 CFR 228.1).

(ii) Excluded from the definition of "publicly operated community residences" are the following facilities, even if their accommodations are for 16 residents or less;

(A) Residential facilities located on the grounds of or immediately adjacent to any large institution or multiple purpose complex; and

(B) Educational or vocational training institutions that primarily provide an approved or accredited or recognized program to some or all of the individuals residing within it; and

(C) Correctional or holding facilities which provide for individuals whose personal freedom is restricted because of a court sentence to confinement (prisoners), court ordered holding (material witness, juvenile) or a pending disposition of charges or status (individuals who have been arrested or detained); and

(D) Medical treatment facilities (hospitals and skilled nursing facilities, see 42 U.S.C. 1395x and intermediate care facilities, see 42 U.S.C. 1396d) which provide medical or remedial care on an inpatient basis.

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

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

Dated: May 3, 1978.

L. DAVID TAYLOR,
Acting Deputy, Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-12729 Filed 5-9-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 197—TEACHER CENTERS PROGRAM

Grants to Local Educational Agencies; Correction

AGENCY: Office of Education, HEW.

ACTION: Correction, Final regulations.

SUMMARY: In the regulations published in the FEDERAL REGISTER on January 11, 1978, pages 1762-1783, a technical correction needs to be made. The document is corrected as follows:

On page 1765, first column, third line of regulation, delete "§ 100a.16 [Amended]" and insert § 100a.10 [Amended]". In paragraph 1., first line, delete "§ 100a.16(a)" and insert "§ 100a.10(a)".

FOR FURTHER INFORMATION CONTACT:

Charles Lovett, telephone 202-245-9786.

Dated: May 3, 1978.

L. DAVID TAYLOR,
Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-12720 Filed 5-9-78; 8:45 am]

[4110-35]

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Staff Development; Correction

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

ACTION: Correction of final rule.

SUMMARY: This document corrects a typographical error in a final rule which made 45 CFR 205.202, staff development, inapplicable to medical assistance programs under title XIX of the Social Security Act. The pertinent content for title XIX is now codified at 42 CFR Part 446.

FOR FURTHER INFORMATION CONTACT:

Margaret O. Schnoor, 202-245-1960 or 245-7443.

In FR Doc. 77-34127 appearing at page 60566 in the FEDERAL REGISTER of Monday, November 28, 1977, the following correction is made: On page 60568, under item 1, the sentence "In paragraph (b), subparagraph (4) is revoked." is changed to read "Paragraph (c)(4) is revoked."

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

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

Dated: May 3, 1978.

L. DAVID TAYLOR,
Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-12719 Filed 5-9-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-295]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Permitting connection of the bridge-to-bridge radiotelephone to the reserve source of energy required for compliance with Title III, Part II of the Communications Act

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This rule permits licensees to connect the bridge-to-bridge radiotelephone to the reserve source of energy installed on the vessel for compliance with the compulsory radio requirements of the Communications Act. The Commission finds it desirable to permit connection to an existing reserve source of power to allow for continued communications in the event of a power failure.

EFFECTIVE DATE: May 16, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau, 202-632-7197

SUPPLEMENTARY INFORMATION:

Adopted: April 26, 1978.

Released: May 9, 1978.

Order. In the matter of amendment of part 83 of the Commission's rules to permit connection of the bridge-to-bridge radiotelephone to the reserve source of energy required for compliance with Title III, Part II of the Communications Act.

1. The purpose of the Bridge-to-Bridge Radiotelephone Act is to provide for a positive means whereby operators of approaching vessels could communicate their intentions to one another by means of voice radio, located convenient to the operator's navigation station. The Commission's rules require vessels subject to the Bridge-to-Bridge Radiotelephone Act be equipped with a radiotelephone installation and such accessories as may be needed to participate fully, efficiently, and readily in navigational communications.

2. While there is no requirement for a reserve source of energy for the bridge-to-bridge radiotelephone, it is certainly desirable to permit connection to an existing reserve source of power and to have that capability. The bridge-to-bridge radiotelephone is provided for the exchange of navigational information for safety and having the capability to continue communications in the event of power failure is desirable.

3. The Safety of Life at Sea Convention, London, 1960, specifies the items which are to be connected to the reserve source of energy. There is also a provision which permits Administrations to authorize connection of a small number of low-energy circuits which are wholly confined to the upper parts of the ship and on the condition that the source of energy is of sufficient capacity to carry the additional load. Therefore, the bridge-to-bridge radiotelephone may be connected to the reserve source of energy without conflict with the provisions of the Safety Convention.

4. We are, therefore, amending the rules of permit connection of the bridge-to-bridge radiotelephone to existing reserve source of energy and make provisions to assure that the reserve source of energy is of sufficient capacity to energize the bridge-to-bridge radiotelephone is addition to all other requirements. Since this amendment only allows licensees to voluntarily connect the bridge-to-bridge radiotelephone to the existing reserve source of energy without imposing additional requirements, the amendment is considered minor and hence, the prior notice, procedures and effective date provisions of 5 U.S.C. are unnecessary.

5. *It is ordered,* That pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, part 83 of the Commission's rules is amended effective May 16, 1978, as set forth below.

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

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. In § 83.446 paragraphs (a)(9) and (b)(4)(v) are amended and (b)(4)(vi) is added to read as follows:

§ 83.446 Requirements of reserve installation.

(a) All reserve radiotelegraph installations shall comply with the following conditions, in addition to all other requirements:

* * * * *

(9)(i) The reserve power supply shall be used to energize the reserve installation and the automatic radiotelegraph alarm signal keyer, and may be used to energize the audible warning apparatus included as a component of an approved auto alarm.

(ii) The bridge-to-bridge radiotelephone may be connected to the reserve power supply when the power supply is of sufficient capacity to carry the additional load.

* * * * *

(b) * * *

(4) For the purpose of determining the electrical load to be supplied by the reserve power supply, the following formula shall be used:

(i) One-half of the reserve transmitter current consumption with the key closed (mark); plus

(ii) One-half of the reserve transmitter current consumption with the key open (space); plus

(iii) One-sixth of the current consumption of the automatic radiotelegraph alarm signal keyer when this device is properly energized; plus

(iv) Current consumption of the reserve receiver; plus

(v) Current consumption of emergency lights; plus

(vi) Current consumption of the bridge-to-bridge transceiver when connected.

* * * * *

2. Section 83.491 (c) is amended to read as follows:

§ 83.491 Reserve source of energy.

* * * * *

(c)(1) The reserve source of energy shall be used to energize the required radiotelephone transmitter, the required receivers, the emergency light required by § 83.496, and the automatic radiotelephone alarm signal generator required by § 83.486.

(2) The reserve source of energy may be used to energize the bridge-to-bridge radiotelephone when the reserve source of energy is of sufficient capacity to energize the bridge-to-bridge radiotelephone in addition to all other requirements.

* * * * *

3. In § 83.493, paragraph (d)(4) is amended and (d)(5) is added to read as follows:

§ 83.493 Proof of capacity.

* * * * *

(d) For the purpose of determining the electrical load to be supplied, the following formula shall be used:

(1) One-half the current consumption of the required transmitter at its rated power output; plus

(2) One-quarter the current consumption of the automatic radiotelephone alarm signal generator required by § 83.486; plus

(3) Current consumption of present receiver required by § 83.488(a); plus

(4) Current consumption of emergency light(s); plus

(5) Current consumption of the bridge-to-bridge transceiver when connected.

* * * * *

[FR Doc. 78-12701 Filed 5-9-78; 8:45 am]

[4910-22]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[BMCS Docket No. MC-84; Notice No. 78-8]

APPENDIX B—SPECIAL AGENTS

Final Rule

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: Appendix B to the Federal Motor Carrier Safety Regulations (FMCSR) is changed as a result of reissued hazardous materials regulations under the Hazardous Materials Transportation Act and the Secretary of Transportation's delegation of certain authority under the Act to the Federal Highway Administrator. The definition of Special Agent is also changed.

EFFECTIVE DATE: May 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. D. W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700; Mrs. Kathleen S. Markman, Office of Chief Counsel, 202-426-0799, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., vests certain functions in the Secretary of Transportation relating to investigations, records, inspections, penalties, and specific relief that apply to transportation or shipment of hazardous materials by highway which have been delegated to the Federal Highway Administrator (49 CFR 1.48 (u) and (v)). This document reflects those delegations of authority to special agents of the Federal Highway Administration (FHWA), and recent position title changes within the FHWA.

It is a technical change only and does not impose new or additional requirements. It is also a rule of agency organization which is exempt from the notice provision of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A), and advance public notice is not required. This action will not increase costs to Federal, State, or local governments, to consumers, or to the businesses affected, and will not have any environmental impact.

In consideration of the foregoing, Paragraph 3 of Appendix B to the FMCSR is amended to read as follows:

APPENDIX B—SPECIAL AGENTS

1. * * *
2. * * *

3. Definition of Special Agent—Administration employees charged with enforcing 18 U.S.C. 831-853, 49 U.S.C. 1801 et seq., and Section 204 of the Interstate Commerce Act, 49 U.S.C. 304; the employees within the Bureau of Motor Carrier Safety listed below; and such other persons as the Administrator or the Director of the Bureau of Motor Carrier Safety may specify in writing, are special agents. They are hereby authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment to the manner and extent provided by law.

Director.
Deputy Director.
Chiefs of the Divisions of: Regulations and Compliance.
Chiefs of the Branches of: Vehicle Requirements, Driver Requirements, Accident Investigation, Compliance Analysis, and Field Program.
Hazardous Materials Liaison Officer.
Hazardous Materials Specialist.
Mechanical Engineer (automotive).
Directors, Regional Motor Carrier Safety Offices.
Motor Carrier Safety Investigators.
Hazardous Materials Compliance Officer.
Highway Safety Management Specialist.
Regional Accident Investigation Specialist.
Regional Hazardous Materials Specialist.
Regulations Specialist.

* * * * *

(Sec. 204, Interstate Commerce Act (49 U.S.C. 304); sec. 6, Department of Transportation Act (49 U.S.C. 1655); 49 U.S.C. 1801 et seq.; 18 U.S.C. 831-835; and the delegations of authority at 49 CFR 1.48 and 301.60.)

Issued: April 28, 1978.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-12716 Filed 5-9-78; 8:45 am]

proposed rules

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

[3410-01]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 15a]

EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Nondiscrimination on the Basis of Sex

AGENCY: Department of Agriculture.

ACTION: Proposed rules.

SUMMARY. The Department of Agriculture proposes to add a new regulation for nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from federal financial assistance. These rules are intended to implement Title IX of the Education Amendments of 1972, as amended, which prohibits (with certain exceptions) sex discrimination in federally-assisted education programs or activities.

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

ADDRESS: Comments must be submitted to: James Frazier, Director, Office of Equal Opportunity, U.S. Department of Agriculture, Washington, D.C. 20250, phone: 202-447-4256. Comments are available for public inspection in the Office of Equal Opportunity, Program Planning and Evaluation Division, Room 4103, Auditors Building, 201 14th Street SW., Washington, D.C. 20250, Monday-Friday, 8:30 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT:

William C. Payne, Program Planning and Evaluation Division, Office of Equal Opportunity, Washington, D.C. 20250, phone: 202-447-4807.

SUPPLEMENTARY INFORMATION: Title IX of the Education Amendments of 1972, as amended, requires each federal agency, which extends financial assistance to any education program or activity, to issue rules and regulations implementing Title IX.

On June 4, 1975, the Department of Health, Education, and Welfare (HEW) issued final rules implementing Title IX. 45 CFR Part 86. The rules proposed by this Department are intended to be consistent with the HEW rules.

The difference between the two sets of rules are minor: definitional changes for "Secretary" and "Department" and substitution throughout the rules of "Secretary" for "Director."

Section 15a.15 exempts certain activities which are not referred to in the HEW rules. These exemptions reflect recent amendments to Title IX. See Pub. L. 94-482, 90 Stat. 2234.

One other difference in these rules and the HEW rules should be noted. In the HEW rules, "student" is defined as "a person who has gained admission." The term "admission" means "selection for * * * enrollment, membership, or matriculation in or at education program or activity * * *" In § 15.2(m), the term "admission" is expanded to include selection for "participation" in an education program or activity to ensure that participants (who may not be members or enrollees) in USDA-funded education activities are clearly included within the protection of these rules. By expanding the definition of "admission", the term "student" (to whom the rules repeatedly make reference) is also expanded. This change is necessary because some of the activities funded by USDA, such as 4-H Clubs, are informal education activities, and participation in those activities is not dependent upon "enrollment, membership, or matriculation."

In consideration of the above, it is proposed that Part 15a be added to Title 7 of the Code of Federal Regulations to read as set forth below.

Dated: May 3, 1978.

BOB BERGLAND,
Secretary of Agriculture.

PART 15a—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

Sec.

15a.1 Purpose and effective date.
15a.2 Definitions.
15a.3 Remedial and affirmative action and self-evaluation.
15a.4 Assurance required.
15a.5 Effect of other requirements.
15a.6 Effect of employment opportunities.
15a.7 Designation of responsible employee and adoption of grievance procedures.
15a.8 Dissemination of policy.

Subpart B—Coverage

15a.11 Application.
15a.12 Educational institution controlled by religious organizations.
15a.13 Military and merchant marine educational institutions.
15a.14 Membership practices of certain organizations.
15a.15 Exempt activities.
15a.16 Admissions.
15a.17 Educational institutions eligible to submit transition plans.
15a.18 Transition plans.

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited.

15a.21 Admission.
15a.22 Preference in admission.
15a.23 Recruitment.

Subpart D—Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

15a.31 Education programs and activities.
15a.32 Housing.
15a.33 Comparable facilities.
15a.34 Access to course offerings.
15a.35 Access to schools operated by L.E.A.s.
15a.36 Counseling and use of appraisal and counseling materials.
15a.37 Financial assistance.
15a.38 Employment assistance to students.
15a.39 Health and insurance benefits and services.
15a.40 Marital or parental status.
15a.41 Athletics.
15a.42 Textbooks and curricular materials.

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

15a.51 Employment.
15a.52 Employment criteria.
15a.53 Recruitment.
15a.54 Compensation.
15a.55 Job classification and structure.
15a.56 Fringe benefits.
15a.57 Marital or parental status.
15a.58 Effect of State or local law or other requirements.
15a.59 Advertising.
15a.60 Pre-employment inquiries.
15a.61 Sex as a bona-fide occupational qualification.

Subpart F—Procedures (Interim)

15a.71 Interim procedures.

AUTHORITY: Pub. L. 92-318, as amended by Sec. 3, Pub. L. 93-568, 88 Stat. 1855 and Sec. 412, Pub. L. 94-482, 90 Stat. 2234 (except Secs. 904 and 906 thereof) (20 U.S.C. 1681, 1682, 1683, 1685, 1686.)

Subpart A—Introduction

§ 15a.1 Purpose and effective date.

The purpose of this part is to effectuate Title IX of the Education Amendments of 1972, as amended by Pub. L. 93-568, 88 Stat. 1855 and Pub. L. 94-482, 90 Stat. 2234 (except sections 904 and 906 of those Amendments) which is designed to eliminate

(with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in this part.

§ 15a.2 Definitions.

As used in this part, the term—

(a) "Title IX" means title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by section 3 of Pub. L. 93-568, 88 Stat. 1855 and section 412 of Pub. L. 94-482, 90 Stat. 2234 (except sections 904 and 906 thereof); 20 U.S.C. 1681, 1682, 1683, 1685, 1686.

(b) "Department" means the Department of Agriculture, and includes each of its operating agencies and other organizational units.

(c) "Secretary" means the Secretary of Agriculture or any officer or employees of the Department to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate, the authority to act for the Secretary under the regulations in this part.

(d) "Federal financial assistance" means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of Federal financial assistance, including funds made available for:

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

(e) "Recipient" means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance, including any subunit, successor, assignee, or transferee thereof.

(f) "Applicant" means one who submits an application, request, or plan required to be approved by a Department official, or by a recipient, as a condition to becoming a recipient.

(g) "Educational institution" means a local educational agency (L.E.A.) as defined by section 801(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881), a preschool, a private elementary or secondary school, or an applicant or recipient of the type defined by paragraph (h), (i), (j), or (k) of this section.

(h) "Institution of graduate higher education" means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional eduction); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(i) "Institution of undergraduate higher education" means:

(1) An institution offering at least two but less than four years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(j) "Institution of professional education" means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the United States Commissioner of Education.

(k) "Institution of vocational education means a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semi-skilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study.

(l) "Administratively separate unit" means a school, department or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution.

(m) "Admission" means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, participation, or matriculation in or at an education program or activity operated by a recipient.

(n) "Student" means a person who has gained admission.

(o) "Transition plan" means a plan subject to the approval of the United States Commissioner of Education pursuant to section 901(a) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination.

§15a.3 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the Secretary finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the Secretary deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246.

(c) *Self-evaluation.* Each recipient education institution shall, within one year of the effective date of this part:

(i) Evaluate in terms of the requirements of this part, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's education program or activity:

(ii) Modify any of these policies and practices which do not or may not

meet the requirements of this part; and

(iii) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

(d) Availability of self-evaluation and related materials. Recipients shall maintain on file for at least three years following completion of the evaluation required under paragraph (c) of this section, and shall provide to the Secretary upon request, a description of any modifications made pursuant to sub-paragraph (c)(ii) and of any remedial steps taken pursuant to subparagraph (c)(iii).

§15a.4 Assurance required.

(a) *General.* Every application for Federal financial assistance for any education program or activity shall as condition of its approval contain or be accompanied by an assurance from the applicant or recipient, satisfactory to the Secretary, that each education program or activity operated by the applicant or recipient and to which this part applies will be operated in compliance with this part. An assurance of compliance with this part shall not be satisfactory to the Secretary if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with 15a.3(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior or subsequent to the submission to the Secretary of such assurance.

(b) *Transfers of property.* If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee which operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of subpart B.

(c) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(d) *Form.* The Secretary will specify the form of the assurances required by paragraph (a) of this section and the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

§ 15a.5 Effect of other requirements.

(a) *Effect of other Federal provisions.* The obligations imposed by this part are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; title VII of the Civil Rights Act of 1964 (42 U.S.C. 200 et seq.); the Equal Pay Act (29 U.S.C. 206 and 206(d)); and any other act of Congress or Federal regulation.

(b) *Effect of State or local law or other requirements.* The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with this part is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives or benefits from Federal financial assistance.

§ 15a.6 Effect of employment opportunities.

The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

§ 15a.7 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part. The recipient shall notify all its students and employees of the name, office address and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part.

§ 15a.8 Dissemination of policy.

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational programs or activities which it operates, and that is required by title IX and this part not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the Secretary finds necessary to apprise such persons of the protections against discrimination assured them by title IX and this part, but shall state at least that the requirement not to discriminate in education programs and activities extends to employment therein, and to admission thereto unless Subpart C does not apply to the recipient, and that inquiries concering the application of title IX and this part to such recipient may be referred to the employee designated pursuant to § 15a.7 or to the Secretary.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of the effective date of this part or of the date this part first applies to such recipient, whichever comes later, which notification shall include publication in: (i) Local newspapers; (ii) newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and (iii) memoranda or other written communications distributed to every student and employees of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form which it makes available to any person of a type described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in this paragraph which suggests, by text or illustration, that such recipient treats applicants, students,

or employees differently on the basis of sex except as such treatment is permitted by this part.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and require such representatives to adhere to such policy.

Subpart B—Coverage

§ 15a.11 Application.

Except as provided in this subpart, this Part 15a applies to every recipient and to each education program or activity operated by such recipient which receives or benefits from Federal financial assistance.

§ 15a.12 Educational institutions controlled by religious organizations.

(a) *Application.* This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization.

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section, shall do so by submitting in writing to the Secretary a statement by the highest ranking official of the institution identifying the provisions of this part which conflict with a specific tenet of the religious organization.

§ 15a.13 Military and merchant marine educational institutions.

This part does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine.

§ 15a.14 Membership practices of certain organizations.

(a) *Social fraternities and sororities.* This part does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls. This part does not apply to the membership practices of the Young Men's Christian Association the Young Women's Christian Association, the Girl Scouts, the Boy Scouts and Camp Fire Girls.

(c) Voluntary youth service organizations. This part does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

§ 15a.15 Exempt activities.

(a) These regulations shall not apply to:

(1) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Girls State Conference, Girls Nation Conference, Boys State Conference, or Boys Nation Conference; or

(2) The selection of students to attend any such conference.

(b) These regulations shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex.

(c) These regulations shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

§ 15a.16 Admissions.

(a) Admissions to educational institutions prior to June 24, 1973, are not covered by this part.

(b) *Administratively separate units.* For the purposes only of this section, 15a., 17, and 15a., 18, and Subpart C, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of Subpart C.* Except as provided in paragraphs (c) and (d) of this section, Subpart C applies to each recipient. A recipient to which Subpart C applies shall not discriminate on the basis of sex in admission or recruitment in violation of that subpart.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients which are educational institutions, Subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* Subpart C does not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

§ 15a.17 Education institutions eligible to submit transition plans.

(a) *Application.* This section applies to each educational institution to which Subpart C applies which:

(1) Admitted only students of one sex as regular students as of June 23, 1972; or

(2) Admitted only students of one sex as regular students as of June 23, 1965, but thereafter admitted as regular students, students of the sex not admitted prior to June 23, 1965.

(b) Provision for transition plans. An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of Subpart C unless it is carrying out a trasition plan approved by the United States Commissioner of Education as described in 15a.18, which plan provides for the elimination of such discrimination by the earliest practicable date but in no event later than June 23, 1979.

§ 15a.18 Transition plans.

(a) *Submission of plans.* An institution to which 15a.17 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the United States Commissioner of Education, a transition plan shall:

(1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting such plan the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes, as regular students and, if so when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these

steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § 15a.17 applies shall result in treatment of applicants to or students of such recipient in violation of Subpart C unless such treatment is necessitated by an obstacle identified in paragraph (b)(3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b)(4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § 15a.17 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment programs which emphasize the institution's commitment to enrolling students of the sex previously excluded.

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

§ 15a.21 Admission.

(a) *General.* No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which this subpart applies, except as provided in §§ 15a.17 and 15a.18.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this Subpart applies shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise,

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determing whether a person satifies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which so discriminates or excludes;

(3) Shall treat disabilities related pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make pre-admission inquiry as to the sex of an applicant for admission, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

§ 15a.22 Preference in admission.

A recipient to which the subpart applies shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of this subpart.

§ 15a.23 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which this subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § 15a.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 15a.3(b).

(b) *Recruitment at certain institutions.* A recipient to which this subpart applies shall not recruit primarily or exclusively at education institutions, schools or entities which admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

Subpart D—Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

§ 15a.31 Education programs and activities.

(a) *General.* Except as provided elsewhere in the part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal financial assistance. This subpart does not apply to actions of a recipient in connection with admission of its students to an education program or activity of (1) a recipient to which Subpart C does not apply, or (2) an entity, not a recipient, to which Subpart C would not apply if the entity were a recipient.

(b) Specific prohibitions, except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(7) Aid of perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) Assistance administered by a recipient educational institution to study at a foreign institution. A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institu-

tion; *Provided*, a recipient educational institution which administers or assists in the administration of such scholarships, fellowship, or other awards which are restricted to members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) Programs not operated by recipient. (1) This paragraph applies to any recipient which requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or which facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in education consortia and cooperative employment and student-teaching assignments.

(2) Such recipient;

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student or employee of such recipient which this part would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

§ 15a.32 Housing.

(a) *General.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quantity and cost to the student.

(c) *Other housing.* (1) A recipient shall not on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by such recipient.

(2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole: (i) Proportionate in quantity and (ii) comparable in quality and cost to the student. A recipient may render such assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

§ 15a.33 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

§ 15a.34 Access to course offerings.

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music and adult education courses.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. With respect to physical education classes and activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(b) this section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

§ 151a.35 Access to schools operated by L.E.A.'s.

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

§ 15a.36 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) Use of appraisal and counseling materials. A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproporationate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

§ 15a.37 Financial assistance.

(a) *General.* Except as provided in paragraph (b), (c) and (d) of this section, in providing financial assistance to any of its students, a recipient shall not: (1) On the basis of sex, provide different amount of types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of such re-

cipient's students in a manner which discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign will, trusts, bequests or similar legal insturments or by acts of a foreign government which require that awards be made to members of a particular sex specified therein; *Provided,* That the overall effect of the award of such sex-restricted scholarships, fellowships and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in subparagraph (b)(1) of this paragraph, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under subparagraph (b)(2)(i) of this paragraph; and

(iii) No student is denied the award for which he or she was selected under subparagraph (b)(2)(i) of this paragraph because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 15a.41 of this part.

§ 15a.38 Employment assistance to students.

(a) Assistance by recipient in making available outside employment. A recipient which assists any agency, organization or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) Employment of students by recipients. A recipient which employs any of its students shall not do so in a manner which violates Subpart E.

§ 15a.39 Health and insurance benefits and services.

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner which would violate Subpart E if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

§ 15a.40 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its education program or activity separately for pregnant student admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that the instructional program in the separate program is comparable to that offered to non-pregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

§ 15a.41 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved in a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. for the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose of major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Secretary will consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Secretary may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with the section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

§ 15a.42 Textbooks and curricular material.

Nothing in this regulation shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

§ 15a.51 Employment.

(a) *General.* (1) No person shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives or benefits from Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of this part.

(b) *Application.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including social or recreational programs; and

(10) Any other term, condition, or privilege of employment.

§ 15a.52 Employment criteria.

A recipient shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

§ 15a.53 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

§ 15a.54 Compensation.

A recipient shall not make or enforce any policy or practice which, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation:

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

§ 15a.55 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males or for females:

(b) Maintain or establish separate lines of progression seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bond-fide occupational qualification for the positions in question as set forth in § 15a.61.

§ 15a.56 Fringe benefits.

(a) *"Fringe benefits" defined.* For purposes of this part, "fringe benefits" means: any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave and any other benefit or service of employment not subject to the provisions of § 15a.54.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex or for equal contributions to

the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

§ 15a. 57 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting thereform as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offer to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

§ 15a. 58 Effect of State or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with this subpart is not obviated or alleviated by the exist- ence of any State or local law or other requirement which imposes prohibitions or limits upon employment of members of one sex which are not imposed upon members of the other sex.

(b) *Benefits.* A recipient which provides any compensation service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

§ 15a.59 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona-fide occupational qualification for the particular job in question.

§ 15a.60 Pre-employment inquiries.

(a) *Martial status.* A recipient shall not make pre-employment inquiry as to the martial status of an applicant for employment, including whether such applicant is "Miss or Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

§ 15a.61 Sex as a bona-fide occupational qualification.

A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart F—Procedures (Interim)

§ 15a.71 Interim procedures.

For the purposes of implementing this part during the period between its effective date and the final issuance by the Department of a consolidated procedural regulation applicable to title IX and other civil rights authorities administered by the Department, the procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 7 CFR 15.5-15.11 and 7 CFR 15.60 et seq.

[FR Doc. 78-12766 Filed 5-9-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 31, and 32]

COMBINED ANNUAL WAGE REPORTING

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Income Tax Regulations, Employment Tax Regulations, and Temporary Employment Tax Regulations Under The Tax Reform Act of 1969 necessary to implement Combined Annual Wage Reporting (CAWR). The proposed amendments would provide the public with guidance in making annual information returns under CAWR.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 7, 1978. The amendments are proposed to be effective after December 31, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

James E. Maule of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T 202-566-3350.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the Income Tax Regulations (26 CFR Part 1), Employment Tax Regulations (26 CFR Part 31), and Temporary Employment Tax Regulations Under The Tax Reform Act of 1969 (26 CFR Part 32). The CAWR system, implemented by the proposed regulation amendments, was authorized by section 8 of Pub. L. 94-202 (89 Stat. 1137). Under CAWR, employers will no longer be required to specify the employment tax data with respect to each employee on Schedule A to Forms 941 and 943. This eliminates the quarterly reporting of such data previously required of most employers. Instead, they will set forth necessary data on Form W-2, which is to be filed with the Social Security Administration (SSA). Pertinent information will be transferred by SSA to the Service after processing.

Changes to the regulations authorize SSA's collection of Form W-2 (and

Form W-2P), require additional information to be reported on the forms, remove references to Schedule A of Forms 941 and 943 and remove the limited option of life insurance companies to file Form 1099 rather than Form W-2 for certain salesmen. The insurance company option was the sole exception to furnishing FICA information on Form W-2 and under the electronic processing procedures of SSA its continuation would reduce the efficiency of CAWR and unnecessarily add to the cost of the system. Newly revised Form W-2 will have an appropriate entry indicating that the reported FICA information relates to a FICA statutory employee and not a common law employee subject to income tax withholding. This will avoid confusion as to the status of the salesmen concerned and other similarly situated persons. In addition, certain administrative functions relating to Form W-2 have been shifted to SSA, such as granting extensions of time for filing the form and using magnetic tape in place of paper forms.

It should be noted that CAWR's implementation in possessions of the United States is being deferred until certain administrative details are worked out. Meanwhile, the instructions to the forms will make it clear (under the authority of § 31.6011(a)-9) that existing reporting requirements continue to apply in these jurisdictions.

These amendments are issued under the authority contained in sections 6051 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 747, 26 U.S.C. 6051; 68A Stat. 917, 26 U.S.C. 7805).

Comments and Requests for a Public Hearing

Before adopting the proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1, 31, and 32 are as follows:

Income Tax Regulations (26 CFR Part 1)

§ 1.6041-1 [Amended]

Paragraph 1. Section 1.6041-1(a)(2) is amended by deleting the second sentence.

§ 1.601-2 [Amended]

Par. 2. Section 1.6041-2(a) is amended as follows:

1. Subparagraph (2) is deleted and subparagraphs (3), (4), and (5) are redesignated as subparagraphs (2), (3), and (4), respectively.

2. Subparagraph (1) ia amended by deleting the third sentence and inserting in lieu thereof the following: "All other payments of compensation, including the cash value of payments made in any medium other than cash, to an employee by his employer in the course of the trade or business of the employer must also be reported on Form W-2 if the total of such payments and the amount of the employee's wages (as defined in section 3401), if any, required to be reported on Form W-2 aggregates $600 or more in a calendar year."

§ 1.9101-1 . [Amended]

Par. 3. Section 1.9101-1 is amended by deleting the words "Form 1087, 1099, or W-2" and inserting in lieu thereof "Form 1087 or 1099"; and by deleting the last sentence and inserting in lieu thereof the following: "In any case where the use of Form W-2 is required for the purpose of making a return or reporting information, such requirement may be satisfied by submitting the information required by such form on magnetic tape or other approved media: *Provided*, That the prior consent of the Commissioner of Social Security (or other authorized officer or employee thereof) has been obtained."

Employment Tax Regulations (26 CFR Part 31)

§ 31.6011(a)-4 [Amended]

Par. 4. Section 31.6011(a)-4 is amended by deleting paragraph (b) and redesignating paragraph (c) as paragraph (b).

Par. 5. Section 31.6011(a)-5(b)(2) is amended to read as follows:

§ 31.6011(a)-5 Monthly returns.

* * * * *

(b) *Information returns.* * * *

(2) *Information returns on Form W-3 and Social Security Administration copies of Form W-2.* See § 31.6051-2 for requirements with respect to information returns on Form W-3 and Social Security Administration copies of Form W-2.

* * * * *

Par. 6. Section 31.6011(a)-7(b)(2) is amended to read as follows:

§ 31.6011(a)-7 Execution of returns.

* * * * *

(b) *Use of prescribed forms.* * * *

(2) *Permission for use of magnetic tape.* In any case where the use of Form W-2 is required for the purpose of making a return or reporting information, such requirement may be satisfied by submitting the information required by such form on magnetic tape or other approved media: *Provided*, That the prior consent of the Commissioner of Social Security (or other authorized officer or employee thereof) has been obtained.

* * * * *

Par. 7. Section 31.6051-1 is amended as follows:

1. Paragraph (a)(1)(i) is amended by deleting the word "and" in inferior subdivision (*e*); deleting the period at the end of inferior subdivision (*f*) and inserting in lieu thereof ", and"; and adding, immediately after inferior subdivision (*f*), new inferior subdivision (*g*) to read as set forth below.

2. Paragraph (b)(1) is amended by deleting the word "and" in subdivision (iii); deleting the period at the end of subdivision (iv) and inserting in lieu thereof ", and"; and adding, immediately after subdivision (iv), new subdivision (v) to read as set forth below.

§ 31.6051 Statements for employees.

(a) *Requirement if wages are subject to withholding of income tax*—(1) *General rule.* (i) * * *

(*g*) Such information relating to coverage the employee has earned under the Federal Insurance Contributions Act as may be required by Form W-2 or its instructions.

* * * * *

(b) *Requirement if wages are not subject to withholding of income tax*—(1) *General rule.* * * *

(v) Such information relating to coverage the employee has earned under the Federal Insurance Contributions Act as may be required by Form W-2 or its instructions.

* * * * *

Par. 8. Section 31.6051-2 (a) and (b) are amended to read as follows:

§ 31.6051-2 Information returns on Form W-3 and Social Security Administration copies of Forms W-2.

(a) *In general.* Every employer who is required to make a return of tax under § 31.6011(a)-1 (relating to returns under the Federal Insurance Contributions Act), § 31.6011(a)-4 (relating to returns of income tax withheld from wages), or § 31.6011(a)-5 (relating to monthly returns) for a calendar year or any period therein shall file the Social Security Administration copy of each Form W-2 required under § 31.6051-1 to be furnished by the employer with respect to wages paid during the calendar year. Each Form W-2 and the transmittal Form W-3 shall together constitute an information return to be filed with the

Social Security Administration office indicated on the instructions to such forms. However, in the case of an employer who elects to file a composite return pursuant to § 31.6011(a)-8, the information return required by this section shall consist of magnetic tape (or other approved media) containing all information required to be on the employee statement, together with transmittal Form 4804.

(b) *Corrected returns.* The Social Security Administration copies of corrected Forms W-2 (or magnetic tape or other approved media) for employees for the calendar year shall be submitted with Form W-3 (or Form 4804), on or before the date on which information returns for the period in which the correction is made would be due under paragraph (a)(3)(ii) of § 31.6071(a)-1, to the Social Security Administration office with which Forms W-2 are required to be filed.

* * * * *

§ 31.6081(a)-1 [Amended]

PAR. 9. Section 31.6081(a)-1(a)(3) is amended as follows:

1. By deleting "district director or director of a service center" and inserting in lieu thereof "director of a Social Security Administration data operations center (or other authorized officer or employee thereof)".

2. By deleting "internal revenue office" both times it appears and inserting in lieu thereof "Social Security Administration office".

PAR. 10. Section 31.6091-1(d) is amended to read as follows:

§ 31.6091-1 Place for filing returns.

* * * * *

(d) *Returns filed with internal revenue service centers or Social Security Administration offices.* Notwithstanding paragraphs (a), (b), and (c) of this section, whenever instructions applicable to such returns provide that the returns shall be filed with an internal revenue service center or an office of the Social Security Administration, such returns shall be filed in accordance with such instructions.

* * * * *

TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969 (26 CFR PART 32)

§ 32.1 [Amended]

PAR. 11. Section 32.1(f)(1) is amended by deleting the first sentence and inserting in lieu thereof the following: "Form W-2P is to be used in lieu of Form W-2, which is required to be furnished by an employer to an employee under § 31.6051-2 of this chapter and to the Social Security Administration under paragraph (a) of § 31.6051-2 of this chapter, with respect to an annuity subject to withholding under this section."

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-12761 Filed 5-9-78 8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 223]

NATIONAL FOREST TIMBER SALES

Contract Conditions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would revise requirements for payment guarantees furnished in lieu of advance cash payments on National Forest timber sales. At present only corporate surety bonds and negotiable securities of the United States are accepted as payment guarantees. If adopted, it is anticipated that irrevocable letters of credit, issued by Federally insured banks, would also be accepted as payment guarantees.

DATES: Comments must be received by June 9, 1978.

ADDRESSES: Submit comments to: Chief John R. McGuire, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013. All written submissions made pursuant to this notice will be available for public inspection in the offices of the Timber Management, Staff, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION CONTACT:

George M. Leonard, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

It is proposed to revise 36 CFR 223.3(e) to read as follows:

§ 223.3 Contract conditions.

* * * * *

(e) Sale contracts shall provide that timber and forest products be paid for in advance of cutting, unless the contract authorizes the purchaser to furnish a payment guarantee satisfactory to the Forest Service. Advance payments found to be in excess of amounts due the United States shall be refunded to the original depositors, their local representatives, or to successors in interest.

(90 Stat. 2959; 16 U.S.C. 472a.)

DAVID G. UNGER,
Acting Assistant Secretary for Acting Conservation, Research, and Education.

MAY 5, 1978.

[FR Doc. 78-12723 Filed 5-9-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 892-6]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Proposed Disapproval of an Administrative Order Issued by the Illinois Pollution Control Board to Central Illinois Public Service Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to disapprove an administative order issued by the Illinois Pollution Control Board to Central Illinois Public Service Co. requiring final compliance with the applicable requirements of the federally approved Illinois State Implementation Plan (SIP) by November 3, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act. Disapproval of the order is proposed because it does not meet certain requirements of the Clean Air Act. If approved by EPA, the order would constitute an addition to the SIP and would alter the rights of persons to bring judicial actions against the source for violations of the SIP. The purpose of this notice is to invite public comment on EPA's proposed disapproval of the order as a delayed compliance order.

DATES: Written comments must be received on or before June 9, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn, Chicago, Ill. 60604. The Illinois Order, supporting materials, and public comments received in response to this Notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Bertram C. Frey, Legal Section Enforcement Division, U.S. EPA,

Region V, 230 South Dearborn, Chicago, Ill. 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: Central Illinois Public Service Company commenced operation of Newton Unit 1, Newton, Ill. (Jasper County), on September 10, 1977, without an operational sulfur dioxide removal system. The double alkali flue gas desulfurization control system for Newton Unit 1 is scheduled for completion by November 1979. Calculated sulfur dioxide emissions, assuming Newton Unit 1 is burning coal with a heating value of 11,500 Btu per pound and a sulfur content of 2.8 percent, are 4.6 pounds per million Btu. Both Federal New Source Performance Standards (NSPS) and Rule 204(a)(1) of Illinois Air Pollution Regulations, which forms a part of the Illinois State Implementation Plan (SIP), require that the source meet a 1.2 pounds per million Btu sulfur dioxide emission standard. On August 4, 1977, the U.S. EPA, Region V, issued a Notice of Violation based on anticipated violations, upon start-up then scheduled for December 1977, of the Illinois SIP and Federal NSPS. A conference to discuss these violations with the Company was held in Chicago on August 24, 1977.

On September 1, 1977, the Illinois Pollution Control Board issued an Administrative Opinion and Order in *Central Illinois Public Service Company* v. *Environmental Protection Agency*, PCB No. 77145, granting a variance that provides for final compliance with the applicable requirements of the Illinois State Implementation Plan by November 3, 1979. This date is later than allowed by section 113(d)(1)(D) of the Clean Air Act as amended (42 U.S.C. section 7413(d)(1)(D)) (hereinafter "Act"). The Order also fails to notify Central Illinois Public Service Co., Newton Unit 1, a major source (550 megawatts) under construction in Newton, Ill., that it would be required to pay a noncompliance penalty under Section 120 of the Act (42 U.S.C. section 7420) in the event that the source fails to achieve final compliance by July 1, 1979. This failure constitutes a violation of section 113(d)(1)(E) of the Act. Moreover, the Order fails to require compliance with applicable interim requirements as provided by paragraphs (6) and (7) of section 113(d) and contains no requirement for emission monitoring and reporting by the source of the Act (42 U.S.C. sections 7410(a)(2)(F), 7414(a)(1)). This third deficiency in the Order is violative of section 113(d)(1)(C) of the Act.

Because the Order has been issued to a major source of sulfur dioxide emissions and permits a delay in compliance with the applicable Illinois regulation, it must be approved by U.S. EPA before it becomes effective as a delayed compliance order under section 113(d) of the Act. U.S. EPA must disapprove the Order if it does not satisfy the requirements of this subsection. Because of the reasons mentioned above U.S. EPA is proposing to disapprove the Order. If the Order is approved by EPA, compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violation of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved the order would also constitute an addition to the Illinois State Implementation Plan for the purposes of sections 110 ("Implementation Plans"), 304 ("Citizen Suits"), and 307 ("General Provisions Relating to Administrative Proceedings and Judicial Review") of the Act.

The purpose of this notice is to invite public comment on EPA's proposed disapproval of this Order as a delayed compliance order. After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under section 113(d) of the Act. In addition, Part 65 will contain sections summarizing orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

Dated: April 14, 1978.

GEORGE R. ALEXANDER, Jr.
Regional Administrator,
Region V.

[FR Doc. 78-12634 Filed 5-9-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 893-1]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Notice of Proposed Approval of a Delayed Compliance Order Issued by the State of Connecticut Department of Environmental Protection to the Turner & Seymour Manufacturing Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order issued by the Connecticut Department of Environmental Protection to the Turner & Seymour Manufacturing Co. The order requires the company to bring air emissions from its grey iron cupola at Torrington, Conn., into compliance with certain provisions of the federally approved Connecticut State Implementation Plan (SIP) by August 15, 1978. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act. If approved by EPA, the order will constitute an addition to the SIP and will alter the rights of persons to bring judicial actions against the source for violations of the SIP. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before June 9, 1978.

ADDRESS: Comments should be submitted in writing to: William R. Adams, Jr., Regional Administrator, U.S. Environmental Protection Agency, Region I Office, JFK Federal Building, Boston, Mass. 02203. The State order, material supporting the order, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Sam Silverman, Attorney, Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region I Office, JFK Federal Building, Boston, Mass. 02203, 617-223-5600.

SUPPLEMENTARY INFORMATION: Turner & Seymour Manufacturing Co. operates a grey iron foundry at Torrington, Conn. The order under consideration addresses emissions from the grey iron cupola operated at the facility, which is subject to section 19-508-18 of the regulations for the abatement of air pollution. The regulation limits the emissions of particulate matter, and is part of the federally approved State Implementation Plan. The order requires final compliance with the regulation by August 15, 1978, through installation of appropriate equipment and control apparatus. Turner & Seymour has already issued purchase orders for the necessary control equipment and will begin installation this spring.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compli-

ance order under section 113(d) of the Act.

The purpose of this notice is to invite public comment on EPA's proposed approval of this order as a DCO. If approved, the order would constitute an addition to the Connecticut State Implementation Plan for the purposes of sections 110 ("Implementation Plans"), 304 ("Citizen Suits"), and 307 ("General Provisions Relating to Administrative Proceedings and Judicial Review") of the Act. After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR part 65. The provisions of 40 CFR part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations. EPA may approve the order only if its satisfies the appropriate requirements of this subsection. The necessary elements of subsection 113(d) have been met: The order contains a schedule and timetable for compliance; the order requires compliance with the best practicable system of interim emission reduction and requires emission monitoring and reporting by the source; the order provides for final compliance with the Connecticut Implementation Plan as expeditiously as practicable and prior to July 1, 1979; the order notifies the source that it will be required to pay a noncompliance penalty in the event it fails to achieve final compliance by July 1, 1979; and the order will be issued only after notice to the public and opportunity for public hearing.

If the order is approved by EPA, compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violation of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded.

All interested persons are invited to submit written comment on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. Final approval or disapproval will also be published in the FEDERAL REGISTER.

Dated: April 12, 1978.

WILLIAM R. ADAMS, Jr.
Regional Administrator,
Region I.

[FR Doc. 78-12635 Filed 5-9-78; 8:45 am]

[6560-01]

[40 CFR Part 233]

[FRL 892-7]

MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS

Hearings on Proposed Regulations

AGENCY: United States Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency will hold two public hearings on June 2 and June 8, 1978, in Washington, D.C. and Seattle, Wash., respectively, to receive public comment on its April 25, 1978 proposed regulations implementing Section 301(h) of the Clean Water Act ("Modification of Secondary Treatment Requirements for Discharges into Marine Waters").

DATES: Hearing dates: June 2, 1978 and June 8, 1978.

ADDRESSES: The dates and locations of the two hearings are: June 2, 1978: EPA Headquarters, Rooms 3906 and 3908, 401 M Street SW., Washington, D.C. 20460; June 8, 1978: EPA Region X, 12th Floor Conference Room, 1200 Sixth Avenue, Seattle, Wash. 98101.

Registration for both hearings will commence at 9 a.m. and the hearings will begin at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT:

Rebecca J. Sorrells, Office of General Counsel (A-131), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0686, or 755-0753 (Washington, D.C. or Seattle hearing), or Robert Burd, Director, Water Division, EPA Region X, 1200 Sixth Avenue, Seattle, Wash. 98101, 206-443-1237 (Seattle hearing only).

SUPPLEMENTARY INFORMATION: Section 301 (h) of the Clean Water Act, 33 U.S.C. 1311(h)("Act"), which was added to the Act by amendments adopted by Congress in 1977, authorizes EPA to modify the requirements of secondary treatment (i.e., EPA effluent limitations for biochemical oxygen demand, suspended solids, and pH) for publicly owned treatment works ("POTWs") which discharge into certain ocean and estuarine waters where the POTW can demonstrate, by showing compliance with eight statutory criteria, that its modified discharge will not result in any increase in the discharge of toxics or otherwise impair the integrity of receiving waters.

On February 22, 1978, EPA held a public hearing in San Francisco, Calif. to receive suggestions as to how it should interpret the statutory criteria of Section 301(h) in regulations implementing that section. The purpose of the hearings announced today is to obtain public comment on proposed Section 301(h) regulations which were published by EPA on April 25, 1978 (43 FR 17484). The Agency has outlined in Appendix A to this notice the issues raised by the proposed regulations on which it is particularly interested in receiving comment; most of these issues were highlighted in the preamble to the proposed regulations and are reprinted here simply for the convenience of hearing participants. In addition, EPA invites statements on any other aspect of the proposed regulations—technical, legal, or otherwise—as well as the Agency's general regulatory approach to Section 301(h) which hearing participants desire to address. Participants are reminded, however that these hearings are not intended to serve as a forum for individual communities to present information concerning their particular application for a modified permit, except insofar as such information bears directly on the proposed regulations or the Agency's interpretation of Section 301(h), and should structure their statements accordingly.

Because of the Complex nature of both the proposed Section 301(h) regulations and the issues under consideration, and in order to insure a meaningful dialogue at these hearings, EPA requests that, if possible:

(1) If hearing participants are submitting written comments on the proposed regulations, they submit these comments to EPA before May 26, 1978, so that they can be reviewed by EPA staff and the hearing panel prior to the hearing;

(2) Participants submit a copy of their written hearing statement prior to the date of the hearing at which they desire to participate;

(3) Participants bring with them to the hearing any technical or other staff who assisted them in the preparation of statements to respond to questions which may be posed by the hearing panel; and

(4) Criticism of the regulations be accompanied by specific constructive suggestions as to how the regulations should be modified, considering any technical, legal, practical or other constraints.

Comments received at the June 1 and June 8, 1978 hearings will be considered in developing final Section 301(h) regulations, now scheduled for promulgation in early July, 1978.

Dated: May 3, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

APPENDIX A

ISSUES FOR PUBLIC COMMENT AT JUNE 2 AND JUNE 8, 1978 HEARING ON SECTION 301(h) REGULATIONS

(1) Should small dischargers or dischargers which have no known or suspected sources of toxic pollutants be treated differently than large dischargers with significant industrial and nonindustrial sources of toxic substances in terms of either the extent or nature of the information which they are required to submit to EPA to obtain a modified permit under Section 301(h)? If so, how should the categories be defined and what information should be required for permit modification from small dischargers or dischargers of domestic wastes?

(2) Under the proposed regulations, many small villages in the Pacific Trust Territories, Puerto Rico and Alaska would not be eligible for a modified permit due to their lack of existing collection and treatment systems. Does Section 301(h) authorize EPA to develop special regulatory criteria for these communities?

(3) In light of the plain language of the statute and its legislative history, can Section 301(h) be construed to allow EPA to issue a modified NPDES permit based on modifications which will be made in an applicant's discharge after September 24, 1978?

(A) If so, what type of modification should be permitted? Upgrading of treatment? Relocation of the outfall? Modifications in the diffuser system? Should EPA be required to consider applications from POTWs which now discharge into inland waters but are considering constructing, or now have under construction, an ocean or estuarine outfall?

(B) How can EPA make an accurate predictive judgment as to whether a non-existent discharge will meet the stringent water quality, biological, chemical and physical criteria contained in Subpart B of the proposed regulations? What additional information should the applicant provide EPA if its application is based on a non-existent discharge? Should such an applicant bear a heavier burden of proof than one who seeks a modified permit based on an existing discharge?

(C) It has been suggested that in making the physical, chemical and biological assessments required under § 233.14 of the proposed regulations, as well as assuring that the discharge will comply with State water quality standards under § 233.22(b), consideration should be given to the effect of Federal pretreatment and nonindustrial source control programs which are scheduled to be operative at some time in the future. How can an accurate predictive judgment be made concerning the effect of such programs on the chemical composition or the environmental impact of the applicant's discharge when (a) Federal pretreatment standards for most industries will not be promulgated for several years; (b) the complete list of toxic pollutants to be regulated by such standards has not yet been determined; (c) the pretreatment standards promulgated will assume at least secondary treatment by the POTW; and (d) nonindustrial source control programs will not be in place until some time in the future?

(D) When should EPA require that any necessary modifications to the applicant's discharge be completed?

(E) What action should be taken by EPA if the modifications are not completed on time, if the actual impact of the modified discharge is more severe than that predicted by the applicant, if pretreatment programs are not in place on the date specified, or if upgraded treatment does not provide the degree of pollutant reduction anticipated? Specifically, should the modified permit be revoked and the permittee be required to go forward with secondary treatment?

(4) How should increased volumes of wastewater and pollutant loadings be dealt with under § 233.20 of the proposed regulations in light of the restrictions on volume and emission increases imposed under Section 301(h)(7) of the Act and Congress's directive that Section 301(h) not be utilized to relax the Act's overall objective of achieving recycle/reuse of water and confined disposal of pollutants?

[FR Doc. 78-12652 Filed 5-9-78; 8:45 am]

[6560-01]

[40 CFR Part 233]

[FRL 893-8]

MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS

Proposed Criteria and Procedures; Correction

AGENCY: United States Environmental Protection Agency ("EPA").

ACTION: Correction.

SUMMARY: EPA issues a correction document for a proposed rule published on April 25, 1978, at 43 FR 17484; because of a number of typographical errors which affect the substantive content of the regulations proposed.

FOR FURTHER INFORMATION CONTACT:

Thomas P. O'Farrell, 202-426-8976.

F.R. Doc. 78-11140, published on April 25, 1978 (43 FR 17484-17508) contained a number of typographical errors which affect the substantive content of the regulations proposed in that document. Those errors should be corrected as follows:

Page	Error	Change to read
Page 17486, column 3, lines 59-60	"February 22, 1977"	"February 22, 1978".
Page 17488, column 2, line 15	"pollution"	"pollutant".
Page 17491, column 1, lines 21-22	"Attachment F, Section 2".	"Attachment F, Section 1".
Page 17491, column 3, lines 13-14	"in the modified permit, because".	"in the modified permit. Because".
Page 17493, § 233.1(h), line 9	"nearly"	"nearby".
Page 17494, § 233.11(a)(2):		
line 9	"(ii)"	"(A)".
line 13	"(iii)"	"(B)".
line 16	"(iv)"	"(ii)".
Page 17495, § 233.14(d)(2)(ii)(D), line 3	"b or intertidal"	"sub- or intertidal".
Page 17497, § 233.18(c)(3), line 3	"action"	"section".
Page 17500, § 233.35(c)(5), line 2	"§ 233.16"	"§ 233.36".
Page 17506, column 3, line 42	"ATTACHMENT F, SECTION 2".	"ATTACHMENT F, SECTION 1".
Page 17507, column 2:		
lines 57-58	"sections 403.8(b) (1) and (2)".	"sections 403.8(c)(1) and (2)".
lines 64-65	"sections 403.8(1) and (2)".	"sections 403.8(c)(1) and (2)".

Dated: May 3, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-12653 Filed 5-9-78; 8:45 am]

[6730]

FEDERAL MARITIME COMMISSION

[46 CFR Part 512]

[Docket No. 78-5]

CAPITALIZATION OF INTEREST DURING CONSTRUCTION

Notice of Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to file comments.

SUMMARY: Upon request of an interested party, and good cause appearing, time within which comments may be filed to the notice of proposed rulemaking in this proceeding relating to capitalization of interest during construction (43 FR 12345; March 24, 1978) is extended.

DATES: Comments on or before May 15, 1978. Hearing Counsel's reply shall be filed on or before June 5, 1978. Answers to Hearing Counsel shall be filed on or before June 23, 1978.

ADDRESS: Comments to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: None.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-12636 Filed 5-9-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 81]

[SS Docket No. 78-145; FCC 78-292]

PUBLIC COAST STATIONS

Proposal Requiring Applicants To Meet Certain Financial Qualifications

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes an amendment to require applicants for public coast stations to meet certain financial qualifications. In the past, the Commission has required applicants to demonstrate their financial qualifications. This proposal would incorporate the standard used into the rules.

DATES: Comments must be received on or before June 12, 1978, and reply comments must be received on or before June 22, 1978.

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

FOR FURTHER INFORMATION CONTACT:

John C. K. Hays, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: April 26, 1978.

Released: May 9, 1978.

In the matter of amendment of part 81 of the Commission's rules to require applicants for public coast stations to meet certain financial qualifications, SS Docket No. 78-145.

1. Notice of proposed rulemaking is hereby given in the above-entitled matter.

2. The Commission is proposing to amend its rules to require an applicant for a new public coast station to demonstrate his financial ability to construct the station, and to operate the station for 1 year. The financial ability to construct a station and to operate it for a reasonable period of time without expected normal revenues is an important factor to be decided in granting a station license. In comparative hearings to determine which mutually exclusive application should be granted, it is considered a basic factor, not a comparative one, and all applicants must qualify. Whether one applicant has more money than another applicant is not a deciding factor in granting the station license.

3. The standard being proposed in this rulemaking has been applied to past applicants for public coast stations to determine their financial qualifications and, in effect, has become Commission policy. This rulemaking would incorporate this standard into the rules.

4. In addition, the rulemaking would require applicants to submit certain information with their applications to enable the Commission to properly evaluate their financial ability to meet the standard. The information required would be similar to that presently submitted under § 21.17 of the Commission's rules by applicants for stations in the domestic public land mobile radio service, but modified to reflect the Commission's experience in granting public coast station licenses. As under § 21.17, large carriers, most of which are closely regulated telephone or telegraph companies, would be exempt from these information requirements if they can demonstrate that: (1) They produce annual revenues in excess of $1,000,000; (2) they file annual (or monthly) reports under part 43; and (3) they maintain a good credit rating. This will relieve the administrative burden of filing reports with each station application where the station would require a relatively small investment compared to the overall financial resources of the carrier.

5. The proposed amendments to the rules as set forth below are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in section 1.415 of the Commission's rules, interested persons may file comments on or before June 12, 1978, and reply comments on or before June 22, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of section 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS.

1. In subpart B, applications, a new § 81.50 is added to read as follows:

§ 81.50 Financial qualifications for public coast stations.

(a) Each application for a new public coast station shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other initial expenses necessary to place the station in operation, and

(2) Estimated operating expenses for one year after commencement of operations.

(b) Each application shall demonstrate the applicant's financial ability under paragraph (a) of this section by indicating:

(1) A statement of proposed construction and other initial expenses.

(2) A statement of projected revenues and expenses for the first year of operation.

(3) A balance sheet as of and an annual income statement ending on the last day of the most recent quarter before the application is filed.

(4) The details of any loan or other form of credit arrangement intended to be utilized to finance the proposed construction, acquisition, or operation of the station including the identity of the creditor (or creditors), letters of commitment, and terms of the transaction.

(5) The details of any sale or placement of any equity or other form of ownership interest intended to be utilized to finance the proposed construction, acquisition or operation of the station.

(6) Any other information requested by the Commission and necessary to determine the financial ability of the applicant.

(c) An applicant need not submit the financial information required by paragraphs (b) (3), (4), and (5) of this section if the requirements concerning applicant's financial ability set forth in paragraph (a) of this section can be satisfied by an exhibit demonstrating that the applicant:

(1) Produced operating revenues of $1 million or more for the previous operating year,

(2) Files annual (or monthly) reports under part 43 of this chapter, and

(3) Maintains as of the date of the application a credit rating equivalent to, or better than, either a Standard & Poor's rating of "BBB" or a Moody's bond rating of "Baa".

[FR Doc. 78-12660 Filed 5-9-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 285]

ATLANTIC TUNA FISHERIES

Bluefin Tuna; extension of Comment Period

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of extension of comment period on proposed rulemaking.

SUMMARY: The National Marine Fisheries Service is extending the comment period on proposed amendments to regulations on fishing for Atlantic bluefin tuna (43 FR 10592, March 14, 1978) until May 19, 1978. These proposed regulations modify Atlantic tuna fisheries requirements on annual catch quotas, seasons, reporting requirements, and inspection requirements for United States vessels. These regulations are intended to implement the recommendations of the International Convention for the Conservation of Atlantic Tunas (ICCAT).

DATES: Written comments may be submitted on or before May 19, 1978. No additional public hearings have been scheduled.

ADDRESS: Written comments may be submitted to the Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930.

FOR FURTHER INFORMATION AND INSPECTION OF COMMENTS RECEIVED CONTACT:

Mr. William Gordon, Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION:

In view of the public interest expressed in these proposed regulations as reflected by the large number of comments received, the National Marine Fisheries Service (NMFS) has decided to extend the comment period to assure that any interested party will have ample opportunity to comment on the proposed regulations and to respond to comments received by NMFS. Among the comments included in the public file are those received at the April 26, 1978 open meeting of the advisory Committee to the U.S. Section, International Commission for the Conservation of Atlantic Tunas, 43 FR 15510, April 13, 1978.

Signed this 4th day of May, 1978, at Washington, D.C.

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

[FR Doc. 78-12730 Filed 5-9-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FLUE-CURED TOBACCO ADVISORY COMMITTEE

Notice of Meeting

The Flue-Cured Tobacco Advisory Committee will meet in the Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, N.C. 27605, at 1 p.m., on Thursday, May 25, 1978.

The purpose of the meeting is to advise and counsel the Secretary of Agriculture regarding an equitable apportionment of the available tobacco inspectors amongst the markets he has designated pursuant to the Tobacco Inspection Act, 7 U.S.C. 511-511q.

Matters to be discussed include the estimated quantity of tobacco ready for market in each marketing area and other matters as specified in 7 CFR, Part 29, Subpart G, § 29.9404. In addition, organization structures will be discussed to seek overall committee effectiveness and officers will be elected.

The meeting is open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. Leonard J. Ford, Acting Director, Tobacco Division, Agricultural Marketing Service, 300—12th Street SW., United States Department of Agriculture, Washington, D.C. 20250, 202-447-7235.

Dated: May 5, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-12744 Filed 5-9-78; 8:45 am]

[3410-11]

Forest Service

PRAIRIE DOG MANAGEMENT PLAN FOR LANDS ADMINISTERED BY THE SUPERVISOR OF THE NEBRASKA NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Prairie Dog management plan for lands administered by the Supervisor of the Nebraska National Forest. The Forest Service report number is USDA-FS-R2-FES(Adm) FY-77-04.

The environmental statement concerns a proposal to manage prairie dogs on lands administered by the Supervisor of the Nebraska National Forest.

The draft environmental statement was transmitted to CEQ on June 28, 1977.

This final environmental statement was transmitted to EPA on May 2, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colo. 80225.

USDA, Forest Service, Nebraska National Forest, 270 Pine Street, Chadron, Nebr. 69337.

A limited number of single copies are available upon request to Lawrence C. Sutton, Forest Supervisor, Chadron, Nebr. 69337.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the EPA guidelines.

LAWRENCE C. SUTTON,
Forest Supervisor.

MAY 2, 1978.

[FR Doc. 78-12658 Filed 5-9-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Dockets 32486 and 32487]

KODIAK-WESTERN ALASKA AIRLINES

Acquisition Proceeding; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on May 23, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) requests for evidence; (5) statements of position; and (6) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before May 12, 1978, and all other parties on or before May 19, 1978. The submissions of 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.

Dated at Washington, D.C., May 4, 1978.

THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc. 78-12763 Filed 5-9-78; 8:45 am]

[3510-13]

DEPARTMENT OF COMMERCE

National Bureau of Standards

FOOTWEAR TECHNOLOGY SYMPOSIUM

The Department of Commerce will sponsor a Footwear Technology Symposium as part of an on-going 3-year Department of Commerce program to help restore the growth and vitality of the domestic footwear industry. The symposium will be held in the Green Auditorium of the Administration Building, National Bureau of Standards, Gaithersburg, Md., on Thursday and Friday, June 1 and June 2, 1978. Each day's proceedings will begin at 9 a.m.

The objectives of the symposium are to (a) assess manufacturing technol-

ogies which may be adapted or developed to provide a competitive advantage for the U.S. footwear industry and (b) develop a specific plan for activities that would be appropriate for government and industry cooperation.

Attendees at the symposium will include representatives from all segments of industry, including material, machinery and component suppliers, manufacturers, retailers, and consulting organizations. All interested parties are cordially invited to attend this meeting.

Questions concerning this symposium or how to register should be directed to Ms. Margery King, Room A402, Administration Building, National Bureau of Standards, Washington, D.C. 20234, telephone 301-921-3815.

Dated: May 5, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-12731 Filed 5-9-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

DONALD B. SINIFF

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take and import marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Dr. Donald B. Siniff (5D), Professor, Department of Ecology and Behavioral Biology, University of Minnesota.

b. Address: 108 Zoology Building, Minneapolis, Minn. 55455.

2. Type of permit: Scientific Research.

3. Name and number of animals:

Crabeater seals (*Lobodon carcinophagus*)—520 per year.
Leopard seals (*Hydrurga leoptonyx*)—520 per year.
Weddell seals (*Leptonychotes weddelli*)—810 per year.
Ross seals (*Ommatophoca rossi*)—105 per year.

4. Type of take: 500 crabeater, 500 leopard, 800 Weddell, and 100 Ross seals will be captured, tagged, weighed, measured, toenail removed, vaginal smears when appropriate, and released on an annual basis. 20 crabeater, 20 Leopard, 10 Weddell, and 5 Ross seals will be sacrificed on an annual basis. The project is part of an on-going research project on Antarctic seals.

5. Location of activity: Antarctic Peninsula and its off-shore islands and McMurdo Station.

6. Period of activity: 3 years.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 9, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C., and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930.

Dated: April 27, 1978.

ROLAND FINCH,
Acting Deputy Assistant Director or Fisheries Management.

[FR Doc. 78-12728 Filed 5-9-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Meeting Cancellation

Notice is hereby given that the meeting as published in the FEDERAL REGISTER, Friday, April 28, 1978, Vol. 43, No. 83, page 18231, of the Gulf of Mexico Fishery Management Council scheduled for May 18, 1978, in Tampa, Fla., has been canceled.

Dated: May 4, 1978.

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

[FR Doc. 78-12656 Filed 5-9-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting With Partially Closed Session

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The meeting will be held Tuesday, Wednesday, and Thursday, June 6, 7, and 8, 1978, in meeting room 250 of the Holiday Inn—Downtown, 225 Church Street, Mobile, Ala. The meeting will convene at 1:30 p.m. On June 6 and adjourn at about noon on June 8, 1978. The daily sessions will start at 8:30 a.m. and adjourn at 5 p.m. except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed agenda.—June 6: (1) Management plans; (2) personnel and administrative categories; (3) review of foreign fishing applications, if any. *June 7:* (1) Closed session to discuss proposals by potential contractors in a negotiated procurement for the preparation of a draft fishery management plan; (2) other fishery management business. *June 8:* (1) Other fishery management business.

With the exception of the first agenda item on June 7, the meeting is open to the public. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone 813-228-2815.

The closed session is planned for 8:30 a.m. until 12 noon, but may continue into the afternoon of June 7, 1978, to discuss proposals by potential contractors in a negotiated procurement for the preparation of a draft fishery management plan.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on May 4, 1978, pursuant to section 10(d) of Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4), (6), and (9)(B). A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.

Dated: May 5, 1978.

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

[FR Doc. 78-12657 Filed 5-9-78; 8:45 am]

[3510-22]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Public Meeting With Partially Closed Session

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix, as amended, notice is hereby given of: (1) a joint meeting of the North Pacific Fishery Management Council established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and its Scientific and Statistical Committee (SSC), and Advisory Panel (AP), both established under section 302(g) of the act, (2) separate meetings of the SSC and AP.

The SSC and AP will meet separately on May 24, 1978. The SSC will meet in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, beginning at 9 a.m., to discuss and review their report to the Council.

The AP will meet in the Kenai-Aleutian Room of the Anchorage, Westward/Hilton Hotel, 3rd and E Streets, Anchorage, Alaska, beginning at 9 a.m., to discuss and prepare their report to the Council.

The Council and its SSC and AP will meet jointly on Thursday and Friday, May 25-26, 1978, in the Anchorage/Westward/Hilton Hotel, 3rd and E Streets, Anchorage, Alaska. The meeting will convene at 8:30 a.m., and adjourn at approximately 5 p.m. The meetings may be extended or shortened depending upon progress on the agenda. The proposed agenda is as follows:

MAY 25

(1) Executive director's report and other Council administrative business; (2) reports from Scientific and Statistical Committee and Advisory Panel; (3) progress report and update from Council's drafting management planning teams; (4) closed session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), and the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians; (5) period for public comment; (6) review of foreign fishing activities.

MAY 26

(1) Discussions of management plans: Tanner crab off Alaska 1978; Gulf of Alaska groundfish fishery during 1978; commercial troll fisheries off the coast of Alaska; Bering Sea clam fishery; king crab; and Bering Sea groundfish fishery; (2) other Council business.

The SSC and AP meetings will be open to the public, as will all but the early afternoon of the first day of the Council meeting. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, telephone 907-274-4563.

A closed session of the Council is planned for the early afternoon of the first day, May 25, 1978, from 1:30 p.m. to 3:30 p.m. to hear and discuss Department of State security classified reports concerning preparations and actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission, and continuing negotiations with the Canadians.

Only those Councils members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on May 4, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.

Dated: May 5, 1978.

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

[FR Doc. 78-12655 Filed 5-9-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

EMERGENCY ENERGY ASSISTANCE PROGRAM

Funding Declarations

The Director of the Community Services Administration (CSA) has found, based on criteria indicated in column* (5) of appendix A that Energy Related Emergencies have existed since the dates indicated in column (3).

Therefore, eligible grantees who cover those areas indicated in column (2) will proceed as follows:

Grantees who receive funds by Letter of Credit may withdraw and expend funds in the amount approved in column (4) or that portion of that amount which have been granted to them under Program Account 80, Emergency Energy Assistance program; or

Grantees who normally receive checks are being informed that their checks are being forwarded by the Treasury Department for the total amount of the EEAP grant. However, these grantees immediately may begin obligating funds against this grant in the amount appropriated in column (4) and from the date indicated in column (3).

Column (3) contains the earliest date to our knowledge which provided the basis for a finding by the Director of CSA that an Energy Related Emergency existed. However, any eligible grantee within those areas covered in column (2) may submit evidence to support the existence of Energy Related Emergencies which existed between December 31, 1977, and the date given in column (3) for a finding by the Director of CSA. (See CSA Notice 6143-7, section 4 or § 1061.51-3 in the FEDERAL REGISTER (43 FR 9476).

Request for supplemental (additional) funds shall be made in accordance with the provisions of section 11.c. of CSA Notice 6143-7.

WILLIAM W. ALLISON,
Director.

*All references to "column" refer to appendix A to this Notice.

APPENDIX

State(s) declared	Areas covered	Emergency declaration date	Approved allocation[1]	Basis for determination*
(1)	(2)	(3)	(4)	(5)
Region II: Puerto Rico	Municipality of San Juan	Apr. 10, 1978	$140,000	4.b.(2)(b) and 4.b.(2)(a).
	Commonwealth of Puerto Rico	do	491,000	4.b.(2)(d) and 4.b.(2)(c).
Region IV: Florida	Counties of: Bay Liberty, Citrus, Franklin, Gilchrist, Gulf, Jefferson, Lee, Levy, Marion, Sarasota, Taylor, and Wakulla.	Apr. 1, 1978	81,992	4.b.(2)(a).
	Counties of: Collier, Desota, Glades, Hardee, Hendry, Charlotte, Highlands, and Osceola.	do	22,625	4.b.(2)(a).

APPENDIX

State(s) declared (1)	Areas covered (2)	Emergency declaration date (3)	Approved allocation[1] (4)	Basis for determination[2] (5)
	Pasco County	Mar. 22, 1978	7,428	4.b.(2)(a).
	Broward County	Apr. 24, 1978	15,794	4.b.(2)(a).
	Orange County	Apr. 26, 1978	11,132	4.b.(2)(a).
	Counties of: Holmes, Walton, and Washington	Apr. 13, 1978	9,591	4.b.(2)(a) and 4.b.(2)(b).
Georgia	Entire state	Feb. 1, 1978	710,000	4.b.(2)(a).
North Carolina	do	Apr. 18, 1978	1,005,000	4.b.(2)(a), 4.b.(2)(c), and 4.b.(2)(d).
South Carolina	do	Apr. 28, 1978	410,000	4.b.(2)(a).
Region VIII:				
Colorado	Adams County	Apr. 24, 1978	30,000	4.b.(2)(a).
	Boulder County	do	84,441	4.b.(2)(a).
	Pueblo County	do	100,000	4.b.(2)(a).
Montana	Entire state	Jan. 01, 1978	370,000	4.b.(1) and 4.b.(2)(a).
Region IX: Nevada	Washoe County	Mar. 16, 1977	37,500	4.b.(2)(a).

[1]For area covered.
[2]References CSA notice 6143-7, sec. 1; FR 1061.51-3(b).

[FR Doc. 78-12561 Filed 5-9-78 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 78-1]

SPARE PARTS, ET AL.

Prehearing Conference

In the matter of Spare Parts, a corporation also trading as "Mr. Marty," or under any other name or names and Stuart M. Weiser, individually and as an officer of the corporation. Flammable Fabrics Act Enforcement Proceeding.

On March 27, 1978, the Commission authorized the issuance of a complaint charging Respondents with having manufactured, sold, and delivered in commerce, on or before October 30, 1976, certain girl's sweatshirts under the trade names of "Spare Parts" and "Mr. Marty," which failed the acceptance criterion of the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) in violation of section 3(a) of the Flammable Fabrics Act (15 U.S.C. 1191, 1192). Respondents were also charged with having issued false guaranties with respect to the subject sweatshirts. Relief was requested in the form of an order to cease and desist from manufacturing, selling, importing or delivering in commerce said sweatshirts and, in addition, that customers be notified that these articles do not comply with the Standard, may be dangerously flammable, and that such customers may return the sweatshirts to Respondents for replacement or a complete refund of the purchase price at Respondents' option. On March 22, 1978, Respondents filed an answer in effect generally denying the principal allegations in the complaint.

Issue having been joined, a prehearing conference by telephone will be held on Thursday, May 18, 1978, at 2:30 p.m. (EDST) (11:30 PDST) involving the following persons: Gwendolyn Crockett, Esq., Complaint Counsel, 301-492-6632; Lionel Sobel, Esq., Counsel for Respondents, 213-272-1185; and Paul N. Pfeiffer, Administrative Law Judge, 202-634-7171.

The agenda for the conference will include a discussion of:

(1) The scope of issues to be heard;

(2) Whether there is a need for further discovery;

(3) The names of the witnesses and the approximate length of presentations at the hearing; and

(4) The time, place, and date of public hearing.

Dated: May 4, 1978.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc. 78-12698 Filed 5-9-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON SOVIET MISSILE DEFENSE

Advisory Committee Meeting

The Defense Science Board Task Force on Soviet Missile Defense will meet in closed session May 23, 24, and 25, 1978 at the Offices of the Institute for Defense Analyses, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review Soviet activities in ballistic missile defense and related subjects and will provide recommendations for appropriate U.S. responses.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DOD/WHS.

MAY 5, 1978.

[FR Doc. 78-12702 Filed 5-9-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER-77-551 and ER-77-485]

CAROLINA POWER & LIGHT CO.

Order Denying Joint Motion To Sever Proceedings

MAY 1, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory reponsibilities 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 "saving 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 contin-

ued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On January 30, 1978, the Carolina Power & Light Co. and the City of Fayetteville, N.C., filed a Joint Motion of Carolina Power & Light Company and the City of Fayetteville, North Carolina to Sever Proceedings. The above designated dockets were consolidated for hearing in an order issued January 19, 1978, by this Commission. The filing by Carolina Power & Light Co. (CP&L), concerns a filing made here on June 29, 1977 for proposed increased rates and charges for jurisdictional sales to 18 REA cooperatives, 24 municipals and 2 privately-owned customers. The filing would increase CP&L's revenues by $1,418,214 or 7.5% based upon the 12-month period ending December 31, 1977. Pursuant to this Commission's order issued on July 19, 1977, the proposed increased rates and charges were suspended and use thereof deferred until December 29, 1977, when they were to become effective subject to refund. On July 12, 1977, this Commission granted intervention to North Carolina Electric Membership Corp., Four County Electric Membership Corp., ElectriCities of North Carolina, and the Cities of Bennettsville, and Camden, S.C. The City of Fayetteville, N.C. (Fayetteville) is receiving energy from CP&L under the filing in Docket No. ER77-485.

On August 3, 1977, CP&L tendered for filing an amendment to Rate Schedule FPC No. 102 and at the same time filed a Notice of Cancellation of its Rate Schedule FPC No. 93. Rate Schedule No. 102 provides that Fayetteville will receive partial requirements service as opposed to firm service heretofore provided by CP&L. This change was proposed to accomodate the operation of Fayetteville's five new combustion turbines. The amended schedule further provides for backup service by CP&L for emergency contingencies and for the purchase by SP&L of available capacity from the City. This filing was designated Docket No. ER77-551.

In the Commission's order of January 19, 1978, the filing in Docket No. ER77-551 was accepted as of June 19, 1977, and suspended for one day to become effective, subject to refund, on June 20, 1977. The order also provided that Docket Nos. ER77-485 and ER77-551 should be consolidated for hearing and determination puposes. Procedurally, several pre-hearing conferences have been held and the hearing is now set to commence on June 5, 1978, in the consolidated proceedings. The Company has filed testimony. Staff is due to file testimony on May 1, 1978, and the Intervenors must file testimony on May 11, 1978.

The Joint Motion filed by CP&L and Fayetteville for severance of these two dockets asserts that the Commission was in error in its order of January 19, 1978, in finding that there were common questions of law and fact in these two dockets. The joint petitioners suggest that no commonality exists. They contend that the proceeding in ER77-485 is a general rate increase filing applicable to jurisdictional sales to the CP&L's 44 wholesale customers including Fayetteville. They believe that the issues are much broader than those contained in Docket No. ER77-551. For example, they note that questions involving rate of return, working capital, rate design, and depreciation are involved.

CP&L and Fayetteville submit that the only issue raised in Docket No. ER77-551 is the reserve obligation of Fayetteville. This concerns the use of Fayetteville's five generating units and those other units which are planned for the purpose of reliable peak shaving capacity. They contend that early resolution of the proceeding in Docket No. ER77-551 is essential. They note that Fayetteville now has 5 oil fired gas turbine generating units and is installing a sixth unit at this time. It also has on order two additional units. They believe that the Commission's decision on the issue of Fayetteville's reserve obligation in Docket No. ER77-551, if tied to the general rate increase litigation in ER77-485 for a prolonged period of time, will present Fayetteville with two unattractive alternatives concerning its construction program. The City can hold its plans in abeyance with a result that its proposed construction will be considerably behind schedule if the Commission ultimately approves the required reserve obligation in Docket No. ER77-551. On the other hand, Fayetteville can move ahead with the additional construction and risk an adverse Commission determination on the reserve capacity issue in the combined proceeding. They believe that the Commission's decision on the issue in Docket No. ER77-551 should be made in advance of the resolution of the general rate increase sought in ER77-485. Consequently, they seek severance of the two proceedings.

A response in Opposition To The Joint Motion was filed by the North Carolina Membership Corp. (NCMC) and Four County Electric Membership Corp. (Four County EMC). These Cooperatives based their opposition to the motion to sever upon two arguments. First, they believe that the rates filed by CP&L in Docket No. ER77-485 apply to Fayetteville except as altered by section 3 of Amendment To Service Agreement Between City of Fayetteville and Carolina Power & Light Co. which is a part of the filing in Docket No. ER77-551. They contend that to determine proper allocation of rate base, demand, energy, and other cost of service items in the jurisdictional rate case, it is necessary to determine how section 3 of the Amendment in Docket No. ER77-551 impacts upon those items. They argue that the only way to establish a proper record is to have all of the Fayetteville information available as part of Docket No. ER77-485, and the most expeditious way of accomodating this, is to hear the consolidated proceeding.

Secondly, the Cooperatives have an interest in the Commission's determination of power reserve levels for Fayetteville inasmuch as it has an impact upon demand and other cost of service allocations in Docket No. ER77-485.

Examination of section 3 of the Amendment to Rate Schedule FPC No. 102 concerning Fayetteville indicates that the City's demand and energy determination calculated under the proposed rate in Docket No. ER77-485 could be affected when its new units are implemented to produce peak shavings. The City appears to be changing from a full requirements customer to a partial requirements customer. The matter should be determined in conjunction with the full gambit of rate issues raised in Docket No. ER77-485.

Moreover, the plea by CP&L and Fayetteville on the urgency for deciding the issues in Docket No. ER77-551 because of construction plans does not coincide with the realities of the procedural time span now set in this consolidated proceeding. The hearing is to commence on June 5, 1978. All dates for the filing of testimony are set. It appears that should ER77-551 be severed and set for separate hearing, an unreasonable delay would be forthcoming. Severance would require that Docket No. ER77-551 be heard sometime after the consolidated proceeding would commence. We see no value in delaying a hearing in order to ostensibly decide the issues earlier.

The Presiding Administrative Law Judge shall hear the issues in the consolidated proceeding. If, after testimony is completed he believes that an immediate initial decision solely on the issues in Docket No. ER77-551 are in the public interest, he may do so. followed by his initial decision on the balance of the issues raised in Docket No. ER77-485.

The Commission finds: Good cause exists to deny the Joint Motion to sever the consolidated proceedings in Docket Nos. ER77-485 and ER77-551.

The Commission orders: (A) The Joint Motion of Carolina Power & Light Co. and the City of Fayetteville to Sever Proceedings is hereby denied. (B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12676 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER78-327]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Notice of Rate Filing

MAY 1, 1978.

Take notice that on April 24, 1978, Central Hudson Gas & Electric Corp. (Central Hudson) tendered for filing its development of actual costs for 1977 related to substation service provided to Consolidated Edison Co. of New York, Inc. (Con Edison) in accordance with the Provisions of its Rate Schedule FERC No. 43.

Central Hudson indicates that the actual cost for 1977 amounted to $294,417 and will be the basis on which estimated charges for 1978 will be billed.

Central Hudson requests waiver of the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1978, as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with 18 CFR 1.8 and 1.10. All such petitions or protests should be filed on or before May 15, 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. 78-12677 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP73-329]

CHATTANOOGA GAS CO.

Proposed PGA Rate Adjustment

MAY 1, 1978.

Take notice that on April 24, 1978, Chattanooga Gas Co., a division of Jupiter Industries, Inc. (Chattanooga), tendered for filing proposed changes to Original Volume No. 1 of its FERC Gas Tariff to be effective on May 1, 1978, consisting of the following revised tariff sheets:

TWENTY-EIGHTH REVISED SHEET NO. 6

Chattanooga states that the sole purpose of this Revised Tariff Sheet is to adjust Chattanooga's LNG rates pursuant to the PGA Provision in Section 5 of the General Terms and Conditions of its Gas Tariff to reflect the underlying PGA rate changes filed for by East Tennessee Natural Gas Co. (East Tennessee) in Docket No. RP78-12 and Southern Natural Gas Co. (Southern) in Docket No. RP73-64.

The Twenty-Eighth Revised Tariff Sheet reflects a current increase in the LNG rates of 2.8 cents per MMBtu and a cumulative increase of $1.243 per MMBtu.

Chattanooga requests that its Twenty-Eighth Revised Sheet No. 6 be made effective on May 1, 1978, the proposed effective date of the underlying increase by East Tennessee.

Southern Natural filed revised PGA rates which have been accepted by FERC and permitted to become effective on January 2, 1978. Southern Natural originally placed into effect a PGA rate with an effective date of January 1, 1978. This original filing was accepted by FERC conditioned upon Southern Natural's filing revised tariff sheets to reflect reductions in the rates of United and Sea Robin. Southern Natural's revised rates effective January 12, 1978 are included in this filing. The Commission did not take any action on the one-day rate of January 1, 1978. Chattanooga states that it has not made any sales of LNG during the period of time that Southern Natural's original January 1, 1978, rates have been in effect and therefore no refunds are due to its customers.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

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 NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 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. 78-12678 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP76-379]

COLORADO INTERSTATE GAS CO.

Petition To Amend

MAY 1, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

Take notice that on April 24, 1978, Colorado Interstate Gas Co. (Petitioner), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No CP76-379 a petition to amend the order of the FPC in said docket issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act by further authorizing Petitioner to construct and operate a tail gas cleanup facility at Petitioner's Table Rock sweetening plant in Sweetwater County, Wyo., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

By order of February 28, 1977, in the instant docket Petitioner was authorized to construct and operate, inter alia, the Table Rock sweetening plant. In the instant petition Petitioner states that at the time the certificate application was filed with the FPC, Petitioner understood that review of "Prevention of Significant Deterioration of Air Quality and Permits for Construction of New Source Facilities" was under the jurisdiction of the state of Wyoming, Department of Environmental Quality and that on August 25, 1976, Petitioner received a permit from that body authorizing the construction and operation of the sweet-

ening plant. Petitioner states further that it has since been advised that the Environmental Protection Agency (EPA) had retained jurisdiction over sulfur recovery plants pursuant to 40 CFR 52.2630 and that Petitioner should have applied to and received a permit from the EPA prior to construction of the facility.

Petitioner states that the EPA has granted Petitioner conditional approval for construction and operation of the sweetening plant provided that Petitioner take action to comply with EPA's final determination of "Best Available Control Technology" which limits sulfur dioxide emission levels to 1,350 parts per million by volume, dry and oxygen-free. Accordingly, Petitioner now requests the Commission to amend the order issuing a certificate of public convenience and necessity by authorizing the construction and operation of a tail gas cleanup facility, including mandated monitoring instrumentation, at the sweetening plant to limit the sulfur dioxide emission level, which presently exceeds the level prescribed by the EPA, to that found to be required by the EPA. The additional facilities are estimated to cost $2,821,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 22, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12681 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-292]

COLORADO INTERSTATE GAS CO.

Notice of Application

MAY 3, 1978.

Take notice that on April 17, 1978, Colorado Interstate Gas Co. (Applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-292 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of four 2,700-horsepower gas compressors at its existing Watkins Station located approximately 10 miles east of Denver, Colo., and for permission and approval to abandon the existing 1,100-horsepower storage injection compressor unit at the Watkins Station, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the pattern of gas flow on its transmission system has traditionally been inward, that is, from gas supply sources in Texas, Oklahoma, Kansas, Colorado, and Wyoming to its major market areas centered on Denver and other points along the Front Range in Colorado. Applicant further states that gas production from the Texas Panhandle Field and other Southern System supply areas has declined over recent years, and the steady decline is apparently irreversible. On the other hand, from the time Applicant's Wyoming Line was constructed in 1956 for the initial purpose of making gas purchases from Northwest Pipeline Corp. (then El Paso Natural Gas Co.), the Wyoming area has steadily increased in importance to Applicant as a supply source, it is said. As a consequence, the volumes available from the Wyoming Line at Watkins are projected to exceed the local market and storage injection requirements in the Denver area, particularly during the summer months, and gas will have to be backflowed to Applicant's Southern System, it is indicated.

The application states that the traditional inward pattern of Applicant's system gas flows terminating at Denver delivery points began shifting about a dozen years ago with the flowing of volumes south from Watkins Junction, near Denver, and that in following years, there was no design day flow into Denver from the Campo-Colorado Springs-Denver Line, and that Applicant began transporting gas south from Watkins to meet the requirements at the New Cherry Creek Meter Station in 1967-1968 with a peak day design volume of approximately 90,000 Mcf per day. It is stated that since then, design day volumes dispatched south from Watkins have increased until the normal null point (the point at which gas flows from the north and south meet) on the Campo-Colorado Springs-Denver Line now lies somewhere between Colorado Springs and Pueblo, varying seasonally. Applicant indicates that it commenced summertime backflowing of transportation and exchange volumes for Panhandle Eastern Pipe Line Co. (PEPL) in 1973, and that it transports limited volumes of Wattenberg Field exchange gas southeast from Watkins to its Lakin Compressor Station for redelivery to PEPL.

Applicant states that as a result of its continuing success in adding new gas from Wyoming Line supply sources, the continued decline in availability of gas from Southern System sources, and the requirement to backflow transportation volumes, Applicant must add facilities to maintain operational flexibility and accommodate the continued turnaround from the traditional inward flow to the backflow situation.

Applicant indicates that in order to reverse the flow of gas on its Southern System it would be necessary to construct, install, and operate four 2,700 horsepower gas compressors at the existing Watkins Station. The total estimated cost of the proposed facilities is $8,505,000, which cost Applicant would finance from funds on hand, funds from operations, short-term borrowings, or long-term financing.

The application states that the Watkins Station, where the proposed gas compression is to be located, is situated at a critical junction on Applicant's transmission system where gas is received from the Wyoming main line, the Southern System, Northeast Colorado, and PEPL, and that normally, storage volumes are either received at Watkins from, or dispatched to, the Fort Morgan and Latigo Storage Fields. Applicant states that the proposed facilities at Watkins Station are an essential step in the continued efficient operation of its system for the following reasons:

1. The quantity of gas available from Wyoming Line sources under purchase and transportation agreements continues to increase relative to that available from Southern System sources. Consequently, significant volumes of Wyoming Line gas must be compressed at and transported away from Watkins and the Denver area.

2. Additional compression is required to inject gas into the Fort Morgan Storage Field.

3. Higher thermal content gas from Wyoming Line sources must be transported to Campo Junction in southeast Colorado so that Applicant can meet the Btu requirements of its tariff on the Campo-Colorado Springs-Denver Line.

Applicant also proposes to retire, abandon from gas storage injection service, and place in stock for future use an 1,100-horsepower gas compressor located at Watkins Station. Applicant states that it proposes to abandon the gas compressor from service after the new compressor units proposed herein have been placed in service. It is indicated that the existing 1,100-horsepower centrifugal compressor unit is not adequate to handle expected storage injection volumes under the 1979 design conditions, and that the operation of the existing unit has not been satisfactory.

Applicant indicates that the proposed gas compression at Watkins Station would also serve an operational

purpose in that high-Btu gas from the Wyoming Line must be transported to Campo Junction so that the gas which flows in the Campo-Pueblo-Colorado Springs pipeline would meet the heat content requirements of Applicant's tariff. The ratio of higher Btu Mocane Field gas to lower Btu Keyes Field gas available at Campo is declining and is projected to continue to do so in the foreseeable future: thus, the gas compression facilities proposed would enable Applicant to deliver additional high-Btu gas to Campo in order to meet its tariff provisions, it is asserted.

Applicant states that substantial volumes of gas are expected to be delivered to Watkins under exchange arrangements with PEPL and Cities Service Gas Co. (Cities).

The application states that several of Applicant's contracts for the purchase of gas from producers in Colorado contain provisions which prohibit the transportation of such gas in interstate commerce. Such gas purchases are not now purchases in interstate commerce, but might become so upon commencement of the backflowing operations proposed herein unless alternative delivery arrangements are made in the interim, it is stated. Applicant states that it is currently negotiating with certain producers to revise such contract provisions and is also studying alternative means of delivering such gas to market.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 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 determing 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12682 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RP78-51]

COLORADO INTERSTATE GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, Establishing Procedures, and Granting Interventions

MAY 1, 1978.

On March 31, 1978, Colorado Interstate Gas Co. (CIG) tendered for filing in the captioned docket proposed changes to its FERC Gas Tariff[1] which would increase its jurisdictional revenues by $12,147,530 based on costs and sales volumes for the 12 months ended December 31, 1977, as adjusted for known and measurable changes through September 30, 1978. CIG requests that the proposed changes be permitted to become effective on May 1, 1978. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for five months, and set the matter for hearing.

Public notice of CIG's filing was issued on April 5, 1978, providing for protests or petitions to intervene to be filed on or before April 24, 1978. Timely petitions to intervene were filed by Cities Service Gas Co., Kansas-Nebraska Natural Gas Co., Inc., Public Service Co. of Colorado, Western Slope Gas Co., Cheyenne Light, Fuel & Power Co., the city and county of Denver, Colo., the city of Colorado Springs, Colo., Citizens Utilities Co., and Peoples Natural Gas Division of Northern Natural Gas Co. A notice of intervention was filed by The Public Utilities Commission of the State of Colorado. The above-mentioned petitioners have demonstrated an interest in this proceeding which warrants their participation. The petitions to intervene shall therefore be granted.

CIG states that the principal reasons for its proposed rate increase are (1) the addition to its gas plant of new facilities, (2) increased labor and operating costs, and (3) the need for an increased rate of return. CIG claims an increased rate of return of 11.04 percent overall, including a 15.75 percent return on common equity.

Based on a review of CIG's filing herein, the Commission finds that the proposed higher 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 CIG's proposed rate increase for filing, suspend its use for five months or until October 1, 1978, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing, as hereinafter conditioned.

Review of CIG's filing indicates that CIG has included therein costs associated with certain facilities which have not been certificated and placed in service at this time. Based on the anticipation that all such facilities will be certificated and placed in service by September 30, 1978, CIG requests waiver of the provisions of section 154.63(e)(2)(ii) of the the Regulations to permit the costs associated with the uncertificated facilities and services to be reflected in this filing. Such waiver shall be granted on the condition that CIG shall file revised rates and supporting materials reflecting the elimination of all costs associated with facilities not placed in service by October 1, 1978, the effective date of the rates suspended by this order.

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 CIG 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 rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by CIG.

(B) Pending hearing and decision, CIG's proposed rate increase is accepted for filing and suspended until October 1, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed by CIG in accordance with the provisions of the Natural Gas Act.

(C) The provisions of section 154.63(e)(2)(ii) of the Regulations are waived to permit CIG's filing to reflect the inclusion of costs associated with presently uncertificated facilities, on the condition that CIG shall file revised tariff sheets on or before October 1, 1978, reflecting the elimination of all costs included in the proposed

[1] Twenty-first Revised Sheet No. 5, Twenty-first Revised Sheet No. 6, Second Revised Sheet No. 198, and Second Revised Sheet No. 262 to Second Revised Volume No. 1 of CIG's FERC Gas Tariff.

rates associated with facilities not placed in service by October 1, 1978. CIG shall also submit supplemental cost and revenue data reflecting the elimination of such costs from its cost of service.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before September 1, 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 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 rules of practice and procedure.

(F) The above noted petitioners to intervene are permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission. Commissioner Holden voted present.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12683 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP77-282]

COLUMBIA GAS TRANSMISSION

Order Amending Order Issuing Certificate of Public Convenience and Necessity

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977), and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transfered to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

On January 6, 1978, Columbia Gas Transmission Corp. (Columbia) filed in Docket No. CP77-282, a petition to amend the order issued July 1, 1977 (58 FPC ——), granting a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act by authorizing the installation and operation of a 4,000-horsepower reciprocating compressor unit at its Coco Compressor Station located in Kanawha County, W. Va., in lieu of a 4,250-horsepower centrifugal compressor unit, all as more fully set forth in the petition to amend.

By order issued July 1, 1977, Columbia was authorized, inter alia, to install and operate an additional 4,250-horsepower centrifugal compressor unit at its Coco Compressor Station as part of a project designed to enable Columbia to increase the annual storage turnover volumes in its Coco storage complex. The existing Coco Compressor Station contains six reciprocating compressor units totaling 5,500 horsepower. Initial compressor station design investigations determined that the 4,250-horsepower unit would satisfy the additional Coco compression requirements at the lowest capital cost. When detailed design investigations were subsequently conducted during 1977, it was determined that Columbia's needs could best be met by installing the proposed 4,000-horsepower reciprocating unit. The heavy-duty design, relatively high fuel efficiency, and wide performance range of the reciprocating compressor will result in lower operating and maintenance expense, less station fuel being required, and extended utilization of the existing compressor units.

The installation of a 4,000-horsepower reciprocating compressor unit as proposed herein would cost an estimated $3,165,000 which cost will be financed through funds generated internally. The cost of the unit proposed herein is an increase of approximately $1,911,300 over the cost of installation of the 4,250-horsepower unit.

Because the facilities will be installed in and about an existing structure, approval of the installation will not constitute a major Federal action significantly affecting the quality of the human environment.

After due notice by publication in the FEDERAL REGISTER on January 31, 1978 (43 FR 4092), no petition to intervene, notice of intervention, or protest to the granting of the petition to amend has been filed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issued July 1, 1977, in Docket No. CP77-282 be amended as hereinafter ordered.

The Commission orders: (A) The order in Docket No. CP77-282, issued July 1, 1977, is amended so as to authorize the installation and operation of a 4,000-horsepower reciprocating compressor unit at Columbia's Coco Compressor Station located in Kanawha County, W. Va., in lieu of a 4,250-horsepower centrifugal compressor unit, as hereinbefore described and as set forth in the petition to amend in this proceeding. In all other respects, said order shall remain in full force and effect.

(B) The authorization granted in paragraph (A) above and the rights granted thereunder are conditioned upon Columbia's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f), and (g) of section 157.20 of such Regulations.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12679 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP77-636]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

MAY 2, 1978.

Take notice that on April 20, 1978, Columbia Gas Transmission Corp. (Columbia) tendered for filing the following proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective April 1, 1978:

Fourth Revised Sheet No. 1
Original Sheet Nos. 16A, 44, 44A, 44B, 44C, 44D, and 44E
Fifth Revised Sheet No. 47
Fourth Revised Sheet No. 47A
Original Sheet Nos. 72D and 72E

These sheets, which were filed by Columbia in compliance with the Commission's order issued April 10, 1978 at Docket No. CP77-636, reflect the addition of a new CSS Rate Schedule for Crawford Storage Service. Copies of the filing were served by Columbia upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such peti-

tions or protests should be filed on or before May 17, 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. 78-12680 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP77-553]

EL PASO NATURAL GAS CO.

Findings and Order After Statutory Hearing Issuing Certificate of Public Convenience and Necessity

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977), and Executive Order No. 12009, 42 FR 46467 (Sept. 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On August 5, 1977, El Paso Natural Gas Co. (Applicant) filed with the FPC in Docket No. CP77-553 an application, as supplemented November 15, 1977, and January 25, 1978, for a certificate of public convenience and necessity authorizing the retention in place and operation of existing loop pipeline, meter and dehydration facilities located in Washita County, Okla., for use as the need may arise, all as more fully set forth in the application, as supplemented, in this proceeding.

On June 16, 1977, pursuant to section 157.22(c) of the Regulations under the Natural Gas Act (18 CFR 157.22(c)), Applicant notified the FPC that on June 6, 1977, it had completed the construction and commenced operation of approximately 5.83 miles of 6⅝-inch pipeline, with appurtenances, looping the existing Supply Lateral C-6 pipeline, 4½-inch and 6⅝-inch meter-runs located at an existing authorized Washita Exchange Point with Natural Gas Pipeline Co. of America (Natural), and a 20,000-Mcf-per-day capacity central dehydration unit. Applicant asserts that these facilities were required to be constructed immediately and placed in operation due to the emergency condition of fluctuating high pressure encountered in drilling Applicant's Floyd Niece No. 1 well in Washita County. In order to prevent the well from blowing out Applicant had to flare immediately the gas produced from the well on an emergency basis commencing April 29, 1977. The flaring of gas produced from the well was terminated by the connection of the well into Applicant's existing Supply Lateral C-6 pipeline which necessitated reductions in takes from other wells in the area because of the C-6 line's limited capacity. Production from the Floyd Niece No. 1 well was stabilized and normal gathering operations through the C-6 line resumed. Nevertheless, Applicant completed the facilities out of concern that the original condition might recur. The geology of the area and Applicant's continuing drilling activity there for new supply are such that that the facilities should prove useful in the future.

The dehydration facilities which Applicant proposes to retain in place were constructed within the contemplation of section 2.55(a) of the Commission's Statement of General Policy and Interpretations. Section 2.55(a) excludes from jurisdictional facilities, for the purposes of section 7(c) of the Natural Gas Act, auxiliary installations such as dehydration equipment. Accordingly, the authorization herein granted does not include authorization to retain in place and operate the dehydration facilities since they were constructed under section 2.55(a) and certificate authority is not necessary for Applicant to retain in place and operate them.

The subject authorization will permit Applicant the additional flexibility initially provided by the installation of emergency facilities (a) to transport volumes of gas which Applicant may develop or purchase in the immediate area, (b) to deal with similar unpredictable production circumstances and thereby avoid wasteful flaring, and (c) to increase exchange deliveries to Natural on a scheduled or emergency basis as required, but within authorized exchange volumetric limits.

The total cost of all facilities described herein is $530,980.

The Commission finds that this order does not constitute a major Federal action having any significant effect on the human environment.

After due notice by publication in the FEDERAL REGISTER on August 19, 1977 (42 FR 41884), no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on April 26, 1978, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds: (1) Applicant, El Paso Natural Gas Co., a Delaware corporation having its principal place of business in El Paso, Tex., is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the order of January 11, 1944, in Docket No. G-288 (4 FPC 486).

(2) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the operation thereof by Applicant is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The retention in place and operation of the subject facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

The Commission orders: (A) A certificate of public convenience and necessity is issued authorizing Applicant, El Paso Natural Gas Co., to retain in place and operate the subject pipeline looping and metering facilities for use in transporting gas as the need arises as hereinabove described, all as more fully described in the application, as supplemented, in this proceeding.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all appli-

cable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), and (f) of section 157.20 of such Regulations.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12684 Filed 5-9-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. CP77-71, CP77-118, CP77-125]

NATURAL GAS PIPELINE CO. OF AMERICA ET AL.

Intent To Act and Deferring Procedural Dates

APRIL 28, 1978.

In the matter of Natural Gas Pipeline Co. of America, Columbia Gas Transmission Corp, Columbia Gulf Transmission Co., and Texas Gas Transmission Corp.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.[1]

The "saving provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR——provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On February 2, 1978, the Presiding Administrative Law Judge certified to the Commission two questions concerning the intended scope of the hearing previously ordered by the Commission to be held in the above-captioned proceeding. The Commission hereby gives notice of its intent to act on the certified questions.

On March 31, 1978, the Presiding Judge issued an order establishing dates for the filing of direct and answering evidence by the parties to this proceeding, and for the commencement of hearings. Pursuant to this schedule, direct evidence is due to be filed on or before May 1, 1978.

Since the Commission's ruling on the certified questions may affect the scope of this proceeding and clarify, and possibly limit, the issues to be addressed by the parties in their evidence, it appears no useful purpose would be served by the filing of evidence prior to issuance of the Commission's ruling. The previously established procedural dates are therefore deferred pending action by the Commission on the certified questions.

By direction of the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12673 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RP78-57]

OKLAHOMA NATURAL GAS GATHERING CORP.

Proposed Changes in FERC Gas Tariff

MAY 1, 1978.

Take notice that Oklahoma Natual Gas Gathering Corp. (Gathering Corp.), on April 20, 1978, tendered for filing proposed changes in its FERC Tariff, Original Volume No. 1, consisting of the following tariff sheets:

Fourteenth Revised Sheet PGA-1
Fourth Revised Sheet No. 4
First Revised Sheet No. 58
Third Revised Sheet No. 59
First Revised Sheet No. 60
First Revised Sheet No. 61
First Revised Sheet No. 62
First Revised Sheet No. 63

The proposed changes would increase the level of its jurisdictional rates by 1.37 cents per Mcf, which would provide an increase in revenues from jurisdictional sales of $180,737 based on the 12-month period ending December 31, 1977, as adjusted. Gathering Corp. states that this increase amounts to a 1.5 percent increase over revenues which would result from rates that are in effect at this time.

Gathering Corp. states that this filing is being made in compliance with section 154.38(d) of the Commission's regulations governing the utilization of PGA clauses and does not seek to change the 9 percent rate of return previously authorized in Docket No. RM75-14; only to adjust the base sales rate to enable it to earn that rate of return. Gathering Corp. states that increased cost of service (labor, supplies, expenses, and construction) have caused its earned rate of return to decline to 5.20 percent.

Gathering Corp. proposes an effective date of May 23, 1978, and states that copies of this filing were served on each of its 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 Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 12, 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 on this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12674 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER77-86]

SOUTHERN CO. SERVICES, INC.

Order Approving Settlement Agreement, Granting Motion To File Comments, Granting Late Intervention and Denying Hearing

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE not responsible for the function under the DOE Act and regulations promulgated thereunder. The functions

[1] The "Commission" when used in the context of an action taken prior to Oct. 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

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 December 7, 1977, Southern Co. Services, Inc. filed with the Federal Energy Regulatory Commission a proposed Settlement Agreement in the above designated docket. On December 8, 1977, the Presiding Administrative Law Judge certified the proposed Settlement to the Commission for its consideration and determination.

The proposed settlement was executed by Southern Co. Services, Inc. (SCSI) acting on its behalf as agent for the Mississippi Power Co., Gulf Power Co. and Alabama Power Co.; it was only executed by Georgia Power Co., the Municipal Electric Authority of Georgia (MEAG), and the Water, Light and Sinking Fund Commission of the City of Dalton, Ga. (City of Dalton). The Commission finds that the Settlement Agreement is in the public interest and accepts it as hereinafter ordered and conditioned.

On November 30, 1976, SCSI filed the Southern Co. System Intercompany Interchange Contract for 1977 with the Federal Power Commission. The Intercompany Interchange Contract governs the method by which the Operating Companies[1] account and pay for interchanges of capacity and energy between their respective systems.

By order issued December 27, 1976, the Federal Power Commission accepted the 1977 Intercompany Interchange Contract for filing, suspended the effectiveness of the Contract for one day, until January 2, 1977, and initiated the proceeding in this docket. Subsequently, MEAG and the City of Dalton, parties to the proposed Settlement Agreement were granted leave to intervene.

After a series of discussions between the parties and the Staff the proposed Settlement Agreement was reached. Notice of the Presiding Judge's certification of the Agreement to the Commission was issued on December 22, 1977, with comments due on or before January 20, 1978. On January 23, 1978, Staff filed a motion for extension of time to respond, together with comments in support of the proposed Settlement Agreement. No party has opposed that motion; it will be granted and Staff's comments will be considered.

Subsequent to the filing of Staff's comments the Oglethorpe Electric Membership Cooperative ("Oglethorpe" or "Petitioners") filed a petition for "Leave to Intervene, Protest and Request for Hearing" on January 26, 1978. Petitioner argues that its rates for power purchases under Georgia Power Company's Partial Requirements tariffs will be affected by the terms of the SCSI Interchange Contract. As justification for its untimely petition, Oglethorpe indicates that it was not until the parties filed a Proposed Settlement Agreement in this Docket on December 7, 1977, and not until Petitioner received a copy of that Agreement on January 20, 1978, that Oglethorpe became aware of the possible adverse impact upon it of the Settlement Agreement.

Oglethorpe expresses two concerns in its petition. (1) It argues that the SCSI Interchange Contract for 1977 might adversely affect its rates for partial requirements purchases. Petitioner concedes however, that there would be no adverse effect if the Commission approves the Settlement Agreement entered into between Oglethorpe, Georgia Power and other parties in Docket No. ER76-587. That docket involves Georgia Power's rates for partial requirements service to Oglethorpe (PR-2). (2) Oglethorpe's second concern is that the proposed Settlement Agreement in ER77-86, would adversely affect it through the impact on partial requirements rates proposed in Docket No. ER78-166 (PR-3).

In response to Oglethorpe's petition, Staff filed an answer on February 8, 1978, and SCSI and MEAG filed answers on February 9, 1978. Each of the answers stated opposition to the requested intervention. Both Staff and MEAG point out that public notice of SCSI's filing in Docket No. ER77-86 was first issued in December 1976. Settlement conferences began in June 1977 and continued for the remainder of the year. Staff, MEAG and SCSI object to Oglethorpe's petition on two grounds: (1) It is untimely, being filed thirteen months after the deadline for such petitions and six days after the date for filing comments on the proposed settlement and (2) the Petitioner's interests will not be adversely affected by the proposed settlement.

The proceedings in this docket commenced more than one year ago, after adequate public notice to potentially interested parties had been given. Certainly the interests of all concerned would have been better served had Oglethorpe sought participation at an earlier stage, when negotiations were still in progress. Nevertheless, the petition does raise issues conceivably affecting its interests. Since intervention will be confined to consideration of Petitioner's arguments solely as they relate to the record now before us, no delay or inconvenience to other parties will be entailed. Accordingly, we will grant Oglethorpe's petition to intervene.

Oglethorpe's contentions that the proposed Settlement Agreement in this docket will affect its partial requirements rate in Docket No. ER76-587 and in Docket No. ER78-166 are strongly disputed by the Staff, MEAG and SCSI. First, Staff and MEAG note that the 1977 Interchange Contract rates, effective as of January 2, 1977, govern Georgia Power's sales to and purchases from the Southern Co. Pool. The Georgia Power partial requirements rates under Docket No. ER76-587 were based upon costs for a test period ending on December 31, 1976. The Georgia Power interchange rates affecting Docket No. ER76-587 were based in the 1976 SCSI Interchange Agreements and the terms of that agreement were modified by a settlement approved by the Federal Power Commission in Docket No. ER76-302 on April 15, 1977.

Second, Staff and MEAG cite our "Order Conditionally Accepting Settlement Agreement", Georgia Power Co., Docket No. ER76-587, issued on February 6, 1978. As conceded by Oglethorpe, approval of the proposed Settlement Agreement in Docket No. ER76-587 would moot the possibility that Docket No. ER77-86 could adversely affect the partial requirements rate in Docket No. ER76-587. Both Staff and MEAG maintain that if the conditionally accepted settlement is not withdrawn, Oglethorpe is not adversely affected by the proposed settlement in this docket.

Third, Staff as well as SCSI reject Petitioner's argument that the proposed Settlement Agreement (which provides for certain changes to be incorporated into the 1978 SCSI Interchange Contract) will affect the partial requirements rate filed in Docket No. ER78-166. Staff Counsel reasons that the PR-3 wholesale rate would be based on a Period II test year of February 28, 1978, to February 28, 1979, and that the 1977 Interchange Contract would have no affect on that rate. Rather, the new partial requirements rate (PR-3) would only be affected by the 1978 SCSI Interchange Contract (Docket No. ER78-76).

Further, MEAG in its answer asserts that the ER77-86 Settlement Agreement would not preclude Oglethorpe from objecting to the 1978 Intercompany Interchange Contact in the ER78-76 proceeding. MEAG points out that Oglethorpe is not a signatory to the ER77-86 Settlement Agreement and therefore could not be bound by it. MEAG also alleges that Section V

[1]The Operating Companies consist of Alabama Power, Georgia Power, Mississippi Power, and Gulf Power.

of the Settlement Agreement[2] in ER77-86 to which both it and the Water Light and Sinking Fund Commission of the City of Dalton, Georgia are signatories does not preclude challenges to the 1978 Intercompany Interchange Contract in Docket No. ER78-76. Consequently, MEAG submits if those parties who are bound by the Settlement Agreement in Docket No. ER77-86 are still free to challenge the 1978 Intercompany Interchange Contract in ER78-76 then there is no question that Oglethorpe would also be free to make its objections in that proceeding.

We have examined the record before us, the arguments advanced by Oglethorpe, SCSI and MEAG's answers, Staff's comments and Staff's response to Oglethorpe's petition to intervene. We find that Staff, SCSI and MEAG have correctly concluded that the proposed Settlement will have no adverse affect upon Oglethorpe. We further conclude that the proposed Settlement Agreement is in the public interest and will accept and approve it as hereinafter ordered and conditioned.

With respect to the Petitioner's contention that approval of the proposed Settlement Agreement may adversely affect PR-2 rates, we conclude that those rates, to the extent they are affected by Georgia Power's interchange transactions with other Southern Co. Pool members, are primarily related to the 1976 SCSI Interchange Contract. The 1977 Contract, i.e., the filing in this docket, does establish formulas for interchange energy charges. The energy charges established in that contract and proposed for acceptance in the instant Settlement Agreement do have some effect upon the monthly energy charges to Oglethorpe under PR-2. Of course, those energy rates incorporated in SCSI's Docket No. ER77-86 filing and the proposed Settlement Agreement merely incorporate the changes which had been approved by the Federal Power Commission as part of a Settlement Agreement in Docket No. ER76-302 on April 15, 1977. That Agreement covered the energy charge formula to be included in SCSI's 1977 Interchange Contract. Oglethorpe chose not to seek intervention in the ER76-302 proceeding. Oglethorpe is ill-situated to complain, at this late date, about matters first raised in a proceeding finally settled in April of last year.

Additionally, by letter dated February 15, 1978, Georgia Power Co. informed the Commission that it would not contest our February 6, 1978 Order conditionally accepting the Settlement Agreement in Docket No. ER76-587. Georgia Power agreed to the modifications outlined in that order. In view of Georgia Power's actions, the settlement in Docket No. ER76-587[3] effectively resolves Oglethorpe's concerns about the PR-2 rate. This point is in fact conceded by Oglethorpe in its petition.

We agree with Staff and MEAG that the 1977 Interchange Contract does not affect the proposed PR-3 Georgia Power rate filing which is based on 1978-1979 test year data. The 1977 contract, which is the subject of the proposed Settlement in this docket, is effective only during calendar year 1977. The PR-3 rate and the 1978 SCSI Interchange Contract are the subjects of proceedings in Docket Nos. ER78-166 and ER78-76. Oglethorpe filed petitions in those dockets on January 24 and 26, 1978. Whatever interests Oglethorpe may have in PR-3 are appropriately addressed in those proceedings.

The proposed Settlement Agreement provides that SCSI agrees to incorporate in the 1978 Intercompany Interchange Contract allocation of steam electric reserve capacity in excess of reserves for forced outages of hydroelectric and thermal electric capabilities to the Operating Companies based upon their peak load ratios.

Article II of the settlement is a provision requested by Southern Services and not contested by the other parties. It concerns a revised computational schedule to be included in the 1978 Contract amendments which would eliminate that component of the monthly capacity rate associated with reserve margins of the respective Operating Companies.

Based on Staff's analysis, the earned rate of return for the capacity charges under the proposed Settlement Agreement will not exceed Staff's recommended weighted returns on equity of 13.25 percent for Georgia, Alabama, and Gulf and 13.38 percent for Mississippi. Additionally based on Staff's analysis, the earned rate of return for transmission facilities charges under the proposed Settlement Agreement will not exceed Staff's recommended rate of return of 10.80 percent including 13.25 percent on common equity based on an incremental debt cost procedure.

Upon review of the entire record of this proceeding, the Commission finds that the proposed Settlement Agreement represents a reasonable resolution of all the issues in this proceeding.[4] Accordingly, the proposed Settlement Agreement shall be incorporated herein by reference and shall be approved and adopted.

The Commission finds: (1) The Settlement Agreement certified to the Commission on December 8, 1977, should be approved and made effective as hereinafter ordered.

(2) The Commission finds the participation of Oglethrope in this proceeding may be in the public interest.

(3) Oglethorpe's request for hearing should be denied.

(4) Staff's motion for leave to file comments should be granted.

The Commission orders: (A) The Settlement Agreement certified to the Commission on December 8, 1977, in this proceeding is hereby accepted, incorporated herein by reference and approved subject to the following conditions.

(B) Docket No. ER77-86 is hereby terminated.

(C) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against SCSI or any person or party.

(D) Oglethorpe is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that intervention will be confined to consideration of Oglethorpe's arguments solely as they relate to the present record and that the untimely intervention granted to Oglethorpe shall not be the basis for any delay in implementation of the Settlement Agreement approved herein; and *Provided further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggreived because of any orders of the Commission entered in this proceeding.

(E) Oglethorpe's request for a hearing is hereby denied.

(F) Staff's motion for leave to file comments is hereby granted.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

[2]Section V of the Settlement Agreement provides: "That neither [SCSI] nor the Operating Companies will cite approval of this offer of settlement as a basis for opposing any objections to the 1978 Intercompany Interchange Contract for the calendar year 1978".

[3]On March 10, 1978, SCSI filed a Motion for Consideration of Settlement in Docket No. ER77-86, requesting that we approve the Settlement Agreement in the instant case as a result of the disposition of Docket No. ER77-587.

[4]The Settlement Agreement provides that the amount associated with Account 281, Accelerated Amortization, is reflected in the Operating Companies' capitalization at zero cost. In future filings, the Operating Companies should reflect the amount associated with Account 281 as a deduction to rate base consistent with the Commission's Opinion No. 12, Minnesota Power & Light Company, issued April 14, 1978.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12675 Filed 5-9-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

DON A. BEADLE AND MACERO MINERALS, INC., ET AL.

[Docket Nos. CS71-844, etc.]

Applications for "Small Producer" Certificates [1]

APRIL 27, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS71-844	Apr. 2, 1978	Don A. Beadle and Macero Minerals, Inc.,[1] the 600 Bldg., Corpus Christi, Tex. 78401.
CS74-198	Apr. 17, 1978	Stelbar Oil Corp., Inc., and Jerry E. Shawver,[2] 200 West Douglas, Suite 950, Wichita, Kans. 67202.
CS78-377	Apr. 10, 1978	SPG Operating Co. (operator), et al., 7700 Commerce Park Dr., Suite 141, Houston, Tex. 77036.
CS78-378	Apr. 11, 1978	Liberty Oil & Gas Corp., P.O. Drawer 430, Livonia, La. 70755.
CS78-379	Apr. 12, 1978	HASADA, Industries, P.O. Box 1532, Liberal, Kans. 67901.
CS78-380	Apr. 11, 1978	Roye Realty & Developing, Inc., P.O. Box 148, Stigler, Okla. 74462.
CS78-381	do	William S. Evans, 1700 Beck Bldg., Shreveport, La. 71101.
CS78-382	Apr. 13, 1978	W. B. Dansfield, 1300 the 600 Bldg., Corpus Christi, Tex. 78473.
CS78-383	do	Dansfield Oil & Gas Corp., 1300 the 600 Bldg., Corpus Christi, Tex. 78473.
CS78-384	do	Agoil Inc., P.O. Box 4707, Victoria, Tex. 77901.
CS78-385	Apr. 14, 1978	Stanley B. Archibald, Jr., 4221 First International Bldg., Dallas, Tex. 75270.
CS78-386	Apr. 10, 1978	Michel T. Halbouty, 5100 Westheimer, Suite 500, Houston, Tex. 77056.
CS78-387	Apr. 14, 1978	Canadian American Resources Fund Inc., 1973 (1 partnership), 2500 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS78-388	Apr. 17, 1978	Keisling Farms, Inc., 1001 Avenue Q, Sunray, Tex. 79086.
CS78-389	do	Rowan Petroleum Inc., 1900 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.
CS78-390	do	Douglas B. Bickerstaff, P.O. Box 548, Billings, Mont. 59103.
CS78-391	do	Bobby W. Whittington, Box 568, Portland, Tex. 78374.
CS78-392	do	Canadian American Resources Fund Inc., 1973 (2 partnership), 2500 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS78-393	Apr. 18, 1978	Moleo Gas Corp. (operator), et al., 211 North Colorado, Suite 201, Midland, Tex. 79701.
CS78-394	do	Pete Caldwell Drilling Co., Inc., P.O. Box 4165, Monroe, La. 71203.
CS78-395	do	Calvin Myers, P.O. Box 4165, Monroe, La. 71203.
CS78-396	do	Criswell White, P.O. Box 4165, Monroe, La. 71203.
CS78-397	do	Navidad Gas Gathering Co., Inc., 9000 Southwest Freeway, Suite 212, Houston, Tex. 77074.
CS78-398	do	Floe Energy, Inc., 900 Hillcest Dr., Spencer, W. Va. 25276.
CS78-399	do	NFC Petroleum Corp., 3535 Northwest 58th St., Suite 920, Oklahoma City, Okla. 73112.
CS78-400	Apr. 20, 1978	CEFGO Co., Box 55, Tylersburg, Pa. 16361.
CS78-401	Apr. 21, 1978	United Co., Suite 507, Texas Commerce Bank Bldg., Lubbock, Tex. 79401.
CS78-402	do	Charlotte A. Sutliff, Box 368, Princeton, Ind. 47670.

[1] Being noticed to include both Don A. Beadle and Macero Minerals, Inc.
[2] Being noticed to include Jerry E. Shawver.

[FR Doc. 78-12520 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER78-328]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Rate Filing

MAY 1, 1978.

Take notice that on April 24, 1978, Central Hudson Gas & Electric Corp. (Central Hudson) tendered for filing its development of actual costs for 1977 related to transmission service provided from the Roseton Generating Plant to Consolidated Edison Co. of New York, Inc. (Con Edison) and Niagara Mohawk Power Corp. (Niagara Mohawk) in accordance with the provisions of its Rate Schedule F.E.R.C. No. 42.

Central Hudson states that the actual cost for 1977 amounted to $1.1264 per Mw-day to Con Edison and $3.7692 per Mw-day to Niagara Mohawk and is the basis on which estimated charges for 1978 have been billed.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1978 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison, Niagara Mohawk and the State of New York Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with 18 CFR 1.8 and 1.10. All such petitions or protests should be filed on or before May 15, 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 withing 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. 78-12665 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER78-329]

CENTRAL HUDSON GAS & ELECTRIC CO.

Filing of Rate Schedule

MAY 1, 1978.

Take notice that Central Hudson Gas & Electric Corp. (Central Hudson) on April 24, 1978 tendered for filing a supplement to its Rate Schedule F.P.C. No. 53 with New York State Electric & Gas Corp. This supplement extends the term of the Rate Schedule and modifies the service provided under the Rate Schedule. The supplement is proposed to become effective January 1, 1978, and Central Hudson therefore requests waiver of the Commission's notice requirements.

Copies of the filing by Central Hudson were served upon the New York State Electric & Gas Corp. and the Public Service Commission of New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 May 15, 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 petition are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12666 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-303]

CITIES SERVICE GAS CO.

Application

MAY 3, 1978.

Take notice that on April 19, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP78-303 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline tap, measuring, regulating and appurtenant facilities to enable it to render direct natural gas service to one new customer, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to tap its existing Dilworth 20-inch transmission pipeline in Sumner County, Kans., to provide gas service to one customer, Forrest G. Butts, for rural domestic and irrigation purposes. Applicant states that this customer has requested gas service pursuant to the terms of a right-of-way easement and agreement, and that the proposed customer has relied upon the provisions for natural gas service as contained in the right-of-way easement and agreement as such provision constituted a major portion of the consideration given to him by Applicant for the voluntary grant of such easement.

It is indicated that the estimated cost of the proposed measuring and regulating facilities is $960, which cost would be paid from treasury cash. It is estimated that the annual sales made pursuant to this application would average approximately 3,000 to 5,000 Mcf, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 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.

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. 78-12692 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RP72-122 (PGA78-2a)]

COLORADO INTERSTATE GAS CO.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

MAY 1, 1978.

Take notice that Colorado Interstate Gas Co. (CIG), on April 24, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1. The proposed changes are in compliance with the March 31, 1978 letter of the Commission's Secretary requiring and allowing certain revisions to CIG's Purchased Gas Adjustment filing made February 24, 1978.

The filing was made to enable CIG to reflect in its rates, pursuant to section 21 of CIG's FERC Gas Tariff, Second Revised Volume No. 1, net increased purchased gas costs it will experience as the result of rate filings made by Northwest Pipeline Corp., Mountain Fuel Supply Co., McCulloch Interstate Gas Corp., and Western Transmission Corp., which are four of CIG's pipeline suppliers.

In accordance with the March 31, 1978, letter of the Commission's Secretary, CIG requests that the proposed tariff changes be made effective April 1, 1978, and April 2, 1978.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

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 NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 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. 78-12667 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RM77-14]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

MAY 1, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated), on April 27, 1978, tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes, made pursuant to ordering Paragraph (C) of the Commission's Opinion No. 11 reflects, on Third Revised Sheet No. 16, the Gas Research Institute Charge Adjustment Provision of 0.12¢ per dekatherm to be effective June 1, 1978.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons 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 NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 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. 78-12668 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER76-887]

DAYTON POWER AND LIGHT CO.

Certification of Settlement Agreement and Record

MAY 2, 1978.

Take notice that on April 18, 1978, the Presiding Judge in Docket No. ER76-887, Dayton Power and Light Co., certified to the Commission a settlement agreement between the parties in that proceeding. In addition to the settlement agreement and the parties' joint motion for certification, the four volumes of transcript which constitute the record have also been certified to the Commission.

Any person desiring to be heard or to protest this settlement agreement should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before May 22, 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12689 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket Nos. CI77-372; CI77-373; CI77-409]

ECEE, INC. ET AL.

Order Denying Request to Collect Rates in Excess of the Applicable Nationwide Rate Under Temporary Authorization and Granting Authorization at the Nationwide Rate

MAY 2, 1978.

On January 18, 1978, Ecee, Inc. (Ecee) and Pinto, Inc. (Pinto) filed, in their respective dockets, requests for issuance of temporary authorizations, pursuant to 18 CFR 157.28, to initiate sales of their gas interests underlying West Cameron Block 586, offshore Louisiana, at a price of $2.50 Mcf at 14.73 psia, subject to refund. TBP Offshore Co. (TBP) filed in its docket, an essentially identical request covering its interest in West Cameron 586, on January 23, 1978. The three companies taken together own 6.67 percent of the working interest in West Cameron 586.

On January 27, 1978, the United Muncipal Distributors Group (MDG) filed a response in opposition to the requests of Ecee, Pinto, and TBP. On February 10, 1978, TBP, joined by Ecee and Pinto, replied in opposition to MDG's January 27, 1978 response and again argued for their respective requests for temporary authorization of the requested $2.50/Mcf rates.

Ecee and Pinto filed applications for permanent certificates and petitions for special relief under 18 CFR 2.56a(g) for their respective interests in West Cameron 586 on March 29, 1977. TBP filed a similar application and petition for special relief on April 14, 1977. All three applicants requested an initial rate of $4.02/Mcf for the sale of each company's respective gas to Sea Robin Pipeline Company (Sea Robin). By a May 4, 1977 order in the instant dockets the Commission consolidated these three applications together with similiar applications and petitions for special relief of Pennzoil Offshore Gas Operators, Inc. (POGO), Docket No. CI76-806, and Mesa Offshore Co. (Mesa), Docket No. RI77-13, and set the consolidated proceeding for a hearing to determine whether the proposed rates should be authorized as being just and reasonable.

Evidentiary hearings commenced before the Presiding Administrative Law Judge on September 8, 1977, and concluded December 21, 1977. On October 4, 1977, the instant three applicants amended their individual applications to reflect reduction of their initial rate request to $3.74/Mcf.

Mobil Oil Corp., owning 33% of West Cameron 586, applied for a permanent certificate at the nation-wide rate in Docket No. CI76-464 on April 12, 1976, and the Commission granted Mobil a permanent certificate by order dated February 15, 1977, at the applicable Opinion No. 770-A rate. Cities Service Co., filed for a temporary and permanent certificate at the nation-rate on April 20, 1977 in Docket No. CI77-421, for its 10% interest in West Cameron 586, and the Commission issued Cities a temporary certificate at the applicable nationwide rate on May 5, 1977. POGO, owning 50 percent of West Cameron 586, filed for a temporary certificate at the nationwide rate on April 28, 1977, in Docket No. CI76-806 and the Commission granted the temporary certificate on May 10, 1977, at the applicable Opinion No. 770-A rate.

Deliveries from West Camron 586 commenced May 4, 1977. The three present applicants have been "banking" their gas pursuant to a balancing arrangement with the Blocks' other working interest owners. They, individually, now request the Commission to authorize each of them respectively to commence sales under a temporary certificate at a rate substantially higher than the applicable nationwide rate. This we have declined to authorize in the past,[1] and see no reason to authorize it here on the facts presented. The Commission authorizes Ecee, Pinto and TBP, respectively, to commence sales of their gas to Sea Robin under respective temporary certificates at rates no higher than the applicable Opinion No. 770—A rate, effective the date this order is issued.

The language of 18 CFR 2.56a(g) is explicit. A "seller may not file for any rate increase which results in a rate in excess of the adjusted national rates * * * *unless and until* the Commission grants such petition for special relief." (emphasis added)

In several orders,[2] the Commission has expressed its concern with contractual provisions which shift an increasing amount of production related expenses to the pipeline purchasers without a concurrent reduction in the rate charged by producers for the gas. To the extent the contracts involved herein contain such provisions, the producers and the pipeline purchasers are advised that issuance of the certificates and acceptance of the related rate schedules does not constitute approval of such contractual provisions. In the event the purchaser incurs costs associated with processing, dehydration, compression or other conditioning of the subject gas and seeks to include these costs in its rates, the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The attachment of this condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77-412, CP77-558 and CP77-577.

The Commission orders: (A) The requests of Ecee, Pinto and TBP, respectively, for temporary authorizations to commence sales in these dockets at $2.50/Mcf, subject to refund, are hereby denied.

(B) Based upon the allegations presented in the individual requests of Ecee, Pinto, and TBP in the instant dockets for temporary authorization to initiate sales of natural gas pursuant to 18 CFR 157.28, the Commission finds that an emergency exists and a temporary certificate is hereby issued to each respective applicant, pursuant to Section 7 of the Natural Gas Act.

(C) Each temporary certificate is issued subject to the Commission's Opinion No. 770, as amended and any further orders issued thereunder, subject to the following express conditions:

(1) The initial rate shall be the lesser of the rate or the applicable nationwide rate.

(2) Within 30 days of the date of initial delivery, each applicant shall file 3 copies of a revised billing statement (Schedule 0507 of Form 108) for each subject rate schedule, clearly demonstrating the monthly sales volumes (Mcf) and the applicability of the authorized rates and the components of the initial rate.

(3) Each applicant shall submit a written waiver required by 18 CFR 2.56a(i) within 30 days of the issuance of this order.

(4) 18 CFR 154.93 is hereby waived only to the extent necessary to permit the filing of each contract which contains inpermissible pricing provisions and/or provides excess royalty payments. The granting of such waiver, however, does not constitute approval of such provisions, and any rate increase based upon said pricing provisions to the extent it is inconsistent with the provisions of 18 CFR 154.93 is subject to rejection.

(5) If the spirit and intent of 18 CFR 154.103 is violated in the contracts by the buyers not having 5 years to make up deficiencies in volumes paid for but not taken in the first 3 years of deliveries, because the daily contract quantity is based on 100% of deliverability, the applicant shall submit a contract amendment within 30 days of this order's issuance which complies with the spirit and intent of 18 CFR 154.103.

(D) Applicant's acceptance or rejection of the temporary certificate issued herein shall be filed within 30 days of this order's issuance. If accepted, the temporary certificate shall be effective upon the date of initial delivery. Service under the instant temporary certificates shall commence within 30 days of the date this order is issued. Such service shall be continued unless and until abandonment authorization is granted pursuant to Section 7(b) of the Natural Gas Act whether the contract has expired or not.

(E) All persons making jurisdictional sales pursuant to the authority granted by this certificate are hereby given notice that the contractual obligations between the buyer and the seller are incorporated into the certificate obligations, and the certificate is further conditioned to require that the seller shall observe the standard of a prudent operator to develop and maintain deliverability from reserves dedicated hereunder (Required by Order No. 539-B, issued July 30, 1976, Docket No. RM76-8; 18 CFR 154.71). This provision is void unless the decision of the United States Court of Appeals for the Fifth Circuit in *Shell Oil Company, et al.* v. *F.E.R.C.*, Nos. 76-3066, *et al.*, decided January 20, 1978, which reversed the Commission's Order No. 539-B is vacated upon further judicial review.

(F) The issuance of the subject temporary certificates and the acceptance of the subject rate schedules, are, without prejudice to such final disposition of the applications for permanent certificates and petitions for special relief in the consolidated Docket CI76-806, et al., as the record may require.

(G) Each related rate schedule will be considered accepted for filing upon compliance with the instant authorization, to be effective on the date of initial delivery subject to 18 CFR 154.94(c) and 154.101 and Opinion No. 770-A. The rate schedule filings have been designated as follows:

[1] Marathon Oil Company, Docket No. CI78-164, *Order Granting Temporary Certificate Of Public Convenience And Necessity And Granting Intervention*, issued March 20, 1978. Continental Oil Co., et al., Docket No. RI76-35, *et al., Order Consolidating Proceedings, Setting Consolidated Proceeding For Hearing and Granting Interventions*, issued April 28, 1976, *mimeo* at 3. Tenneco Exploration, Ltd., *et al., Docket No. CI76-633, et al.*, Order Denying Petition And Motion For Waiver of Section 2.75(o) And Denying Motions For Authorization To Collect Rates Sought In Certificate Applications Pending Final Commission Action, issued February 22, 1978. Tenneco Exploration, Ltd., *et al.*, Docket No. CI76-633 *et al., Order Denying Motion For Partial Waiver of Section 2.75(o) And Denying Petition For Waiver of Section 157.29(d)*, issued April 19, 1977, *mimeo* 3-4. *But see*, Coleve, *et al.*, Docket No. CI75-438, *et al., Order Granting Request For Temporary Certificate*, issued March 29, 1976. We decline to extend Coleve further to cover the facts herein.

[2] Orders issued on December 9, 1977, in *Phillips Petroleum Co.*, Docket No. CI77-412, and on December 30, 1977, in *United Gas Pipe Line Co.*, Docket No. CP77-558 and *Michigan Wisconsin Pipe Line Co.*, Docket No. CP77-577.

Docket No.	Description	Designation
CI77-372.....	Contract dated Mar. 1, 1977.	Ecee, Inc., FERC gas rate schedule No. 2.
CI77-373.....	.....do.....	Pinto, Inc., FERC gas rate schedule No. 4.
CI77-409.....	Contract dated Mar. 29, 1977.	TBP Offshore Co. FERC gas rate schedule No. 1.

Please advise the Commission of the date of commencement of deliveries under each rate schedule, within 10 days thereof, referring in your communication to each rate schedule as designated above.

(H) In the event the pipeline purchaser incurs costs associated with processing, dehydration, compression or other conditioning of the subject gas and seeks to include these costs in its rates, the pipeline purchaser will be required to provide that these costs have not been compensated for in the applicable national ceiling rate. This condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77-412, CP77-558 and CP77-577.

By direction of the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12670 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-291]

EL PASO NATURAL GAS CO.

Application

MAY 1, 1978.

Take notice that on April 17, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-291 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas purchase facilities consisting of 8 gas purchase meter stations and approximately 0.74 mile of pipeline, and certain gas sales facilities, consisting of 5 mainline right-of-way taps, with associated appurtenances, together with the related natural gas services heretofore rendered by means of such facilities from Applicant's interstate transmission system, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon the following gas purchase facilities:

(1) EPNG 10¾-inch O.D. Ft. Stockton Meter Station located in Pecos County, Tex., authorized in Docket No. G-13374. Applicant states that the station is no longer required due to the expiration of an associated gas purchase agreement, and that since the subject gas purchase agreement had expired, no further deliveries of residue gas were to be made by Texas Oil & Gas Corp. to Applicant, thereby obviating the need for Applicant's meter station facilities. Subsequently, on February 18, 1977, the idle meter station was removed from natural gas service by Applicant's operating personnel inadvertently without requisite authorization, it is stated. Applicant indicates that the salvageable materials have been placed in stock pending a future need thereof.

(2) Rojo Caballo Purchase Meter Station located in Pecos County, Tex., authorized in Docket No. CP64-211, et al., due to change in delivery point to applicant for the Rojo Caballo Field gas supplies.

(3) Phillips-Ector Plant Meter Station and Pipeline located in Ector County, Tex., authorized at Docket No. CP64-68, due to the change in processing and delivery points of gas to Applicant.

(4) The Keystone Emperor Purchase No. 2 Meter Station located in Winkler County, Tex., authorized at Docket No. CP70-114. Said meter station is no longer required due to the decline in deliverability of gas supplies in the area.

(5) The Walker No. 1 Well head Meter Station located in Pecos County, Tex., authorized at Docket No. CP68-86. Said meter station is no longer required due to the producer's intent to plug the Walker No. 1 well.

(6) The Gamble No. Wellhead meter station located in Pecos County, Texas, authorized at Docket No. CP68-86. Said meter station is no longer required due to the plugging of the Gamble No. 1 well.

(7) The Patterson No. 1 Wellhead Meter Station located in Pecos County, Tex., authorized at Docket No. CP68-86. Said meter station is no longer required due to the converson of the Patterson No. 1 well into a water injection well; and

(8) The Government 134 No. 1 Meter Station and pipeline located in Eddy County, New Mexico, authorized at Docket No. CP73-82, due to the expiration of the limited-term certificate and the producer's intent to plug such well.

Applicant also proposes to abandon the following gas sales facilities:

(1) The W. A. Dobson tap located in Maricopa County, Arizona, installed without specific certificate authorization, no longer required due to the City of Mesa's accepting this service.

(2) The Woodman of the World Hall tap located in San Juan County, N. Mex., authorized in Docket No. G-12319, no longer required due to Southern Union Company's construction of a distribution line from its Farmington System to the Woodman of the World Hall tap.

(3) The Robert Draper Tap located in Gaines County, Tex., authorized in Docket No. CP69-23, no longer required due to the non-production of the water wells which such tap served.

(4) The Magnolia Pipeline Co. tap located in Hockley County, Tex., no longer required due to the gas consumers' switch from natural gas to electricity as a source of energy; and

(5) The Shell Pipe Line Corp.-Meyers Lease Pump Production tap located in Lea County, N. Mex., authorized in Docket No. CP69-23, no longer required due to Shell Pipe Line Corp.'s request that Jal Gas Co., Inc., cancel the contract between them.

Applicant proposes to abandon such facilities and thereafter to remove and place in stock the salvable materials and scrap the non-salvable items, without material change in Applicant's average cost of service. Applicant states that the total cost of abandonment of the proposed facilities is estimated to be $11,385.70. Applicant further states that the abandonment of the proposed facilities would not result in or cause any interruption, reduction or termination of natural gas service presently rendered by Applicant to any of its customers, other than those services as hereinbefore described.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 22, 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12685 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER78-265]

GEORGIA POWER CO.

Compliance Filing

MAY 1, 1978.

Take notice that Georgia Power Co. (Company) on April 19, 1978, tendered for filing two Revised Sheets No. 3 to Georgia Power's FERC Electric Tariff, Original Volume No. 2. Company indicates that this filing is made in compliance with the Commission's letter dated April 13, 1978, in the above-noted docket requiring revised sheets setting forth the Company's index of purchasers under its partial requirements tariff.

The Company states it served copies of the filing on each of its partial requirements customers.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before May 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12669 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP66-110, etc.]

GREAT LAKES GAS TRANSMISSION CO.

Petition to Amend

MAY 2, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) 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.

Take notice that on April 20, 1978, Great Lakes Gas Transmission Co. (Petitioner), 2100 Buhl Building, Detroit, Mich. 48226, filed in docket No. CP66-110 a petition to amend the Federal Power Commission (FPC) orders in the instant docket so as to authorize Petitioner to transport and deliver natural gas by displacement to Northern Natural Gas Co. (Northern) in Minnesota and Michigan, which gas Northern has imported from Canada, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that by order of June 20, 1967, in docket No. CP66-110, et al., Petitioner was authorized, among other things, to construction and operate facilities, to import natural gas into the United States from Canada and to transport natural gas. It is further indicated that this filing is a companion filing to the application filed by Northern on March 17, 1978, in docket No. CP78-237 in which Northern seeks authorization to import gas by displacement. Petitioner states that Northern proposes to import into the United States up to 75,000 Mcf per day of gas during the period November 1 through March 31 of each year for a period of 5 years commencing in November, 1978.

It is stated that pursuant to a gas transportation contract dated September 12, 1967, between Petitioner and TransCanada PipeLines Ltd. (TransCanada), Petitioner is obligated to transport up to 815,000 Mcf of natural gas per day for TransCanada from the Emerson interconnection to the Sault Ste. Marie and St. Clair interconnections of Petitioner's pipeline with those of TransCanada.

It is further stated that pursuant to an agreement dated March 15, 1978, TransCanada, Northern, and Petitioner agreed to the deliveries of gas by displacement as proposed in Northern's application and this petition. Such agreement provides for the sale and delivery of gas to Northern by displacement of up to 10,000,000 Mcf during the winter months in each of the 5 contract years beginning November 1, 1978. Petitioner states that it would deliver at TransCanada's direction such volumes as are nominated during the winter months to Northern at points of interconnection between Petitioner's and Northern's pipeline systems at Carlton, Minn., and by mutual agreement of the parties at Grand Rapids, Minn., and Wakefield, Mich. Petitioner indicates that it would reduce its deliveries to TransCanada at St. Clair under the Agreement dated September 12, 1967, by the volumes delivered to Northern.

It is stated that the only change in Petitioner's operations would be that a part of the transportation gas which otherwise would be redelivered to TransCanada at existing interconnections at Sault Ste. Marie and St. Clair, Mich., would be delivered at TransCanada's direction to Northern.

The petition states that Petitioner and Northern have agreed that volumes delivered by Petitioner to Northern at the three delivery points would be ascribed first to Petitioner's rate schedule T-5 volumes, then to any other volumes Petitioner has heretofore agreed to deliver to Northern at Carlton, and any volumes in excess thereof would be considered to be under the March 15, 1978, agreement, it is stated. Petitioner's rate schedule T-5 covers transportation service presently being provided for Northern, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 23, 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 partricipate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12686 Filed 5-9-78; 8:45 am]

[6740-02]

KANSAS CITY POWER & LIGHT CO.

Docket No. ER78-330]

Cancellation

MAY 1, 1978.

Take notice that Kansas City Power & Light Co. on April 24, 1978, tendered for filing a Notice of Cancellation of Rate Schedule FPC No. 82 and Supplement No. 1 to Rate Schedule FPC No. 80, between the Company and the City of Armstrong, Mo. The Company proposes that the cancellation be effective as of May 24, 1978. The Company indicates that this Notice of Cancellation has been served upon Armstrong. Armstrong has filed a certificate of concurrence with this filing.

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 NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 15, 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. 78-12671 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket Nos. CI61-1281, etc.]

MOBIL OIL CORP. (OPERATOR), ET AL.

Findings and Order After Statutory Hearing Issuing Certificates of Public Convenience and Necessity; Correction

APRIL 26, 1978.

TABULATION, page 8, Docket No. CI77-468, issued March 6, 1978, *Anadarko Production Company*, Under column headed "Description and Date of Document" change footnote "[27]" to "[26]" opposite No. 233.

INSERT, page 8, Insert "7-1-77" after "(Eff. Date)" opposite No. 233.

FOOTNOTES, page 8, Add footnote "[29]" to read: "Depths limited to the Upper Morrow Formation only."

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-12672 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-306]

MONTANA-DAKOTA UTILITIES CO.

Application

MAY 3, 1978.

Take notice that on April 24, 1978, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, N. Dak. 58501, filed in Docket No. CP78-306 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Wyoming Gas Co., all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Wyoming Gas Co. has contractd for a supply of intrastate gas in the Five Mile Field, Big Horn County, Wyo., which gas is not available for the interstate market. Applicant indicates that it presently has gathering and transmission facilities, and that pursuant to a transportation agreement, dated April 10, 1978, with Wyoming Gas Co., Wyoming Gas Co. would deliver the subject gas to Applicant at a point on Applicant's gathering system in the Five Mile Field of Wyoming, and that Applicant would redeliver the gas to Wyoming Gas Co. at an existing delivery point near Worland, Wyo.

It is stated that all facilities required to be constructed to effectuate the propose transportation of gas would be constructed and owned by Wyoming Gas Co.

The application states that Wyoming Gas Co. estimates that the daily volumes tendered for transportation hereunder would range between 280 and 465 Mcf per day with an estimated total minimum annual volume of 102,000 Mcf.

Applicant states that it would charge Wyoming Gas Co. an initial transportation rate of 2.86 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 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.

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. 78-12693 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-297]

NATIONAL FUEL GAS SUPPLY CORP.

Application

MAY 3, 1978.

Take notice that on April 19, 1978, National Fuel Gas Supply Corp. (Applicant), Ten Lafayette Square, Buffalo, N.Y. 14240, filed in Docket No. CP78-297 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period May 1, 1978, through April 30, 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange of gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $3,195,000, with the cost of any single project not to exceed $800,000. The cost of the pro-

posed facilities would be financed with internally generated funds and/or interim short-term bank loans, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 23, 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.

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 unneccessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12694 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-289]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Pipeline Application

APRIL 27, 1978.

Take notice that on April 17, 1978, Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Ill. 60603; Panhandle Eastern Pipe Line Co., 3000 Bissonnet Avenue, Houston, Tex. 77005, and 3444 Broadway, Kansas City, Mo. 64111, and Consolidated Gas Supply Corp., 445 West Main Street, Clarksburg, W. Va. 26301 (Applicants), filed in Docket No. CP78-289 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of joint offshore gas gathering facilities in the Vermilion Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have the right to purchase natural gas reserves located in Vermilion Blocks 329, 338, 339, and 340. Applicants propose to construct jointly a gathering line from a production platform in Block 329 to a sub-sea tie-in Block 340 to a gathering line to be constructed jointly by Applicants from a production platform in Block 340 to a sub-sea tie-in on the Stingray Pipeline Company facility located in Block 321. Applicants estimate the total cost of the proposed facilities will be $10,085,000. Applicants state that their respective shares of said costs will be financed initially through revolving credit arrangements, short-term loans, funds on hand, and, in some cases, from funds obtained from parent companies. Permanent financing will be undertaken as part of Applicants' respective overall long-term financing programs at later dates.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission'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. 78-12687 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP-285]

SHENANDOAH GAS CO.

Application

APRIL 27, 1978.

Take notice that on April 14, 1978, Shenandoah Gas Co. (Applicant), 1100 H Street NW., Washington, D.C. 20080, filed in Docket No. CP78-285 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate facilities for the delivery of natural gas to ultimate consumers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate taps along its pipeline system described below for the purpose of rendering service on a firm basis in Virginia and West Virginia to serve new high priority residential and small commercial customers located in its franchise areas in the vicinity of certificated facilities, which certificated facilities include:

1. Applicant's principal pipeline from Middletown, Va., to Martinsburg, W. Va., consisting of 36.2 miles of 6⅝-inch, 0.7 mile of 8-inch, and 1.8 miles of 12-inch pipeline authorized by orders issued April 30, 1954, in Docket No. G-1448 (13 FPC 579, at 593) and September 12, 1966, in Docket No. CP66-428. The original certificate in Docket No. G-1448 included service to two industrial customers, M. J. Grove Lime Co., near Stephens City, Va., and Shenandoah Brick and Tile Co., near Winchester, Va. (13 FPC 79, at 382, footnote 3).

2. Applicant's branch line to serve Strasburg, consisting of approximately 10,000 feet of 2- and 3-inch pipeline extending from a point of connection with Columbia Gas Transmission Corp. (Columbia) to a point of connection with Applicant's distribution facilities in Strasburg, Va., and vicinity, was authorized by order issued June 29, 1965, in Docket No.CP65-287.

3. Applicant's branch line to serve New Market, consisting of approximately 7,500 feet of 2-inch pipeline extending from a point on Columbia's 24-inch main line to the community of New Market, Va., was authorized by order issued September 12, 1966, in Docket No. CP66-428. In addition, in Docket No. CP66-428, Applicant was authorized to continue operation of facilities for the direct sale of gas to the

industrial plants of Continental Clay Products Company near Martinsburg, W. Va., C. H. Musselman (Pet Milk Co.), Inwood, W. Va., Corning Glass Works, Inc., near Inwood, W. Va., and Minnesota Mining and Manufacturing Co., near Middleway, W. Va. The facilities installed to serve these four customers aggregated approximately 26,800 feet of 2-, 3-, 4-, and 6-inch pipeline. Applicant was also authorized in Docket No. CP66-428 to continue operation of approximately 15,000 feet of 6-, 8-, and 12-inch pipeline near Stephens City and Middletown, Va., which had been installed to replace, due to highway construction, 13,802 feet of 6-inch pipeline of the original facilities installed pursuant to authorization in Docket No. G-1448.

4. Pursuant to authority issued March 1, 1967, in Docket No. CP67-216, Applicant constructed, to serve a new plant of Lockheed Georgia Co., aproximately 1,300 feet of 6-inch and 300 feet of 2-inch pipeline extending from the terminus of the lateral pipeline described in 3 above now serving Corning Glass Works.

5. In addition, a short branch line of approximately 1,050 feet of 2-inch pipeline from a tap off of the 24-inch pipeline of Columbia, near New Market, was constructed to serve Howell Metal Co., pursuant to order issued July 31, 1967, in Docket No. CP67-352.

6. Pursuant to authority granted September 30, 1968, in Docket No. CP68-196, Applicant constructed and placed in operation 20 miles of 12-inch transmission pipeline extending from a new point of connection with Columbia on Columbia's 26-inch main line near Nineveh, Va., to a point of connection with Applicant's existing main line near Clearbrook, Va.

7. Pursuant to authority granted October 20, 1971, in Docket No. CP72-20, Applicant constructed and placed into operation four taps on existing certificated facilities as well as accompanying one-half to two-inch distribution and service lines necessary to serve several residential and small commercial customers in Berryville and Winchester, Va., and in Inwood and Martinsburg, W. Va.

Applicant states that it proposes to tap, when necessary, the above mentioned certificated facilities in order to serve more economically at retail either present or prospective high-priority customers seeking gas service.

It is indicated that the total cost of the proposed facilities would not exceed $100,000, which cost would be financed by Applicant from open account advances from Washington Gas Light Co.

Any person desiring to be hear or to make any protest with reference to said application should on or before May 18, 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.

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. 78-12688 Filed 5-9-78; 8:45 am]

[6740-02]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

[Docket Nos. RP75-35 and RP75-36]

Compliance Filing

MAY 3, 1978.

Take notice that on April 26, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth Revised Volume No. 1, to be effective May 27, 1978. The proposed tariff sheets consist of the following:

Original Sheet Nos. 213K1, 213K2, 213K3, and 213K4.
First Revised Sheet Nos. 213E, 213F, and 213I.
Second Revised Sheet Nos. 213D, 213G, 213H, and 213J 213.
Third Revised Sheet No. 213K.

Tennessee states that the proposed tariff sheets are filed to comply with the Commission's January 26, 1978 order in this proceeding. According to Tennessee, the tariff sheets expand the language of the curtailment plan in Article XXIV of the General Terms and Conditions of its tariff to explain more specifically its curtailment implementation procedures.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, 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 NE., Washington, D.C. 20426, in accordance with the requirements of §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 10, 1978. All 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 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. Persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12695 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. CP78-295]

UNITED GAS PIPE LINE CO.

Pipeline Application

APRIL 27, 1978.

Take notice that on April 7, 1978, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed an application in Docket No. CP78-295, pursuant to section 7(c) of the Natural Gas Act, as amended, requesting authorization to transport gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission (Commission).

United states that pursuant to a transportation agreement dated April 7, 1978, between United and Southern, Southern will deliver or cause to be delivered to United for transportation up to 9,400 Mcf per day at a point of receipt on United's offshore pipeline system in Eugene Island Area, Block 32, Offshore Louisiana. United will redeliver equivalent volumes, less fuel

and company-used gas, to Southern at various existing and proposed points of interconnection between United and Southern.

Any person desiring to be heard or to make any protests with reference to said application, on or before May 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission'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. 78-12690 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER77-311]

UTAH POWER & LIGHT CO.

Filing of Settlement Agreement

MAY 2, 1978.

Take notice that on April 24, 1978, Utah Power & Light Co. (Utah) tendered for filing a proposed settlement agreement in the above-referenced docket. Utah states that all parties to the action or customers who have not become party to the proceeding have filed either a statement of intent to be bound or a statement indicating that they do not object to the settlement agreement as drafted.

Any person to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 19, 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. 78-12691 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. ER77-588]

WASHINGTON WATER POWER CO.

Certification of Proposed Settlement Agreement

MAY 4, 1978.

Take notice that on May 2, 1978, Presiding Administrative Law Judge Mercogliano certified to the Commission a proposed Settlement Agreement filed by the Washington Water Power (WWP) Co. in the above-captioned proceeding on April 28, 1978.

Under the terms of the proposed Settlement, WWP agrees to reduce its proposed revenue increase to its jurisdictional customers by $12,650, based on the twelve-month test period ending June 30, 1977.

Any person desiring to be heard or to protest the Settlement Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 22, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12696 Filed 5-9-78; 8:45 am]

[6740-02]

[Docket No. RP78-55]

WEST TEXAS GATHERING CO.

Filing of Revision in Gas Tariff

MAY 4, 1978.

Take notice that on April 19, 1978, West Texas Gathering Co. (West Texas) tendered for filing certain revisions to its FPC Gas tariff Original Volume No. 1. West Texas states that its Rate Schedule T-1 is a Gas Gathering Agreement with Northern Natural Gas Co. which agreement has been amended by the parties. These amendments, according to West Texas, require the present modifications.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 19, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-12697 Filed 5-9-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180185; FRL 893-6]

OREGON AND WASHINGTON DEPARTMENTS OF AGRICULTURE

Issuance of Specific Exemptions To Use Metribuzin To Control Cheatgrass on Winter Wheat

The Environmental Protection Agency (EPA) has granted specific exemptions to the Oregon and Washington State Departments of Agriculture (hereafter referred to as "Oregon" and "Washington") to use the herbicide matribuzin in a single post-emergence application for the control of cheatgrass on a maximum of 20,000 acres in Oregon and 28,000 acres in Washington. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to Oregon and Washington, cheatgrass (downy brome) is an annual grass weed found throughout both States; cheatgrass infestation of winter wheat is a problem every year, but the problem is particularly severe this year due to excessive fall and winter moisture that has resulted in favorable conditions for seed germination. Oregon and Washington estimated that wheat loss due to competition with cheatgrass might run as much as $2,310,000 if an effective herbicide was not applied.

Both Atrazine and Igran are registered for cheatgrass control in Oregon and Washington; however, Atrazine should not be applied post-emergence and Igran provides only partial control of cheatgrass. Atrazine, which is registered as a fallow treatment, was not

applied by most growers last year due to drought conditions in the Northwest. In addition, since cheatgrass is not normally a severe problem in winter wheat, the Atrazine fallow treatment is not usually applied for control of this past. Finally, although Igran is registered for post-emergence application to winter wheat, both States reported irregular and partial control of cheatgrass.

Therefore, a single post-emergence application of metribuzin (4-Amino-6-(1,1-dimethylethly)-3-(methylthio)-1,2,4-triazin-(4H)-one), distributed under the trade names of Sencor and Lexone, was requested. A maximum of 20,000 acres in the following counties of eastern Oregon may require treatment: Gilliam, Morrow, Sherman, Umatilla, Union, Wasco, and Wallowa. A maximum of 28,000 acres in Washington east of the crest of the Cascade Mountains may require treatment. Application instructions were to be furnished by the Oregon and Washington Departments of Agriculture. Application of metribuzin to winter wheat in these two States is expected to pose minimal hazard to the environment.

After reviewing the applications and other available information, EPA determined that (a) a pest outbreak of cheatgrass on winter wheat has occurred; (b) there is no pesticide presently registered and available for use to control cheatgrass in Oregon and Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the cheatgrass is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, Oregon and Washington have been granted specific exemptions to use the pesticide noted above until April 1, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. A single post-emergence application of Lexone 50WP (EPA Reg. No. 352-375) or Sencor 50WP (EPA Reg. No. 3125-277) may be made at a rate of 0.25 to 0.50 pound active ingredient per acre;

2. Applications will be made with ground or air equipment;

3. Spray mixture volumes of 10-40 gallons per acre will be applied by ground equipment of 5-10 gallons by aircraft;

4. A maximum of 20,000 acres in Oregon and 28,000 acres in Washington may be treated;

5. All applications will be made by qualified growers or by State-licensed commercial applicators. Information on rates and timing will be furnished by Oregon State University research specialists and extension agents, and Washington State University extension agents;

6. Precautions will be taken to avoid spray drift to nontarget areas;

7. Residue levels of metribuzin and its triazinone metabolites are not expected to exceed 0.75 ppm in or on wheat grain, 1.0 ppm in or on wheat straw, and 2.0 ppm in or on wheat forage. Wheat grain and straw with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Do not graze treated fields for 14 days following application;

9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed.

10. The Oregon and Washington Departments of Agriculture are responsible for ensuring that all of the provisions of these specific exemptions are met, and must submit reports summarizing the results of these programs by November 15, 1978.

11. The EPA shall be immediately informed of any adverse effects resulting from the use of metribuzin in connection with these exemptions.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 *et seq.*).

Dated: May 4, 1978.

EDWIN L. JOHNSON
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-12631 Filed 5-9-78; 8:45 am]

[6560-01]

[PF-101; FRL 893-3]

PESTICIDE AND FOOD ADDITIVE PETITIONS

Filing

Pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for considerations.

PP 8F2073. Fisons Inc., Agricultural Chemicals Division, Two Preston Court, Bedford, Mass. 01730. Proposes that 40 CFR 180 be amended by the establishment of a tolerance for the combined residues of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and its metabolites in or on the raw agricultural commodity grass hay at 0.5 part per million (ppm). Proposed analytical method for determining residues is by gas liquid chromatographic determination process using a flame photometric detector in the sulphur mode. PM24. (202-755-2197)

FAP 8H5184. Phostoxin Sales, Inc., Box 469, Alhambra, Calif. 98102. Proposes that 21 CFR 193.20 be amended by establishing a regulation permitting direct contact by fumigation of the formulation containing aluminum phosphide in or on processed rice and malt stored in breweries for the manufacture of beer with a tolerance limitation of 0.01 ppm. PM11. (202-755-9315)

Interested persons are invited to submit written comments on these petitions 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. Inquiries concerning these petitions may be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. 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: May 4, 1978.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc. 78-12628 Filed 5-9-78; 8:45 am]

[6560-01]

[OPP-30147; FRL 893-2]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Containing New Active Ingredients

Revenge Insect Repellent Corp., P.O. Box 1425, Savannah, Ga. 31402, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Revenge (EPA file symbol 40195-R), containing 16 percent each of the active ingredients isopropyl palmitate and isopropyl stearate which have not been included in any previously registered pesticide products. The application proposes that the product be classified for general use as a sand gnat repellent.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application 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. The comments must be received on or before June 9, 1978, and should bear a notation indicating the EPA file symbol "40195-R." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-426-9425. The label furnished by Revenge Insect Repellent Corp., as well

as 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.

Notice of approval or denial of this application to register Revenge will be announced in the FEDERAL REGISTER. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: May 4, 1978.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

[FR Doc. 78-12629 Filed 5-9-78; 8:45 am]

[6560-01]

[OPP-31015; (FRL 893-7)]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Entailing a Changed Use Pattern

M & T Chemicals, Inc., P.O. Box 1104, Rahway, N.J. 07065, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Biomet Antifouling Paint (EPA file symbol 5204-AN), which contains 15.0 percent of the active ingredient triphenyltin fluoride. The application received from M & T Chemicals, Inc., proposes that the use pattern of this pesticide be changed from technical chemical for reformulating into antifouling paints to an active ingredient in an antifouling formulation. The application also proposes that the product be classified for general use. PM24

Notice of receipt of this application does not indicate a decision by this Agency on the application. Interested persons are invited to submit written comments on this application 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.

The comments must be received on or before June 9, 1978, and should bear a notation indicating the EPA file symbol "5204-AN." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-755-2196. The label furnished by M & T Chemicals, Inc., as well as 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.

Notice of approval or denial of this application to register Biomet Antifouling Paint will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: May 3, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-12630 Filed 5-9-78; 8:45 am]

[6560-01]

[OPP-33000/543 and 544; FRL 893-4]

PESTICIDE REGISTRATION DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

Receipt of Application

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with repect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("interim policy statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the interim policy statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the interim policy statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who: (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202-755-9315.
PM 15, 16, and 17—202-426-9425.
PM 21 and 22—202-426-2454.
PM 23—202-755-1397.
PM 24—202-755-2196.
PM 25—202-426-2632.
PM 31—202-426-2635.
PM 32—202-426-9486.
PM 33—202-755-9041.
PM 34—202-426-9490.

The interim policy statement requires that claims for compensation be

filed on or before July 10, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before June 9, 1978. Registration will be delayed pending resolution of section 10 claims.

Dated: May 4, 1978.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/543)

EPA Reg. No. 100-501. Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409. SUPRACIDE 2E. Active Ingredients: Methidathion: O,O-dimethyl phosphorodithioate, S-ester with 4-(mercaptomethyl)-2-methoxy- 2-1,3,4-thiadiazolin-5-one 24.4 percent, Aromatic petroleum derivative solvent 65.1 percent. Method of Support: Application proceeds under 2(b) of interim policy. Amendment. PM12.

EPA Reg. No. 201-369. Shell Chemical Company, A Division of Shell Oil Company, Agricultural Chemicals, Suite 200, 1025 Connecticut Ave., N.W., Wash. DC 20036. VENDEX 50 WETTABLE POWDER MITICIDE. Active Ingredients: Hexakis (2-methyl-2-phenylpropyl)-distannoxane 50 percent, Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM13.

EPA File Symbol 271-GR. IMC Chemical Group, Inc., 1331 S. First Street, P.O. Box 207, Terre Haute, IN 47808. BIOBAN CS-1135 ATIMICROBIAL AGENT. Active Ingredients: 4,4-Dimethyloxazolidine 76 percent, 3,4,4-Trimethyloxazolidine 2 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New offer to pay statement. PM33.

EPA Reg. No. 352-342. E.I. duPont de Nemours & Co. Inc., Biochemicals Department, Wilmington, DE 19898. LANNATE INSECTICIDE FOR USE ON BLUEBERRIES. Active Ingredients: S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 90 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12.

EPA Reg. No. 352-362. E.I. duPont de Nemours & Co., Inc. LANNATE WP INSECTICIDE FOR USE ON BLUEBERRIES. Active Ingredients: S-methyl-N-[(methylcarbamoyl)oxy]thioacetimidate 25 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12.

EPA Reg. No. 352-370. E.I. duPont de Nemours & Co., Inc. LANNATE L INSECTICIDE. Active Ingredients: S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate 24 percent. Method of Support: Application proceeds under 2(b) of the interim policy. Republished: Added use. PM12.

EPA File Symbol 453-ETL. Wood Treating Chemicals Dept., Koppers Company, Inc., 5137 Southwest Avenue, St. Louis, MO63110. TRIBUCIDE D 75. Active Ingredients: Bis(Tri-n-Butyltin) Oxide 0.75 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 453-ETA. Wood Treating Chemicals Dept., Koppers Co., Inc., TRIBUCIDE IL 75. Active Ingredients: Bis(Tri-n-Butyltin) Oxide 0.75 percent. Method of Support: Application proceeds under 2(b) of interim policy PM 22.

EPA File Symbol 453-ETT. Wood Treating Chemicals Dept., Koppers Co., Inc. TRIBUCIDE P 75. Active Ingredients: Bis(Tri-n-Butyltin) Oxide 0.75 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA Reg. No. 524-308. Monsanto Company, Agricultural Products, 800 N. Lindbergh Blvd., St. Louis, MO 63166. ROUNDUP HERBICIDE. Active Ingredients: Isopropylamine salt of Glyphosate 39.9 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25.

EPA Reg. No. 707-128. Rohm and Haas, Independence Mall West, Philadelphia, PA 19105. KATHON WT INDUSTRIAL MICROBICIDE. Active Ingredients: 5-Chloro-2-methyl-4-isothiazolin-3-one 8.6 percent; 2-Methyl-4-isothiazolin-3-one 2.6 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM33.

EPA Reg. No. 707-129. Rohm and Haas. KATHON 886 MW INDUSTRIAL MICROBICIDE. Active Ingredients: 5-Chloro-2-methyl-4-isothiazolin-3-one 8.6 percent, 2-Methyl-4-isothiazolin-3-one 2.6 percent. Method of Support: Application proceeds under 2(b) and interim policy. Republished: Added uses. PM33.

EPA File Symbol 1021-RGIG. McLaughlin Gormley King Co. 8810 Tenth Avenue North, Minneapolis, MN 55427. MGK SUMITHRIN 90 PERCENT CONCENTRATE. Active Ingredients: 3-phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methyl-propenzyl) cyclopropanecarboxylate 86 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM 17.

EPA File Symbol 1021-RGIU. McLaughlin Gormley King Co. NEO-PYNAMIN 80 PERCENT CONCENTRATE. Active ingredients: N-(hydroxymethyl)-1-cyclohexene-1, 2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 80.00 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 1021-RGIL. McLaughlin Gormley King Co., MGK MULTICIDE INTERMEDIATE 2082. Active Ingredients: N-(hydroxymethyl)-1-cyclohexeme-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclo-propanecarboxylate 10.00 percent, 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclo- propanecarboxylate 4.78 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 1021-RGIA. McLaughlin Gormley King Co. MULTICIDE INTERMEDIATE 2086. Active Ingredients: N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 8.90 percent, 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclo- propanecarboxylate 8.51 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA File Symbol 1021-RGIT. McLaughlin Gormley King Co. MULTICIDE INTERMEDIATE 2084. N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 12.50 percent, 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 7.17 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17.

EPA Reg. No. 1109-1. Cities Service Co., Copperhill Operations, P.O. Drawer 50360, Atlanta, GA 30302. COPPER SULFATE LARGE CRYSTALS. Active Ingredients: Copper Sulfate (Pentahydrate) 99 percent, copper expressed as metallic 25.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM24.

EPA Reg. No. 1109-27. Cities Service Co. COPPER SULFATE LARGE BRIKS. Active Ingredients: Copper Sulfate (Pentahydrate) 99 percent, copper expressed as metallic 25.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM24.

EPA Reg. No. 1258-842. Olin Chemicals, Specialty Products Department, Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904. SODIUM OMADINE POWDER. Active Ingredients: Sodium 2-pyridinethiol-1-oxide 90 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM33.

EPA Reg. No. 1448-42. Buckman Laboratories, Inc., 1256 North McLean Blvd., Memphis, TN 38108. BUSAN 77. Active Ingredients: Poly[oxyethylene (dimethylimino) ethylene (dimethyliminio) ethylene dichloride] 60.0 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM34.

EPA File Symbol 1706-RUO. Nalco Chemical Co., 2910 Butterfield Rd., Oak Brook, IL 60521. NALCO 5WC-475 MICROORGANISM CONTROL CHEMICAL. Active Ingredients: bis tributylin oxide 10 percent. Republished: Change in Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA Reg. No. 2139-101. Nor-Am Agricultural Products, Inc., 1275 Lake Avenue, Woodstock, IL 60098. BETANAL POST-EMERGENCE HERBICIDE FOR CONTROL OF WEEDS IN BEETS. Active Ingredients: Phenmedipham 15.9 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM25.

EPA Reg. No. 2224-44. Mobil Chemical Company, P.O. Box 26683, Richmond, VA 23261. MOCAP EC. Active Ingredients: Ethroprop (O-Ethyl S,S-Dipropyl Phosphorodithioate 70.6 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16.

EPA File Symbol 2829-RRT. Ventron Corporation, Chemicals Division, Congress Street, Beverly, MA 01915. VINYZENE SB-8. Active Ingredients: 2-n-octyl-4-isothiazolin-3-one 12.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 4581-GGA. Pennwalt Corporation, Agchem Division, 900 First Avenue, P.O. Box C, King of Prussia, PA 19406. TOPSIN E TECHNICAL FUNGICIDE. Active Ingredients: Thiophanate diethyl 4,4'-o-phenylenebis[3-thioallophanate] 94 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM21.

EPA File Symbol 8959-RR. Applied Biochemists Inc., 5300 W. County Line Rd., Mequon, WI 53092. RICETRINE. Active Ingredients: Copper as elemental 7.1 per-

cent. Method of Support: Application proceeds under 2(b) of interim policy. PM24.

APPLICATIONS RECEIVED (OPP-33000/544)

EPA Reg. No. 10148-3. Nationwide Chemical Company, Inc., 56 North First Street, Brooklyn, NY 11211. NATIONWIDE GERMICIDAL CLEANER. Active Ingredients: Soap 14.90 percent, ortho-benzyl-para-chlorophenol 7.12 percent, Isopropanal, tetrasodium ethylenediamine 2.38 percent, Tetra acetate 0.01 percent. Method of Support: Application proceeds under 2(a) of interim policy. Republished: formulation change. PM32.

EPA File Symbol 41716-R. Charles P. Keith Associates, 1761-C McCoba Drive, Smyrna, GA 30080. BYASYDE 610. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 10445-EN. Calgon Corporation, P.O. Box 1346, Calgon Center, Pittsburgh, PA 15230. B-66 MICROBIOCIDE. Active Ingredients: n-Dodecylguanidine Hydrochloride 9.5 percent. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 10445-ER. Calgon Corporation. B-33 MICROBIOCIDE. Active Ingredients: n-Dodecylguanidine Hydrochloride 9.5 percent. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 10581-E. Sonford Products Corp., 100 E. Broadway, St. Paul Park, MN 55075. STA-RITE-T. Active Ingredients: Bis(tri-n-butyltin) oxide 0.75 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 11558-L. Celanese Chemical Co., 1211 Avenue of the Americas, New York, NY 10036. PARAFORMALDEHYDE (POWDER). Active Ingredients: 95 percent Formaldehyde (Minimum). Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 11558-A. Celanese Chemical Co., PARAFORMALDEHYDE (FLAKE). Active Ingredients: 91 percent Formaldehyde (Minimum). Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 11558-RR. Celanese Chemical Co., FORMALDEHYDE SOLUTION. Active Ingredients: 37 percent Formaldehyde. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 16065-R. Clarkson Chemical Co., Inc., P.O. Box 97, Williamsport, PA 17701. CLORO-TOL. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of Support: Application proceds under 2(b) of interim policy. PM34.

EPA File Symbol 34164-T. American Refining & Mfg. Co., 2375 N.W. 75th Street, Miami, FL 33147. ACTION DISINFECTANT. Active Ingredients: Alkyl (60 percent, C14; 30 percent, C16; 5 percent, C12; 5 percent, C18) Dimethyl Benzyl Ammonium Chlorides 1.28 percent; Alkyl (68 percent, C12; 32 percent, C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28 percent; Sodium carbonate 2.00 percent. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31.

EPA File Symbol 34736-RN. Owens Services Corp., 930 East 80th Street, Minneapolis, MN 55420. POOL ALGUARD. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 10.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 34892-E. Russall Products Co., Inc., 2253 Light Street, Bronx, NY 10466. N-GERM. Active Ingredients: n-Alkyl (60 percent C14, 30 percent C16, 5 percent C12, 5 percent C18) dimethyl benzyl ammonium chlorides 2.25; n-Alkyl (68 percent C12, 32 percent C14) dimethyl ethylbenzyl ammonium chlorides 2.25; Sodium Carbonate 3.00 percent Tetrasodium ethylenediamine tetraacetate 1.00 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 36795-R. Eastern Crown, Inc., P.O. Box 216, Vernon, NY 13476. ECI SANITIZING SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 36993-E. Tarson Chemical & Supply Co., 650 Burnet Avenue, Syracuse, NY 13203. CRYSTAL KLEAR. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37621-E. American Bleach Mfg. Co., 1706 Portland Avenue, Louisville, KY 40203. CHEMI-CAL. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 37621-G. American Bleach Mfg. Co. Active Ingredients: Sodium Hypochlorite 5.25 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 38421-R. Hydrotreat Engineering, 6832 Hawthorne Park Dr., Indianapolis, IN 46220. BIO-TREAT 12. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethylimino) ethylene dichloride] 10.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 38518-R. Rule Pool Maintenance Co., 5780 North Federal Highway, Fort Lauderdale, FL 33308. RULE POOLAID. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39327-A. Aqua Treat Chemicals, Inc., 1166 87th St., Daly City, CA 94015. A-106 ALGAECIDE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethylimino) ethylene dichloride] 15 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39327-RU. Aqua Treat Chemicals, Inc., A-806 ALGAECIDE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethylene (dimethylimino) ethylene dichloride] 15 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 39398-T. Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10022. SUMITHION CONCENTRATE. Active Ingredients: O,O-dimethyl O-(4-nitro-m-tolyl) phosphorothioate 93.0 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM16.

EPA File Symbol 41379-R. Dolphin Pool Service, Division of Porpoise Pools, 18789 S.W. 105th Pl., Miami, FL 33157. DOLPHIN POOL SERVICE SANITIZER. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41380-R. Mister Chemical, 160 N.W. 24th St., Boca Raton, FL 33422. MR. CHEMICAL. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41381-R. Patrician Pools, Inc., 303 N.W. 1st Ave., Boca Raton, FL 33432. SODIUM HYPOCHLORITE. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41382-R. Pools By Bracken, P.O. Box 7335, 2377 E. Tamiami Trail, Naples, FL 33942. BRACKEN SPARKLE. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41404-R. Industrial Equipment & Supplies, Div. of Commodity Control Corp., 2055 N.W. 7th Ave., Miami, FL 33127. INDUSTRIAL SODIUM HYPOCHLORITE. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41577-R. Complete Pool Service, 195 Coquina Court, Ormond Beach, FL 32074. COMPLETE POOL SERVICE (CPS). Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41678-R. Construction Specialties, Inc., P.O. Box 380, Muncy, PA 17756. ACROVYN HANDRAILS. Active Ingredients: 1.00 percent 2,4.4'-Trichloro-2', Hydroxydiphenyl Ether. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 41678-E. Construction Specialties, Inc., ACROVYN CORNER GUARDS. Active Ingredients: 1.00 percent 2,4.4'-Trichloro-2', Hydroxydiphenyl Ether. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 41678-G. Construction Specialties, Inc., ACROVYN BUMPER GUARDS. Active Ingredients: 1.00 percent 2,4.4'-Trichloro-2', Hydroxydiphenyl Ether. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

[FR Doc. 78-12633 Filed 5-9-78; 8:45 am]

[6560-01]

[FRL 892-8]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Additional Delegation of Authority to the State of Oregon

On November 19, 1975, the Regional Administrator of EPA Region X delegated to the State of Oregon the authority to implement and enforce the Standards of Performance for New Stationary Sources (NSPS) and Na-

tional Emission Standards for Hazardous Air Pollutants (NESHAPS). A notice announcing this delegation was published in the FEDERAL REGISTER on February 20, 1976 (41 FR 7809).

On November 29, 1977, the Director of the Oregon Department of Environmental Quality requested EPA to extend the delegation of authority to include authority for Federal facilities, which were not included in EPA's November 10, 1975 delegation.

EPA reviewed the State's request and on April 3, 1978, delegated to the State of Oregon authority to implement and enforce the NSPS and NESHAPS programs for Federal facilities as those programs were delegated to the State on November 10, 1975.

The April 3, 1978 letter of delegation follows:

DEAR MR. YOUNG: This is in response to your letter of November 29, 1977 requesting delegation of authority to carry out the requirements relative to the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) for Federal facilities. We have reviewed your request and hereby grant delegation of the NSPS and NESHAPS for Federal facilities to the State of Oregon.

The delegation applies to the twelve NSPS source categories and the three NESHAPS pollutants for which EPA delegated authority to the State for non-Federal facilities by letter of November 10, 1975 (41 FR 7809-7810, February 20, 1976). For NSPS, the sources include fossil fuel-fired steam generators, incinerators, portlan cement plants, nitric acid plants, sulfuric acid plants, asphalt concrete plants, petroleum refineries, storage vessels for petroleum liquids, secondary lead smelters, secondary brass and branze ingot production plants, sewage treatment plants and iron and steel plants. For NESHAPS, the pollutants include asbestos, beryllium and mercury.

This delegation supersedes Condition 5 of our original letter of delegation dated November 10, 1975. Condition 5 exempted Federal Facilities from complying with State or local administrative procedures relating to air pollution control.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. A notice announcing this delegation will appear in the FEDERAL REGISTER in the near future.

Sincerely yours,

DONALD. P. DUBOIS,
Regional Administrator.

AUTHORITY: Section 111(c)(1) of the Clean Air Act, as amended (42 U.S.C. 7411c-1).

Dated: April 26, 1978.

DONALD P. DUBOIS,
Administrator.

[FR Doc. 78-12627 Filed 5-9-78; 8:45 am]

[6560-01]

[OPP-180181; FRL 893-5]

STATES OF MICHIGAN, NEW HAMPSHIRE, OREGON, AND WASHINGTON

Specific Exemptions To Use Triforine To Control Monilinia Mummyberry on Blueberries

The Environmental Protection Agency (EPA) has granted specific exemptions to the Michigan, New Hampshire, Oregon, and Washington Departments of Agriculture (hereafter referred to as "Applicants") to use triforine for the control of *Monilinia* mummyberry on blueberries; 2,000 acres in Michigan, 700 acres in Washington, 500 acres in Oregon, and 400 acres in New Hampshire are involved. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in this notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (MH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

Mummyberry is caused by the fungus *Monilinia vaccinii corymbosi.* Primary infection by ascospores takes place early in the spring just as the leaf and flower buds begin to grow. These ascospores are released from spore cups that develop from mummified fruit. Spore cup emergence coincides with the emergence of the young susceptible tissues of the plant. Mummies are a result of the disease from the previous crop and have overwintered on or near the surface of the soil beneath the bushes. Infected blossoms and leaves turn brown and wither as a result of these primary infections. The fungus then produces a second spore type on these infected tissues. These are blown onto remaining blossoms where secondary infection takes place on the developing pistil of the flowers. These flower infections remain undetected until the fruit begins to enlarge. The infected fruit turns off color and usually drops to the ground before healthy berries mature. These mumified fruits persist through the winter and act as a source of the fungus for the primary infection the following spring.

Currently there are four fungicides registered for the control of primary infection stage: Benomyl, Captan, Ferbam, and Ziram. The Applicants submitted data which indicated that these fungicides are relatively ineffective in controlling primary infections of this disease. Cultural practices have also not been successful in commercial planting. However, triforine (N,N-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)]-bis-[formamide]) appeared to be efficacious in suppressing this pathogen. Triforine is registered in the United States under the trade name Funginex EC.

The Applicants estimated that the following acreages would require treatment for *Monilinia* mumyberry: 2,000 acres in Michigan, 700 acres in Washington, 500 acres in Oregon, and 400 acres in New Hampshire. It was estimated by the Applicants that the economic loss from shoot damage and fruit loss might be as much as $2,800,000, if an effective fungicide was not available this growing season.

The Applicants proposed to use Funginex EC at a maximum rate of 0.3 pound active ingredient per acre. Three of the requests proposed up to five applications; New Hampshire proposed a maximum of three applications. Applications would be made by either air or ground equipment. Applications would be made by licensed commercial applicators or State-certified private applicators. Based on the low toxicity, short half-life, and low application rate, no serious hazards to fish and wildlife are expected.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of *Monilinia* mummyberry is likely to occur this year on blueberries in Michigan, New Hampshire, Oregon, and Washington; (b) there is no pesticide presently registered and available for use to control this pest in the four States; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until July 30, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are all subject to the following conditions:

1. The product Funginex EC, EPA Reg. No. 21137-4, may be applied;

2. Applications of this pesticide will be made by licensed commercial applicators or State-certified private applicators. Information pertaining to timing, rates, and procedures will be made available to the applicators through the respective University or Cooperative Extension Services;

3. If applied by aircraft, precautions will be taken to avoid or minimize spray drift to non-target areas;

4. A triforine residue level not to exceed 0.1 ppm in or on harvested blueberries has been determined to be adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

5. All applicable directions, restrictions, and precautions on the product label must be followed;

6. The EPA will be immediately informed of any adverse effects resulting from the use of triforine in connection with this exemption; and

7. The respective State Departments of Agriculture are responsible for assuring that all of the provisions of these specific exemptions are met and must submit a report summarizing the results of each program by October 30, 1978, except for Michigan, which must submit the report by November 30, 1978.

There are additional conditions which relate particularly to progress in certain States; these conditions are listed below.

OREGON AND WASHINGTON

1. The total acreage treated in Oregon will not exceed 500 acres. The total acreage treated in Washington will not exceed 700 acres;

2. Triforine will be applied at a rate of 0.3 pound active ingredient per acre in sufficient water for coverage by ground. If applied by air, triforine will be applied at a rate of 0.3 pound active ingredient in five gallons of water per acre;

3. A maximum of five applications may be made. The first application may be made at bud break. Thereafter, application may be made at seven to ten day intervals, with the last application at full bloom; and

4. A minimum of 40 days will elapse between the last application of triforine and harvest.

NEW HAMPSHIRE

1. The total acreage treated will not exceed 400 acres;

2. Triforine will be applied at a rate of 0.3 pound active ingredient per acre in 20 to 50 gallons of water by ground. If applied by air, triforine will be applied at a rate of 0.3 pound active ingredient in five gallons of water per acre;

3. A maximum of three applications may be made at seven to ten day intervals. Applications may begin at bud break and end at the pink bud stage; and

4. A minimum of 60 days will elapse between the last application of triforine and harvest.

MICHIGAN

1. The total acreage treated will not exceed 2,000 acres;

2. A maximum of five applications may be applied at seven to ten day intervals. Applications may begin at bud break and end between full bloom and early petal fall. The first four applications will be made at a rate of 0.3 pound active ingredient per acre, and the final application will be made at a rate of 0.2 pound active ingredient per acre;

3. Triforine will be applied in sufficient water for coverage by ground. If applied by air, triforine will be applied in at least five gallons of water per acre; and

4. A minimum of 40 days will elapse between the last application of triforine and harvest.

AUTHORITY: Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated; May 4, 1978.

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

[FR Doc. 78-12632 Filed 5-9-78; 8:45 am]

[6820-34]

GENERAL SERVICES ADMINISTRATION

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting of Subcommittee

Pursuant to the Pub. L. 92-463, notice is hereby given of the Real Property Subcommittee meeting on May 15, 1978, from 10 a.m., to 3 p.m. The meeting will be held in Room 5141A at the GS Building, 18th and F Streets NW., Washington, D.C. 20405.

The subcommittee is a part of the Advisory Committee for the President's Administrative Services Reorganization Project. The purpose of this meeting is to discuss in detail effective means of organizing and managing real property. In order to meet the scheduled requirements of the full committee it will be necessary to hold the meeting on the date scheduled. This meeting will be open to the public.

Dated: may 5, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-12826 Filed 5-9-78; 8:45 am]

[6820-34]

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee for the President's Administrative Services Reorganization Project on May 23, 1978, from 9:00 a.m., to 3:30 p.m. The meeting will be held in room 5141A at the GS Building, 18th and F Streets NW., Washington, D.C. 20405.

The Committee will review and make recommendations relating to the delivery of administrative services within the Federal establishment. This meeting will be open to the public.

Dated: May 5, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-12827 Filed 5-9-78; 8:45 am]

[411-84]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

PHS HOSPITALS AD HOC ADVISORY COMMITTEE

Meeting; Amendment

In FR Doc. 78-9846 appearing at page 15781 in the issue for Friday, April 14, 1978, the notice of meeting for the "PHS Hospitals Ad Hoc Advisory Committee" has been amended as follows:

Name: PHS Hospitals Ad Hoc Advisory Committee.
Date and Time: May 12, 1978, 8:30 a.m. (open).
Place: PHS Carville Hospital.
Conference Room, Training Building, Carville, La. 70721.
Date and Time: May 13, 1978, 8:30 a.m. (closed).
Place: PHS New Orleans Hospital.
Conference Room C, 210 State Street, New Orleans, La. 70118.
Open on May 12, 1978.
Closed on May 13, 1978.

Purpose. Agenda items for the open portion of the meeting include a review of the Committee's charge and development of a work plan, a discussion of methodology and eligibility data, and an overview of PHS hospitals. On May 13 the meeting will be closed to the public to conduct an in-depth examination of each PHS hospital. 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 Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Jordan Popkin, Office of the Administrator, Health Services Administration, Parklawn Building, Room 14-15, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2245.

Agenda items are subject to change as priorities dictate.

Dated: May 8, 1978.

W. HARELL LITTLE,
Acting Associate Administrator for Management.

[FR Doc. 78-12835 Filed 5-9-78; 8:45 am]

[4110-92]

Office of Human Development Services

[Program Announcement No. 13637-782]

TRAINING PROJECTS

Announcement of Dissertation Program Grants for Fiscal Year 1978

The Administration on Aging (AOA), Office of Human Development Services (OHDS), announces that applications will be accepted until June 16, 1978 from public or non-profit private institutions of higher education wishing to compete for grants in fiscal year 1978 under the Dissertation Program authorized by Title IV-Part A of the Older Americans Act of 1965, as amended (42 U.S.C. 3001, 3031 et seq.).

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for an award.

Regulations applicable to this program are published in the Code of Federal Regulations under 45 CFR Part 1320 and 45 CFR Part 1323.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement covers the Dissertation Training Program. A separate program announcement covering training grants for gerontology career training projects has previously appeared in the FEDERAL REGISTER.

A. PROGRAM PURPOSE AND OBJECTIVE

The purpose of the Administration on Aging Dissertation Program is to provide one year grants to institutions of higher education in support of doctoral dissertation projects in social gerontology and related areas. The program's objective is to enable doctoral students to conduct dissertation projects on topics relevant to the development of programs and policies which would improve the circumstances of older Americans.

B. FUNDING PRIORITIES

The fiscal year 1978 Dissertation Program will give funding priority to dissertation projects which focus on two areas. The first area is research related to public and private policies which impact on the elderly in such areas as employment, retirement, income, housing, health care, and community services. The second area is research related to the development and implementation of comprehensive community-based long-term care services which will enable older persons (especially the most vulnerable, chronically ill, socially isolated, impaired, and low income) to remain in their homes or in the least restrictive setting.

Consideration will also be given to dissertation projects on topics in other than the above priority areas such as the characteristics, conditions, and needs of the elderly; informal support systems; and the provision and delivery of services to the elderly. Topics relating to biological and clinical issues are not acceptable.

This program will place special emphasis on applications which propose studies of national scope to be carried out by means of secondary analysis of national datasets to the extent available.

C. ELIGIBLE APPLICANTS

Applications for Dissertation Program grants may be submitted only by institutions of higher education which grant doctoral degrees. Doctoral candidates who have or by September 1, 1978 will have passed all doctoral degree qualifications except the dissertation are eligible to be Dissertation Program trainees. The dissertation proposal must be approved by the appropriate faculty advisor and committee before submission to AOA. Separate proposals must be submitted for each dissertation project.

Institutions of higher education are encouraged to apply for Dissertation Program grants for doctoral candidates belonging to the following minority groups: Black, Hispanic, Asian, and American Indian.

D. AVAILABLE FUNDS

During Fiscal Year 1978, AOA expects to award 20 to 30 new Dissertation Program grants totaling between $110,000 and $165,000. Twenty grants of $5,500 each will be awarded in the general competition. Up to ten additional grants of $5,500 will be awarded for projects involving minority doctoral candidates.

E. CONDITIONS OF GRANT AWARD

Dissertation Program grants are made subject to the following conditions:

(1) The grantee university shall provide $5,500 to the doctoral candidate over the one-year period covered by the grant to provide support for the student's research and writing of the project outlined in the approved dissertation proposal.

(2) No supplemental allowances are provided for dependents or for other expenses such as travel, computer time, supplies, and preparation of the final dissertation copy.

(3) No indirect costs or allowances for administrative costs to the university will be provided.

(4) Doctoral candidates cannot receive a grant from another United States Government agency during the budget period covered by the AOA Dissertation grant for the purpose of writing the dissertation.

F. THE APPLICATION PROCESS

(1) *Application Forms and Program Guidelines.* Additional information about this program and the application forms are contained in a Guidelines document which may be obtained by contacting:

Dissertation Program—Kit, Administration on Aging, OHDS, DHEW North Building, Room 4640, 330 Independence Avenue SW, Washington, D.C. 20201, 202-245-0004.

(2) *Submission of Applications.* A signed original and two additional copies should be submitted. The original and the two additional copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development Services.

(3) *Closing Date for Receipt of Applications.* The closing date for receipt of applications under this program announcement is June 16, 1978. Applications may be mailed or hand delivered to:

Receiving Office, Division of Grants and Contracts Management, Office of Human Development Services, DHEW, Room 1427, Mary E. Switzer Building, 330 C Street SW, Washington, D.C. 20201, Attention: AOA Dissertation Program.

Hand delivered applications are accepted during normal working hours of 9 a.m. to 5 p.m..

An application will be considered to have arrived by the closing date if:

(a) The application is at the OHDS Receiving Office on or before the closing date, or

(b) The application is postmarked at least two days prior to the closing date.

(4) *Late Applications.* Late applications are not accepted and applicants are notified accordingly.

(5) *Review of Applications.* Applications which do not conform to this announcement or are late or are not complete are not accepted and applicants are notified accordingly. Otherwise, all applications which meet the requirements for a grant award will be considered. All accepted grant applications are subjected to a comprehensive review and evaluation conducted by qualified reviewers who are not employees of the Administration on Aging.

(6) *Criteria for Evaluation of Applications.* The reviewers will evaluate dissertation grant applications against the following criteria:

1. That the proposed topic is clearly defined—10 points.

2. That the methodology proposed is sound and appropriate for use in the dissertation project—20 points.

3. That the proposed project will make a significant contribution to

knowledge relevant to programs and policies for the aging—25points.

4. That the proposed project addresses one or more of the priority issues identified in this announcement—20 points.

5. That the proposed project is a study of national scope and uses secondary analysis of national datasets to the extent feasible—5 points.

6. That the project is feasible and can be successfully completed on the basis of the plan of work submitted—15 points.

7. That the doctoral candidate is well qualified by reason of academic training and experience including relevant academic and work experience to undertake the activities proposed in the application.

Applications will not be funded unless they receive a score of at least 60 points.

(7) *Grant Awards.* The Commissioner on Aging determines the final action to be taken with respect to each grant application. The results of the competitive review supplement and assist the Commissioner's consideration. After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available for the purpose of supporting dissertation projects in aging. The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, and the budget period for which support is given.

(Catalog of Federal domestic Assistance Program Number: 13.637, Programs for the Aging: Grants to Insitutions of Higher Education and Training Organizations)

Dated: April 28, 1978.

ROBERT BENEDICT,
Commissioner on Aging.

Dated: May 5, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-12733 Filed 5-9-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 33325]

NEW MEXICO

Application

MAY 2, 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 one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 10 W.,
Sec. 1, lots 8 and 9.

This pipeline will convey natural gas across 0.348 mile of public land in San Juan 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 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12659 Filed 5-9-78; 8:45 am]

[4310-84]

[W-63214]

WYOMING

Application

APRIL 28, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct six additional 4½-inch o.d. pipelines to add to their proposed gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 25 N., R. 107 W., 6th P.M.,
Sec. 31, W½NE¼.
T. 25 N., R. 109 W.,
Sec. 30, lot 4 and SE¼SW¼;
Sec. 31, NE¼NW¼.
T. 24 N., R. 110 W.,
Sec. 7, W½NE¼ and NW¼SE¼.
T. 23 N., R. 111 W.,
Sec. 5, SE¼SE¼;
Sec. 8, W½NE¼, NE¼NE¼ and NW¼SE¼;
Sec. 9, NW¼SE¼;
Sec. 28, N½SE¼.

The proposed pipelines will transport natural gas from several wells to connect into Northwest Pipeline Corp.'s proposed trunk lines in Sweetwater County, Wyo.

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 include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1868, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-12717 Filed 5-9-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Dr. Kenneth E. Campbell, 5801 Wilshine Boulevard, Los Angeles, Calif. 90036.

The applicant requests a permit to import not more than 100 Vicuna (*Vicugna vicugna*) skeletons for scientific purposes. The specimens will be removed from the wild because of overpopulation on the Vicuna preserves in Peru. Specimens will be obtained from El Director, Direccion General Forestal y de Fauna, Proyecto-Vicuna, Ministerio de Agricultura y Alimentacion, Natalio Sanchez 220, Jesus Maria, Lima, Peru. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2444. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 9, 1978. Please refer to the file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-12643 Filed 5-9-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Department of Vertebrate Zoology, National Museum of Natural History, Smithsonian Institution, Washington, D.C. 20560.

The applicant requests a permit to salvage dead or dying specimens of the following species from United States coastal areas, for scientific purposes: Hawksbill sea turtle (*Eretmochelys imbricata*), Atlantic Ridley sea turtle (*Lepidochelys kempii*), and Leatherback sea turtle (*Dermochelys coriacea*).

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2381. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 9, 1978. Please refer to the file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12644 Filed 5-9-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Ronald F. Escher, Twin Pine Game Farm, Dumont, Minnesota 56236.

The applicant requests a permit to purchase, in interstate commerce, captive-produced eggs of Elliot's pheasants (*Syrmaticus ellioti*) and white-eared pheasants (*Crossoptilon crossoptilon*) from the Woodland Game Farm, of Buffalo, Mo., for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1762. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 9, 1978. Please refer to the file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12645 Filed 5-9-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Hawaiian/Pacific Islands NWR Complex, 300 Ala Moana Boulevard, Room 5302, Honolulu, Hawaii 96850.

The applicant requests a permit to take (capture) and band or mark Hawaiian stilts (*Himantopus himantopus knudseni*) Hawaiian coots (*Fulica americana alai*), Hawaiian gallinules (*Gallinula chloropus sandvicensis*) and Hawaiian ducks (*Anas wyvilliana*) in cooperation with the Hawaii Division of Fish and Game, for scientific purposes.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2433. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12646 Filed 5-9-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications on or before June 9, 1978 by submitting written data, views, or arguments to the Director at the above address.

Applicant: John G. Delladio, 351 5th Street, Atco, N.J. 08004, PRT 2-2454;
Applicant: King's Kingdom Game Farm, 6303 Von Kanel Street, Schofield, Wis. 54476, PRT 2-2406;
Applicant: Hollis Carlos, Ozark Bantam Game Farm, Route 5, Box 132, Hillsboro, Mo. 63050, PRT 2-2415;
Applicant: Charles Fleming, Box 167, Rural Route 4, Iowa Falls, Iowa 50126, PRT 2-2446;
Applicant: Mr. Eugene H. Montag, Route 1, Chili, Wis. 54420, PRT 2-2439;
Applicant: Ronald F. Escher, Twin Pine Game Farm, Dumont, Minn. 56236, PRT 2-2419.

Please refer to the individual applicant and the appropriately assigned PRT 2- file number when submitting comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12647 Filed 5-9-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications on or before June 9, 1978, by submitting written data, views, or arguments to the Director at the above address.

Applicant: Roy Louis Nicolet, Wild Wings Farm, Box 204, Florence, Mont. 59833, PRT 2-2413;
Applicant: Frank C. Edge, Route 1, Box 41, Mt. Hope, Wis. 53816, PRT 2-2431;
Applicant: Mr. Buddie M. Neatherlin, Route 3, Box 129A, Ulysses, Kan. 67880, PRT 2-2423;
Applicant: Mr. Dean McClearly, Route 1, Box 319, North Platte, Nebr., PRT 2-2430;
Applicant: Stanley Luczai, 155 Moody Road, Enfield, Conn. 06082, PRT 2-2424;
Applicant: J. A. Carney, 5721 North 32nd Street, Birmingham, Ala. 35207, PRT 2-2438.

Please refer to the individual applicant and the appropriately assigned PRT 2- file number when submitted comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12648 Filed 5-9-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of animals listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications on or before June 9, 1978 by submitting written data, views, or arguments to the Director at the above address.

Applicant: Alan Mootnick, 21219 Lassen Street, Chatsworth, Calif. 91310, PRT 2-1867;

Applicant: Dickerson Park Zoo, Division of Springfield Park Board, 3043 North Fort, Springfield, MO. 65803, PRT 2-2452.

Please refer to the individual applicant and the appropriately assigned PRT 2- file number when submitted comments.

Dated: May 5, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-12649 Filed 5-9-78; 8:45 am]

[4310-31]

Geological Survey

[NTL-3A]

NOTICE TO LESSEES AND OPERATORS—OIL AND GAS LEASES

Reporting of Undesirable Events

AGENCY: U.S. Geological Survey, Interior.

ACTION: Proposed revision of NTL-3.

SUMMARY: This proposed revision of the existing NTL-3 would define more specifically for industry those undesirable events occurring on onshore Federal and Indian oil and gas leases and on State or private land leases within federally supervised unit or communitized areas which must be reported to the Geological Survey. The provisions of NTL-3 require that a separate report be made in all cases, some of which have now been determined as unnecessary for the proper performance of the Survey's regulatory duties. The proposed revision will reduce the number of such separate reports by about 50 percent.

DATES: Comments must be received on or before July 10, 1978.

ADDRESSES: Interested persons are invited to participate in the evaluation of the proposed revision by submitting written comments, suggestions, or objections. Responses should identify the subject matter and be directed to the Acting Chief, Conservation Division, U.S. Geological Survey, National Center (650), 12201 Sunrise Valley Drive, Reston, Va. 22092. Comments received will be available for public inspection in the Conservation Division on regular working days from 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT:

Mr. Eddie Wyatt, Conservation Division, U.S. Geological Survey, National Center (620), 12201 Sunrise Valley Drive, Reston, Va. 22092, 703-860-7535, commercial; 928-7535, FTS.

SUPPLEMENTARY INFORMATION: The primary author of the proposed NTL-3A is Mr. Gerald R. Daniels, Physical Scientist, U.S. Geological Survey, phone 703-860-7535.

In accordance with the regulations and the terms of the various oil and gas leases issued pursuant to the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181-287), the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351-359), the implied authority of the executive branch as defined in the Attorney General's opinion of April 2, 1941 (Vol. 40, Op. Atty. Gen. 41), the Allotted Indian Land Leasing Act of March 3, 1909, as amended (25 U.S.C. 396), and the Unallotted Indian Leasing Act of May 11, 1938, as amended (25 U.S.C. 396a), the area oil and gas supervisor (supervisor) is authorized to require such special reports as necessary to carry out the intent of the applicable laws and regulations and to issue instructions for the filing of such reports.

The existing notice to lessees and operators, NTL-3, requires operators to report certain spills, discharges, accidents, or other undesirable events by telephone within 18 hours, followed by a written report within 15 days, and to report all other undesirable events in writing within 15 days. After some 3 years of experience with the system and development of the data base associated therewith, the Geological Survey has determined that its regulatory functions may be adequately performed with less stringent reporting requirements. Therefore, it is proposed that the reporting requirements be modified to require: (1) A telephone report within 24 hours for those events identified in section I of the proposed NTL-3A followed by a written report; (2) only a written report within 15 days for those events described in section III of proposed NTL-3A; and (3) no written or telephone report for minor events. However, all volumes of oil and gas lost, including that lost in minor events, must continue to be reported in the Monthly Report of Operations, Form 9-329.

As proposed, NTL-3 would be revised and reissued as NTL-3A to read as follows:

NOTICE TO LESSEES AND OPERATORS OF FEDERAL AND INDIAN ONSHORE OIL AND GAS LEASES (NTL-3A)

REPORTING OF UNDESIRABLE EVENTS

This notice, which supersedes NTL-3, dated January 1, 1975, is issued pursuant to the authority prescribed in 30 CFR 221.5, 221.7, and 221.36. Operators of onshore Federal and Indian oil and gas leases shall report all spills, discharges, or other undesirable events in accordance with the requirements of this notice. All such events which occur on State or private land leases within federally supervised unit or communitized areas must likewise be reported in accordance with the requirements of this notice. However, compliance with this notice does not relieve an operator from the obligation of complying with the applicable rules and regulations of any State or any other Federal agencies regarding notification and reporting of undesirable events.

As used in this notice, the term "District Engineer" means that officer of the U.S. Geological Survey having supervisory jurisdiction for the geographic area in which the undesirable event occurs.

I. *Major undesirable events requiring immediate notification.* The following incidents, when occurring on a lease supervised by the Geological Survey, shall be reported to the appropriate District Engineer as soon as practical but within a maximum of 24 hours:

A. Oil, condensate, distillate, saltwater, and toxic liquid spills, or any combination thereof, which result in the discharge (spilling) of 100 or more barrels of liquid; however, discharges of such magnitude, if entirely contained within the facility firewall, may be reported only in writing pursuant to section III of this notice;

B. Equipment failures or other accidents which result in the venting of 500 or more Mcf of gas;

C. Any fire which consumes volumes as specified in I.A. and I.B. above;

D. Any spill, venting, or fire, regardless of the volume involved, which occurs in an environmentally sensitive area, i.e., areas such as parks, recreation areas, wildlife refuges, lakes, reservoirs, major streams, urban or suburban areas, and cultivated lands.

E. Each accident which involves a fatal injury; and

F. Every blowout (loss of control of any well) that occurs.

II. *Written reports.* A written report shall be submitted in duplicate to the District Engineer no later than 15 days following a fatal injury or the control or containment of any of the other major undesirable events identified in section I hereof. When required by the District Engineer, interim reports will be submitted until final containment and cleanup operations have been accomplished. The final written report for each such event shall, as appropriate, provide:

A. The date and time of occurrence and time reported to USGS;

B. The location where the incident occurred, including surface ownership and lease number;

C. The specific nature and cause of the incident;

D. A description of the resultant damage and estimated volume of pollutants discharged;

E. The action taken and the length of time required for control of the incident, for containing the pollutants, and for subsequent cleanup;

F. The make or manufacturer, size, working and test pressure, date of installation, and type of use for each piece of equipment whose malfunction has been identified as a direct or indirect cause of the incident;

G. A listing of all pieces of equipment destroyed beyond repair, the approximate value thereof, and the volume of hydrocarbons irretrievably lost;

H. The cause of death when fatal injuries are involved;

I. Actions that have been or will be taken to prevent a recurrence of the incident;

J. Other Federal or State agencies notified of the incident; and

K. Other pertinent remarks.

III. *Other undesirable events.* All other undesirable events do not have to be reported orally within 24 hours; however, a written report, as required by section II of this notice, must be provided for the following incidents:

A. Oil, saltwater, and toxic liquid spills, or any combination thereof, which result in the discharge (spilling) of at least 10 but less than 100 barrels of liquid in nonsensitive areas, and all discharges of 100 or more barrels when the spill is entirely contained by the facility firewall;

B. Equipment failures or other accidents which result in the venting of at least 50 but less than 50 Mcf of gas in nonsensitive areas;

C. Any fire which consumes volumes in the ranges specified in III.A. and III.B. above; and

D. Each accident involving a personal injury that requires professional medical services.

Spills or discharges in nonsensitive areas involving less than 10 barrels of liquid, or 50 Mcf of gas, or personal injuries not requiring professional medical attention do not require an oral or written report; however, the volumes discharged or vented as a result of all such minor incidents must be reported in accordance with section V hereof.

IV. *Contingency plans.* Upon request of the District Engineer, a copy of any spill prevention control and countermeasure plan (SPCC plan), required by the Environmental Protection Agency (EPA) under Title 40. CFR 112, or other acceptable contingency plan must be submitted. All plans shall provide the names, addresses, and telephone numbers (both business and private) of at least two technically competent company or contract personnel authorized to order equipment or supplies, and to expend funds necessary to control emergencies.

V. *Monthly report of operations/monthly report of sales and royalty.* All volumes of oil spilled, gas vented, and all hydrocarbons consumed by fire or otherwise lost must be reported monthly on the Monthly Report of Operations (Form 9-329). The volume and value of such losses must also be reported on the Monthly Report of Sales and Royalty (Form 9-361).

VI. *Liquidated damages.* Failure to file adequate contingency plans, when required, to provide the necessary notification or reports provided for by this notice, or to otherwise conform with the written orders of the District Engineer in this regard, may result in other measures being taken to secure compliance, including the assessment of liquidated damages as provided by 30 CFR 221.54.

NOTE.—It has been determined that the proposed revision of NTL-3 does not constitute a "major" Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C 4332 (2)(C)).

It has also been determined that a regulatory analysis does not have to be prepared according to the guidelines provided in section 3a of Executive Order 12044.

Dated: April 27, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-12651 Filed 5-9-78; 8:45 am]

[4310-70]

National Park Service

BOSTON NATIONAL HISTORICAL PARK ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, that a meeting of the Boston National Historical Park Advisory Commission will be held at 11 a.m. on May 26, 1978 at the Commandant's House, Charlestown Navy Yard, Boston, Mass.

The Commission was established by Pub. L. 93-431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park.

The members of the Advisory Commission are as follows: Mr. Richard Berenson, Chairman, Brookline, Mass., Dr. Evelyn Murphy, Lexington, Mass., Mr. Byron Rushing, Boston, Mass., Mrs. Katharine Kane, Boston, Mass., Mr. Maurice O'Shea, Charlestown, Mass., Ms. Gail Seybold, Boston, Mass., Mr. Guy Beninati, Boston, Mass.

The matters to be discussed at this meeting include:

1. Alternatives for boundary adjustments to include additional historic buildings at the Charlestown Navy Yard;
2. Progress report on cooperative agreements;
3. Progress report on the Water-Chelsea Connector and Gate 4 roadway projects as they affect the Charlestown Navy Yard;
4. Briefing on possible inclusion of Dorchester Heights in Boston National Historical Park;
5. Discussion of efforts to improve transportation to Charlestown sites;
6. Prospects for the 1978 visitor season; and
7. Report and discussion of park administration and operations.

The meeting will be open to the public. However, facilities and space are limited, and it is expected that not more than 25 persons will be able to attend the session. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Hugh D. Gurney, Superintendent, Boston National Historical Park at 617-223-1128. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Office of the Superintendent, 15 State Street, Boston, Mass.

Dated: April 27, 1978.

LARRY J. HOVIG,
Acting Regional Director,
North Atlantic Region.

[FR Doc. 78-12737 Filed 5-9-78; 8:45 am]

[4310-70]

Intention to Extend 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 thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with MV Pack and Saddle, authorizing it to continue to provide concession facilities and services for the public at Mesa Verde National Park for a period of two (2) years from January 1, 1978, through December 31, 1979.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 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 MV Pack and Saddle, 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, thereafter, the offer of MV Pack and Saddle 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 within thirty (30) days after the publication date of this notice.

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: April 28, 1978.

DAVID J. TOBIN, Jr.,
Associate Director,
National Park Service.

[FR Doc. 78-12739 Filed 5-9-78; 8:45 am]

[4310-70]

NATIONAL CAPITAL MEMORIAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m. on Tuesday, June 13, 1978, in Classroom A at the National Capital Region Headquarters, 1100 Ohio Drive SW., Washington, D.C.

The Committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended) through the media of monuments, memorials, and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

Mr. William J. Whalen (Chairman), Director, National Park Service, Washington, D.C.
Mr. George M. White, Architect of the Capitol, Washington, D.C.
General Mark W. Clark, Chairman, American Battle Monuments Commission, Washington D.C.
Mr. J. Carter Brown, Chairman, Fine Arts Commission, Washington, D.C.
Mr. David Childs, Chairman, National Capital Planning Commission, Washington, D.C.
Honorable Walter E. Washington, Mayor of the District of Columbia, Washington, D.C.
Mr. James B. Shea, Jr., Commissioner Public Buildings Service, Washington, D.C.

The purpose of the meeting is to review alternatives for placing the names of Hawaii and Alaska on the Lincoln Memorial as contained in Pub. L. 94-556, and to review alternative sites for the American Legion Freedon Bell.

The meeting will be open to the public. Any person may file with the Committee a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Mr. John G. Parsons, Associate Regional Director, Land Use Coordination, National Capital Region, at area code 202-426-7750. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at the Office of National Capital Region, Room 208, 1100 Ohio Drive SW., Washington, D.C.

Dated: April 28, 1977.

MANUS J. FISH, Jr.,
Regional Director, National
Capital Region.

[FR Doc. 78-12738 Filed 5-9-78; 8:45 am]

[4310-70]

SANDY HOOK, GATEWAY NATIONAL RECREATION AREA N.J.

Availability of Assessment of Alternatives and Public Meeting

Notice is hereby given that the National Park Service has prepared an assessment of long range alternatives for the re-establishment and maintenance of the South Beach area, Sandy Hook Unit, Gateway National Recreation Area. A public meeting will be held as indicated below to enable the public to comment on these alternatives.

The assessment document is available from or may be inspected at: the Assistant Superintendent's office, Sandy Hook Unit, Fort Hancock (Box 437, Highlands, N.J. 07732), the Superintendent's office, Gateway National Recreation Area, Floyd Bennett Field, Brooklyn, N.Y. 11234, or the North Atlantic Regional Office, 15 State Street, Boston, Mass. 02109.

This assessment of long range alternatives is related to, but a separate document from, the currently available draft environmental impact statement on the General Management Plan for the entire National Recreation Area. This assessment discusses a number of structural as well as sand replenishment alternatives and includes consideration of a bridge to maintain vehicular access to Sandy Hook in view of the threat of natural inlet formation. In addition to describing the alternatives, the assessment analyzes the impacts of each, considers mitigative measures where possible, discusses unavoidable adverse effects, the relationship of short term liabilities and long term enhancements as well as the irreversible and irretrievable commitments of resources, and presents an order of magnitude cost estimate for each alternative.

A public meeting will be held on Wednesday, May 25, 1978 at 8 p.m. in the Sandy Hook Auditorium in the Fort Hancock area of the Sandy Hook Unit (New Jersey) of Gateway National Recreation Area. This meeting is to afford all interested parties an opportunity to openly present their views on the matter of re-establishment of the South Beach. It should be clearly understood that this public meeting concerns only the south end of Sandy Hook and is not to be a forum for discussion of the management planning for the entire National Recreation Area.

Written comments on this assessment of long range alternatives are invited. Such written statements should be addressed to the Superintendent, Gateway National Recreation Area, Floyd Bennett Field, Brooklyn, N.Y. 11234 and may be submitted at the public meeting. The official record for

receipt of written comments will close on June 27, 1978.

Dated: April 4, 1978.

DENIS P. GALVIN,
Acting Regional Director, North Atlantic Region.

[FR Doc. 78-12736 Filed 5-9-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Solicitation Regarding Competitive Research Grant

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant aimed at examining a variety of modern management concepts, principally those used in business, industry and the military, to determine their possible use as police department tools. The research effort is intended to result in the design of modern management model(s) which would improve police management practices.

The solicitation asks for the submission of concept papers rather than full proposals. Full proposals will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be received by June 16, 1978, for award in September, 1978, with funding support of approximately 250,000 and a grant period of 24 months duration. Because this is a research grant, profit-making organizations are prohibited by LEAA policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting: Kay Monte or David J. Farmer, Office of Research Programs, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3967.

BLAIR S. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 78-12718 Filed 5-9-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR-25, issued to Commonwealth Edison Co. (the licensee), which revised the license and Technical Specifications appended thereto for operation of Dresden Station Unit No. 3 (the facility) located in Grundy County, Ill. The amendment is effective as of its date of issuance.

The amendment (1) authorized operation with additional 8x8 fuel assemblies, (2) incorporated revised MCPR limits in response to the plant specific analysis for reload 5, and (3) modified License Condition 3.E to more concisely state plant operating plant described in the licensee reload submittal dated December 28, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 28, 1977 and supplement dated March 27, 1978, (2) Amendment No. 34 to License No. DPR-25 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Ill. 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of May 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-12725 Filed 5-9-78; 8:45 am]

[7590-01]

[Docket No. 50-341A]

DETROIT EDISON CO. (ENRICO FERMI ATOMIC POWER PLANT UNIT NO. 2)

Assignment of Atomic Safety and Licensing Appeal Board.

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding:

Alan S. Rosenthal, Chairman
Michael C. Farrar
Richard S. Salzman

Dated: May 3, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-12726 Filed 5-9-78; 8:45 am]

[7590-01]

[Docket No. 50-321]

GEORGIA POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR-57 issued to Georgia Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Association of Georgia and City of Dalton, Ga., which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Ga. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications which revises the definition and specification of detection capability for principal gamma emitters in radioactive liquid effluents.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact ap-

praisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 23, 1978, (2) Amendment No. 54 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of May 1978.

For the Nuclear Regulatory Commission

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-12727 Filed 5-9-78; 8:45 am]

[7590-01]

[Docket Nos. 50-266, 50-301]

WISCONSIN ELECTRIC POWER CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Co. (the licensee), for operation of the Point Beach Nuclear Plant, Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wis.

The amendments would increase the authorized storage capacity of the spent fuel storage pools from 351 fuel assemblies to 1484 fuel assemblies and involve modifications to the spent fuel cask handling system in support of the licensee's proposal to (1) increase the licensed capacity of the cask handling system, and (2) to modify current restrictions on the placement of a spent fuel shipping cask into the spent fuel pool while fuel assemblies are stored therein.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By June 9, 1978, the license may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Bruce W. Churchill, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendments dated March 21, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the local public document rooms established at the University of Wisconsin, Stevens Point Library, Stevens Point, Wis. 54481, and at the Manitowoc Public Library, 808 Hamilton Street, Manitowoc, Wis. 54220. The local public document room at the Manitowoc Public Library has been established on a temporary basis to make available to the public documents related to the matters set forth in this Notice. The license amendments and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained on request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 3rd day of May 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-12724 Filed 5-9-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT

New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires the agencies to give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period April 3, 1978 through April 28, 1978, the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF THE INTERIOR

System name:

Personnel Research Records.

Report date:

April 4, 1978.

Point-of-contact:

Richard R. Hite, Deputy Assistant Secretary of the Interior, Washington, D.C. 20240.

Summary:

The Department of the Interior proposes this system to document selection procedures used in filling DOI positions and thereby assure that they are not discriminatory.

DEPARTMENT OF STATE

System names:

(1) Skills Catalogue Records (2) Family Liaison Office Records.

Report date:

April 5, 1978.

Point-of-contact:

Ben H. Read, Deputy Under Secretary of State for Management, Washington, D.C.

Summary:

The Skills Catalogue Records are intended to provide information about Foreign Service spouses who seek employment to potential employers; the Family Liaison Office records are intended to inform Foreign Service families of governmental and community services available to them.

DEPARTMENT OF DEFENSE

System name:

Defense Audit Service Management Information System.

Report date:

April 7, 1978.

Point-of-contact:

D. O. Cooke, Deputy Assistant Secretary of Defense, Washington, D.C. 20301.

Summary:

This proposed system "mechanizes and replaces" an existing system of records, "because the function and responsible activity for the system has been realigned with the Defense Audit Service."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

System names:

(1) Prepurchase Counseling Demonstration and Evaluation Records, (2) HUD Child Care Center Files.

Report date:

April 12, 1978.

Point-of-contact:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, Washington, D.C. 20410.

Summary:

The HUD Child Care Center Files will "consist of socio-economic, educational, and medical information on applicants, their children, and center staff members." The Prepurchase Counseling Demonstration and Evaluation Records are part of a program which assists first time homeseekers.

System name:

Urban Reinvestment Task Data.

Report date: April 12, 1978.

Point-of-contact:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, Washington, D.C. 20410.

Summary:

This system is being established to help evaluate the Neighborhood Housing Services Program and will consist of a survey of 45 Neighborhood Housing Services Program areas.

NATIONAL SCIENCE FOUNDATION

System name:

Study to Evaluate Scientific Information Services.

Report date:

April 14, 1978.

Point-of-contact:

Mr. Herman Fleming, NSF Privacy Act Officer, Washington, D.C. 20550.

Summary:

This system of records will be a survey of physicists, to consider their perception of scientific and technical information services.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

System name:

ACDA-15, Fellowship Grants Records.

Report date:

April 14, 1978.

Point-of-contact:

Mr. Charles R. Oleszycki, Office of General Counsel, U.S. Arms and Disarmament Agency, Washington, D.C. 20451.

Summary:

This proposed system is being developed to administer recently established Hubert H. Humphrey Fellowships.

SECURITIES AND EXCHANGE COMMISSION

System name:

SEC-100, Automated Personnel Information System.

Report date:

April 20, 1978.

Point-of-contact:

James H. Schropp, Assistant General Counsel, Securities and Exchange Commission, Room 271, 500 North Capitol Street, Washington, D.C. 20549.

Summary:

This system, intended to supplement existing SEC systems of records, is expected to provide more rapid handling of personnel action, and updating of personnel folders, as well as more accurate management reporting for SEC staff.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-12803 Filed 5-9-78; 8:45 am]

[3110-01]

Office of Federal Procurement Policy

ISSUANCE OF OMB BULLETIN NO. 78-11

Guidelines for the Use of Consultant Services

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Issuance of OMB Bulletin No. 78-11, Guidelines for the Use of Consultant Services.

SUMMARY: OMB Bulletin No. 78-11, dated May 5, 1978, is issued for immediate implementation. This Bulletin establishes a standard definition for "consulting services" and uniform management controls to assure that abuses in the use of consulting services do not occur.

A draft of this policy was published in the FEDERAL REGISTER on December 16, 1977 on pages 63492-63493 (3110-01) with comments requested by February 10, 1978. The comments received were given consideration in finalizing the Bulletin.

In addition to incorporating many useful suggestions to clarify the intent of the policy three changes were made:

(1) The definition was changed from "consultant services" to "consulting services" to more accurately define the resulting service and not the performers;

(2) The inclusion of "Services of a Federal Funded Research and Development Center" in the Services included in the Appendix of the draft was deleted for the same reason—not to define the performers but the resulting service. If Federal Funded Research and Development Centers perform a consulting service that arrangement is included within the definition and management controls of this Bulletin; and,

(3) An Exhibit was added to assist the agencies in providing the required one-time report due June 30, 1978.

DATES: The Bulletin is effective immediately.

ADDRESSES: All questions of inquiries should be submitted to the Office of Management and Budget, Administrator for Federal Procurement Policy, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Herman E. Shipley, Deputy Associate Administrator, for Systems and Technology, telephone 202-393-3340.

LESTER A. FETTIG,
Administrator.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

BULLETIN No. 78-11, May 5, 1978

To the heads of executive departments and establishments.

Subject: Guidelines for the Use of Consulting Services.

1. *Purpose.* The Bulletin establishes policy and guidelines to be followed by executive branch agencies in determining and controlling the appropriate use of consulting services obtained from individuals and organizations.

2. *Background.* The President, in a memorandum of May 12, 1977 (Attachment A) asked the heads of agencies to review the consulting service arrangements of their organizations to assure that they were both appropriate and necessary. As requested, the agencies reported the results of their review to the Director, Office of Management and Budget (OMB), along with the criteria used in determining when it is appropriate to use consulting services. While many agencies have excellent management controls to assure that abuses do not occur, there was a lack of uniformity of definition, criteria, and management controls among the agencies.

Based largely upon the data received from the agencies, this Bulletin establishes a standard definition, uniform criteria for determining the appropriate use of consulting services, and outlines management controls required of the agencies.

3. *Coverage.* The provisions of this Bulletin apply to consulting services obtained by the following arrangements:

(a) Personnel appointment;

(b) Procurement contract; and

(c) Advisory committee membership (not otherwise covered).

When one of the above arrangements for consulting services is entered into, any applicable statutory requirements, such as those in 5 U.S.C. 3109 for personnel appointments will govern.

4. *Definition.* As used for administrative direction in this Bulletin, *Consulting Services* means those services of a purely advisory nature relating to the governmental functions of agency administration and management and agency program management. (See Attachment B for examples of the type of services to which this Bulletin does and does not apply.)

These services are normally provided by persons and/or organizations who are generally considered to have knowledge and special abilities that are not generally available within the agency. The form of compensation is irrelevant to the definition.

5. *Basic Policy.* a. Consulting services will not be used in performing work of a policy/decisionmaking or managerial nature which is the direct responsibility of agency officials.

b. Consulting services will normally be obtained only on an intermittent or temporary basis; repeated or extended arrangements are not to be entered into except under extraordinary circumstances.

c. Consulting services will not be used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

d. Former Government employees per se will not be given preference in consulting service arrangements.

e. Consulting services will not be used under any circumstances to specifically aid in influencing or enacting legislation.

f. Grants and cooperative agreements will not be used as legal instruments for consulting service arrangements.

6. *Guidelines for use of Consulting Services.* Consulting service arrangements may be used, when essential to the mission of the agency, to:

a. Obtain specialized opinions or professional or technical advice which does not exist or is not available within the agency or another agency.

b. Obtain outside points of view to avoid too limited judgment on critical issues.

c. Obtain advice regarding developments in industry, university, or foundation research.

d. Obtain the opinion of noted experts whose national or international prestige can contribute to the success of important projects.

e. Secure citizen advisory participation in developing or implementing Government programs that by their nature or by statutory provision call for such participation.

7. *Management Controls.* a. Each agency will assure that for all consulting service arrangements:

(1) Every requirement is appropriate and fully justified in writing. Such justification will provide a statement of need and will certify that such services do not unnecessarily duplicate any previously performed work or services;

(2) Work statements are specific, complete and specify a fixed period of performance for the service to be provided;

(3) Contracts for consulting services are competitively awarded to the maximum extent practicable to ensure that costs are reasonable;

(4) Appropriate disclosure is required of, and warning provisions are given to, the performer(s) to avoid conflict of interest; and

(5) Consulting service arrangements are properly administered and monitored to ensure that performance is satisfactory.

b. Each agency will establish specific levels of delegation of authority to approve the need for the use of consulting services, based on the policy and guidelines contained in this Bulletin. Approval of all consulting service arrangements should be required at a level above the organization sponsoring the activity.

c. OMB Circular No. A-63, Advisory Committee Management, governs policy and procedures regarding advisory committees and their membership.

d. The Federal Personnel Manual (FPM), Chapter 304, governs policy and procedures regarding personnel appointments.

e. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation and the Armed Services Procurement Regulations govern policy and procedures regarding contracts.

8. *Data Requirements.* By October 1, 1978, the following data systems will have the capability to provide information on consulting service arrangements within the executive branch:

a. Central Personnel Data File (CPDF), operated by the Civil Service Commission, will have data on personnel appointments, segregating consultants, experts, and advisory committee members (as defined in OMB Circular No. 63).

b. Federal Procurement Data System (FPDS) will have data on contract arrangements.

c. Advisory committee data will continue to be maintained in accordance with OMB Circular No. A-63.

9. *Reporting Requirements.* Agencies will submit a report to the Office of Federal Procurement Policy, OMB, on June 30, 1978. The report will be submitted in the format of the Exhibit as follows. For each type of consulting service arrangement in effect as of June 1, 1978, specify:

a. The number of such arrangements; and

b. The total dollars (in thousands) in terms of outlays.

This is a one-time report.

10. *Effective date.* This bulletin is effective immediately.

11. *Recission.* This bulletin is rescinded following incorporation of basic policy, guidelines, and management controls into agencies' policies and procedures, the submission of the required data due on June 30, 1978, and implementation of the data system requirements due October 1, 1978.

12. *Inquiries.* All questions or inquiries should be submitted to the Office of Management and Budget, Administrator for Federal Procurement Policy. Telephone Number (202) 395-3340.

JAMES T. MCINTYRE, Jr.,
Director.

ATTACHMENT A

THE WHITE HOUSE,
Washington, May 12, 1977.

Memorandum for the Heads of Executive Departments and Agencies

In a continuing search for ways to improve the efficiency and effectiveness of the executive branch, I have become aware of a need for improved management of the excessively large volume of consulting and expert services used by the Federal Government. A recent survey by a Senate subcommittee of the use of personal and non-personal consultant and expert services identified more than 30,000 contract arrangements and 10,777 individual appointments. Additionally, there are such services provided by grant arrangements and through advisory committee memberships.

There has been, and continues to be, evidence that some consulting services, including experts and advisors, are being used excessively, unnecessarily, and improperly.

This must be corrected without delay.

Some areas of concern include:

Use of consultants to perform work of a policymaking or managerial nature which should be retained directly by agency officials.

Repeated appointments or contract extensions which raise questions whether the work is beter suited to other more appropriate arrangements.

Use of consultants to provide studies and analyses which have no useful impact on agency operations, either because the subject itself is non-essential or because there are no disciplined agency procedures to (a) check priorities and (b) insure follow-up on the results.

Use of consultant arrangements as a device to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

"Revolving door" abuses whereby former Government employees may be improperly favored for individual or contracted consulting arrangements.

Intra-agency duplication of consultant efforts, especially in large, multi-agency departments such as Defense and Health, Education and Welfare, because there is no central coordination of consulting efforts or dissemination of results.

Conflicts of interest between consultants' advice and their other outside financial interests and affiliations.

In order to improve the use of consultants, I want you to:

1. Review all data that is available or can be readily assembled to describe:

The principal purposes for which consulting services are being used;

The types of consulting arrangements being used (Civil Service Commission appointment, contract, grant advisory committee membership, other); and

The number of such arrangements in effect and the total dollars involved.

2. Review and revise the management controls and decision criteria used for consultants which will effectively prevent abuses.

3. Eliminate those consultant arrangements found to be neither appropriate nor necessary.

4. Report the results of the above items to the Director of the Office of Management and Budget by June 30, 1977.

I am asking the Director of the Office of Management and Budget to review your reports and, where appropriate, to suggest additional measures that you might apply to strengthen your management control of the purposes and arrangements for consulting and expert services.

JIMMY CARTER.

ATTACHMENT B

This attachment contains some, but not all, examples of the type of services to which this Bulletin does and does not apply.

SERVICES INCLUDED

Advice on discriminatory practices in labor;

Advice on organizational structure and management methods;

Advice on artistic and cultural matters;

Advice on and analysis of electric power projects;

Evaluation of the effectiveness of agency publications;

Advice on mail handling procedures;

Advice on plans for conducting census enumerations;

Analysis of the impact of a program;

Advice on maritime labor policy and maritime market development;

Advice on legal and technological problems in patent and trademark examinations;

Policy and program analysis evaluation and advice;

Services of grant peer review panelists.

SERVICES EXCLUDED

Commercial and insutrial products and services (see OMB Circular No. A-76);

Conduct of research (see OMB Circular No. A-11);

Performance of operating functions and supervision of those functions;

Automatic data processing/keypunching services;

Information system development;

Audits made by Certified Public Accountants;

Architect and engineering services and other associated services directly related to a particular structure;

Purchase of real or personal property;

Stenographic services;

Direct operation and management of Government-owned facilities;

Installation or testing of equipment;

Services performed by technicians or nonprofessional persons to meet unusual or peak work demands;

Consultant-type services provided by one Federal entity for another Federal entity under a Memorandum of Understanding or similar arrangement;

Physicians, dentists, nurses, and other health care professionals providing medical services;

Employee training and executive development; Legal research services that do not include advice or recommendations;

Editing and proofreading services;

Educational-vocational guidance counseling for veterans;

Court reporting;

Translation services;

Advisory services provided directly to the public or foreign governments as part of an agency's programs of assistance.

Geological, archeological, and cadastral surveys.

Exhibit—Consulting Service Arrangements

[*Name of Department or Agency*]

Types of consultant arrangements:	No.	In thousands of dollars
1. Personnel appointments		
2. Procurement contracts		
3. Advisory committee memberships		
Total		

[FR Doc. 78-12805 Filed 5-9-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release NO. 34-14739; File No. SR-PHLX 78-7]

PHILADELPHIA STOCK 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) (the "Act"), as amended by Pub. L. 94-29,16 (June 4, 1975), notice is hereby given that on May 4, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc., ("PHLX) proposes to amend Rule 1014, as follows: (Brackets indicate deletions; italics indicate new language.)

Rule 1014: (i) With respect to classes of options other than those to which he has been assigned, an ROT, whenever he enters the trading crowd or is called upon by a Floor Official, shall undertake the obligations specified in paragraph [d(iii)] (c) of this Rule.

. . . Commentary:

.03 The Exchange has determined for purposes of paragraph [d(iii)] (c) of this Rule that, except for unusual circumstances at least 50% of the trading activity in any quarter (measured in terms of contract volume) of an ROT shall ordinarily be in classes of options to which he is assigned. Temporarily undertaking the obligations of paragraph [d(iii)](c) at the request of a member of the Floor Procedure Committee in non-assigned classes of options shall not be deemed trading in non-assigned option contracts.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing rule change are as follows:

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to make certain corrections of erroneous citations in Rule 1014 in order to reflect PHLX's practice of subjecting Registered Options Traders ("ROT's") to affirmative obligations in connection with their trading outside of their assigned classes of option contracts.

Further, because of this erroneous reference in Rule 1014, PHLX ROT's may have appeared technically unqualified for market maker exemption provided in section 11(a)(1)(A) of the Act with respect to their trading in unassigned options although PHLX has and continues to follow a practice of requiring ROT's to undertake affirmative obligations whenever they enter the trading crowd in unassigned options.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The basis under the Act for the proposed rule change is section 6(b)(5) in that transactions in securities are facilitated by deeper and more liquid markets which tend to result from ROT's undertaking affirmative obligations in unassigned options. The proposed rule change also relates to the Exchange's capacity to enforce compliance with Exchange Rule 1014(i) and section 11(a)(1)(A) under the Act concerning PHLX's requirements that ROT's undertake affirmative obligations in connection with their trading in nonassigned option classes.

COMMENTS RECEIVED FROM MEMBERS OR OTHERS ON PROPOSED RULE CHANGE

PHLX states that no comments have been received from members or others on the proposed rule change.

BURDEN ON COMPETITION

PHLX asserts that no burden will be imposed upon competition as a result of this proposed rule change.

On or before June 15, 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 submissions should refer to the file number referenced in the caption above and should be submitted on or before June 5, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 5, 1978.

[FR Doc. 78-12768 Filed 5-9-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Application No. 09/5219]

AMERICAN SMALL BUSINESS ASSISTANCE CORP.

Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) has been filed by American Small Business Assistance Corp. (applicant) with the Small Business Administration pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

Don C. Winkler, 8641 Edwin Place, Los Angeles, Calif. 90046, president and chairman of the board.
Michael R. McCoy, 5737 Magnolia Avenue, Apartment No. 2, Whittier, Calif. 90001, secretary and director.
David A. Phifer, 9715 Belmar Avenue, Northridge, Calif. 91324, vice president and director.

Hiland Enterprises, Inc., (Hiland) American Bank of Commerce Complex, Suite 300, 200 Lomas Boulevard NW., Albuquerque, N. Mex. 87102 is the sole stockholder of the applicant. Financial International Life Insurance Co. of New Mexico, located at the same address, is the sole stockholder of Hiland.

The applicant will maintain its principal place of business at 10100 Santa Monica Boulevard, Suite 1325, Los Angeles, Calif. 90067. It will begin operations with $500,000 of private capital derived from the sale of 500,000 shares of common stock to Hiland.

The applicant will conduct its operations principally in the State of California and in other areas within the United States of America as may be approved by the Small Business Administration.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Notice is hereby given that any person may, not later than May 25, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 3, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12710 Filed 5-9-78; 8:45 am]

[8025-01]

[Application No. 09/09-5222]

ASSOCIATES VENTURE CAPITAL CORP.

Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Associates Venture Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977).

The officers, directors, and stockholders of the applicant are as follows:

Walter P. Strycker, president, director, general manager, 33 West Shore Road, Belvedere, Calif. 94920.
Harold T. McCormick, executive vice president, director, 3540 Spring Valley Court, Birmingham, Ala. 35223.
Jess S. Jackson, Jr., secretary, director, general counsel, 916 Jackling Drive, Hillsborough, Calif. 94010.
Rowland Hsu, vice president, treasurer, 35879 Salvador Court, Fremont, Calif. 94536.
Majorven Associates, Inc., 100 percent stockholder, 611 Front Street, San Francisco, Calif. 94111.

The above noted officers and directors own 60 percent of the voting stock of Majorven Associates, Inc. The shares of the applicant constitute 100 percent of the total assets of Majorven Associates, Inc.

The applicant, a Delaware corporation, with its principal place of business located 611 Front Street, San Francisco, Calif. 94111, will begin operations with $525,000 of paid-in capital and paid-in surplus, derived from the sale fo 525 shares of common stock.

The applicant will conduct its activities principally in the Sate of California, and in other areas within the United States of America.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of

1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than May 25, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12711 Filed 5-9-78; 8:45 am]

[8025-01]

[Proposed License No. 09/09-0220]

LANDERS CAPITAL CORP.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 (1978) by Landers Capital Corp., 9255 Sunset Boulevard, Los Angeles, Calif. 90069, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. et seq.).

The proposed officers, directors and principal stockholders are:

Harold A. Landers, 9255 Sunset Boulevard, Los Angeles, Calif. 90069, chairman of the board, president, 100 percent.
Jay Landers, 9255 Sunset Boulevard, Los Angeles, Calif. 90069, vice president, secretary, chief financial officer, director.
Mark B. Sandground, 1025 Connecticut Avenue NW., Washington, D.C. 20036, director.

The SBIC will begin operations with an initial capitalization of $485,000. They contemplate a plan of operation which centers on a diversified investment policy. The applicant, a California corporation, intends to make investments in small business concerns located principally in the State of California, with particular emphasis in Los Angeles County.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing action would be in furtherance of the purpose of the Act.

Notice is hereby given that any person may, not later than May 25, 1978, submit to SBA in writing comments on the proposed SBIC to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416,

A copy of this notice will be published in a newspaper of general circulation in Los Angeles, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 3, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-12740 Filed 5-9-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1463]

LOUISIANA

Declaration of Disaster Loan Area

Caddo Parish and adjacent parishes within the State of Louisiana constitute a disaster area as a result of damage caused by tornado which occurred on April 17, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 3, 1978, and for economic injury until the close of business on February 5, 1979 at:

Small Business Administration, District Office, Plaza Tower, 17th Floor, 1001 Howard Avenue, New Orleans, La. 70113

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12741 Filed 5-9-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1461]

MINNESOTA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Becker, Clay, Kittson, Marshall, Norman, Pennington, Polk, Red Lake, Traverse and Wilkin Counties constitute a disaster area because of damage resulting from severe storms, ice jams, snowmelt and flooding beginning about March 13, 1978. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties and adjacent counties within the State of Minnesota. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on June 22, 1978, and for economic injury until the close of business on January 22, 1979, at:

Small Business Administration, District Office, Plymouth Building, Room 530, 12 South Sixth Street, Minneapolis, Minn. 55402

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12742 Filed 5-9-78; 8:45 am]

[8025-01]

[License No. 06/06-0190]

SAN ANTONIO VENTURE CAPITAL, INC.

Issuance of License to Operate as a Small Business Investment Company

On March 21, 1977, a notice was published in the FEDERAL REGISTER (42 FR 15393) stating that an application had been filed by San Antonio Venture Group, Inc., 535 S. Main, San Antonio, Tex. 78204, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)), for a license to operate as a small business investment company (SBIC). The present address is 2300 West Commerce Street, San Antonio, Tex. 78207.

Also, in order to amend a statement in the above notice, it should be noted here that The National Council of La Raza, 1725 Eye Street NW., Washington, D.C., is not the parent of or associated with the Mexican American Unity Council, the major shareholder of San Antonio Venture Group, Inc.

Interested parties were given until the close of business April 5, 1977, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 06/06-0190 on March 23, 1978, to San Antonio Venture Group, Inc. to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

PETER F. MCNEISH,
Deputy Associate Administor for Investment.

[FR Doc. 78-12712 Filed 5-9-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1457, Amdt. No. 1]

TEXAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 16584) is amended by adding the following counties:

County	Natural disaster(s) and date(s)
Duval	Drought, July 1, 1977 to Mar. 22, 1978.
Foard	Drought, July 1, 1977 to Mar. 31, 1978.
Hansford	Drought, Jan. 1, 1977 to Mar. 24, 1978.
Do.	Hail and high wind, Aug. 30, 1977.
Hardeman	Drought, June 1, 1977 to Mar. 22, 1978.
Haskell	Drought, July 1, 1977 to Mar. 20, 1978.
Randall	Drought, Sept. 1, 1977 to Mar. 1, 1978.
Zapata	Drought, Jan. 1, 1977 to Mar. 14, 1978.

and adjacent counties within the State of Texas as a result of natural disasters as indicated. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 1, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12713 Filed 5-9-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1467]

VIRGINIA

Declaration of Disaster Area

The Independent Cities of Roanoke and Salem and the County of Roanoke and adjacent counties within the State of Virginia, constitute a disaster area because of damage resulting from high winds, rain and flooding which occurred on April 25, 1978 through April 27, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 3, 1978, and for economic injury until the close of business on February 5, 1979, at:

Small Business Administration, District Office, Federal Building, Room 3015, 400 North Eighth Street, Richmond, Va. 23240

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 4, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-12743 Filed 5-9-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Amended Notice of Meeting

In 43 FR 19309, May 4, 1978, AID announced a meeting of the Board for International Food and Agricultural Development to be held on May 25, 1978, from 9 a.m. to 4:30 p.m. in Room 1107 of the State Department Building. The purpose of this notice is to indicate that the time and room number of the meeting have been changed. The meeting will convene at 2 p.m. and adjourn at 4:30 p.m. on May 25, 1978, and will be held in room 6320 of the State Department Building.

Dated: May 5, 1978.

ERVEN J. LONG,
AID Advisory Committee Representative Board for International Food and Agricultural Development.

[FR Doc. 78-12715 Filed 5-9-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

Imported Steel Mill Products Trigger Price Mechanism: Quarterly Revision of Trigger Prices

The Treasury Department is hereby announcing increases in trigger prices for imported steel mill products reflecting increased costs of production for the Japanese steel industry and appreciation in the value of the yen, effective for all shipments exported on or after July 1, 1978.

A. INTEGRATED PRODUCERS

With respect to the categories of steel mill products produced primarily by the integrated steel producers, the price revision is based on changes since the end of 1977 in the costs of basic raw materials and labor and in the rate of exchange. Coal and iron ore costs increased in the aggregate by 3.5 percent in dollar terms. In April 1978, the integrated companies agreed to a new industry-wise labor contract which provides for an estimated overall 4.2 percent increase in hourly labor costs for the current fiscal year ending March 31, 1979. Finally, as reflected in the average daily exchange rate from March 1 through April 30, the Japanese yen has appreciated to a level of 226 yen to the dollar.

These changes in costs and the exchange rate have increased by approximately 5.5 percent the average costs of production and, correspondingly, both the base prices and "extras" for products in Categories 2,[1] 3,[2] 4, 5, 10,[3] 14,[1] 15,[1] 22, 23, 25, 26, 27, and 32 will be increased by 5.5 percent. The magnitude of this increase is due to the coincidence of the timing of the bulk of the annual wage increases in Japan and the appreciation of the yen. The calculation leading to the indicated increase for these products was made as follows:

TABLE 1.—*Estimated Japanese costs of production*

[Dollars per metric ton of finished product]

	Jan. 9, 1978	Revision for third quarter
Basic raw materials	116.91	120.62
Other raw materials	65.12	67.10
Labor	75.60	83.61
Other expenses	21.38	22.70
Depreciation	18.51	19.65
Interest plus profit	37.28	39.59
Less scrap credit	(6.57)	(6.67)

Increased estimated cost of production: 5.5 percent.

B. ELECTRIC FURNACE PRODUCERS

Trigger prices for products produced by electric furnace producers were published on Monday, March 27, 1978 (43 FR 12783).

Trigger price revisions for these steel mill products reflect only an adjustment for scrap prices and the exchange rate since these companies have not yet concluded their collective bargaining for the current fiscal year. A complete description of the methodology used in computing the original trigger prices for these products is set forth below. The original input costs are provided in Table 2. The revised input costs are provided in Table 3.

[1] With the exception of those specific products listed in Table 3.

[2] Only wide flange beams and bearing piling (Trigger Price Handbook pp 3-1 to 3-4). Other products in this category are covered in Table 3.

[3] Only hot rolled carbon bars: sepcial quality (Trigger Price Handbook pp 10-1 and 10-2). Other products in this category are covered in Table 3.

The trigger prices for the carbon steel products listed below are based upon the costs of production of Japan's main electric arc furnace steel mills, submitted to the Treasury Department by the Japanese Ministry of International Trade and Industry. Three sets (A, B, and C) of cost data for these electric arc mills were submitted. The cost of particular products within a cost group were obtained by applying relative cost coefficients provided by the Japanese to the appropriate group average cost.

Cost group	Products
A	Equal angles.
A	Unequal angles.
A	Channels.
A	I Beams (S4 through S8).
B	Hot rolled strip produced on bar mills.
B	Merchant quality hot bars.
B	Merchant quality hot rolled round bars
B	Merchant quality squares and round cornered squares.
B	Bar size channels.
C	Plain concrete reinforcing bars.
C	Deformed concrete reinforcing bars.

Because of a different input mix, output mix and production technology, the base production costs estimated for the electric furnace steel mills differ from the base costs reported for the six major Japanese producers.

The principal assumptions originally utilized by Treasury in estimating the Japanese electric arc furnace costs are (the only assumptions affected by the quarterly revisions are the exchange rate and the scrap netback):

a. *Exchange rate.* Where relevant, Japanese cost data have been converted to U.S. dollars on the basis of 240 yen per dollars (revised to 226 yen per dollar for the third quarter).

b. *Capacity utilization.* All costs pertain to a standard operating rate of 85 percent.

c. *Labor productivity.* Group A products (equal angles) require 3.3 man hours per metric ton of raw steel, Group B products (flat bars) 3.6 man hours per metric ton of raw steel, and Group C products (reinforcing bars) 2.9 man hours per metric ton of raw steel.

d. *Yield.* The electric arc furnace products are generally fabricated from continuously cast semifinished shapes. Therefore, the yield of Group A (angles) and Group C products (reinforcing bars) per ton of raw steel is taken to be 0.95 and the yield of Group B products (flat bars) of 0.92.

e. *Capital costs.* Total depreciation charges, net interest expenses and a margin for profit on average amount to slightly over 13 percent to total assets related to steel production.

f. *Scrap netback.* As previously, yield factors reported by the Japanese electric furnace mills were not used in the calculation of trigger prices in the belief that some of the products considered "finished" would be regarded by U.S. standards as low quality. However, this low quality product receives a cost credit based on the current market price of scrap, which increased for the third quarter.

The total costs of production for products in Groups A, B, and C, based on the above assumptions, are estimated to be:

TABLE 2.—*Original estimated Japanese electric furnace mill base production costs*

[Dollars per metric ton of finished product]

	Group A	Group B	Group C
Raw materials	147.19	159.59	148.33
Labor	24.52	27.94	19.55
Other expenses	10.06	12.28	12.68
Depreciation	5.47	6.96	5.60
Interest plus profit	21.46	25.85	20.81
Less scrap credit	(1.94)	(2.14)	(2.00)
Total original average cost	206.76	230.48	204.97

TABLE 3.—*Revised estimated Japanese electric furnace mill base production cost*

[Dollars per metric ton of finished product]

	Group A	Group B	Group C
Basic raw materials (primarily scrap)	140.42	150.92	139.16
Other raw materials	32.29	38.16	34.88
Labor	26.05	29.64	20.76
Other expenses	10.68	13.04	13.47
Depreciation	5.81	7.39	5.94
Interest plus profit	22.79	27.45	22.10
Less scrap credit	(2.49)	(2.80)	(2.56)
Revised average cost	235.55	263.80	233.75
Original average cost	206.76	230.48	204.97
Increased estimated cost of production (in percent)	13.9	14.5	14.0

C. OTHER PRODUCTS

Data from which to compute quarterly revisions on a number of items has not yet been received from the Japanese government. When this data is available, quarterly revisions will be computed and published. Until such time, the 5.5 percent increase applicable to the products made by the integrated producers will be applied to such products as well.

Item and trigger price handbook page
Alloy wire rod, pages 2-11 to 2-13.
Light rails, page 6-3.
Tie plates, page 6-5.
Hot rolled bar, pages 11-1 and 11-2.
Cold finished bar, pages 12-1 to 12-14.
Welded stainless steel pipe, pages 14-14 to 14-17.
Hot rolled tube, page 15-44.
Cold rolled tube, page 15-45.
Stainless steel ornamental tube, page 15-46 to 15-49.
Wire, pages 16-1 to 16-25.
Barbed wire, page 21-1.

D. OTHER REVISIONS

Aside from these general revisions to the trigger prices now in effect, the Treasury Department hopes in the course of the current calendar quarter to undertake analyses of individual trigger prices in the light of comments received with respect to their relationships with other trigger prices. Further, apparent gaps in product coverage as well as the prior inclusion of trigger prices for products not imported in significant quantities will be reviewed. The results of these studies should be available not later than the next quarterly revisions in trigger prices to be published from 60 to 90 days prior to their effective date.

Dated: May 5, 1978.

W. M. BLUMENTHAL
Secretary of the Treasury.

[FR Doc. 78-12735 Filed 5-9-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Revised Service Order No. 1315; Exception No. 1]

Apache Railway Co., Et Al.

Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(ix) of Revised Service Order No. 1315, the free-time periods authorized by the following items in General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply to cars subject to those items in lieu of the free-time periods specified in section (a)(2) of Revised Service Order No. 1315.

Item Nos. and Railroad

116—The Apache Railway Co.
118-119—The Atchison, Topeka & Santa Fe Railway Co.
121-123—Burlington Northern Inc.
125-126—Chicago, Rock Island & Pacific Railroad Co.
132—Denver & Rio Grande Western Railroad Co.
140—Oregon & Northwestern Railroad Co.
142-151—Union Pacific Railroad Co.
176—Burlington Northern Inc.

Effective 7 a.m., May 5, 1978.

Issued at Washington, D.C., May 3, 1978.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-12747 Filed 5-9-78; 8:45 am]

[7035-01]

[Notice No. 657]

ASSIGNMENT OF HEARINGS

MAY 5, 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.

AB 10 (Sub-No. 11), Norfolk & Western Railway Co. abandonment between New Castle and Rushville, in Henry and Rush Counties, Ind., and AB 10 (Sub-No. 12), Norfolk & Western Railway Co. abandonment between Connersville and New Castle, in Henry, Wayne, and Fayette Counties, Ind., are now assigned for hearing July 24, 1978 (1 week), at New Castle, Ind., at a location to be later designated.

No. MC 114211 (Sub-No. 317), Warren Transport, Inc., now assigned for hearing May 31, 1978, at Denver, Colo., will be held at OSHA, Room 1718, Prudential Plaza, 1050 17th Street.

No. MC 105006 (Sub-No. 5), L. L. Smith Trucking, now assigned June 5, 1978, at Denver, Colo., will be held at OSHA, Room 1718, Prudential Plaza, 1050 17th Street.

No. MC 128270 (Sub-No. 24), Rediehs Interstate, Inc., now assigned June 12, 1978, at Denver, Colo., will be held at OSHA, Room 1718, Prudential Plaza, 1050 17th Street.

No. MC-C-10037, *O.N.C. Freight Systems, Inc.* v. *Windecker, Inc.*, d.b.a. Windecker Truck Line, now assigned June 15, 1978, at Denver, Colo., will be held in Room 1718 at OSHA, Prudential Plaza, 1050 17th Street.

No. MC 136285 (Sub-No. 26), Southern Intermodal Logistics, Inc., is assigned for hearing June 28, 1978, at Atlanta, Ga., and will be held at Room 305, 1252 West Peachtree Street NW.

No. MC 125808 (Sub-No. 7), Aaacon Auto Transport, Inc., is assigned for hearing June 19, 1978, at Memphis, Tenn., and will be held at Tax Court Room 1006, Federal Building, 167 North Main Street.

No. MC 141871 (Sub-No. 6), WNI, Inc., now assigned May 16, 1978, at Salem, Oreg., will be held in Room 347, State Capitol Building.

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

[FR Doc. 78-12748 Filed 5-9-78; 8:45 am]

[7035-01]

[Docket No. AB-6 (Sub-No. 46F)]

BURLINGTON NORTHERN, INC.

Abandonment Near Quincy and East Hannibal in Adams and Pike Counties, Ill.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 28, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977), and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc. of a line of railroad known as the Quincy to East Hannibal Line extending from railroad milepost 267.28 near Quincy, Ill., to railroad milepost 279.88 at the end of the line near East Hannibal, Ill., a distance of 12.60 miles, in Adams and Pike Counties, Ill. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

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

[FR Doc. 78-12755 Filed 5-9-78; 8:45 am]

[7035-01]

[Docket No. AB-6 (Sub-No. 50F)]

BURLINGTON NORTHERN, INC.

Discontinuance of Service in Spokane County, Wash.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 26, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977), the present and future public convenience and necessity permit the discontinuance of service over the Union Pacific Railroad Co. (UP) tracks between UP milepost 163.46 near Spokane, Wash., to UP milepost 131.21 at the end of the line near Fairfield, Wash., a distance of 32.25 miles, and to discontinue service over its own line of railroad between milepost 7.1 near Dishman, Wash., to milepost 6.1 near Spear, Wash., a distance of 1 mile, in Spokane County, Wash., for a total distance of 33.25 miles. A certificate of public convenience and necessity permitting discontinuance of service was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of discontinuance of service decisions in the *Federal Register* be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing discontinuance of service shall become effective June 26, 1978.

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

[FR Doc. 78-12753 Filed 5-9-78; 8:45 am]

[7035-01]

CHANGES IN PROCEDURES FOR PENDING RAIL ABANDONMENT CASES

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Change in Procedures for Certain Offers of Financial Assistance.

SUMMARY: The "Procedures for Pending Rail Abandonment Cases" required the use of the publicly quoted yield on United States Treasury Bonds to calculate "a reasonable return on the value of the rail properties." In

the future, parties are instructed to use the cost of capital to the railroad as set forth in 49 CFR 1121.44, for purposes of this calculation.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, Phone: 202-275-7581.

SUPPLEMENTARY INFORMATION: On March 31, 1976, we issued Procedures For Pending Rail Abandonment Cases (Procedures), at 41 FR 13691. These procedures implemented section 1a(8) of the Interstate Commerce Act, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, (4-R Act) as it relates to abandonment or discontinuance of operations proceedings filed prior to the promulgation of new regulations. The Procedures set out the methods to be followed by persons offering financial assistance for continued rail service.

The Procedures instruct parties to use the Standards for Determining Rail Service Continuation Subsidies, 49 CFR §1125, in computing the extent to which the avoidable costs of providing rail service plus a reasonable return on the value of the rail properties involved exceeds the revenues attributable to such line of railroad. Section 1125.7 states that in calculating the return on value, the interest rate should be equal to the publicly quoted yield to maturity for United States Treasury Bonds or Notes maturing or having an earliest call date approximately coterminus with the end of the subsidy period.

The regulations promulgated in Ex Parte No. 274 (Sub-No. 2), Abandonment of Railroad Lines and Discontinuance of Service, codified at 49 CFR Part 1121, apply the cost of capital of the railroad to the investment base to calculate a reasonable return on value. 49 CFR 1121.44. This is consistent with the 4-R Act, which defines reasonable return as the cost of capital to the railroad.

In view of the regulations and the provisions of the 4-R Act, we instruct parties, making offers of financial assistance after this date, to use the cost of capital to the railroad in making the calculations required in the Procedures. Further, we will apply the cost of capital to the railroad in calculating the extent to which the avoidable costs of providing rail service plus a reasonable return on the value of the rail property exceeds the revenue attributable to the line of railroad as required by section 1a(7) of the Act, 5 U.S.C. 1a(7).

Decided May 1, 1978.

By the Commission.

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

[FR Doc. 78-12756 Filed 5-9-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 5, 1978.

These applications for long- and short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before May 25, 1978.

FSA No. 43538, Forest Lines' No. 1, on intermodal rates on general commodities, from rail carriers' terminals at U.S. Gulf Coast ports in Louisiana and Texas, to ports in the Far East, by way of ports in California, in its tariff No. 1, ICC No. 1, to become effective June 1, 1978. Grounds for relief—water competition.

FSA No. 43539, Neptune Orient Lines Ltd., No. 1, on intermodal rates on general commodities, between ports in the Far East, on the one hand, and rail carriers' terminals at ports on the U.S. Atlantic and Gulf Coasts, by way of ports on the U.S. Pacific Coast, to be published in its tariffs Nos. 1, 2, and 3, ICC Nos. 1, 2, and 3, respectively. Grounds for relief—water competition.

By the Commission.

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

[FR Doc. 78-12750 Filed 5-9-78; 8:45 am]

[7035-01]

[Docket No. AB-30]

GEORGIA SOUTHERN & FLORIDA RAILWAY CO.

Abandonment in Palatka, Putnam County, Fla.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 17, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977), the present and future public convenience and necessity permit the abandonment by the Georgia Southern & Florida Railway Co. of a stub-end line of railroad extending from railroad milepost 285-B minus 1,023 feet to railroad milepost 285-B plus 1,558 feet, a distance of approximately 0.5 mile, in Palatka, Putnam County, Fla. A certificate of public convenience and necessity permitting abandonment was issued to the Georgia Southern & Florida Railway Co. Since no investigation was instituted, the requirement of §1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to §1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

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

[FR Doc. 78-12752 Filed 5-9-78; 8:45 am]

[7035-01]

[Notices No. 68]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 26, 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 effects 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 21866 (Sub-No. 95TA), filed April 12, 1978. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA 19152. Applicant's representative: Alan Kahn, 2 Penn Center Plaza, Suite 1920, Philadelphia, PA 19102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer* (except in bulk), from the facilities of the Wegro Division of Old Fort Industries, Inc., in or near Grand Rapids, OH, to points in NY and NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wergro Division, Old Fort Industries, Inc., 3rd and Mill Streets, Grand Rapids, OH 43522. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 36734 (Sub-No. 10TA), filed March 24, 1978. Applicant: FLEMING'S EXPRESS, INC., 105 Main Street, Falmouth, MA 02536. Applicant's representative: Robert G. Parks, 20 Walnut Street, Wellesley Hills, MA 02181. Authority sought to operate as a *common carrier,* by motor vehicle, over *irregular routes,* transporting: *Cocoa beans and cocoa products,* from Philadelphia, PA, to Mansfield, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nabisco Confections, Inc., 810 Main Street, Cambridge, MA 02139. Send protests to: Gerlad H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

No. MC 14286 (Sub-No. 1TA), filed April 13, 1978. Applicant: MCO TRANSPORT, INC., 1121 South Front Street, Wilmington, NC 28401. Applicant's representative: James L. Prince, Jr., 1 Cowan Street, Wilmington, NC 28402. Authority sought to operate as a *common carrier,* by motor vehicle, over *irregular 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), between Wilmington, NC, on the one hand, and, on the other, points in Greenville and Spartanburg Counties, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jacky Maeder Ltd., 4530 Park Road, Suite 336, Charlotte, NC 28209. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 70903 (Sub-No. 6TA), filed March 28, 1978. Applicant: OKANOGAN-SEATTLE TRANSPORT CO., INC., P.O. Box 722, Ellensburg, WA 98926. Applicant's representative: Michael D. Duppenthaler, 607 third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Common, irregular, chemicals, fertilizer, and soap* from the facilities of U.S. Borax Co., located at or near Boron, South Gate, and Wilmington, CA, to the United States-Canada international boundary line located at or near Blaine, Sumas, and Oroville, WA, for 180 days. Supporting shipper(s): Mackenzie & Feimann, Ltd., 970 Malkin Avenue, Vancouver, BC V6A 2K8. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland OR 97204.

No. MC 89716 (Sub-No. 52 TA), filed April 12, 1978. Applicant: DICK JONES TRUCKING, Box 965, Powell, WY 82435. Applicant's representative: Stockton and Lewis, The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Oilfield motors and oilfield pumps,* between the plantsite of TRW Reda Pump Co., at or near Thermopolis, WY on the one hand and on the other, points in NM, for 180 days. Supporting shipper(s): TRW Reda Pump, Box 1366, Thermopolis, WY 82443. Send protests to: Paul A. Naughton District Supervisor, Interstate Commerce Commission, Room 105 Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

No. MC 97457 (Sub-No. 4TA), filed April 13, 1978. Applicant: WARNER & SONS TRUCKING CO., 3224 Sand Creek Hwy, Route 1, Adrian, MI 49221. Applicant's representative: William B. Elmer, 21635 East nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastics and plastic products,* between the facilities of Alma Plastics, Inc., located at Greenville, MI on the one hand and, on the other, Detroit, MI; Grand Rapids, MI, and Lansing, MI, restricted to traffic interlined at those points with other carriers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alma Plastics, Inc., 501 Cedar Street, Greenville, MI 48838. Send protests to: C. R. Flemming District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 104683 (Sub-No. 45TA), filed April 13, 1978. Applicant: TRANSPORT, INC., P.O. Box 1524, Hattiesburg, MS 39401. Applicant's representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Roofing asphalt,* (in bulk, in tank vehicles), from Smackover and El Dorado, AR, to Meridian, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Masonite Corp., P.O. Box 5777, Meridian, MS 39302. Send protests to: Alan C. Tarrant District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 108520 (Sub-No. 2TA), filed April 14, 1978. Applicant: DON WALDRON, d.b.a. DONALD WALDRON TRUCKING, 21414 7 Mile Road, Franksville, WI 53126. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia* (in bulk, in shipper owned tank trailers), from Seneca, IL, to Burlington and Genoa City, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Burlington Consumers Corp., P.O. Box 220 Burlington, WI (Robert Schulte). Send protests to: Bail 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 111401 (Sub-No. 519TA), filed April 12, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, OK 73701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* (except petroleum products), in bulk, in tank vehicles, from the facilities of Kugler Oil Co., at or near Ulysses, KS, to points in CO and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kugler Oil Co., Box 308, Culbertson, NE 69024. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 NW., 3rd, Oklahoma City, OK 73102.

No. MC 112617 (Sub-No. 387TA), filed April 13, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Charles R.

Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solution* (in bulk, in tank trucks), from Burns Harbor, IN, to points in MI, IN, ILL, and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. J. Stefanec, Director, Transportation and Research, Agrico Chemical Co., 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 112696 (Sub-No. 57TA), filed April 14, 1978. Applicant: HARTMANS, INC., P.O. Box 898, 833 Chicago Avenue, Harrrisonburg, VA 22801. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Rich Products Corp. at or near Murfreesboro, TN, to points in DE, FL, GA, IL, IN, IA, KY, MD, MI, MN, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI and DC, for 180 days. Supporting shipper(s): Rich Products Corp., Buffalo, NY. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 112963 (Sub-No. 74TA), filed April 12, 1978. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Applicant's representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonate* (in bulk, in tank vehicles), from Johnson, VT to Woodbury, NJ, for 180 days. Supporting shipper(s): Dewey & Almy Chemical Division of W. R. Grace, 55 Hayden Avenue, Lexington, MA 02173. Send protests to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

No. MC 113406 (Sub-No. 7TA), filed March 28, 1978. Applicant: DOT LINES, INC., P.O. Box 1526, Lima, OH 45802. Applicant's representative: Beery & Spurlock Co., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Cleaning, scouring and washing compounds* (except in bulk), from the facilities of Proctor and Gamble Manufacturing Co. in Bath Township, Allen County, OH, to points in IN: (B) *materials* used in the manufacture of cleaning, scouring and washing compounds (except in bulk), from Evansville, IN, to the facilities of Proctor and Gamble Manufacturing Co. in Bath Township, Allen County, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Proctor & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Keith D. Warner, District Supervisor, Bureu of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 114194 (Sub-No. 198TA), filed April 13, 1978. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: A. Bruce Fraser (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard*, in tank vehicles, from St. Joseph, MO, to Pittsburg, KS, and Joplin, MO, vehicle must stop to partially unload at Pittsburg, KS, with final stop to complete unloading at Joplin, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. A. Chute, Manager, Transportation and Distributing, Armour Food Co., 111 West Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 115311 (Sub-No. 280TA), filed April 13, 1978. Applicant: J. & M. TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, 1200 Gas Light Tower, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated metal products, iron and steel coils and iron and steel sheets*, from the facilities of United States Gypsum Co. at or near Warren, OH, to points in AL, GA, LA, MS, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Gypsum Co., 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Steet NW., Room 300, Atlanta, GA 30309.

No. MC 115651 (Sub-No. 38TA), filed April 12, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Applicant's representative: R. D. Higgins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, and fertilizer ingredients*, in bulk or bag, from the facilities of the N-Ren Corp., at or near East Dubuque, IL, to points in IL, IN, IA, KS, MO, NE, OH, SD, MN and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: N-Ren Corp., Jack Hanson, Manager of Transportation, P.O. Box D, East Dubuque, IL 61025. 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 115841 (Sub-No. 618TA), filed March 28, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Applicant's representative: D. R. Beeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning and heating equipment and materials, equipment, and supplies*, used in the manufacturing and distribution thereof, from Davidson County, TN, to points in AZ, AR, CA, CO, LA, NE, NV, OK, OR, SD, TX, UT, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Heil Quaker, 1714 Heil Quaker, La Vergne, TN 37086. 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 115826 (Sub-No. 297TA), filed February 22, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088, Terminal Annex, Denver, CO 80217. Applicant's representative: Howard Gore (same address as applicant). Authority sought to transport *grocery items, canned goods, and articles* dealt in by wholesale grocery warehouses while moving in trailer equipped with mechanical refrigeration units. From all points in CA to El Paso and Lubbock, TX, Phoenix, AZ, and Albuquerque, NM. Restricted to traffic consigned to Furr's Inc., and destined to the aforementioned destination points for 180 days. Supporting shipper: Furr's Inc., 1708 Avenue G, Lubbock, TX 79408. Send protests to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 117303 (Sub-No. 14TA), filed April 12, 1978. Applicant: HUDSON VALLEY CEMENT LINES, INC., Route 23B, Claverack, NY 12513. Applicant's representative: Michael R. Werner, P.O. Box 1409, Fairfield, NJ

07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Kingston, NY, to points in ME, CT, MA, NH, VT, RI, NY, NJ, and PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Independent Cement Corp., 65 William Street, Wellesley, PA 02181. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, NY 12201.

No. MC 118202 (Sub-No. 90TA), filed April 10, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and periodicals*, from Pewaukee, WI, to Bethany, CT, Baltimore and Cottage City, MD, Boston, MA, Hoboken, North Bergen, and Bayonne, NJ, Troy and Carle Place, NY, Columbus, OH, McKeesrocks and Harrisburg, PA, and Washington, DC, for 180 days. Supporting shipper(s): Quad/Graphics, Inc., Duplainville Road, Pewaukee, WI 53072. 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, MI 55401.

No. MC 118838 (Sub-No. 23TA), filed April 13, 1978. Applicant: GABOR TRUCKING, INC., P.O. Box 124B, R.R. 4, Detroit Lakes, MN 56501. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and plywood*, from Libby, MT, to IA, IL, MN, NE, ND, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): St. Regis Paper Co., 1203 East D Street, Tacoma, WA 98401. 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 121654 (Sub-No. 12TA), filed March 31, 1978. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 458, Forest Part, GA 30050. Applicant's representative: Alan E. Serby and Richard M. Tettlebaum, Fifth Floor Lenox Towers I, 3390 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-stressed concrete slabs*, from facilities of Houdaille-Duval-Wright Co., Division of Houdaille-Industries, Inc., Jonesboro, GA, to points in AL, NC, KY, SC, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Houdaille-Duval-Wright Co., Division of Houdaille-Industries, Inc., P.O. Box 246, Jonesboro, GA 30236. 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 121805 (Sub-No. 1TA) (Correction), filed March 8, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: ARKANSAS EXPRESS, INC., 1612 East 31st Street, North Little Rock, AR 72116. Applicant's representative: James M. Duckett, 1021 Pyramid Life Building, Little Rock, AR 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (with usual exceptions) (1) between Pine Bluff, AR, and the AR-LA State line, from Pine Bluff over U.S. Hwy 65 to the intersection of AR Hwy 81, then over AR Hwy 81 to the AR-LA State line, and return over the same route, serving all intermediate points, (2) between Warren, AR, and the AR-LA State line, from Warren over AR Hwy 15 to the intersection of AR Hwy 275, then over AR Hwy 275 to the AR-LA State line, and return over the same route, serving all intermediate points, (3) between the intersection of U.S. Hwy 65 and U.S. Hwy 165 to the AR-LA State line, from the intersection of U.S. Hwy 65 and U.S. Hwy 165 over U.S. Hwy 165 to the AR-LA State line, and return over the same route, serving all intermediate points, (5) between Strong, AR, and the Mississippi River, from Strong over U.S. Hwy 82 to the Mississippi River, and return over the same route, serving all intermediate points, (6) between Hamburg, AR, and the Mississippi River, from Hamburg over AR Hwy 8 to the Mississippi River, and return over the same route, serving all intermediate points, (7) between Wilmot, AR, and Eudora, AR, from Wilmot over AR Hwy 52 to the intersection of AR Hwy 159, then over AR Hwy 159 to Eudora, and return over the same route, serving all intermediate points, (8) between Eudora, AR and the AR-LA State line, from Eudora over AR Hwy 159 to the AR-LA State line, and return over the same route, serving all intermediate points, (9) between Monticello, AR, and McGehee, AR, from Monticello over AR Hwy 4 to McGehee, and return over the same route, serving all intermediate points, (10) between Jerome, AR, and the Mississippi River, from Jerome over AR Hwy 144 to the Mississippi River, and return over the same route, serving all intermediate points, (11) between Pine Bluff, AR, and Marianna, AR, over U.S. Hwy 79, for operating convenience only, serving no intermediate points, for 180 days. Applicant proposes to tack requested routes, at all common points of joinder, and with existing authority. Applicant intends to tack the authority here applied for to its authority in MC 121805 R-2. Applicant intends to interline with other carriers at Little Rock, AR, primarily. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. 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 thereof which may be examined at the field office named below. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201. The purpose of this republication is to add the commodity description, which was inadvertently omitted.

No. MC 124887 (Sub-No. 53TA), filed April 14, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Applicant's representative: Sol Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from points in Bastrop County, TX., to points in AL, FL, GA, LA, MS, NC, and SC, for 180 days. Supporting shipper(s): Elgin-Butler Brick Co., P.O. Box 45019, Baton Rouge, LA 70895. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 128527 (Sub-No. 110TA), filed April 14, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, ID 83661. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail grocery stores, between points in IN, OR, WA, UT, NV, CA and MT, restricted to transportation of shipments destined to the facilities of Keynote Marketing or originating at the facilities of Keynote Marketing, for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Keynote Marketing, P.O. Box 4008, Boise, ID

83704. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

No. MC 133689 (Sub-No. 190TA), filed April 12, 1978. Applicant: OVERLAND EXPRESS, INC., 710 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: *Carpeting*, from Ringgold, GA, to SD, ND and MN, for 180 days. Supporting shipper(s): Reinhard Bros., Co., 4301 Hwy 7, St. Louis Park, MN 55416. 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 134405 (Sub-No. 48TA), filed April 13, 1978. Applicant: BACON TRANSPORT, CO., P.O. Box 1134, Ardmore, OK 73401. Applicant's representative: Dean Williamson, 280 National Foundation Lide Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, (in bulk, in tank vehicles), from Ardmore, OK, to Pleasanton, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Riffe Petroleum Co., 1111 Philtower Building, Tulsa, OK 74103. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135326 (Sub-No. 9TA) (correction), filed January 31, 1978, and published in the FEDERAL REGISTER issue of March 14, 1978, and republished as corrected this issue. Applicant: BILLY R. ALMAND, d.b.a. ALMAND TRUCKING CO., P.O. Box 7959, Shreveport, LA 71107. Applicant's representative: J. D. Haynes, P.O. Box 7959, 4277 N. Market Street, Shreveport, LA 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, particleboard, and wood paneling*, from plantsites or facilities of Georgia Pacific Corp., located in AR, to points in AR, LA, TX, OK, KS, NM, CO, and those points in MO, located on and south of Interstate 70, and (2) *Materials, equipment, and supplies* used in the manufacture of the commodities in (1) from points in the destination States in (1) to the plantsites or facilities of Georgia Pacific Corp., located in AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia Pacific Corp., P.O. Box 520, Crossett, AR 71635. Send protests to: Ray C. Armstrong, Jr., District Supervisor, T-9038 S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113. The purpose of this republication is to correct the territorial description.

No. MC 135553 (Sub-No. 13 TA) (Correction), filed March 9, 1978, and published in the FEDERAL REGISTER issue of April 3, 1978, and republished as corrected this issue. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film*, in vehicles equipped with mechanical refrigeration, from the facilities of Reynolds Metals Co., at or near Grottoes, VA, to points in AZ, CA, ID, IL, IN, IA, MI, NM, MT, NV, ND, OH, OR, SD, UT, WA, WV, WI, and WY, under a continuing contract, or contracts with Reynolds Metals Co., for 180 days. Supporting shipper(s): Mr. Ralph H. Bell, General Manager, Transportation, Reynolds Metals Co., P.O. Box 27003, Richmond, VA 23261. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240. The purpose of this republication is to correct the territorial description.

No. MC 135874 (Sub-No. 120 TA), filed April 12, 1978. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick, 550 East Fifth Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Milton, PA, and its commercial zone to La Porte, IN, and Chicago, IL, and points in its commercial zone, for 180 days. Supporting shipper(s): American Home Foods, 685 Third Avenue, New York, NY 10017. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Post Office, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 136987 (Sub-No. 18TA) (correction), filed February 17, 1978, and published in the FEDERAL REGISTER issue of March 29, 1978, and republished as corrected this issue. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cocoa powder* in bags, and pallets on exchange, from facilities of ICP Cocoa, Inc., at Camden and Glassboro, NJ, to all points and places in IL, WI, IN, OH, and MN, and Waverly, Sibley, and Sioux City, IA; Kansas City, KS; St. Louis, MO; Denver, CO; Louisville, KY; Oakland, Los Angeles and Burlingame, CA, under a continuing contract, or contracts, with ICP Cocoa, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ICP Cocoa, Inc., 2500 Broadway, Building Q, Camden, NJ 08104. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802. The purpose of this republication is to change the authority sought from common to contract.

No. MC 138225 (Sub-No. 7TA) filed April 13, 1978. Applicant: HEDRICK ASSOCIATES, INC., R.R. No. 2, Box 10A2, Douglass Road, Far Hills, NJ 07931. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Marine and industrial engines*, from the facilities of Chrysler Corp., Marine Division, at or near Beaver Dam, WI, to the facilities of Mack Boring & Parts Co., at or near Union, NJ, under a continuing contract, or contracts, with Mack Boring & Parts Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mack Boring & Parts Co., Engine City, Route 22, Union, NJ 07083. Send protests to: Robert E. Johnson, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 138762 (Sub-No. 19TA), filed April 13, 1978. Applicant: MUNICIPAL TANK LINES LTD, P.O. Box 3500, Calgary, Alberta, Canada. Applicant's representative: D. S. Vincent (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous aluminum chloride* (in bulk, in tank vehicles), from ports of entry on the International Boundary line between the United States and Canada located at or near Port Huron, MI, to Wood River, IL, restricted to shipments having an immediate prior movement in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): T. Dupuis, Assistant Manager, Welland Chemical, Ltd., Sarnia, On.

Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 138882 (Sub-No. 61TA), filed March 28, 1978. Applicant: WILEY SANDERS, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe and conduit and fittings, valves, and accessories, therefor,* from points in Geneva County, AL to points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Samson Plastic Conduit and Pipe Corp., P.O. Box 325, Samson, AL 36477. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 140024 (Sub-No. 96TA), filed April 10, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52d Avenue, Commerce City, CO 80022. Applicant's representative: John F. DeCock, (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat,* in vehicles equipped with mechanical refrigeration, from New York, NY, and Philadelphia, PA, to points in IN, and OH, and the Chicago, IL, commercial zone, for 180 days. Supporting shipper(s): (1) Tupman Thurlow Co., Inc., 420 Lexington Avenue, New York, NY; (2) Thomas Brothwick & Sons, USA Ltd., 2 Penn Plaza, New York, NY. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 142668 (Sub-No. 8TA), filed April 13, 1978. Applicant: AERO DISTRIBUTING CO., INC., 7299 Delta Circle, Mableton, GA 30336. Applicant's representative: Kim G. Meyer, 235 Peachtree Street, P.O. Box 872, Atlanta, GA. 30301. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors for the account of Stanley Home Products, Inc., from Jackson, MS, to points in AL and those points in LA, in and east of Pointe Coupee, Iberville, Assumption, part of St. Martin and St. Mary Parishes, under a continuing contract, or a contracts, with Stanley Home Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stanley Home Products, Inc., 116 Pleasant Street, Easthampton, MA 01027. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, NW., room 300, Atlanta, GA 30309.

No. MC 142668 (Sub-No. 9TA), filed April 13, 1978. Applicant: AERO DISTRIBUTING CO., INC., 7259 Delta Circle, Mableton, GA 30336. Applicant's representative: Kim G. Meyer, P.O. Box 872, 235 Peachtree Street NE., Atlanta, GA 30301. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors for the account of Avon Products, Inc., from Chattanooga, Knoxville and Kingsport, TN, to points in and east of Clay, Jackson, Putnam, DeKalb, Warren, Grundy, and Marion Counties, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30303. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, NW., room 300, Atlanta, GA 30309.

No. MC 142733 (Sub-No. 4TA), filed April 17, 1978. Applicant: UNITED TRANSPORT, INC., 7225 NW., 8th Street, Miami, FL 33136. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Plantains* in mixed loads with exempt commodities (203(b)(6) from points in FL, to points in Washington, D.C., NY, NJ, MA, LA, TX, and CA., under a continuing contract, or contracts, with Caribe Wholesale Produce Corp., for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Caribe Wholesale Products Corp., 1147 NW., 22d Street, Miami, FL 33127. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, 8410 NW., 53d Terrace, Miami, FL 33166.

No. MC 143179 (Sub-No. 2TA) (correction), filed February 14, 1978, and published in the FEDERAL REGISTER issue of March 14, and April 19, 1978, and republished as corrected this issue. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Applicant's representative: Foster L. Kent (same address as applicant). Authority sought to operate as a *contractor carrier,* by motor vehicle, over irregular routes, transporting: *Plastic containers and lids, and plastic foam products,* from Omaha, NE, to points in CO, IL, IA, KS, MI, MN, MO, OK, TX, and WI, under a continuing contract, or contracts, with Air Tite Plastics Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. L. Arendt Traffic Manager, Air Tite Plastics Co., 13724 Industrial Road, Omaha, NE. 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 correct the territorial description.

No. MC 143179 (Sub-No. 3TA), filed March 28, 1978. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Applicant's representative: Foster L. Kent, Traffic Manager, 400 No. 10th Street, Council Bluffs, IA 51501. Authority sought to operate as a *contractor carrier,* by motor vehicle, over irregular routes, transporting: *Plastic containers and lids, and plastic foam products,* from Omaha, NE to points in AR, under a continuing contract or contracts with Air Tite Plastics Co., for 180 days. Applicant has also filled an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M. L. Arendt, Traffic Manager, Airlite Plastic Co., 13724 Industrial Road, Omaha, NE. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 144134 (Sub-No. 1TA), filed April 10, 1978. Applicant: SCHWINNEN GRAIN & TRUCKING, INC., R. F. D. No. 1, Venedocia, OH. 45984. Applicant's representative: John L. Alden-Stiverson and Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *contractor carrier,* by motor vehicle, over irregular routes, transporting: *Corn germ,* from the facilities of Cargill, Inc., at Dayton, OH, to Archer Daniel Midland, Inc., at Decatur, IL, under a continuing contract, or contracts, with Cargill, Inc., for 180 days. Supporting shipper(s): Cargill, Inc., Box 1400A, 3201 Needmore Road, Dayton, OH 45414. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 144359 (Sub-No. 1TA) (correction), filed March 6, 1978, and published in the FEDERAL REGISTER issue of April 12, 1978, and republished as corrected this issue. Applicant: STANLEY G. DUNIGAN, d.b.a., DUNIGAN TRUCKING CO., 5271 Henderson Drive, Delaware, OH 43015. Applicant's representative: Anthony M. Heald, 125 North Sandusky Street, Delaware, OH 53015. Authority sought to operate as a *contractor carrier,* by

motor vehicle, over irregular routes, transporting: *Plastic signs and lighting fixtures,* from the facilities of Vacuform Corp., Columbus, OH, to points in AL, AZ, DE, FL, GA, IL, IN, KY, LA, MD, MI, NJ, NM, NY, NV, NC, OK, PA, SC, TN, TX, VA, WI, and WV, under a continuing contract, or contracts, with Vacuform Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vacuform Corporation, 1877 East 17th Avenue, Columbus, OH 43219. Send protests to: Frank L. Calvary District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215. The purpose of this republication is to correct the territorial description.

No. MC 144415 (Sub-No. 1TA), filed April 11, 1978. Applicant: KACHINA STONE CO., 8900 North Central Avenue, Suite 212, Phoenix, AZ 85020. Applicant's representative: Zelba Butler, 8900 North Central Avenue, Suite 212, Phoenix, AZ 85020. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Scrap metals* (in bulk, in dump trucks), between points in AZ, CA, NM and El Paso County, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) V.S.S. Co., Inc., P.O. Box 27176, Tempe, AZ 85282. (2) Reclaimed Metals, Goodyear, AZ 85338. (3) B&B Metals, 400 East Weber Street, Compton, CA 90222. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025

No. MC 144423 (Sub-No. 1TA), filed April 6, 1978. Applicant: CLAXTON TRUCKING CO., Route 3, Box 7, Wrightsville, GA 31096. Applicant's representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW., Washington, DC 20007. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers,* from the plantsite and storage facilities of Midland Glass Co., Inc., at or near Warner Robins, GA, to Williamsburg, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. 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 144425 (Sub-No. 1TA), filed March 27, 1978. Applicant: CLIFTON A. WOOD, R.F.D. No. 1, Fairfield Center, ME 04937. Applicant's representative: Clifton A. Wood (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Crushed cars, motor blocks, transmissions, rear ends, and wheels,* from points in ME to Madbury, NH, and Everett, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ron's Used Parts, Inc., Route 32, East Vassalboro, ME 04935. (2) Johnson's Car Crushers, Inc., Ballard Road, Wilton, NY. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

No. MC 144428 (Sub-No. 1TA) (correction), filed March 17, 1978, and published in the FR issue of April 14, 1978, and republished as corrected this issue. Applicant: TRUCKADYNE, INC., Route 16, Mendon, MA 01756. Applicant's representative: S. L. Watts, 1050 Waltham Street, Lexington, MA 02173. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paints, coatings, sealants, varnishes, shellacs, thinning and reducing compounds, mats and mattings,* from Cambridge, MA to the 48 contiguous States (excepting CT, RI, MA, NH, ME, and VT, and *materials* used in manufacture of the above products in the return direction, under a continuing contract, or contracts, with California Products Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): California Products Corp., 169 Waverly Street, Cambridge, MA 02139. Send protests to: David M Miller, District supervisor, Interstate Commerce Commission, 338 Federal Building and U.S. Courthouse, 436 Dwight Street, Springfield, MA 01103. The purpose of this republication is to correct the territorial description and also to correct the applicant's representative's name.

No. MC 144451TA (correction), filed March 15, 1978, and published in the FR issue of April 4, 1978, and republished as corrected this issue. Applicant: HIGGINS HAULING, INC., Route 5, Box 289, Hillsboro, OH 45133. Applicant's representative: James W. Muldoon, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Construction materials, equipment, and supplies,* except commodities in bulk, between Dodson township, Highland County, OH, on the one hand, and, on the other, AL, AR, GA, IL, IN, IA, KS, KY, MI, MS, MO, NY, NC, OK, PA, SC, TN, WV, and WI. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Higgins Construction and Supply Co., of Hillsboro, OH, for 180 days. Supporting shipper(s): Higgins Construction and Supply Co., James R. Higgins, President, Route 5, Box 289, Hillsboro, OH 45133. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202. The purpose of this republication is to correct the territorial description.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-12751 Filed 5-9-78; 8:45 am]

[7035-01]

[Docket No. AB-51 (Sub-No. 2F)]

OREGON ELECTRIC RAILWAY CO.

Abandonment in Hillsboro, Washington County, Oreg.; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated April 26, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 ICC 76 (1977) the present and future public convenience and necessity permit the abandonment by the Oregon Electric Railway Co. of a line of railroad known as the Hillsboro Line extending from railroad milepost 2.83 to railroad milepost 4.56 in Hillsboro, Oreg., a distance of 1.73 miles, in Washington County, Oreg. A certificate of public convenience and necessity permitting abandonment was issued to the Oregon Electric Railway Co. Since no investigation was instituted, the requirement or § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than May 25, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and

(3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 26, 1978.

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

[FR Doc. 78-12754 Filed 5-9-78; 8:45 am]

[7035-01]

[Revised Service Order No. 1322; Exception No. 7]

SOO LINE RAILROAD CO.

By the provisions of Revised Service Order No. 1322 the Soo Line Railroad Co. is required to use seventy (70) percent of its serviceable ownership of jumbo covered hoppers for transporting shipments of raw grain. A review of the normal use of these cars by that line discloses that is requires the use of a large portion of its fleet for transporting grain and soybean products, fertilizer and other bulk freight. The required use of seventy (70) percent of its serviceable fleet of jumbo covered hopper cars for transporting shipments of grain will result in undue hardship to other shippers normally using a portion of these cars. Accordingly, it is the opinion of the Railroad Service Board that an exception to the basic requirements of Revised Service Order No. 1322 should be granted to the Soo Line Railroad Co.

It is ordered, That, pursuant to the authority vested in me by section (f) of Revised Service Order No. 1322, the Soo Line Railroad Co. is directed to assign to grain service at least forty (40) percent of its ownership of jumbo covered hoppers as defined in section (a)(2) of Revised Service Order No. 1322, regardless of the provisions of section (c)(1) of the order.

The additional cars made available by this exception for transporting shipments other than grain shall be used for transporting shipments of grain products, soybeans products or cottonseed products.

Effective: 12:01 a.m., April 26, 1978.

Issued at Washington, D.C., April 26, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-12749 Filed 5-9-78; 8:45 am]

[7035-01]

[Notice No. 12]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
MC 110420-748	110420-741	Apr. 20, 1977
MC 111729-587	111729-596	Apr. 14, 1978
MC 115311-177	115311-179	Oct. 28, 1977
MC 117427-69	117427-70	Aug. 15, 1977
MC 123361-1	123361-2	Feb. 25, 1977
MC 124692-141	124692-1 and 66.	Apr. 28, 1978
MC 126555-38	126555-39	Mar. 16, 1977
MC 128030-62	128030-75	Oct. 5, 1977
MC 129994-2	129994-5	Dec. 14, 1976
MC 133123-10	133123-9	Feb. 23, 1977
MC 133937-15	133937-16	Jan. 31, 1977
MC 134979-4	134979-1	Sept. 26, 1977
MC 136343-69	136343-70	Aug. 10, 1977
MC 136899-15	136899-18	Aug. 10, 1977
MC 139269-5	139269-7	Mar. 30, 1978
MC 140033 TA	140033-3	Apr. 8, 1977
MC 140074-3	140074-4	Oct. 1, 1976
MC 140580-2	140580-1	Nov. 22, 1976
MC 141138-2	141138-3	Feb. 10, 1977

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

[FR Doc. 78-12746 Filed 5-9-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 372]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

APRIL 22, 1978.

Call letters	Location	Power kilowatts	Antenna	Schedule	Class	Antenna height (feet)	Ground system: No. of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		590 kHz							
CJCW (correction on night pattern RMS from list 3661) (PO 0.5D/0.25N).	Sussex, New Brunswick, N. 45° 41' 06", W. 65° 31' 29"	1D/0.25N	DA—2	U	III				E.I.O., Aug. 26, 1978.
		690 kHz							
CBF (change in antenna system P.N., ND-N-226.3 575 180, 600 ave.) (PO ND-238, 585, 120, 585, N. 45° 49' 13", W. 73° 17' 50").	Montreal, Quebec, N. 45° 25' 42", W. 73° 26' 58"	50	ND-D-254.6, ND-N-226.3# [1].	U	I-A	*675*	*120*	*162-600*	E.I.O., June 1, 1978.
		730 kHz							
(New) (PN N. 50° 13' 45", W. 119° 20' 35", change of antenna heights, addition of top loading).	Vernon, British Columbia, N. 50° *12' 50"*, W. 119° *12' 45"*	10	DA-2	U	II				E.I.O., Apr. 7, 1979.
		940 kHz							
CBM (change in antenna system, minor pattern change) (PO ND-246, 525, 120, 500, N. 45° 26' 09", W. 73° 10' 40").	Montreal, Quebec, N. 45° 25' 42", W. 73° 26' 58"	50	DA-1						E.I.O., June 1, 1978.
		1000 kHz							
CFLP (increase in antenna tower heights and day and night radiation pattern RMS).	Rimouski, Quebec, N. 48° 23' 07", W. 68° 41' 12"	10	DA-2	U	II				E.I.O., Aug. 3, 1978.
		1050 kHz							
CFGP (PO N. 55° 11' 47", W. 118° 47' 47").	Grande Prairie, Alberta, N. 55° *07' 10"*, W. 118° *56' 45"*	10	DA-1	U	II				E.I.O., Apr. 7, 1979.
		1150 kHz							
CKIQ (PO 10D/1N).	Kelowna, British Columbia, N. 49° 50' 52", W. 119° 27' 54"	*10*	DA-N, ND-D-196.	U	III				Do.
		1440 kHz							
CJOI (now in operation).	Wetaskiwin, Alberta, N. 52° 57' 30", W. 113° 27' 00"	10	DA-N, ND-D-190.	U	III				

[1] Sectionalized tower.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 78-12732 Filed 5-9-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

MEXICAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

MARCH 8, 1978.

MEXICAN LIST NO. 283

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of change or commencement of operation
							No. radials	Length (feet)	
		540 kHz							
(New)	San Felipe, B.C.N., N. 31°03'48", W. 114°50'10".	1.000	ND-D-190.....	D	II	455	120	455	Sept. 15, 1978.
		560 kHz							
XEHA	Tecate, B.C.N., N. 32°34'00", W. 116°37'00".	.250	ND-U-175.....	U	III	279	90	279	Immediately.
		630 kHz							
XEFU (shares antenna with XEQO, 980 kHz).	Cosamaloapan, Ver., N. 18°20'37", W. 95°47'49"	5.000D .750N	ND-U-*175*.....	U	III	*251*	120	*361*	Do.
		710 kHz							
XEPQ (PO 1KwD/0.1 kW N, ND-U-175).	Muzquiz, Coah., N. 27°54'00", W. 101°30'00"	5.000D .100N	ND-N-175, DA-D.	U	II	347	90	284	Do.
		810 kHz							
XEAGR	Acapulco, Gro., N. 16°50'21", W. 99°55'01".	1.000D .150N	ND-U-190.....	U	II	304	120	304	Do.
		820 kHz							
XEESC	FCO. Escarcega, Camp., N. 18°36'25", W. 90°43'55".	.750	ND-D-175.....	D	II	240	120	240	Do.
		860 kHz							
XEAL (PO 1 KwD/0.1 kW N, ND-U-176).	Manzanillo, Col., N. 19°02'00", W. 104°19'30"	5.000D .100N	ND-U-176.....	U	II	262	90	253	Do.
		980 kHz							
XETU	Tampico, Tam., N. 22°12'43", W. *97°49'53"*.	10.000 D/1.00N	ND-N-190, DA-D.	U	III	251	120	251	Do.
		980 kHz							
XEQO (shares antenna with XEFU, 630 kHz).	Cosamaloapan, Ver., N. 18°20'37", W. 95°47'49"	5.000	ND-D-*209*, DA-N.	U	III	*251*	120	*361*	Do.
		1000 kHz							
XEVMA (delete assignment).	Acapulco, Gro., N. 16°50'21", W. 99°51'01"	1.000	ND-D-190.....	D	II	246	120	246	
XELTZ (delete assignment).	Loreto, Zac., N. 22°19'59", W. 101°59'59"	.500	ND-D-190.....	D	II	246	120	246	
		1020 kHz							
XECAA	Calvillo, Ags., N. 21°50'45", W. 102°44'14".	.500	ND-D-175.....	D	II	167	120	241	Do.
		1020 kHz							
XEWO	Chetumal, Q.R., N. 18°29'39", W. 88°17'56".	1.000	ND-D-190.....	D	II	241	120	241	Do.
		1020 kHz							
XESPA	Macuspana, Tab., N. 17°45'00", W. 92°35'00".	1.000D .100N	ND-U-195.....	U	II	295	120	295	Do.
		1040 Khz							
XECX	Tala, Jal., N. 20°40'37", W. 103°20'22".	*.250*	ND-D-175.....	D	II	*213*	90	*213*	Sept. 15, 1978.
		1120 kHz							
XEGV	Villa Del. Puebl, Qro., N. *20°32'09"*, W. *100°25'54"*.	.500	ND-D-190.....	D	II	220	120	220	Immediately.
		1120 kHz							
XEUK	Caborca, Son., N. 30°41'50", W. 112°09'29".	.250	DA-D.....	D	II	.....	.....	.....	Do.
		1120 kHz							
XEZAZ	Zacatecas, Zac., N. 22°46'30", W. 100°04'45".	.250	ND-D-175.....	D	II	220	90	180	Do.
		1130 kHz							
XEMOS	Los Mochis, Sin., N. 25°47'00", W. 109°00'00".	.500	ND-D-175.....	D	II	218	90	179	Do.

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of change or commencement of operation
							No. radials	Length (feet)	
XEAD (PO 0.5 kWD/0.125 kW N., N. 20°39'44", W. 103°23'47").	Guadalajara, Jal., N. 20°39'52", W. 103°14'44"	*1150 kHz* 20.00OD .500N	*DA-2*	U	III				Sept. 15, 1978.
XEIU	Oaxaca, Oax., N. 17°03'43", W. 96°43'18".	*1160 kHz* .500	ND-D-175	D	II	170	120	170	Immediately.
XEPLA	Pabellon, Ags., N. 22°10'23", W. 102°18'49".	*1200 kHz* 1.000	ND-D-190	D	II	205	120	205	Do.
(New)	Loreto, B.C.S., N. 26°02'59", W. 111°21'30".	*1200 kHz* 5.000	DA-D	D	II				Sept. 15, 1978.
(New)	Chilapa, Gro., N. 17°38'03", W. 99°13'01".	*1200 kHz* 1.000	ND-D-190	D	II	205	120	205	Do.
XEL (PO 1 kW N., ND-N-185).	Mexico, D.F., N. 19°23'07", W. 99°07'16"	*1260 kHz* 10.000D *5.000N*	ND-D-185, *DA-N.*	U	III	203	90	194	Do.
XELTZ (previously on 1000 kHz).	Loreto, Zac., N. *22°17'00"*, W. *101°59'23"*	*1260 kHz* .500	ND-N-190	D	*III*	*195*	120	*195*	Do.
XEAZ (PO 0.5 kW, ND-U-175).	Tijuana, B.C.N., N. 32°32'20", W. 117°02'40"	*1270 kHz* *5.000*	*DA-2*	U	III				Do.
XERPL (PO 1 kW D, N. 21°04'33", W. 101°46'44").	Leon, Cto., *N. 21°06'43", W. 101°40'28"*	*1270 kHz* *5.000D* .150N	DA-D, ND-N-190.	U	III	197	120	197	Do.
XESQ	San Miguel A, Gto., N. 20°54'49", W. *100°44'37"*.	*1280 kHz* .500D/.250N	ND-U-175	U	III	164	90	185	Immediately.
XEBO	Irapuato, Gto., *N. 20°37'52", W. 101°21'32"*.	*1330 kHz* 5.000D 1.000N	DA-N, ND-N-184.	U	III	185	90	187	Do.
XEFC (PO 1 kW ND-U-188).	Merida, Yuc., N. 21°00'00", W.	*1330 kHz* *5.000D*/1.000N	*ND-N-188, DA-D.*	U	III	199	90	197	Sept. 15, 1978.
	89°36'36"								
XEVSS	Villa De Seris, Son., N. 29°03'30", W. 110°58'40".	*1340 kHz* 1.000	ND-D-150	D	IV	184	90	184	Immediately.
XEVAL	Cd. Valles, S.L.P., N. 21°59'04", W. 99°00'58".	*1360 kHz* 5.000	ND-D-190	D	III	181	120	181	Do.
(New)	Huayacocotla, Ver., N. 20°32'36", W. 98°29'12".	*1370 kHz* .250	ND-D-175	D	III	126	120	165	Sept. 15, 1978.
(New)	Apatzingan, Mich., N. 19°04'54", W. 102°15'31".	*1380 kHz* 1.000D .100N	ND-U-190	U	III	178	120	178	Immediately.
XERUY (previously on 1400 kHz).	Merida, Yuc., N. 20°59'00", W. 89°38'43"	*1390 kHz* 10.000D .250N	ND-N-185, DA-D.	U	III	167	120	167	Sept. 15, 1978.
XEOJ	Lazaro Cardenas, Mich., N. *18°00'10"*, W. *102°15'40"*.	*1400 kHz* 1.000D .100N	ND-U-170	U	IV	131	120	134	Do.
XERUY (delete assignment).	Merida, Yuc., N. 20°59'00", W. 89°38'00"	*1400 kHz* 1.000D .250N	ND-U-185	U	IV	167	120	167	
XEVMA (previously on 1000 kHz).	Acapulco, Gro., N. 16°50'21", W. 99°51'01"	*1430 kHz* 1.000	ND-D-190	D	III	172	120	172	Do.
XETI	Tempoal, Ver., N. 21°31'00", W. 98°22'00".	*1430 kHz* 1.000	ND-D-184	D	III	172	90	172	Immediately.
XEIN (PO 1 kW D/0.2 kW N, ND-U-175).	Cintalapa, Chis., N. 16°41'58", W. 93°43'24"	*1450 kHz* *1.000D* .200N	ND-D-175, DA-N.	U	IV	246	120	246	Do.

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of change or commencement of operation
							No. radials	Length (feet)	
		1460 kHz							
(New)	Oaxaca, Oax., N. 17°03'45", W. 96°44'00".	1.000	ND-D-190.....	D	III	169	120	169	Sept. 15, 1978.
		1460 kHz							
XEHX (shares antenna with XEHO, 910 kHz).	Cd. Obregon, Son., N. *27°34'22"*, W. *109°57'04"*	1.000D .250N	ND-U-*208*.....	U	III	*205*	120	*233*	Do.
		1460 kHz							
XEOLA	Altamira, Tam., N. 22°30'40", W. *97°55'47"*.	1.000	ND-U-190.....	U	III	169	120	197	Immediately.
		1470 kHz							
(New)	Tlanchinol, Hgo., N. 20°56'41", W. 98°38'04".	.250	ND-D-190.....	D	III	167	120	167	Sept. 15, 1978.
		1490							
XEMK	Huixtla, Chis., N. *15°08'01"*, W. *92°27'01"*.	.500D .200N	ND-U-166.....	U	IV	118	100	131	Immediately.
		1490 kHz							
XEHES	Chihuahua, Chih., N. 28°38'12", W. 106°04'42".	1.000D .250N	ND-U-175.....	U	IV	148	90	148	Do.
		1510 kHz							
XEQI (PO 0.5 kW D, ND-D-175).	Monterrey, N.L., N. 25°45'24", W. 100°17'54"	10.000	ND-D-*190*.....	D	II	*163*	120	*163*	Sept. 15, 1978.
		1510 kHz							
XERB	Cozumel, Q.R., N. 20°30'00", W. 86°56'35".	5.000	DA-D.....	D	II	.....	.....	.....	Immediately.
		1520 kHz							
(New)	Cd. Camargo, Chih., N. 27°41'49", W. 105°10'09".	1.000	ND-D-175.....	D	II	162	90	162	Sept. 15, 1978.
		1520 kHz							
XEGAJ	Guadalajara, Jal., N. 20°40'32", W. 103°23'09".	1.000	ND-D-175.....	D	II	197	90	197	Immediately.
		1540 kHz							
XEYK	Motul, Yuc., N. 21°06'00", W. 89°26'35".	.500	ND-D-175.....	D	II	161	90	161	Do.
		1560 kHz							
XEVIP	Sar R Chamapa, Mex., N. 19°30'00", W. 99°13'03".	10.000	ND-D-224, DA-N.	U	II	*307*	120	*164*	Do.
		1580 kHz							
XEVAB	Valle De Bravo, Mex., N. 19°11'28", W. 100°08'06".	.250	ND-D-175.....	D	II	125	120	131	Do.
		1590 kHz							
XEAGA	Aguascalientes, Ags., N. 21°52'43", W. 102°18'04".	.250	ND-D-190.....	D	III	155	120	155	Do.
		1590 kHz							
XEVOZ	Mexico, D.F., N. *19°25'01"*, W. *99°05'10"*.	10.000D 5.000N	ND-U-175.....	U	III	*203*	90	149	Do.
		1600 kHz							
(New)	Etzatlan, Jal., N. 20°46'35", W. 104°05'05".	.250	ND-D-190.....	D	III	154	120	154	Sept. 15, 1978.
		1600 kHz							
XEGEM	Toluca, Mex., N. 19°17'33", W. 99°39'38".	2.000	DA-D.....	D	III	.....	.....	.....	Immediately.
		1600 kHz							
(New)	San Luis Potosi, S.L.P., N. 22°09'10", W. 100°58'38".	1.000	ND-D-190.....	D	III	153	120	153	Sept. 15, 1978.
		1600 kHz							
(New)	El Higo, Ver., N. 21°44'45", W. 98°24'24".	.250	ND-D-175.....	D	III	123	120	129	Do.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 78-12540 Filed 5-9-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
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[6320-01]

1

[M-128, May 5, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 12, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 29789, Houston/New Orleans-Yucatan Route Proceeding—Memorandum of issues and request for instructions (Memo No. 6382-D OGC, BIA).
3. Docket 30782, *California-Toronto/Montreal Route Proceeding*, Opinion and Order on Review (OGC).
4. Docket 30452, UATP Agreement (OGC).
5. Docket 31957, Part 221, Rulemaking requested by TWA for modification of advance filing period of property tariffs (Memo No. 7844-A, OGC).
6. Docket 31976, *California-Florida Low-Fare* case, (Previously, *Miami-Los Angeles Low-Fare* case)—Consolidation of American's application (Memo No. 7354-J OGC).
7. H. R. 10749—Request for comments (Memo No. 7947, OGC).
8. Dockets 30979, 26761, 32223, and 32191, applications of Continental Airlines, Frontier Airlines, Hughes Airwest and Western Air Lines for authority between various California/Southwestern U.S. points and various Western Mexico points (Memo No. 7942, BIA BALJ, OGC).
9. Docket 32186, application of British Caledonian Airways Ltd. for amendment of its 402 permit (BIA).
10. Docket 32038, Tropics International, Inc. dba. Skyfreight—Exemption authority to operate C-46 type aircraft with a maximum payload capacity up to 15,000 pounds in scheduled service for the transportation of property (Memo No. 7946, BIA).
11. Docket 31752, Air Sunshine's request for an exemption to operate CV-440's between Miami, Ft. Lauderdale, Kissimmee, Tampa, Key West, and Marathon (Memo No. 4219-C, BPDA, OGC).
12. Docket 32075, Eastern's motion for hearing on Albany-New York/Newark (Memo No. 7817, BPDA).
13. Docket 31552, amendment to Part 302 which requires all applications for new or modified certificated route authority to be accompanied by a motion for hearing which contains certain economic and operational data (Memo No. 7488-A, BPDA, OGC).
14. Docket 32118, increased excess baggage charges proposed by Pan American (Memo No. 7756-D, BPDA, BIA).
15. Docket 32041, ATC's request for approval of reduced-rate transportation to travel agents/counsel/witnesses to attend hearings before the Travel Agency Commissioner (Memo No. 5264-L, BPDA).
16. Docket 31871, report to the Congress on the feasibility and economic impact of youth standby fares (BPDA).
17. Evergreen International Airlines, Inc., and McCulloch International Airlines., Inc.—Petition for review of staff action denying a request for refund of filing fees for "gambling" charter waivers (Memo No. 7001-B, BPDA, OMD, OGC).
18. Docket 20665, application of Hughes Air Corp. dba. Hughes Airwest for approval of intercorporate transactions and clarification of Order 69-12-66 (Memo No. 587-H, BPDA).
19. Petition for reconsideration of the Board's conditioned approval of American Airlines' overbooking volunteer experiment (Memo NO. 7768-A, BPDA).
20. Consumer abuses by tour operators—Proposed interpretive letter (Memo No. 7497-A, BOE, BPDA, OEA,OCA, OGC).
21. Petition of National Airlines, Inc., for review for Staff action denying National's request for special tariff permission to meet competitive fares of Western (Review of) (Memo No. 7893, Chairman's memo dated April 17, and Member Bailey's memo dated April 28, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-985-78 Filed 5-8-78; 3:53 pm]

[6335-01]

2

MAY 5, 1978.

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, May 15, 1978, 9 a.m. to 12 noon; 2 to 4:30 p.m.; Tuesday, May 16, 9 to 11:30 a.m.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

MONDAY, MAY 15, 9 A.M. TO 12 NOON

I. Approval of agenda.
II. Approval of minutes from last meeting.
III. Staff Director's report:
A. Status of funds.
B. Personnel report.
C. Correspondence: (1) Letter from OMB to MC Don Edwards re Commission extension. (2) Letter to OMB Director McIntyre on Commission Age and Handicap Program.
D. Office Directors' reports.
IV. Report on civil rights developments in the southwestern region.
V. Appointment of Missouri Advisory Committee chairperson.
VI Review status of current projects in Office of General Counsel.
VII. Review higher education desegregation plans.
VIII. Review analysis of Manhard decision.
IX. Discuss update on Commission Extension and Age and Handicap Program.

MONDAY, MAY 15, 2 TO 4:30 P.M.

X. View southern regional office film on "Discrimination in Alabama State Employment".
XI. Review social indicators report.

TUESDAY, MAY 16, 1978, 9 TO 11:30 A.M.

XII. Review position on Eagleton-Biden amendment.
XIII. Discuss followup to Puerto Rican report.
XIV. Review California Advisory Committee Report on Los Angeles Motion Picture Industry.

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-980-78 Filed 5-8-78; 10:32 am]

[6740-02]

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 19753, published May 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 10, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-8.—CP78-222, Columbia Gulf Transmission Co. and Southern Natural Gas Co.

KENNETH F. PLUMB,
Secretary.

[S-984-78 Filed 5-8-78; 11:16 am]

[6720–02]

4

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., May 12, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202–624–7107.

MATTERS TO BE CONSIDERED:

Consideration of New Building Status Report.
Consideration of Conflict of Interest Regulations.
Consideration of Corporate ByLaws.
Consideration of Appointment of Assistant Secretary.
Consideration of Appointment of Advisory Committee Members.

Announcement is being made at the earliest practicable time, No. 150, May 5, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S–983–78 Filed 5–8–78; 11:16 am]

[7030–01]

5

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., May 17, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Docket 59, *Saginaw Chippewa.*
Docket 332–C, *Yankton Sioux.*
Docket 343, *Cayuga Nation, et al.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202–653–6174.

[S–981–78 Filed 5–8–78; 10:32 am]

[7020–02]

6

[USITC SE–78–23]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, May 18, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): s. Rayon staple fiber from Belgium (Docket No. 510).
5. Investigation 337–TA–41 (Tile Setters)—Recommended determination with respect to respondent Ceramica Regiomontana, S.A. (see document CC–B–091).
6. Ceramic articles (Inv. TA–203–4, TA–131(b)–2, and 332–100)—Vote and approval of report.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202–523–0161.

[S–979–78 Filed 5–8–78; 9:50 am]

[4410–01]

7

PAROLE COMMISSION. National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, May 18, 1978; 9:30 a.m.

PLACE: Room 338, Federal Home Loan Bank Board Building, 320 1st Street NW., Washington, D.C. 20537.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202–724–3094.

[S–982–78 Filed 5–8–78; 10:32 am]

federal register

WEDNESDAY, MAY 10, 1978
PART II

DEPARTMENT OF ENERGY

■

CONVENTIONAL RANGES, COOKING TOPS, OVENS, MICROWAVE OVENS, MICROWAVE/ CONVENTIONAL RANGES, FURNACES AND VENTED AND UNVENTED HOME HEATING EQUIPMENT

Final Energy Conservation Test Procedures

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Conventional Ranges, Conventional Cooking Tops, Conventional Ovens, Microwave Ovens, and Microwave/Conventional Ranges

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. DOE has determined to continue the delay in the publication of test procedures for any class of the type of covered product designated by the Act as "kitchen ranges and ovens" other than conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. Appliance test procedures are one element of the energy conservation program for appliances required by the Energy Policy and Conservation Act. The effect of this action is to establish standard methods of testing when testing is required by the Act or by regulations implementing other parts of the program.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Office of Conservation and Solar Applications), Room 307, Old Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-4635.

Jim Merna (Media Relations), Room 3104, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9833.

Michael T. Skinker (Office of General Counsel), Room 7148, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the Federal Energy Administration's (FEA) authority under the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), with regard to the energy conservation program for appliances, pursuant to section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91).

The Department of Energy hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges pursuant to Section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). These test procedures were proposed by DOE by notice issued on December 21, 1977 (42 FR 65576, December 30, 1977), which solicited oral and written comments from interested persons and a public hearing on the proposed test procedures was held on February 16, 1978. A notice correcting a number of provisions contained in the proposed test procedures was issued on February 7, 1978 (43 FR 6234, February 14, 1978).

By notice issued on May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. By notice issued on April 5, 1978 (43 FR 15138, April 11, 1978). DOE established Subpart C of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners, central air conditioners, dishwashers, clothes dryers, water heaters, television sets, electric refrigerators, electric refrigerator-freezers, freezers, clothes washers, humidifiers, and dehumidifiers have been prescribed in Subpart B. Test procedures for furnaces and vented and unvented home heating equipment have been proposed for inclusion in Subpart B. Appliance energy improvement targets for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes dryers, room air conditioners, television sets, humidifiers, dehumidifiers, and central air conditioners have been prescribed in Subpart C. Several other targets have been proposed for inclusion in Subpart C.

An outline of the provisions of Subparts A and B of Part 430 which have so far been established, including provisions in today's rulemaking, is as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
430.1 Purpose and Scope.
430.2 Definitions.

SUPART A—GENERAL PROVISIONS

430.21 Purpose and Scope.
Sec.
430.22 Test Procedures for Measures of Energy Consumption.
(a) Refrigerators and regfrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.

. . . . .

(h) Television sets.
(i) Kitchen ranges and ovens.
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditoners.
430.23 Units to be Tested [Reserved]
430.24 Representations Regarding Measures of Energy Consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.

. . . . .

(h) Television sets.
(i) Kitchen ranges and ovens.
(j) Clothes washers.
(k) Humidifiers
(l) Dehumidifiers.
(m) Central air conditioners.

APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers.

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Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers.
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers.
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers.
Appendix E—Uniform Test Method for Measuring the Energy Consumption of Water Heaters.
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners.

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Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets.
Appendix I—Uniform Test Method for Measuring the Energy Consumption of Conventional Ranges, Conventional Cooking Tops, Conventional Ovens, Microwave Ovens and Microwave/Conventional Ranges.
Appendix J—Uniform Test Method for Measuring the Energy Consumption of Clothes Washers.
Appendix K1—Uniform Test Method for Measuring the Energy Consumption of Central System Humidifiers.
Appendix K2—Uniform Test Method for Measuring the Energy Consumption of Room Humidifiers.
Appendix L—Uniform Test Method for Measuring the Energy Consumption of Dehumidifiers.
Appendix M—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners.

[1] EDITORIAL NOTE.—It is contemplated that Chapter II will be renamed at a future date to reflect the fact that it contains regulations, such as this regulation, administered by the Office of Conservation and Solar Applications of the Department of Energy.

B. DISCUSSION OF COMMENTS

Comments were received from individual manufacturers, trade associations, and the Consumers Union (CU), a consumer oriented nonprofit organization. Most of the comments were directed toward technical areas of the proposed test procedures, although some of them were specifically directed toward the information that was to be placed on the label. Those comments directly concerned with the content of the label were applicable to the labeling program under section 324 of the Act, rather than to the prescription of final test procedures, and were therefore forwarded to the Federal Trade Commission for consideration in developing labeling rules applicable to kitchen ranges and ovens. The major issues raised by the comments on the proposed test procedures are discussed below.

1. ENERGY CONSUMPTION

(a) *Measures of energy consumption.* Several comments were received concerning the measures of energy consumption provided in the proposed test procedures. One commenter questioned the use of the energy consumption of electric clocks and the use of the energy consumption of self-cleaning operation of conventional ovens in determining the energy factors for the different classes of kitchen ranges and ovens. It was also recommended that the test procedures provided an additional measure or measures of energy consumption that would account for overall resources energy requirements. In other words, the commenter wanted a value that would represent the efficiency of a kitchen range and oven measured from the source of energy to the point-of-use.

The proposed test procedures provided three different measures of energy consumption—the estimated annual operating cost, the cooking efficiency and the energy factor. The energy use or annual energy consumption utilized in the test methods for determining these three measures account for the quantity of energy directly consumed by the product at its point of use. The cooking efficiencies provided in the test procedures only measure the efficiency of the appliance in terms of the energy required to perform its principle function, which is to cook food. They do not take into account the energy consumed by electric clocks or self-cleaning operations of the appliances. The energy factor, however, does include these energy consumptions.

DOE is required by section 323(a)(4)(A) of the Act to prescribe test procedures for different consumer products, including kitchen ranges and ovens, for the determination of an estimated annual operating cost for that product and at least one other measure of energy consumption which DOE determines is likely to assist consumers in making purchasing decisions. DOE has determined that the three proposed measures of energy consumptions will be useful to consumers and are likely to assist them in making purchasing decisions. DOE has, therefore, retained these measures in the test procedures prescribed today. DOE does not feel that it is necessary to proposed any additional measures of energy consumption for kitchen ranges and ovens at this time.

(b) *Implied accuracy of cooking efficiencies and energy factors.* It was suggested by certain comments that the test procedures require that the cooking efficiencies and the energy factors be expressed in three significant digits. DOE has accepted this siggestion since the rounding off of these calculated values to three significant digits is consistent with the measurement accuracy in the data derived from the test procedures. Sections 430.22(i) (2), (3), and (4) have been modified accordingly.

(c) *Oven maintenance rate.* One manufacturer recommended that the test procedures provide an additional measure of energy consumption which would account for the steady state heat loss or maintenance rate for conventional ovens. The steady state heat loss or oven maintenance rate is the amount of heat lost by conduction through the oven walls plus the amount of heat lost up the vent. The commenter was concerned that the application of the proposed test procedures would incorrectly reflect that larger ovens, due to their size and mass, would necessarily have smaller cooking efficiencies. It was felt that the proposed test procedures would not give sufficient credit for well planned oven insulation because of the emphasis placed on oven size and mass.

The steady state heat loss of an oven is only one factor of the cooking efficiency of that oven. Although oven cooking efficiency could be characterized by two separate measurements, the energy required to bring the oven up to operating temperature and the maintenance rate, there is no apparent advantage in using separate measurements. The proposed test procedures were designed to simulate an average oven cooking operation lasting approximately 50 minutes. It was assumed that the same type and amount of food was being cooked regardless of the size of the oven. The measured energy consumption during the proposed test includes the steady state heat losses as well as the energy required to being the oven up to operating temperature. Since the test simulates average cooking time, DOE believes that the relative importance of these two types of energy losses is properly accounted for in the proposed test procedures without a separate test for steady state heat losses.

(d) *Degradation of cooking efficiency.* One manufacturer claimed that the cooking efficiencies and energy factors for some conventional cooking tops may degrade during the life of the product. No quantitative data was provided, however, to support this statement.

DOE does not presently have sufficient data to indicate any degradation of the cooking efficiencies or energy factors of conventional cooking tops, or of any other kitchen ranges and ovens, over time and, therefore, the test procedures prescribed today do not account for any possible degradation.

(e) *Other changes.* In the proposed test procedures the cooking efficiency of conventional ovens, conventional ranges and microwave/conventional ranges had been expressed as the ratio of the annual useful energy output for cooking to the annual energy input for cooking. To simplify these calculations and make them more straightforward, the equations for determining the cooking efficiencies of the different kitchen ranges and ovens have been revised. These changes do not have any effect on the numerical values determined for the cooking efficiencies. Likewise, the additional equations in sections 4.1.4.2 and 4.5.1.3 of appendix I do not change the total annual energy consumption, but are given to show more explicitly the separate calculation of gas and electrical energy. Definitions of primary energy and secondary energy have been added in sections 1.6 and 1.7 of appendix I to help distinguish between the calculation of gas energy consumption and electrical energy consumption.

2. CONVERTIBLE COOKING APPLIANCES

Some of the comments stated that the test procedures did not clarify the method for testing products which are designed by the manufacturer to be changed in service to operate with either natural gas of LP-gas. The commenters felt that their testing burden would be greatly reduced if testing of these products was required with only one gas. They felt that acceptable measures of energy consumption could be derived from testing these convertible cooking appliances using only natural gas and, if necessary, data for LP-gas testing could be predicted using appropriate conversion factors.

More than 97 percent of all LP-gas used by consumers is propane. Based on recommendations from the National Bureau of Standards (NBS), DOE had determined that the use of propane for testing convertible cooking appliances to represent LP-gas usage would provide representative test results that could be used to derive

measures of energy consumption that would be useful to consumers and would insure uniformity of testing for LP-gas appliances without being unduly burdensome on the manufacturers conducting the tests. DOE has, therefore, modified the test procedures to permit the testing of convertible cooking appliances with propane in addition to natural gas. The test procedures also require the use of propane for testing appliances which are designed to operate using only LP-gas.

In response to the comments, NBS performed laboratory tests and reviewed test data provided by the Gas Appliance Manufacturers Association (GAMA) for the cooking efficiencies of convertible cooking tops and conventional ovens tested using both natural gas and propane. All of the tests performed with conventional ovens yielded slightly higher cooking efficiencies for products tested with propane as opposed to those tested with natural gas. Six out of eight tests of conventional cooking tops yielded cooking efficiencies which were slightly higher for products tested with propane as opposed to natural gas. Also, one of the commenters indicated that their testing of appliances with natural gas and propane did not indicate any material difference in the efficiencies of the product between two gases. Based on the above information and its own testing, NBS has recommended that since the actual cooking efficiencies of products tested with propane are not lower, and probably slightly higher, than the cooking efficiencies of those same products when tested using natural gas, the data derived for the amount of energy consumed would be sufficiently accurate to represent operation with both gases if the test procedures permitted testing of these convertible appliances using only natural gas.

Based also on NBS' recommendation, DOE feels that the GAMA testing may not be representative of results obtained during actual consumer use. After consultation with NBS and further analysis of the testing done, DOE also does not believe that the limited testing performed by NBS provides sufficiently reliable data on which to base an appropriate conversion factor from which the amount of energy consumed during testing with natural gas could be converted into the equivalent amount of energy that would have been consumed if the appliance had been tested with propane. Any data or information related to this issue that would be representative of actual consumer use would be considered by DOE, as it becomes available, in determining whether or not an appropriate conversion factor should be incorporated in these test procedures.

The proposed test procedures did not specify whether a convertible cooking appliance may be tested with only one gas or whether testing must be performed using each gas. The test procedures prescribed today provide for the testing of convertible cooking appliances with both natural gas and propane. Based on NBS' recommendation, however, DOE has modified the test procedures to allow the manufacturer to test a convertible cooking appliance with natural gas only to determine the amount of energy consumed. These energy consumption figures must then be used to represent propane testing, if the appliance is not actually tested with propane.

In any event, the test procedures prescribed today require two estimated annual operating cost for convertible cooking appliances. The manufacturers must provide an estimated annual operating cost for a convertible cooking appliance which reflects testing with natural gas and a cost for the appliance which reflects testing with propane. As mentioned above, the manufacturer may use the amount of energy consumed during the test with natural gas for determining the estimated annual operating cost of the appliance which reflects testing with propane, but he must then multiply this amount times the appropriate cost of propane and any other factors that are applicable.

Accordingly, DOE has added a definition for "convertible cooking appliance" in § 430.2 and clarified § 430.24 with respect to representations regarding convertible cooking appliances and sections 2.2.2.2 and 2.2.2.3 of appendix I concerning the installation of convertible cooking appliances. A method for determining the estimated annual operating costs, cooking efficiencies and energy factors for convertible cooking appliances has also been added to § 430.22.

3. UNITS OF MEASUREMENT

It was suggested that the test procedures use both English and metric units of measurement. The commenter suggested that all measures in the test procedures be expressed in English units followed in parenthesis by the equivalent value in metric units.

DOE has attempted to use the most common units of measurement in the test procedures, which, in general, are the English units of measurement. The metric unit values have been used in certain instances in order to provide consistency with usual laboratory practices (e.g. beaker diameter of 85 millimeters) or consistency with existing commercial standards (e.g. microwave oven test loads expressed in millimeters). DOE does not consider it necessary in the final test procedures to provide the equivalent units of measurement in all instances.

4. INSTALLATION CONDITIONS

Several comments were received suggesting changes in the installation instructions proposed in section 2.1 of appendix I. One comment suggested that the installation of electric freestanding conventional ranges, conventional ovens, conventional cooking tops, and microwave/conventional ranges be set up in the manner specified in the proposed test procedures for gas appliances. It was also requested that in order to be consistent with existing industry standards, electric built-in and drop-in products be installed for testing according to the Underwriters Laboratories Inc. (UL) standard for household electric ranges, UL-858, and that the built-in as products be installed for testing according to the American National Standards Institute (ANSI) standard for household cooking appliances, ANS-Z21.1-1974 (as amended by Z21.1a-1974 and Z21.1b-1976).

In response to these comments, NBS reviewed the above industry standards and has recommended that the test procedures provide consistent installation provisions for gas and electric appliances and an installation approach which is consistent with these standards. DOE has adopted NBS' recommendation and amended section 2.1 of appendix I accordingly.

Another comment pointed out that drop-in appliances were not included in the built-in classification, and should therefore be specifically addressed in the test procedures. DOE agrees with this comment and has modified the installation instructions in section 2.1 of appendix I to indicate that drop-in appliances are to be installed in the same manner as built-in and wall-mounted appliances.

Some of the comments noted that the positioning of any broiling pan in conventional electric ovens and single compartment gas ovens was not made clear in the proposed test procedures. One comment specifically requested that the test procedures permit removal of the broiling pan during the test. NBS recommends that the broiling pan be removed during the test in order to be more representative of actual conditions in the home during baking in an oven. Based on NBS' recommendation and in order to provide uniformity of testing between manufacturers, DOE has amended section 2.1 of appendix I to provide that the broiling pan be removed during the test.

One commenter requested that the treatment of features or devices which operate continuously in proposed sections 2.1.1 and 2.1.2 of appendix I be clarified. In response to this comment DOE is prescribing in section 2.1 of appendix I a requirement to only disconnect electric clocks which use energy continuously and no other electrical devices. This will provide test methods for conventional appliances and microwave appliances which are consistent

in the sense that any energy consumed by features or devices on the different appliances in included in the amount which represents the total energy consumption for the test.

5. ELECTRICAL ENERGY SUPPLY

Some of the comments requested that the test procedures be changed to permit the testing of conventional electric ovens and conventional electric cooking tops at their rated wattage rather than at a fixed voltage.

It was suggested that this was needed to make the instructions for setting the electrical energy supply consistent with the instructions for setting the gas energy supply. Wattage is equivalent to the rate of gas flow and voltage is equivalent to gas pressure. DOE believes that the test procedures already provide for consistent instructions for measuring the energy supplies. Section 2.2.2 of appendix I specifies the gas supply in terms of gas pressure rather than the rate of gas flow and section 2.2.1 of appendix I specifies the electrical energy supply at a fixed voltage.

It was also commented that testing at rated wattages would reduce variations in the test results derived for the different measures of energy consumption thereby permitting a smaller number of models to be tested. NBS' testing indicated that the measures of energy consumption determined according to the proposed test procedures are rather insensitive to variations in the test wattage. Therefore, any additional variation in the test data due to testing at a rated wattage would be expected to be relatively small.

Although testing at the rated wattage may reduce possible variations in the test results, DOE belives that the use of fixed voltages would provide results that are more representative of actual home use. Therefore, based on NBS' recommendation and analysis, DOE has determined to retain the proposed method of testing conventional electric ovens and conventional electric cooking tops at a fixed voltage rather than at a rated wattage.

It was also pointed out that testing appliances at their rated wattage would make the test less burdensome to conduct since measuring the electrical energy supply with a watt-hour meter is easier than measuring it with a voltmeter, since to obtain the same degree of accuracy, the wattage would need to be held to with 2 percent, whereas the voltage would need to be held only to within 1 percent. NBS testing, however, indicates that testing of conventional electric cooking tops at their rated wattage would cause a greater testing burden on the maufacturer due to the need to measure the wattage of each heating element and adjust the voltage supply accordingly.

Another comment requested that the tolerance on the test voltage be increased from 1 percent to at least 2 percent. DOE and NBS recognize that test results for the different measures of energy consumption are relatively insensitive to small changes in the test voltage. Therefore, DOE has modified section 2.2.1 to increase the test voltage tolerance from 1 percent to 2 percent in order to ease the burden of testing on the manufacturers.

6. GAS ENERGY SUPPLY

(a) *Gas burner adjustment.* Some of the comments suggested that it was not sufficient simply to specify in the test procedures that the gas burners should be adjusted in accordance with the manufacturer's instructions. It was also recommended that the gas burner adjustment be in a manner that would not conflict with the operating characteristics required to comply with approval testing under the ANSI Standard for Household Cooking Gas Appliances, ANS-Z21.1-1974 (as amended by ANSI-Z21.1a-1974 and ANS-221.1b-1976). This ANSI standard requires that the air adjustment of the burner give a good flame, that is, a blue flame, rather than one with yellow flame tips. The standard also requires cooking appliances to pass a combustion test which requires that the appliance produce essentially no carbon monoxide.

Since the adjustment of the air to the burner can influence the burner's efficiency, it is important that this adjustment be representative of typical installation practices in the home. DOE believes that this can best be achieved by requiring that the test be conducted by installing the gas burner in accordance with the manufacturer's instructions. After reviewing the comment, DOE has agreed that additional instructions on proper air adjustment would be useful. Therefore, section 2.2.2.1 of appendix I has been modified to require that in addition to using the manufacturers installation instructions, the gas burner must be adjusted in every case so as not to result in a yellow flame, or a yellow tipped flame. This approach is consistent with the gas burner adjustment instructions of section 2.3.5 of the ANSI standard mentioned above.

DOE does not feel that it is necessary to provide that the appliance, after the adjustment of the air to the gas burner, comply with the combustion test specified in the ANSI standard. This is a safety test and would not be consistent with usual installation practices.

(b) *Heating value of gas.* Several comments were received which requested that sections 2.2.2.2 and 2.2.2.3 of appendix I specify the "net" heating value of the different test gases, natural gas and propane, rather than the "gross" heating value. DOE has determined, however, that the appropriate value to be used in the test procedures is the "gross" heating value of the gas, since the continous flow calorimeter measures the "gross" value and all values certified on bottled gas represent "gross" values.

Concerning the requirement in the test procedures for the determination of the gross heating value of the natural gas used for testing, a comment was made that this requirement should be eliminated and a fixed nominal gross heating value be assumed for all natural gas used for test purposes. It was suggested that this fixed nominal gross heating value for natural gas should be 1,000 or 1,025 Btu's per cubic foot. It was further stated that few, if any, gas range manufacturers have continuous flow calorimeters and that the cost of the calorimeter including installation is estimated at $15,000. One commenter stated that laboratory testing performed by the American Gas Association (AGA) indicated that the heating value of natural gas varies only slightly over a sustained period of time.

To assume reliable test results, DOE considers it essential to be able to accurately monitor and thereby control the heating value of the natural gas used for energy consumption testing. If natural gas supplied through the distributor network of local utilities were used there would be no way of knowing the actual heating value or the magnitude of any fluctuations that occurred during the test. However, in lieu of requiring the gases to be measured with a standard continuous flow calorimeter, the test procedures permit the use of bottled gas, if the gross heating value of the bottled gas is certified to be at least as accurate a value as could be obtained with measurements derived from using a standard continuous flow calorimeter. This alleviates the necessity of purchasing and installing a standard continuous flow calorimeter.

7. MEASUREMENT OF THE OVEN TEMPERATURE FOR CALIBRATION

(a) *Oven cycles.* In section 2.4.1 and 2.4.2 of appendix I of the proposed test procedures it was specified that for the purpose of calibrating the oven's controls, the temperature of the oven should be measured over three consecutive cut-off/cut-on cycles of the oven thermostat which regulates the oven's energy source. One of the commenters suggested that the instructions in the proposed test procedures were confusing and could be interpreted to mean the three cycles immediately following the initial cut-off/cut-on operation of the oven's energy source. In order to permit greater flexibility in the testing, the commenter recommended that the

test procedures be modified to allow measurement of the oven temperature, on ovens that have "cycling" thermostats, during any three consecutive cut-off/cut-on cycles following the initial cycle.

NBS laboratory testing of conventional ovens using different sets of three consecutive cut-off/cut-on cycles did not produce any adverse effects on the method of calibrating the oven. Therefore, based on NBS testing, DOE has amended sections 2.4.1 and 2.4.2 of appendix I of the test procedures to permit testing over any three consecutive cut-off/cut-on cycles following the initial cycle.

(b) *Use of thermocouples.* Different methods for measuring the oven temperatures of conventional electic ovens and conventional gas ovens were specified in the proposed test procedures. A single thermocouple was used to measure the temperature in an electric oven while five thermocouples were used to measure the temperature in a gas oven. One comment suggested that the temperature calibration of the electric oven controls would be more accurate if five parallel thermocouples were used as is the case for gas ovens. CU also questioned the use of different methods for measuring oven temperature and urged that the same test method be used for both conventional electric ovens and conventional gas ovens.

A conventional electric oven has a relatively small vent and less air movement within the oven compartment than a conventional gas oven. There is, therefore, less variation in temperature over a horizontal plane within the compartment of an electric oven than in the compartment of a gas oven. This horizontal plane concept is used since it is representative of actual cooking on an oven shelf.

DOE has determined that no change is necessary to section 2.4.1 of appendix I regarding the number of thermocouples used to measure the temperature of a conventional electic oven, in order to calibrate properly the oven's temperature controls.

(c) *Non-cycling controls.* In several sections of the test procedures instructions are given for measuring oven temperatures or test block temperatures in terms of the cycling action of the oven thermostat. Two commenters remarked that no provision has been made for measuring the test energy consumption of a gas oven equipped with a bypass-type thermostat or any other modulating control. A bypass-type thermostat is one which controls the oven temperature by modulating the gas flow rather than by cycling on and off.

The objectives of the pertinent sections of the test procedures are either to obtain a thermostat setting which will produce a desired average internal oven temperature or to determine the energy required by the oven to heat a test load to a specified temperature. These two objectives may be achieved by direct measurement when testing an oven which utilizes a modulating thermostat to maintain a reasonably steady internal temperature.

In response to this comment, sections 2.4.1, 2.4.2, 3.1.1, and 3.2.1 of appendix I have been modified to explain that interpolation of data from "on" and "off" points is not necessary for ovens which do not operate in such cycles.

(d) *Temperature indicator system for measuring oven temperature.* One of the comments requested that the temperature range for the temperature indicator system for measuring oven temperature provided in section 2.9.3.2 of appendix I be increased. The proposed test procedures specified a range of 65° F to 400° F. A review of the oven temperature measurements required by the test procedures indicates that it may be necessary to use an instrument which could measure temperatures above 400° F. After consultation with NBS, DOE has, therefore, increased the upper limit of the temperature range in section 2.9.3.2 of appendix I to 500° F in order to provide an indicator system that would be consistent with any necessary measurements in the test procedures.

8. NORMAL NONOPERATING TEMPERATURE

Several comments were made regarding the proposed normal nonoperating temperatures of the appliances to be tested. One manufacturer also pointed out that the proposed test procedures did not specify a method for measuring the normal nonoperating temperatures of conventional cooking tops.

NBS and DOE have reexamined section 2.6 of appendix I which proposed normal nonoperating temperatures for kitchen ranges and ovens. As a result, DOE has modified section 2.6 and added a definition of "normal nonoperating temperature" in section 1.5 in order to insure that the normal nonoperating temperature of the appliances being tested is achieved before any testing is begun. The normal nonoperating temperature is now permitted to be achieved in any manner, as long as the temperature of all of the areas of the appliance are within 5° F of the temperature that that area would have attained if the appliance had been left in the test room for 24 hours while not operating. Section 2.9.3.5 of appendix I has also been added in order to specify a method for measuring surface temperatures.

9. TEST BLOCKS

(a) *Black finish on test block for conventional ovens.* CU commented on the test block finish used for the testing of conventional ovens. Instead of using an anodic black coating as the test procedures specify, CU suggested that leaving the block's natural aluminum finish without a coating might better simulate the heat absorption characteristics of the aluminum or stainless steel pans normally used in an oven by consumers. CU was also concerned that since a black block absorbs radiant energy better than a shiny block, an unfair advantage may be given to electric ovens.

Several studies have been conducted to determine what type of test load would best simulate foods normally cooked in conventional ovens. The results of one such study are summarized by the AGA Research Report No. 1510, entitled "Methods to Determine the Thermal Efficiency and Estimated Annual Energy Consumption of Conventional Gas and Electric Ranges." After experimenting with 10 different types of test loads, AGA concluded that test results achieved using an 8.5 lb. black anodized aluminum block, which is the same test block proposed in the test procedures, corresponded the closest to the energy consumptions and efficiencies observed in the actual cooking of foods in conventional gas and electric ovens.

Laboratory tests conducted by NBS indicate that the energy consumed by conventional gas and electric ovens when tested with the proposed black test block provide results that are more representative of actual cooking in the home than results from testing with a shiny test block. The tests compared the amount of energy consumed when testing with shiny aluminum test blocks, when testing with black test blocks, and when testing with food in conventional gas and electric ovens both with and without forced convection.

Based on NBS recommendation, DOE has determined to retain the use of anodic black aluminum test blocks for testing conventional ovens.

Some of the comments also suggested that the test procedures permit the conventional oven test block to be finished with something other than the anodic black coating which incorporates an inorganic dye as was proposed. One comment indicated that an inorganic dye for anodized aluminum is not available. Another comment suggested that the ability of an anodic black test block to absorb radiant energy would decrease over time and therefore affect the accuracy of the testing. Based on NBS' recommendations, DOE has modified section 2.7.1 of appendix I to eliminate the requirement of incorporating an inorganic black dye in the coating of the test block.

Laboratory tests at NBS over a period of about 1 year indicate that the deterioration of the absorptivity

level of the test blocks is not a serious problem. However, in recognition of the possibility of some deterioration in the absorptivity level of a test block finished with an anodic black coating, DOE has also modified section 2.7.1 to permit the use of any finish which has the same level of absorptivity as the anodic black coating.

(b) *Installation of Thermocouple on Test Blocks.* It was suggested that the method of installing the thermocouple to the test block proposed in section 2.7.2 of appendix I may result in improper installation, which could lead to variations in the test results. DOE agrees with this comment and has modified section 2.7.4 of appendix I to permit the manufacturer conducting the test to use appropriate means to ensure that a positive contact between the thermocouple and the test block and an adequate sealing of the hole in the test block to prevent the entry of moisture is achieved.

(c) *Test Blocks for Conventional Cooking Tops.* One manufacturer requested that the required temperature rise of the test block for conventional cooking tops be 135° F instead of the 144° F specified in the proposed test procedures. The commenter felt that the temperature at the time the energy input is reduced (before being turned off) should equal the boiling point of water, 212° F, in order more closely to simulate actual cooking conditions in the home. No data, however, was provided to support the proposition that this would be more representative of actual cooking.

The commenter was also concerned that testing with the 6.25-inch diameter test block would unduly penalize small glass-ceramic cooking tops by producing a lower cooking efficiency than would be obtained with the 9-inch test block. It was felt that this method of testing precludes a valid comparison of small electric surface units with similar sized gas surface units which are tested with the 9-inch test block. The commenter recommended that the test procedures require that the large test block (9-inch diameter) be used for testing all electric surface units, as is the case for testing all gas surface units.

The proposed test procedures are designed to measure the cooking efficiency of all electric surface units under conditions which would most accurately simulate actual cooking in the home. The temperature rise of 144° F was selected for inclusion in the test procedures by DOE based upon NBS' recommendation that it would represent the average temperature rise of food being cooked in the home. After review of the above comment, NBS determined that it is not necessary, as the commenter suggested, that the test procedures provide that the test block temperature equal the boiling point of water at the time that the energy source to the surface unit is turned down. Based on this recommendation, DOE has decided not to change the temperature rise of 144° F as originally proposed.

In regard to the size of the test block, NBS believes that the small test block (6.25-inch diameter) more closely approximates the bottom diameter of the cooking utensils generally used by consumers for cooking on small surface units. Based on NBS' recommendation, DOE has, therefore, determined that the small test block is the appropriate size to use for testing and determining the cooking efficiency of small glass-ceramic cooking tops.

Another manufacturer wanted the test procedures to credit the energy saving aspects of glass-ceramic cooking tops which have a built-in automatic thermostatic control and which are sold with matching flat-ground cookware. No data was provided by the commenter, however, and DOE does not have sufficient data at this time on the energy saving aspects of these features to give any possible credit to them in the test procedures. DOE will review any reliable data, as it becomes available, concerning the consumer usage of these glass-ceramic cooking tops and any possible energy savings derived from their use.

(d) *Initial temperature of the test block.* One comment suggested that the initial test block temperature for conventional ovens and conventional cooking tops should be referenced to the nonoperating temperature of the appliance being tested, rather than to the ambient room air temperature. The comment, however, did not present any arguments to justify making this change. The proposed test procedures referenced the initial test block temperature to the ambient room air temperature in order to simulate typical consumer usage.

For some of the tests, following this suggestion would not cause a significant difference in the test results because the nonoperating temperature would be essentially the same as the ambient room air temperature. The suggested change would not be applicable for conventional gas ovens with continuously burning pilot lights, because the test block in that case should be near room temperature, rather than oven temperature, in order to simulate actual consumer usage. Based on NBS' recommendation, DOE has determined to retain the definition of the initial temperature of the test block as proposed in section 2.7.5 of appendix I.

CU also commented regarding the rate at which the test block is cooled to the initial test block temperature. They were concerned that if the test block was cooled too rapidly between tests that the initial temperature reading would not be representative of the temperature of the entire block. It was suggested that specifications for the thermal equilibrium of the block be added to the test procedures to assure that all parts of the block are at the same temperature before starting any test.

DOE agrees that the test procedures should clearly require that the test block be in thermal equilibrium before starting any test. Therefore, instructions for assuring thermal equilibrium have been added to section 2.7.5 of appendix I.

(e) *Weight of test block.* Section 3.3.2 of appendix I of the proposed test procedures requires that the actual weight of the test blocks be determined. Since these measurements need only be determined once for each test block, they have not been included in the test measurements in section 3.2 of appendix I. However, DOE has determined that a tolerance should be specified for these measurements in order to be consistent with other test measurements. With regard to this issue, NBS has recommended that the scale used for weighing the test blocks have a maximum error no greater than 1 ounce. DOE has accepted this recommendation and modified section 2.9 of appendix I accordingly by adding a section 2.9.5.

10. TEST BEAKERS

One commenter requested that "brosilicate glass" be required as the material to constitute the test beakers for the microwave oven tests. Brosilicate glass includes pyrex glass and has a low coefficient of thermal expansion. It is, therefore, less likely to crack as a result of the microwave testing. DOE has modified section 2.8 of appendix I to require that the test beakers be made of a thin walled brosilicate glass, which is the kind generally used in the laboratory.

11. CONVENTIONAL OVEN TEST METHOD

(a) *Calculation of oven energy consumption.* In the proposed test procedures the method for determining the amount of energy consumed by the oven during the test using the prescribed test blocks is calculated by an interpolation formula. The interpolation is based on energy and temperature measurements taken at different cut-off and cut-on points in the cycles of the oven's energy source. Several commenters suggested that the method of interpolation should be based only on data taken at the cut-on points. It was claimed that this would more accurately measure the actual amount of energy required to heat the test block, whereas the proposed test method would result in measurements that were 1.5 to 3 percent too high.

The commenter presented two hypothetical examples to illustrate that the

method of interpolation in the proposed test procedures would yield erroneous results, whereas his new method would produce correct results. These examples were analyzed by NBS. In general, the NBS analysis indicated that although the ovens in the examples would have identical efficiencies when tested by this new method, ovens under actual use conditions in the home would not be equally efficient and that this actual difference in efficiency would be more accurately measured by the DOE method in the proposed test procedures.

The new method proposed by the commenter is based on the assumptions that an oven's heating cycle begins at the cut-on point of the oven's energy source and ends at the following cut-on point, and that the amount of energy consumed during a portion of such a cycle is determined on a prorated basis. This new procedure, which is based on only two data collection points, appears to be less burdensome to conduct than the proposed DOE test method which is based on four data points. This new procedure, however, has two disadvantages. First, the oven's temperature varies considerably during the heating cycle and is near a minimum at the cut-on point. At this point the oven's temperature is below its average temperature and the measurement of the energy consumption would be too low, or lower than it would be if the oven were at its average temperature. Second, the oven temperature at cut-on may vary from one model to another due only to differing thermostat characteristics. This would mean that the error in the energy consumption measurement would depend on the thermostat characteristics. Hence, energy measurements derived from this new method would not accurately correspond to values that would be achieved during actual consumer usage.

The interpolation procedure proposed in the test procedures was essentially based on the average oven temperature as determined from measurements at both cut-on and cut-off points of the oven's energy source. NBS believes that this method will provide results that are representative of average oven conditions in the home.

In view of the above considerations, DOE concurs with the NBS recommendation that the interpolation procedure in the proposed test procedures is a better and more representative method for accurately measuring the energy consumption of a conventional oven without being unduly burdensome, and has therefore retained this method in the test procedures prescribed today.

(b) *Oven modes to be tested.* CU raised an issue as to which oven modes of operation shoud be tested. The comment stated that the test procedure requires the testing of ovens in "each baking mode," but does not clearly explain what types of baking modes should be included. CU recommends that the test procedure specify that all modes of operation including "timed baked," "preheat," etc., be tested.

The proposed test procedures require that conventional ovens which can be operated either with forced convection or without forced convection shall be tested in both of these modes of operation. Sections 3.1.1 and 4.1.1.1 of appendix I have been modified to state this requirement more clearly. Testing the oven in both of these modes is required because the different modes may have significantly different cooking efficiencies.

On the other hand, NBS laboratory data indicates that the use of a "preheat" setting, has very little effect on the cooking efficiency when it is followed by resetting to "bake" after the oven has reached operating temperature. On conventional electric ovens the only difference between the "preheat" setting and the "bake" setting is in that during preheat both the upper and lower resistance heaters are operated at 240 volts, while during "bake" only the lower resistance heater operates at 240 volts and the upper resistance heater is either not used or operates at 120 volts (one-fourth power).

For most conventional electric ovens the method of heating is identical for "timed bake" and "bake." However, as suggested by CU, there are some conventional electric ovens which use the upper resistance heater at 120 volts during "bake" but do not use the upper resistance heater for "timed bake." For these ovens the difference in oven heating wattage is about 20 percent. Based on laboratory tests at NBS of ovens at both 240 and 208 volts, which involved a difference in heating wattage of about 25 percent, NBS concluded that any differences in the cooking efficiency due to different wattages for "bake" and "timed bake" are not significant. Based on NBS' recommendation, DOE does not believe that testing in all possible baking modes is necessary to achieve accurate and representative test results.

(c) *Measurement of pilot light consumption.* CU commented that accurate measurement of the gas consumption of pilot lights could be obtained in less time than the 24-hour period specified in the proposed test procedures. CU suggested that two methods for measuring the gas consumption of pilot lights be permitted; one involving the use of positive displacement gas meters (referred to simply as "gas meters" in the proposed test procedures), and the other involving the use of gas flow meters (not addressed in the proposed test procedures). CU stated that the adoption of this suggestion would facilitate testing and conserve gas.

For positive displacement gas meters, CU suggested that rather than specifying a fixed minimum time period for the measurement, a minimum quantity of gas consumption should be specified where this minimum quantity is a function of the resolution of the gas meter used for making the measurement. It was suggested that a minimum gas consumption of 200 times the resolution of the gas meter be specified.

DOE finds that the adoption of this suggestion would reduce the time required to measure the rate of gas consumption of pilot lights without reducing the accuracy of the measurement appreciably. Using CU's suggested method, it is estimated that it would require about 1 hour to measure the gas consumption rate of a pilot light with a gas meter that has a resolution of 0.001 cubic foot. Although the maximum error associated with taking a reading from such a gas meter using CU's suggested method would be larger than for the 24-hour duration test proposed (0.5 percent for CU's method, compared to approximately 0.02 percent for the 24-hour test) the overall measurement error would still be determined primarily by the allowable meter error of 2 percent.

DOE has adopted CU's suggestion and has changed sections 3.1.1.2 and 3.1.2.1 of appendix I to specify that the duration of the tests shall be sufficient to measure a gas consumption which is at least 200 times the resolution of the gas meter.

In further consideration of CU's suggestion, DOE finds that if a gas meter with a resolution of 0.01 cubic foot was used to measure the gas consumption of pilot lights instead of one with a resolution of 0.001 cubic foot as stipulated in the proposed test procedures, the measurement would require approximately ten hours to complete. By allowing the use of a gas meter with a resolution of 0.01 cubic foot, the duration of the pilot light gas consumption measurement would still be significantly reduced from the 24-hour duration measurement specified in the proposed test procedures, but manufacturers could secure one gas meter which meets the accuracy measurements for measurement of the gas consumption of both pilot lights and gas burners.

DOE has, therefore, changed section 2.9.2 of appendix I to allow the use of a gas meter with a resolution of at least 0.01 cubic foot for measurement of pilot gas consumption.

CU had a further comment bearing on the measurement of the gas consumption of pilot lights to the effect that DOE should permit the use of a

gas flow meter with a resolution of at least 1 percent of the gas consumption rate and a maximum error no greater than 2 percent, in lieu of the volume measuring gas meter specified in the proposed test procedures.

This suggestion has been accepted by DOE with the modification that the meter error must not exceed 1.5 percent in order to maintain an overall measurement accuracy (meter error plus possible reading error) comparable to that required of the positive displacement type gas meter. Section 2.9.2 of appendix I has been modified to allow the use of either a positive displacement gas meter or a gas flow meter to measure the gas consumption of pilot lights. Sections 3.2.1.2 and 3.2.2.1 of appendix I have been modified to provide for the measurement of the gas flow rate directly when a gas flow meter is used and sections 4.1.2.2 and 4.2.2.2.2 have been modified to provide for the direct substitution of the gas flow rate measurements into the equations for the annual energy consumption.

(d) *Representative use of self-cleaning operation of conventional oven.* In the proposed test procedures the annual energy consumed for conventional oven self-cleaning operations was based upon 11 cleanings per year for electric ovens and 7 cleanings per year for gas ovens. One manufacturer suggested that 7 cleanings per year for an electric oven would more accurately represent the average annual use of this feature. Another commenter suggested that since the conventional oven usage is somewhat less in a microwave/conventional range than in a conventional range, the annual self-cleaning energy consumption for a microwave/conventional range should be less than that for a conventional range.

The number of self-cleaning operations per year proposed in the test procedures are based upon very limited industry data. DOE will review these numbers should more complete field data become available. Likewise, additional data on conventional ovens, when used as a component of a microwave/conventional range may allow a better determination of the average number of self-cleaning operations which best represents consumer usage. DOE is not, however, aware of any data at this time which would justify changing the proposed self-cleaning oven usage of 11 times per year for electric ovens and 7 times per year for gas ovens.

It was also suggested that the test procedures should account for the self-cleaning energy consumption of cooking appliances consisting of two or more self-cleaning ovens. Another commenter recommended that the calculation of the self-cleaning energy for two or more self-cleaning ovens be based on the same total number of self-cleaning operations per year as for a single oven.

The method of calculating the annual energy consumption for cooking with multiple conventional ovens is based on the premise that the total usage of multiple ovens is the same as that of a single oven. It follows that if the usage is the same, the total number of self-cleaning operations should be the same. Section 4.1.2.6 of appendix I has been changed to provide for multiple self-cleaning ovens. The total self-cleaning energy consumption is now computed as the average of the separate ovens, which is analogous to the computation of cooking energy for multiple ovens.

12. MICROWAVE OVEN TEST METHOD

(a) *Test load temperature.* The proposed test procedures provide that microwave ovens be tested with test loads consisting of water in glass beakers. It was recommended in one comment that the starting water temperature of the test load should be changed from ±4° F of the ambient room air temperature as proposed, to 68° F ±9° F (20° C ±5° C), as specified in the international Electrotechnical Commission (IEC) standard, IEC-SC-59H, 1975, entitled "Methods of Measuring Performance of Microwave Cooking Appliances for Household and Similar Purposes." The commenter indicated that a temperature below room ambient air temperature is not inappropriate because foods are often taken directly from the refrigerator to the microwave oven.

For a nominal room temperature of 77° F the proposed initial water temperature would be within the range of 77° F ±4°, which would overlap the allowable range of 59° to 77° F in the above IEC standard by only 4° F. With such an overlap of only 4° F it was claimed that it would be difficult and burdensome to obtain test data which would satisfy both the DOE test procedures and those tests required to be conducted in accordance with the above IEC standard.

Any change to the starting water temperature naturally affects the final water temperature achieved after a specified temperature rise. NBS has determined from laboratory testing, as published in the NBS report, NBSIR-77-1387, September 1977, entitled "Evaluation of a Test Method for Measuring Microwave Oven Cooking Efficiency," that the final test load temperature may have a considerable effect on the microwave oven cooking efficiency. For extreme conditions the tolerance in the proposed test procedures would allow a maximum variation of ±22° F in the final water temperature, since the final water temperature in the proposed test procedures is determined by three factors: the difference between the initial water temperature and the room temperature (±4° F), the ambient room air temperature (77°±9° F), and the temperature rise of the water during the test (45°±9° F).

Complying with the commenter's recommendation would reduce the above variation in final water temperature to ±18° F. NBS recommends that this variation be further limited by specifying that the initial test load temperature be within the range of 68° to 77° F. This would allow the same possible overlap between the initial water temperature and the ambient room air temperature as allowed in the proposed IEC test procedure, but would limit the maximum variation in the final water temperature. NBS feels that this temperature range adequately represents consumer usage. NBS recommends against the adoption of that portion of the comment which suggested a temperature below 68° F, since that particular change to the test procedures would seriously degrade the accuracy and repeatability of the test results by permitting too wide a tolerance on the final water temperature.

Based on the recommendation of NBS, DOE has specified in section 2.8.2.1 of appendix I that the initial temperature of the test loads be within the range of 68° F to 77° F.

(b) *Cooking efficiency.* In section 4.4.3 of appendix I, the test procedures proposed a method for determining the cooking efficiency of the microwave oven in which the cooking efficiencies for each test load were added and divided by 4, the number of test loads. One comment recommended that the cooking efficiency be determined instead by dividing the average output power derived using the four different test loads by the average input power for those tests, in order to be consistent with the method used in the proposed AHAM standard, ER-4-MWO, 1977, entitled "Performance Evaluation Procedure for Microwave Cooking Appliances."

Using laboratory test data, NBS compared the resulting cooking efficiencies determined according to both of the above methods. NBS concluded that there was no significant difference in the resulting cooking efficiency when determined by either the proposed test method or the suggested method. Based on NBS' recommendation, DOE has retained in section 4.4.2 of appendix I the proposed method for determining the microwave oven cooking efficiency.

(c) *Test energy consumption.* One commenter recommended that the starting point for the measurement of time, t, and the input energy, E, proposed in section 3.2.3 of appendix I, should be after the time when the magnetron (which is a type of vacuum

tube used to generate power in microwave ovens) reaches full power output, instead of the beginning of the test as proposed. The suggested change would make the test procedures consistent with the procedures in the proposed AHAM standard ER-4-MWO, 1977. The commenter also claimed that this change would have no effect on the test results.

NBS recommends against adopting this change since there could be cases when the amount of energy used by the microwave oven before the magnetron reaches full power may be significant.

DOE has, therefore, retained the method proposed in section 3.2.3 of appendix I of measuring the data from the time that the microwave oven is turned on. This method will produce test results that are representative of actual consumer use.

(d) *Resolution of the watt-hour meter.* NBS has determined that the accuracy and repeatability of the microwave oven test results could be significantly improved if the watt-hour meter used to measure the microwave oven energy consumption had a resolution of 0.1 watt-hour, rather than 1 watt-hour as indicated in section 2.9.1 of the proposed test procedures. Watt-hour meters with a resolution 0.1 watt-hour are available at about the same cost as watt-hour meters with a resolution of only 1 watt-hour and their use would significantly increase the accuracy of the test measurements. DOE has determined that the accompanying improvement in accuracy of the derived test results outweighs the possible increase in the test burden. Therefore, DOE adopts the suggested change by modifying section 2.9.1 of appendix I.

13. USAGE FACTORS FOR MICROWAVE/CONVENTIONAL RANGES

The proposed test procedures prescribed usage factors, K and L, to account for a reduced usage of the conventional oven and conventional cooking top of a microwave/conventional range compared to the usage of the conventional oven and cooking top of a conventional range. The usage factor K was defined as the annual energy consumption for cooking of the conventional oven component of a microwave/conventional range divided by the annual energy consumption for cooking of the conventional oven component of a conventional range. The usage factor L was defined as the annual energy consumption for cooking of the conventional cooking top component of a microwave/conventional range divided by the annual energy consumption for cooking of the conventional cooking top component of a conventional range. In the proposed test procedures, K equaled 0.8196 in section 4.5.1.1 of appendix I and L equaled 0.9076 in section 4.5.1.2 of appendix I.

Several commenters expressed concern about the proposed numerical values of the usage factors, K and L, and recommended different values for these usage factors. In the proposed test procedures, the total useful cooking energy output of a microwave/conventional range was assumed to be the same as that of a conventional range. The commenters recommended that in the final test procedures the total useful cooking energy output of microwave/conventional range should be less than that of a conventional range in order to be consistent with AHAM field data. The commenter also felt that this would reflect the proper energy savings obtained through the use of the microwave oven. This AHAM field data, supplied to NBS and FEA on August 3, 1976, showed a 14 percent energy savings for those households which had a microwave oven and a conventional range as opposed to a conventional range alone. One manufacturer presented additional data to support his claim that microwave/conventional ranges save 15 percent more cooking energy than conventional ranges. Both the AHAM data and the manufacturer's data indicated higher cooking efficiencies for microwave ovens than for conventional cooking tops. This conclusion, however, is contrary to results obtained from NBS laboratory testing. NBS conducted tests according to the proposed tests procedures of microwave ovens and conventional cooking tops. The cooking efficiencies of these products were derived from the NBS test results, and NBS concluded that the cooking efficiency of a conventional cooking top was higher than the cooking efficiency of a microwave oven, when tested in accordance with the proposed test procedures. NBS has determined that the proposed method for measuring the useful cooking energy output of microwave ovens and conventional cooking tops adequately represents consumer cooking in the home.

Another manufacturer submitted data based upon a limited field survey which monitored households which used conventional ranges in conjunction with microwave ovens. The amount of energy consumption was measured before and after the addition of the microwave oven to the household. This survey indicated that the total average energy savings for these households as a result of the addition of the microwave oven was 3 percent. The data from this field survey indicates that the total useful cooking energy output for a microwave/conventional range is less than for a conventional range. NBS has determined that the results of this survey are the most representative consumer usage data available. They were derived from an accurate method of comparing the effect of the addition of a microwave oven into the home, since the same households with and without the microwave oven were used for the tests. This minimized any possible variations in energy consumptions that could have been caused by differences in consumer cooking habits. NBS has therefore recommended that the usage factors, K and L, be changed to conform to the above field survey results.

DOE has adopted the NBS recommendation and has provided usage factor K of 0.83 and a usage factor L of 0.85 in section 4.5 of appendix I. The usage factors have been expressed in two significant figures, rather than four significant figures as in the proposed test procedures, in order to be compatible with the data which has been used to generate these usage factors. Consistent with these changes, the value of total annual useful energy output for a microwave/conventional range, O_{RM}, in section 4.5 of appendix I has been reduced by 4.9 percent to 808.9 kWh (1,054,000 Btu).

14. CONVENTIONAL COOKING TOP TEST METHOD

One manufacturer claimed that the use of an aluminum test block proposed in the test procedures for testing conventional cooking tops does not properly relate to the cooking of food. The commenter claimed that the cooking efficiencies of conventional cooking tops would be more accurately measured using water in a beaker as the test load. The commenter also felt that the cooking efficiency obtained by using the proposed test block would be too high. The data presented by the commenter to support this proposition was reviewed by NBS, and determined not to be representative of actual consumer use because of the smallness of the test load used and the failure to collect any data at reduced wattage settings.

In response to this comment, NBS reviewed existing industry data on the cooking efficiencies of conventional cooking tops when tested with food. NBS also conducted laboratory tests of conventional cooking tops using the proposed aluminum test block and using various types of cooking utensils with water loads. The results of these tests were then compared to the industry data derived when cooking with food.

NBS concluded that testing conventional cooking tops with a test block will provide more representative and repeatable test results than testing with a water test load. Based on the NBS recommendation, DOE has retained the use of the aluminum test block for testing conventional cooking tops in the test procedures prescribed today.

15. OVEN SIZE CATEGORIES

All conventional ovens regardless of size are treated in the same manner in the proposed test procedures. A number of manufacturers recommended that the test procedures provide for different oven categories to be determined on the basis of the size of the oven's cooking compartment. The commenters were concerned that if a minimum standards program should be established, the present test procedures could lead to the elimination from the marketplace of larger ovens, since larger ovens would not appear to be as energy efficient, based on the test procedures, as the smaller ovens. Any attempt to relate the prescription of final test procedures to a minimum standards program under the Act would be premature at this time. DOE has also determined that although the test procedures provide for only one category of ovens, the derived measures of energy consumption still are likely to assist consumers in making purchasing decisions.

16. REPRESENTATIONS REGARDING MEASURES OF ENERGY CONSUMPTION

Test procedures prescribed under section 323 of the Act are intended ultimately to be used for labeling under section 324 of the Act, for monitoring the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325 of the Act, and for enforcement testing under section 326 of the Act. All of these aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions on how a test procedure should be applied (e.g., sampling of production units), may differ. DOE, NBS, and FTC are continuing to evaluate the appropriate method or methods for applying the test procedures in order to comply with the statute and satisfy all of the different elements of the appliance program. Thus, a generalized test methodology for applying test procedures is inappropriate at this time.

While all of the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) In writing (including a representation on a label), or
>
> (2) In any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to implement this statutory requirement, the sampling requirements prescribed today in § 430.24(i) apply only where a representation is made with respect to the energy consumption of kitchen ranges and ovens.

Section 430.24(i) provides a method by which the minimum size of a sample of kitchen ranges and ovens is to be determined. Representations regarding the energy consumption of kitchen ranges and ovens must be based upon the testing of that sample. Under the regulations, the sample will have to be of sufficient size to assure that, for each representation regarding a measure of energy consumption described in § 430.22(i), there is a 95 percent confidence that the true mean of such measures of the basic model to which the representation applies is within 5 percent of the mean of such measures of the sample.

Strict sampling of conventional and microwave/conventional ranges could, in many cases, result in duplicative testing. This is because it is likely that the conventional cooking tops, conventional ovens, and microwave ovens which comprise these products would be marketed as distinct products and would, therefore, have already been tested. In order to avoid re-testing the components of conventional and mircowave/conventional ranges, § 430.24(i) permits data obtained from the testing of the major cooking components (conventional cooking tops, conventional ovens, and microwave ovens) which comprise conventional ranges and microwave/conventional ranges to be used in making representations concerning those ranges.

As discussed above, § 430.24(i) has been modified to clarify that for purposes of making representations respecting the energy consumption of kitchen ranges and ovens, convertible cooking appliances need only be tested using natural gas if the manufacturer does not wish to test using both natural gas and propane. This will ease the burden on the manufacturer conducting the test. In this case, however, the manufacturer must utilize the values derived for the annual energy consumptions from testing with natural gas to determine the appropriate measures of energy consumption that would represent the LP-gas usage of that convertible cooking appliance. However, cooking appliances which are designed to use only natural gas must be tested using natural gas and cooking appliances which are designed to use only LP-gas must be tested using propane gas. Except for these modifications, § 430.22(i) prescribed today is similar in all respects to the section proposed. The comments which addressed § 430.22(i) found the substance of its provisions acceptable as proposed.

Until a labeling rule for kitchen ranges and ovens has been implemented pursuant to section 324, manufacturers are not required to test, unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22(i). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

17. PRODUCTS NOT COVERED BY TEST PROCEDURES

One commenter recommended that the definition of microwave/conventional range be expanded to include the following two products which he felt were being excluded from the proposed test procedures: (1) A microwave oven in combination with a conventional oven and (2) a microwave oven in combination with a conventional cooking top. No consumer usage data on these products was provided.

Section 323(a)(3) of the Act requires that proposed test procedures for kitchen ranges and ovens be published not later than September 30, 1976. Section 323(a)(6) of the Act, however, provides that the publication of proposed test procedures for a type of covered product (or class thereof) may be delayed beyond the required dates of publication, if it is determined that publication of the proposed test procedures cannot be made within the applicable time period and notice of such determination is published in the FEDERAL REGISTER.

In addition to prescribing test procedures today for most classes of "kitchen ranges and ovens", DOE gives notice of its determination to delay further the publication of proposed test procedures for any class of the type "kitchen ranges and ovens" other than conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. In particular, DOE is delaying further the publication of proposed test procedures for the following consumer products which are relatively new products and, therefore, presently represent only a small percentage of the market: (1) Cooking tops which utilize induction surface heating elements; (2) single compartment ovens which are capable of heating food by means of electric resistance heaters and microwave energy in the same compartment; (3) a microwave oven in combination with a conventional oven; and (4) a microwave oven in combination with a conventional cooking top. NBS has determined that there is not sufficient data at this time on the consumer usage of these products to develop adequate test procedures to measure their energy consumption, cooking efficiency or energy factor. DOE will publish proposed test procedures for such products, as soon as practicable, unless it determines that test procedures cannot be developed which meet the

requirements of section 323(b) of the Act and publishes such determination in the FEDERAL REGISTER together with the reasons therefor.

18. MISCELLANEOUS

After careful consideration of all of the comments and further consultation with NBS and FTC, DOE has made some editorial and minor technical changes in the proposed test procedures that were not discussed above and incorporated them in the final rule prescribed today.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens and microwave/conventional ranges prescribed today are included in Subpart B and are substantially the same as those proposed, with the addition of the changes discussed above. As with the proposed procedures, the test methodology incorporates the field survey data and the general approach of the proposed AHAM Standard Test Method for Measuring Energy Consumption of Electric and Gas Ovens and Surface Units and Microwave Ovens (ER-5-EC) dated August 2, 1976 and of the proposed AHAM Standard Performance Evaluation Procedure for Microwave Cooking Appliances (ER-4-MWO). The test procedures also incorporate the general approach contained in the American National Standards Institute (ANSI) standard ANS-C71.1-1972 for household electric ranges. Some provisions for conventional ranges, conventional cooking tops and conventional ovens contained in the ANSI standard ANS-Z21.1-1974 (as amended by ANS-Z21.1a-1974 and ANS-Z21.1b-1976) for household cooking gas appliances and the Underwriters Laboratories Incorporated (UL) standard UL-858 for household electric ranges were also incorporated. For purposes of DOE's appliance program, the incorporated approaches remain applicable as presently written, regardless of any subsequent amendment by the standard setting organizations until such time as DOE may further amend the test procedures.

Pursuant to section 301 of the DOE Act, DOE became responsible for complying with section 32 of the Federal Energy Administration Act of 1974 (FEA Act) (15 U.S.C. 761 et seq.), as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70). Under the requirements of section 32(c) of the FEA Act, the Attorney General and the Chairman of the Federal Trade Commission must be consulted concerning the impact on competition of any rules prescribed by DOE which utilize or incorporate any commercial standards. DOE has transmitted copies of the test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges, which incorporate the above-mentioned commercial standards, to the Attorney general and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition, in accordance with section 32(c). Neither official had any unfavorable comments nor did they recommend against the incorporation or use of these commercial standards in the final test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges.

2. GENERAL PROVISIONS

Definitions of "electric range," "non-electric range," and "surface unit," were originally proposed by notice issued May 10, 1976 (41 FR 19977, May 14, 1976). The proposed test procedures withdrew these definitions in § 430.2 and provided a new definition of "surface unit" and added definitions for "DOE," "Secretary," "kitchen ranges and ovens" and each of the different classes of the type "kitchen ranges and ovens." Today's rulemaking prescribes definitions for "conventional cooking top," "conventional oven," "conventional range," "convertible cooking appliance," "DOE," kitchen ranges and oven," "LP-gas," "major cooking component," "microwave/conventional range," "microwave oven," "Secretary," and "surface unit." The definition of the term "basic model" for "kitchen ranges and ovens" has also been added. Any comments which were received regarding these definitions and the issues which they raised have been discussed earlier in this rulemaking.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions for applying the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24(i) of the final regulations apply until such time as the final labeling requirements for a particular measure of energy consumption and the provision for applying the associated test procedures are prescribed. After that time, any representations regarding a measure of energy consumption covered by a labeling rule must be the same as the measure of energy consumption specified on the label.

D. UNIT COST OF ENERGY

Under section 323(b)(2) of the Act, FEA was to provide manufacturers with information on representative average unit costs of energy. This information was provided by notice issued by FEA on July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges, or which provide for an energy efficiency standard or similar requirement regarding the energy efficiency or energy use of conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administation Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91; EO 11790, 39 FR 23185.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations is amended as set forth below, effective June 15, 1978.

Issued in Washington, D.C., May 2, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

1. Section 430.2 is amended by adding paragraph (9) as part of the definition of "basic model," and by adding in the appropriate alphabetical order definitions of "conventional cooking top," "conventional oven," "conventional range," "convertible cooking appliance," "DOE," "kitchen ranges and ovens," "LP-gas," "major cooking component," "microwave/conventional range," "microwave oven," "other kitchen ranges and ovens," "Secretary," and "surface unit" to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product (or class thereof) manufactured by one manufacturer and—

* * * * *

(9) With respect to kitchen ranges and ovens, whose major cooking components have the same primary energy source, which have electrical characteristics that are essentially identical, and which do not have any differing physical or functional characteristics that affect energy consumption.

* * * * *

"Conventional cooking top" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a horizontal surface containing one or more surface units which include either a gas flame or electric resistance heating.

* * * * *

"Conventional oven" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of one or more compartments intended for the cooking or heating of food by means of either a gas flame or electric resistance heating. It does not include portable or countertop ovens which use electric resistance heating for the cooking or heating of food and are designed for an electrical supply of approximately 120 volts.

* * * * *

"Conventional range" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a conventional cooking top and one or more conventional ovens.

* * * * *

"Convertible cooking appliance" means any kitchen range and oven which is a household cooking appliance designed by the manufacturer to be changed in service from use with natural gas to use with LP-gas, and vice versa, by incorporating in the appliance convertible orifices for the main gas burners and a convertible gas pressure regulator.

* * * * *

"DOE" means the Department of Energy.

* * * * *

"Kitchen ranges and ovens" means consumer products that are used as the major household cooking appliances. They are designed to cook or heat different types of food by one or more of the following sources of heat: Gas, electricity, or microwave energy. Each product may consist of a horizontal cooking top containing one or more surface units and/or one or more heating compartments. They must be one of the following classes: Conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, microwave/conventional ranges and other kitchen ranges and ovens.

* * * * *

"LP-gas" means liquified petroleum gas, and includes propane, butane, and propane/butane mixtures.

* * * * *

"Major cooking component" means either a conventional cooking top, a conventional oven or a microwave oven.

* * * * *

"Microwave/conventional range" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a microwave oven, a conventional oven, and a conventional cooking top.

* * * * *

"Microwave oven" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a compartment designed to cook or heat food by means of microwave energy.

* * * * *

"Other kitchen ranges and ovens" means any class of kitchen ranges and ovens other than the conventional range, conventional cooking top, conventional oven, microwave oven, and microwave/conventional range classes.

* * * * *

"Secretary" means the Secretary of Energy.

* * * * *

"Surface unit" means either a heating unit mounted in a cooking top, or a heating source and its associated heated area of the cooking top, on which vessels are placed for the cooking or heating of food.

* * * * *

2. Section 430.22 is amended by adding a paragraph (i), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(i) *Kitchen ranges and ovens.* (1) The estimated annual operating cost for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be the sum of the following products: (i) The total annual electrical energy consumption for any electrical energy usage, in kilowatt-hours (kWh's) per year, times the representative average unit cost for electricity, in dollars per kWh, as provided pursuant to section 323(b)(2) of the Act; plus (ii) the total annual gas energy consumption for any natural gas usage, in British thermal units (Btu's) per year, times the representative average unit cost for natural gas, in dollars per Btu, as provided pursuant to section 323(b)(2) of the Act; plus (iii) the total annual gas energy consumption for any propane usage, in Btu's per year, times the representative average unit cost for propane, in dollars per Btu, as provided pursuant to section 323(b)(2) of the Act. The total annual energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be as determined according to 4.3.1, 4.2.2, 4.1.2.5 or 4.1.2.6, 4.4.3, and 4.5.1.3, respectively, of appendix I to this subpart. The estimated annual operating cost shall be rounded off to the nearest dollar per year, except for microwave ovens, for which the estimated annual operating cost shall be rounded off to the nearest one-quarter of a dollar per year.

(2) The cooking efficiency for conventional cooking tops, conventional ovens, and microwave ovens shall be the ratio of the cooking energy output for the test to the cooking energy input for the test, as determined according to 4.2.1.3, 4.1.3 and 4.4.2, respectively, of appendix I to this subpart. The final cooking efficiency values shall be rounded off to three significant digits.

(3) The cooking efficiency for conventional ranges, and microwave/conventional ranges shall be determined according to 4.3.2 and 4.5.2, respectively, of appendix I to this subpart, which weights the cooking efficiencies of the major cooking components of the range. The final cooking efficiency values shall be rounded off to three significant digits.

(4) The energy factor for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be the ratio of the annual useful cooking energy output to the total annual energy input, as determined according to 4.3.3, 4.2.3, 4.1.4, 4.4.4 and 4.5.3, respectively, of appendix I to this subpart. The final energy factor values shall be rounded off to three significant digits.

(5) There shall be two estimated annual operating costs, two cooking efficiencies, and two energy factors for convertible cooking appliances—(i) an

estimated annual operating cost, a cooking efficiency and an energy factor which represent values for those three measures of energy consumption for the operation of the appliance with natural gas; and (ii) an estimated annual operating cost, a cooking efficiency and an energy factor which represent values for those three measures of energy consumption for the operation of the appliance with LP-gas.

(6) The estimated annual operating cost for convertible cooking appliances which represents natural gas usage, as described in paragraph (i)(5)(i) of this section, shall be determined according to paragraph (i)(1) of this section using the total annual gas energy consumption for natural gas times the representative average unit cost for natural gas.

(7) The estimated annual operating cost for convertible cooking appliances which represents LP-gas usage, as described in paragraph (i)(5)(ii) of this section, shall be determined according to paragraph (i)(1) of this section using the representative average unit cost for propane times the total annual energy consumption of the test gas, either propane or natural gas.

(8) The cooking efficiency for convertible cooking appliances which represents natural gas usage, as described in paragraph (i)(5)(i) of this section, shall be determined according to paragraphs (i)(2) and (i)(3) of this section when the appliance is tested with natural gas.

(9) The cooking efficiency for convertible cooking appliances which represents LP-gas usage, as described in paragraph (i)(5)(ii) of this section, shall be determined according to paragraphs (i)(2) and (i)(3) of this section, when the appliance is tested with either natural gas or propane.

(10) The energy factor for convertible cooking appliances which represents natural gas usage, as described in paragraph (i)(5)(i) of this section, shall be determined according to paragraph (i)(4) of this section when the appliance is tested with natural gas.

(11) The energy factor for convertible cooking appliances which represents LP-gas usage, as described in paragraph (i)(5)(ii) of this section, shall be determined according to paragraph (i)(4) of this section when the appliance is tested with either natural gas or propane.

(12) Other useful measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens and microwave/conventional ranges shall be those measures of energy consumption which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of appendix I to this subpart.

* * * * *

3. Section 430.24 is amended by adding a paragraph (i) to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

* * * * *

(i) *Kitchen ranges and ovens.* (1) Except as provided in paragraphs (i)(6) and (7) of this section, no manufacturer, distributor, retailer, or private labeler of kitchen ranges and ovens may make any representation with respect to, or based upon, a measure or measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges described in § 430.22(i) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart, such that, for each such measure of energy consumption, there is at least 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) Any sample selected under this paragraph shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) A basic model of a convertible cooking appliance must be tested with natural gas, but may also be tested with propane.

(4) Any basic model of a conventional range, conventional cooking top and conventional oven which is designed to operate using only natural gas as the gas energy source must be tested with natural gas.

(5) Any basic model of a conventional range, conventional cooking top and conventional oven which is designed to operate using only LP-gas as the gas energy source must be tested with propane gas.

(6) With respect to conventional ranges and microwave/conventional ranges, representations made with respect to, or based upon, measures of energy consumption described in § 430.22(i) may be derived from test results obtained from application of the test method of appendix I to this subpart to basic models of such conventional cooking tops, conventional ovens and microwave ovens which comprise the cooking appliance to which such representations apply.

(7) Whenever a rule applicable to kitchen ranges and ovens is prescribed under section 324 of the Act, § 430.24 (i) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption specified on the label.

* * * * *

4. Subpart B of Part 430 is amended to add an appendix I, to read as follows:

APPENDIX I—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF CONVENTIONAL RANGES, CONVENTIONAL COOKING TOPS, CONVENTIONAL OVENS, MICROWAVE OVENS AND MICROWAVE/CONVENTIONAL RANGES

1. *Definitions.*

1.1 "Built-in" means the product is supported by surrounding cabinetry, walls, or other similar structures.

1.2 "Drop-in" means the product is supported by horizontal surface cabinetry.

1.3 "Forced convection" means a mode of conventional oven operation in which a fan is used to circulate the heated air within the oven compartment during cooking.

1.4 "Freestanding" means the product is not supported by surrounding cabinetry, walls, or other similar structures.

1.5 "Normal nonoperating temperature" means the temperature of all areas of an of an appliance to be tested that is within 5 degrees of the temperature that the identical areas of the same basic model of the appliance would attain if it remained in the test room for 24 hours while not operating with all oven doors closed and with any gas pilot lights on and adjusted in accordance with manufacturer's instructions.

1.6 "Primary energy consumption" means either the electrical energy consumption of a conventional electric oven or the gas energy consumption of a conventional gas oven.

1.7 "Secondary energy consumption" means any electrical energy consumption, other than clock energy consumption, of a conventional gas oven.

1.8 "Standard cubic foot of gas" means that quantity of gas that occupies 1 cubic foot when saturated with water vapor at a temperature of 60° F and a pressure of 30 inches of mercury (density of mercury equals 13.595 grams per cubic centimeter).

1.9 "Thermocouple" means a device consisting of two dissimilar metals which are joined together and, with their associated wires, are used to measure temperature by means of electromotive force.

2. *Test conditions.*

2.1 *Installation.* A free standing applicance shall be installed with the back directly against, or as near as possible to, a vertical wall which extends at least 1 foot above and on either side of the appliance. There shall be no side walls. A drop-in, built-in or wall-mounted applicance shall be installed in an enclosure in accordance with the manufacturer's instructions. These appliances are to be completely assembled with all handles, knobs, guards and the like mounted in place. Any electric resistance heaters, gas burners, baking racks, and baffles shall be in place in accordance with the manufacturer's instructions; however, broiler pans are to be removed from the oven's baking compartment.

Disconnect any electrical clock which uses energy continuously. Do not disconnect or modify the circuit to any other electrical devices or features, except as indicated in 2.1.3.

2.1.1 *Conventional electric ranges, ovens and cooking tops and microwave/conventional electric ranges.* These products shall be connected to an electrical supply curcuit with voltage as specified in 2.2.1 with a watt-hour meter installed in the circuit. The watt-hour meter shall be as described in 2.9.1.1.

2.1.2 *Conventional gas ranges, ovens, and cooking tops and gas microwave/conventional gas ranges.* These products shall be connected to a gas supply line with a gas meter installed between the supply line and the appliance being tested, according to manufacturer's specifications. The gas meter shall be as described in 2.9.2. Conventional gas ranges, ovens and cooking tops and microwave/conventional gas ranges with electrical ignition devices or other electrical components shall be connected to an electrical supply circuit of nameplate voltage with a watt-hour meter installed in the circuit. The watt-hour meter shall be as described in 2.9.1.1.

2.1.3 *Microwave ovens.* Install the microwave oven in accordance with the manufacturer's instructions and connect to an electrical supply circuit with voltage as specified in section 2.2.1. Disconnect all electrical devices or features, including clocks, which draw power when the microwave oven is turned off and which are not required for the operation of the oven. A watt-hour meter shall be installed in the circuit and shall be as described in 2.9.1.1.

2.2 *Energy supply.*

2.2.1 *Electrical supply.* Maintain the electrical supply to the conventional range, conventional cooking top, conventional oven, and microwave/conventional range being tested at 240/120 volts except that basic models rated only at 208/120 volts shall be tested at that rating. Maintain the electrical supply to a microwave oven at 120 volts and at 60 hertz. In every case, maintain the voltage within 2 percent of the voltage at which the appliance is tested.

2.2.2 *Gas supply.*

2.2.2.1 *Gas burner adjustments.* Conventional gas ranges, ovens, and cooking tops and microwave/conventional gas ranges shall be tested with all of the gas burners adjusted in accordance with the installation or operation instructions provided by the manufacturer. In every case, the burner must be adjusted with sufficient air flow to prevent a yellow flame or a flame with yellow tips.

2.2.2.2 *Natural gas.* For testing convertible cooking appliances or appliances which are designed to operate using only natural gas, maintain the natural gas pressure immediately ahead of all controls of the unit under test at 7 to 10 inches of water column. The regulator outlet pressure shall be approximately that recommended by the manufacturer. The natural gas supplied should have a heating value of approximately 1,025 Btu's per standard cubic foot. The actual gross heating value, H_n, in Btu's per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.9.4 or by the use of bottled natural gas whose gross heating value is certified to be at least as accurate a value as could be obtained from measurements taken with a standard continuous flow calorimeter as described in 2.9.4.

2.2.2.3 *Propane.* For testing convertible cooking appliances with propane or for testing appliances which are designed to operate using only LP-gas, maintain the propane pressure immediately ahead of all controls of the unit under test at 11 to 13 inches of water column. The regulator outlet pressure shall be approximately that recommended by the manufacturer. The propane supplied should have a heating value of approximately 2,500 Btu's per standard cubic foot. The actual gross heating value, H_p, in Btu's per standard cubic foot, for the propane to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.9.4 or by the use of bottled propane whose gross heating value is certified to be at least as accurate a value as could be obtained from measurements taken with a standard continuous flow calorimeter as described in 2.9.4.

2.3 *Air circulation.* Maintain air circulation in the room sufficient to secure reasonably uniform temperature distribution, but do not cause a direct draft on the unit under test.

2.4 *Setting the conventional oven thermostat.*

2.4.1 *Conventional electric oven.* Install a thermocouple approximately in the center of the usable baking space. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in 2.9.3.2. If the oven thermostat does not cycle on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325°±5° F higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325°±5° F higher than the room ambient air temperature. This shall be done by measuring the maximum and minimum temperatures in any three consecutive cut-off/cut-on actions of the electric resistance heaters, excluding the initial cut-off/cut-on action, by the thermostat after the temperature rise of 325°±5° F has been attained by the conventional electric oven. Remove the thermocouple after the thermostat has been set.

2.4.2 *Conventional gas oven.* Install five parallel-connected weighted thermocouples, one located at the center of the conventional gas oven's usable baking space and the other four equally spaced between the center and the corners of the conventional gas oven on the diagonals of a horizontal plane through the center of the conventional gas oven. Each weighted thermocouple shall be constructed of a copper disc that is 1-inch in diameter and ⅛-inch thick. The two thermocouple wires shall be located in two holes in the disc spaced ½-inch apart, with each hole being located ¼-inch from the center of the disc. Both thermocouple wires shall be silver-soldered to the copper disc. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in 2.9.3.2. If the oven thermostat does not cycle on or off, adjust or determine the conventional gas oven thermostat setting to provide an average internal temperature which is 325°±5° F higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325°±5° F higher than the room ambient air temperature. This shall be done by measuring the maximum and minimum temperatures in any three consecutive cut-off/cut-on actions of the gas burners, excluding the initial cut-off/cut-on action, by the thermostat after the temperature rise of 325°±5° F has been attained by the conventional gas oven. Remove the thermocouples after the thermostat has been set.

2.5 *Ambient room air temperature.* During the test, maintain an ambient room air temperature, T_R, of 77°±9° F as measured at least 5 feet and not more than 8 feet from the nearest surface of the unit under test and approximately 3 feet above the floor. The temperature shall be measured with a thermometer or temperature indicating system with an accuracy as indicated in 2.9.3.1.

2.6 *Normal nonoperating temperature.* All areas of the appliance to be tested shall attain the normal nonoperating temperature, as defined in 1.5, before any testing begins. The equipment for measuring the applicable normal nonoperating temperature shall be as described in 2.9.3.1, 2.9.3.2, 2.9.3.4, and 2.9.3.5, as applicable.

2.7 *Test blocks for conventional oven and cooking top.* The test blocks shall be made of aluminum alloy No. 6061, with a specific heat of 0.23 Btu's/lb-°F and with any temper that will give a coefficient of thermal conductivity of 0.37 to 0.41 cal/cm-°C-sec. Each block shall have a hole at its top. The hole shall be 0.08 inch in diameter and 0.80 inch deep. The manufacturer conducting the test may provide other means which will ensure that the thermocouple junction is installed at this same position and depth.

The bottom of each block shall be flat to within 0.002 inch TIR (total indicator reading). Determine the actual weight of each test block with a scale with an accuracy as indicated in 2.9.5.

2.7.1 *Conventional oven test block.* The test block for the conventional oven, W_1, shall be 6.25±0.05 inch in diameter, approximately 2.8 inches high and shall weigh 8.5±0.1 lbs. The block shall be finished with an anodic black coating which has a minimum thickness of 0.001 inch or with a finish having the equivalent absorptivity.

2.7.2 *Small test block for conventional cooking top.* The small test block, W_2, shall be 6.25±0.05 inches in diameter, approximately 2.8 inches high and shall weigh 8.5±0.1 lbs.

2.7.3 *Large test block for conventional cooking top.* The large test block for the conventional cooking top, W_3, shall be 9±0.05 inches in diameter, approximately 3.0 inches high and shall weigh 19±0.1 lbs.

2.7.4 *Thermocouple installation.* Install the thermocouple such that the thermocouple junction (where the thermocouple contacts the test block) is at the bottom of the hole provided in the test block and that the thermocouple junction makes good thermal contact with the aluminum block. If the test blocks are to be water cooled between tests the thermocouple hole should be sealed, or other steps taken, to insure that the thermocouple hole is completely dry at the start of the next test. Provide a temperature indicator system for measuring the test block temperature with an accuracy as indicated in 2.9.3.3.

2.7.5 *Initial test block temperature.* Maintain the initial temperature of the test blocks, T_I, within ±4° F of the ambient room air temperature as specified in 2.5. If the test block has been cooled (or heated) to bring it to room

temperature, allow the block to stabilize for at least 2 minutes after removal from the cooling (or heating) source, before measuring its initial temperature.

2.8 *Test beakers.*

2.8.1 *Test beaker description.* The five test beakers shall be made of a thin walled borosilicate glass. Two of the test beakers shall have an inside diameter of approximately 85 millimeters (mm). Three of the test beakers shall have an inside diameter of approximately 110 mm.

2.8.2 *Test beaker load.* Fill one of the 85 mm diameter test beakers with 275 milliliters (ml)±2.75 ml of distilled water containing 1 percent sodium chloride (NaCl) by weight. Fill one of the 85 mm diameter test beakers with 500 ml±5.0 ml of distilled water containing 1 percent NaCl by weight. Fill each of the 110 mm diameter test beakers with 1,000 ml±10.0 ml of distilled water containing 1 percent NaCl by weight.

2.8.2.1 *Test beaker water load temperature.* Maintain the initial temperature of the test beaker water load within the range of 68° F to 77° F. The temperature shall be measured with a thermometer or other equipment with an accuracy as indicated in 2.9.3.4.

2.9 *Instrumentation.* Perform all test measurements using the following instruments, as appropriate:

2.9.1 *Electrical Measurements.*

2.9.1.1 *Watt-hour meter.* The watt-hour meter for measuring the electrical energy consumption of conventional ovens and cooking tops shall have a resolution of at least 1 watt-hour and a maximum error no greater than 1.5 percent of the measured value for any demand greater than 100 watts. The watt-hour meter for measuring the energy consumption of microwave ovens shall have a resolution of at least 0.1 watt-hour and a maximum error no greater than 1.5 percent of the measured value.

2.9.1.2 *Wattmeter.* The wattmeter shall have a resolution of at least 0.2 watt and a maximum error no greater than 5 percent of the measured value over the range of 0 to 10 watts.

2.9.2 *Gas Measurements.*

2.9.2.1 *Positive displacement meters.* The gas meter to be used for measuring the gas consumed by the gas burners of the oven or cooking top shall have a resolution of at least 0.01 cubic foot and a maximum error no greater than 1 percent of the measured value for any demand greater than 2.2 cubic feet per hour. If a positive displacement gas meter is used for measuring the gas consumed by the pilot lights, it shall have a resolution of at least 0.01 cubic foot and have a maximum error no greater than 2 percent of the measured value.

2.9.2.2 *Flow meter.* If a gas flow meter is used for measuring the gas consumed by the pilot lights, it shall be calibrated to have a maximum error no greater than 1.5 percent of the measured value and a resolution of at least 1 percent of the measured value.

2.9.3 *Temperature measurement equipment.*

2.9.3.1 *Room temperature indicating system.* The room temperature indicating system shall have an error no greater than ±1° F over the range 65° to 90° F.

2.9.3.2 *Temperature indicator system for measuring conventional oven temperature.* The equipment for measuring the conventional oven temperature shall have an error no greater than ±4° F over the range of 65° to 500° F.

2.9.3.3 *Temperature indicator system for measuring test block temperature.* The system shall have an error no greater than 2° F when measuring specific temperatures over the range of 65° to 330° F. It shall also have an error no greater than 2° F when measuring any temperature difference up to 240° F within the above range.

2.9.3.4 *Microwave oven and test load temperatures.* The thermometer or other equipment used to measure the microwave oven temperature and its test load temperature shall have an error no greater than 1° F over the range of 65° to 140° F.

2.9.3.5 *Temperature indicator system for measuring surface temperatures.* The temperatures of an external surface of an appliance shall be measured by means of a thermocouple in firm contact with the surface. The temperature indicating system shall have an error no greater than ±1° F over the range 65° to 90° F.

2.9.4 *Standard continuous flow calorimeter.* The calorimeter shall have an operating range of 750 to 3,500 Btu's per cubic foot. The maximum error of the basic calorimeter shall be no greater than 0.2 percent of the gross heating value of the gas used in the test. The indicator readout shall have a maximum error no greater than 0.5 percent of the measured value within the above operating range and a resolution of 0.2 percent or less of the full scale reading of the indicator instrument.

2.9.5 *Scale.* The scale used for weighing the test blocks shall have a maximum error no greater than one ounce.

3. *Test methods and measurements.*

3.1 *Test methods.*

3.1.1 *Conventional oven.* Perform a test by establishing the testing conditions set forth in 2 of this appendix, and adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top, if so equipped.

Before beginning the test, the conventional oven shall be at its normal nonoperating temperature as defined in 1.5 and described in 2.6. Set the conventional oven test block W, approximately in the center of the usable baking space. If there is a selector switch for selecting the mode of operation of the oven, set for normal baking. If an oven permits baking by either forced convention using a fan, or without forced convection, the oven is to be tested in each of those two modes. If the oven thermostat does not cycle on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325° ±5° F higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325° ±5° of higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, the oven shall remain on for at least one complete thermostat "cut-off/cut-on" of the electrical resistance heaters or gas burners after the test block temperature has increased 234° F above its initial temperature.

3.1.1.1 *Self-cleaning operation of a conventional oven.* Perform a test by establishing the test conditions set forth in 2 of this appendix. Adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. The temperature of the conventional oven shall be its normal nonoperating temperature as defined in 1.5 and described in 2.6. Then set the conventional oven's self-cleaning process in accordance with the manufacturer's instructions. If the self-cleaning process is adjustable, use the average time recommended by the manufacturer for a moderately soiled oven.

3.1.1.2 *Continuously burning pilot lights of a conventional gas oven.* Perform a test by establishing the test conditions set forth in 2 of this appendix. Adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. If a positive displacement gas meter is used the test duration shall be sufficient to measure a gas consumption which is at least 200 times the resolution of the gas meter.

3.1.2 *Conventional cooking top.* Perform a test by establishing the test conditions set forth in 2 of this Appendix. Adjust any pilot lights of a conventional gas cooking top in accordance with the manufacturer's instructions and turn off the gas flow to the conventional oven(s), if so equipped. The temperature of the conventional cooking top shall be its normal nonoperating temperature as defined in 1.5 and described in 2.6. Set the test block in the center of the surface unit under test. The small test block, W_s, shall be used on electric surface units of 7 inches or less in diameter. The large test block, W_l, shall be used on electric surface units over 7 inches in diameter and on all gas surface units. Turn on the surface unit under test and set its energy input rate to the maximum setting (100 percent). When the test block reaches 144°F above its initial test block temperature, immediately reduce the energy input rate to 25±5 percent of the maximum energy input rate. After 15±0.1 minutes at the reduced energy setting, turn off the surface unit under test.

3.1.2.1 *Continuously burning pilot lights of a conventional gas cooking top.* Perform a test by establishing the test conditions set forth in 2 of this Appendix. Adjust any pilot lights of a conventional gas cooking top in accordance with the manufacturer's instructions and turn off the gas flow to the conventional oven(s). If a positive displacement gas meter is used the test duration shall be sufficient to measure a gas consumption which is at least 200 times the resolution of the gas meter.

3.1.3 *Microwave oven.* Perform the tests by establishing the testing conditions set forth in 2 of this Appendix. Four tests are to be conducted with the water test loads in the following sequence: 2,000 ml, 1,000 ml, 500 ml and 275 ml. For each test, place the appropriate test beaker(s) containing the

water load specified in 2.8.2 in approximately the center of the load carrying surface of the oven, and operate the microwave oven at its maximum microwave power setting until the temperature of the water load has been raised 45±9° F. Allow one minute for changing the test load beakers between each of the tests.

For the 2,000 ml test, set the two test beakers, each containing 1,000 ml of the specified water load, side by side, in the approximate center of the oven.

3.2 *Test measurements.*

3.2.1 *Conventional oven test energy consumption.* If the oven thermostat is a type which controls the oven temperature without cycling on and off, measure the energy consumed, E_o, when the temperature of the block reaches T_o (T_o is 234° F above the initial block temperature, T_I). If the oven thermostat operates by cycling on and off, make the following series of measurements: Measure the block temperature, T_A, and the energy consumed, E_A, at the end of the last "ON" period of the conventional oven before the block reaches T_o. Measure the block temperature, T_B, and the energy consumed, E_B, at the beginning of the next "ON" period. Measure the block temperature, T_C, and the energy consumed, E_C, at the end of that "ON" period. Measure the block temperature, T_D, and the energy consumed, E_D, at the beginning of the following "ON" period. Energy measurements for E_A, E_B, E_C and E_D should be expressed in watt-hours for conventional electric ovens or standard cubic feet of gas for conventional gas ovens. For a gas oven measure in watt-hours any electrical energy, E_{IO}, consumed by an ignition device or other electrical components required for the operation of a conventional gas oven while heating the test block to T_o.

3.2.1.1 *Energy consumption of self-cleaning operation.* Measure the self-cleaning conventional electric or gas oven energy consumption, E_S, specified as the number of watt-hours of electrical energy or standard cubic feet of gas, respectively, consumed during the self-cleaning test set forth in 3.1.1.1. For a gas oven also measure in watt-hours any electrical energy, E_{IS}, consumed by an ignition device or other electrical components required during the self-cleaning test.

3.2.1.2 *Gas consumption of continuously burning pilot lights.* Measure the gas consumption of the pilot lights, P_o, in standard cubic feet of gas and the test duration, L_o, in hours for the test set forth in 3.1.1.2. If a gas flow meter is used, measure the flow rate, P_R, in standard cubic feet per hour.

3.2.1.3 *Clock power.* If the conventional oven, conventional range, or microwave/conventional range includes an electric clock which is on continuously, and the power rating in watts of this feature is not know, measure the clock power, P_{CL}, in watts.

3.2.2 *Conventional surface unit test energy consumption.* For the surface unit under test, measure the energy consumption, E_{CT}, in standard cubic feet of gas or watt-hours of electricity, respectively, and the test block temperature, T_{CT}, at the end of the 15 minute (reduced input setting) test interval for the test specified in 3.1.2 and the total time, T_T, in hours, that the unit is under test. Measure any electrical energy, E_{IC}, consumed by an ignition device of a gas heating element in watt-hours.

3.2.2.1 *Gas consumption of continuously burning pilot lights.* If the conventional gas cooking top under test has one or more continuously burning pilot lights, measure the gas consumed during the test by the pilot lights, P_o, in standard cubic feet of gas, and the test duration, L_o, in hours as specified in 3.1.2.1. If a gas flow meter is used, measure the flow rate, P, in standard cubic feet per hour.

3.2.3 *Microwave oven test energy consumption.* Measure the initial, T_I, and final, T_F, temperatures, in degrees Fahrenheit (°F), of the water test load for the 2,000 ml, 1,000 ml, 500 ml and 275 ml tests. The final temperature, T_F, shall be measured after the test load has been stirred to insure uniform temperature distribution. Measure the elapsed time, t, in seconds, until the temperature rise of the water load is 45±9° F.

Measure for each test specified in 3.1.3 the electical input energy, E_M, in watt-hours consumed by the microwave oven during the elapsed time, t.

3.3 *Recorded values.*

3.3.1 Record the test room temperature, T_R, at the start and end of each test.

3.3.2 Record measured test block weights W_1, W_2, and W_3 in pounds.

3.3.3 Record the initial temperature, T_I, of the test block under test.

3.3.4 For a conventional oven with a thermostat which operates by cycling on and off, record the conventional oven test measurements T_A, E_A, T_B, E_B, T_C, E_C, T_D, and E_D. If the thermostat controls the oven temperature without cycling on and off, record E_O. For a gas oven which also uses electrical energy for the ignition or operation of the oven, also record E_{IO}.

3.3.5 Record the measured energy consumption, E_S, and for a gas oven, any electrical energy, E_{IS}, for the test of the self-cleaning operation of a conventional oven.

3.3.6 Record the gas flow rate, P_R; or the gas consumption, P_o, and the elapsed time, L_o, that any continuously burning pilot lights of a conventional oven are under test.

3.3.7 Record the clock power measurement or rating, P_{CL}, in watts.

3.3.8 For the surface unit under test, record the energy consumption, E_{CT}, the final test block temperature, T_{CT}, the total test time, T_T. For a gas cooking top which uses electrical energy for ignition of the burners, also record E_{IC}.

3.3.9 Record the gas flow rate, P; or the gas consumption, P_o, and the elapsed time, L_o, that any continuously burning pilot lights of a conventional cooking top are under test.

3.3.10 Record the heating value, H_n, as determined in 2.2.2.2 for the natural gas supply.

3.3.11 Record the heating value, H_p, as determined in 2.2.2.3 for the propane supply.

3.3.12 Record the electrical input energy, E_M, the elapsed time, t, and initial, T_I, and final, T_F, temperature of the water load for each microwave oven test.

4. *Calculation of derived results from test measurements.*

4.1 *Conventional oven.*

4.1.1 *Test energy consumption.* For a conventional oven with a thermostat which operates by cycling on and off calculate the test energy consumption, E_o, corresponding to T_o with the aid of the figure in 5 of this Appendix, expressed in watt-hours for electric ovens and in Btu's for gas ovens, and defined as:

$$E_O = E_{AB} + \left[\left(\frac{T_O - T_{AB}}{T_{CD} - T_{AB}}\right) \times (E_{CD} - E_{AB})\right]$$

for electric ovens,

and,

$$E_O = (E_{AB} \times H) + \left[\left(\frac{T_O - T_{AB}}{T_{CD} - T_{AB}}\right) \times \left(E_{CD} - E_{AB}\right) \times H\right]$$

for gas ovens

where:

H=either H_n or H_p, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3, expressed in Btu's per standard cubic foot.

T_O = 234°F plus the initial test block temperature

$$T_{AB} = \frac{T_A + T_B}{2}$$

$$T_{CD} = \frac{T_C + T_D}{2}$$

$$E_{AB} = \frac{E_A + E_B}{2}$$

$$E_{CD} = \frac{E_C + E_D}{2},$$

where:

T_A=block temperature at the end of the last "ON" period of the conventional oven before the test block reaches T_O.

E_A=volume of gas consumed in standard cubic feet at the end of the last "ON" period before the test block reaches T_O.

T_B=block temperature at the beginning of the "ON" period following the measurement of T_A.

E_B=volume of gas consumed in standard cubic feet of gas at the beginning of the "ON" period following the measurement T_A.

T_C=block temperature at the end of the "ON" period which starts with T_B.

E_C=volume of gas consumed in standard cubic feet of gas at the end of the "ON" period which starts with T_B.

T_D=block temperature at the beginning of the "ON" period which follows the measurement of T_C.

E_D=volume of gas consumed in standard cubic feet of gas at the beginning of the "ON" period which follows the measurement of T_C.

4.1.1.1 *Average test energy consumption.* If the conventional oven can be operated with or without forced convection, deter-

mine the average test energy consumption, E_O and E_{IO}, using the following equations:

$$E_O = \frac{(E_O)_1 + (E_O)_2}{2}$$

$$E_{IO} = \frac{(E_{IO})_1 + (E_{IO})_2}{2},$$

where:

$(E_o)_1$, $(E_o)_2$=Test energy consumption in each baking mode as measured in 3.2.1 or as calculated in 4.1.1.

$(E_{IO})_1$, $(E_{IO})_2$=electrical energy consumption of a gas oven in each baking mode as measured in 3.2.1.

4.1.2 *Conventional oven annual energy consumption.*

4.1.2.1. *Annual cooking energy consumption.*

4.1.2.1.1. *Annual primary energy consumption.* Calculate the annual primary energy consumption for cooking, E_{CO}, expressed in kilowatt-hours for electric ovens and in Btu's for gas ovens, and defined as:

$$E_{CO} = \frac{E_O \times H_E \times O_o}{W_1 \times C_p \times T} \text{ for electric ovens,}$$

where:

E_O=test energy consumption as calculated in 4.1.1 of 4.1.1.1.

H_E=3.412 Btu's/Wh, conversion factor of watt-hours to Btu's.

O_o=47.09 kWh's, annual useful cooking energy output of conventional electric oven.

W_1=measured weight of test block in pounds.

C_P=0.23 Btu/lb-°F, specific heat of test block.

or,

T=234°F, temperature rise of test block.

$$E_{CC} = \frac{E_O \times O_o}{W_1 \times C_p \times T} \text{ for gas ovens,}$$

where:

E_O=test energy consumption as measured in 3.2.1. or as calculated in 4.1.1 or 4.1.1.1.

O_o=160,700 Btu's, annual useful cooking energy output of conventional gas oven.

W_1C_P and T are the same as defined above.

4.1.2.1.2 *Annual secondary energy consumption for cooking of gas ovens.* Calculate the annual secondary energy consumption for cooking, E_{SO}, expressed in kilowatt-hours and defined as:

$$E_{SO} = \frac{E_{IO} \times H_E \times O_o}{W_1 \times C_p \times T},$$

where:

E_{IO}=electrical test energy according to 3.2.1 or as calculated in 4.1.1.1.

O_o=47.09 kWh's, annual useful cooking energy output.

H_E, W_1, C_P, and T are as defined in 4.1.2.1.1.

4.1.2.2 *Annual energy consumption of any continuously burning pilot lights.* Calculate the annual energy consumption of any continuously burning pilot lights, E_{PO}, expressed in Btu's and defined as:

$$E_{PO} = P_R \times H \times (A\text{-}B),$$

where:

$$P_R = \frac{P_O}{L_O}$$

=pilot flow rate in standard cubic feet per hour where P_O and L_O are defined below.

P_O=Standard cubic feet of gas consumed by any continuously burning pilot lights as determined in 3.2.1.2.

$H = H_s$ or H_P, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3 in Btu's per standard cubic foot.

L_O=elapsed test time in hours for any continuously burning pilot lights tested.

A=8,760, number of hours in a year.

B=300, number of hours any continuously burning pilot lights contribute to the heating of an oven for cooking food.

4.1.2.3 *Annual conventional oven self-cleaning energy.*

4.1.2.3.1 *Annual primary energy consumption.* Calculate the annual primary energy consumption for conventional oven self-cleaning operations, E_{SC}, expressed in kilowatt-hours for electric ovens and in Btu's for gas ovens, and defined as:

$$E_{SC} = E_S \times S_e \times C, \text{ for electric ovens,}$$

where:

E_S=energy consumption in watt-hours as measured in 3.2.1.1.

S_e=11, average number of times a self-cleaning operation of a conventional electric oven is used per year.

C=.001 kW/W conversion factor of watts to kilowatts.

or

$$E_{SC} = E_S \times H \times S_g, \text{ for gas ovens,}$$

where:

E_S=gas consumption in standard cubic feet per oven tested according to 3.2.1.1.

$H = H_s$ or H_P, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3 in Btu's per standard cubic foot.

S_g=7, average number of times a self-cleaning operation of a conventional gas oven is used per year.

4.1.2.3.2 *Annual secondary energy consumption for self-cleaning operation of gas ovens.* Calculate the annual secondary energy consumption for self-cleaning operations of a gas oven, E_{SS}, expressed in kilowatt-hours and defined as:

$$E_{SS} = E_{IS} \times S_g \times C,$$

where:

E_{IS}=electrical energy consumed during the self-cleaning operation of a conventional gas oven, as measured in 3.2.1.1.

S_g and C are the same as defined in 4.1.2.3.1.

4.1.2.4 *Annual clock energy consumption.* Calculate the annual energy consumption of any constantly operating electric clock, E_{CL}, expressed in kilowatt-hours and defined as:

$$E_{CL} = P_{CL} \times H_K,$$

where:

P_{CL}=power rating, in watts, of clock which is on continuously.

K_F=8.76, thousands of hours in a year.

4.1.2.5 *Total annual energy consumption of a single conventional oven.*

4.1.2.5.1 *Electric oven energy consumption.* Calculate the total annual energy consumption of a conventional electric oven, E_{AO}, expressed in kilowatt-hours and defined as:

$$E_{AO} = E_{CO} + E_{SC} + E_{CL},$$

where:

E_{CO}=annual cooking energy consumption as determined in 4.1.2.1.1.

E_{SC}=annual self-cleaning energy consumption as determined in 4.1.2.3.1.

E_{CL}=annual clock energy consumption as determined in 4.1.2.4.

4.1.2.5.2 *Conventional gas oven energy consumption.* Calculate the total annual gas energy consumption of a conventional gas oven, E_{AOG}, expressed in Btu's and defined as:

$$E_{AOG} = E_{CO} + E_{PO} + E_{SC},$$

where:

E_{CO}=annual primary cooking energy consumption as determined in 4.1.2.1.1.

E_{PO}=annual pilot energy consumption as determined in 4.1.2.2.

E_{SC}=annual primary self-cleaning energy consumption as determined in 4.1.2.3.1.

If the conventional gas oven uses electrical energy, calculate the total annual electrical energy consumption, E_{AOE}, expressed in kilowatt-hours, and defined as:

$$E_{AOE} = E_{SO} + E_{SS} + E_{CL},$$

where:

E_{SO}=annual secondary cooking energy consumption as determined in 4.1.2.1.2.

E_{SS}=annual secondary self-cleaning energy consumption as determined in 4.1.2.3.2.

E_{CL}=annual clock energy consumption as determined in 4.1.2.4.

The total annual energy consumption of a conventional gas oven, E_{AO}, is comprised of E_{AOG}, expressed in Btu's and E_{AOE}, expressed in kilowatt-hours, as computed above.

4.1.2.6. *Total annual energy consumption of multiple conventional ovens.* If the cooking appliance includes more than one conventional oven calculate the total annual energy consumption of the conventional ovens using the following equations:

4.1.2.6.1 *Conventional electric ovens energy consumption.* Calculate the total annual energy consumption, E_{TO}, in kilowatt-hours and defined as:

$$E_{TO} = E_{ACO} + E_{ASC} + E_{CL},$$

where:

$$E_{ACO} = \frac{1}{n} \sum_{i=1}^{n} (E_{CO})_i,$$

average annual primary energy consumption for cooking, where:
n=number of conventional ovens in the basic model.
E_{CO}=annual primary energy consumption for cooking as determined in 4.1.2.1.1.

$$E_{ASC} = \frac{1}{n} \sum_{i=1}^{n} (E_{SC})_i,$$

average annual self-cleaning energy consumption, where:
n=number of self-cleaning conventional ovens in the basic model.
E_{SC}=self-cleaning energy consumption as determined according to 4.1.2.3.1.
E_{CL}=clock energy consumption as determined according to 4.1.2.4.

4.1.2.6.2 *Conventional gas ovens energy consumption.* Calculate the total annual gas energy consumption, E_{TOG}, in Btu's and define as:

$$E_{TOG} = E_{ACO} + E_{ASC} + E_{TPO},$$

where:
E_{ACO}=average annual primary energy consumption in Btu's as defined in 4.1.2.6.1.
E_{ASC}=average annual self-cleaning energy consumption in Btu's as defined in 4.1.2.6.1.

$$E_{TPO} = \sum_{i=1}^{n} (E_{PO})_i,$$

total annual energy consumption of any pilot lights, where:
E_{PO}=annual energy consumption of any continuously burning pilot lights determined according to 4.1.2.2.
n=number of pilot lights in the basic model.

If the ovens also use electrical energy calculate the total annual electrical energy consumption, E_{TOE}, in kilowatt-hours and defined as:

$$E_{TOE} = E_{ASO} + E_{ASS} + E_{CL},$$

where:

$$E_{ASO} = \frac{1}{n} \sum_{i=1}^{n} (E_{SO})_i,$$

average annual secondary energy consumption for cooking, where:
n=number of conventional ovens in the basic model.
E_{SO}=annual secondary energy consumption for cooking as determined in 4.1.2.1.2.

$$E_{ASS} = \frac{1}{n} \sum_{i=1}^{n} (E_{SS})_i,$$

average annual secondary self-cleaning energy consumption, where:
n=number of self-cleaning ovens in the basic model.
E_{SS}=annual secondary self-cleaning energy consumption as determined in 4.1.2.3.2.
E_{CL}=annual clock energy consumption as determined in 4.1.2.4.

The total annual energy consumption of multiple gas ovens, E_{TO}, is comprised of E_{TOG} expressed in Btu's, and E_{TOE} expressed in kilowatt-hours, as computed above.

4.1.3 *Conventional oven cooking efficiency.*

4.1.3.1 *Single conventional oven.* Calculate the conventional oven cooking efficiency, Eff_{AO}, using the following equations:

For electric ovens:

$$Eff_{AO} = \frac{W_1 \times C_p \times T}{E_O \times H_E},$$

For gas ovens:

$$Eff_{AO} = \frac{W_1 \times C_p \times T}{E_O + (E_{IO} \times H_E)},$$

where:
W_1=measured weight of test block in pounds.
C_p=0.23 Btu/lb-° F, specific heat of test block.
T=234° F, temperature rise of test block.
E_O=test energy consumption as measured in 3.2.1 or calculated in 4.1.1 or 4.1.1.1.
H_E=3.412 Btu's/Wh, conversion factor for watt-hours to Btu's.
E_{IO}=electrical test energy consumption according to 3.2.1 or as calculated in 4.1.1.1.

4.1.3.2 *Multiple conventional ovens.* If the cooking appliance includes more than one conventional oven, calculate the cooking efficiency for all of the conventional ovens in the appliance, Eff_{TO}, using the following equation:

$$Eff_{TO} = \frac{n}{\sum_{i=1}^{n} \left(\frac{1}{Eff_{AO}}\right)_i},$$

where:
n=number of conventional ovens in the cooking appliance.
Eff_{AO}=cooking efficiency of each oven determined according to 4.1.3.1.

4.1.4 *Conventional oven energy factor.*

4.1.4.1 *Single conventional oven.* Calculate the energy factor, or the ratio of useful cooking energy output to the total energy input, R_O, using the following equations:

For electric ovens,

$$R_O = \frac{O_o}{E_{AO}},$$

where:
O_o=47.09 kWh's per year, annual useful cooking energy output.
E_{AO}=total annual energy consumption as determined in 4.1.2.5.1.

For gas ovens,

$$R_O = \frac{O_o}{E_{AOG} + (E_{AOE} \times H_e)},$$

where:
O_o=160,700 Btu's per year, annual useful cooking energy output.
E_{AOG}=total annual gas energy consumption as determined in 4.1.2.5.2.
E_{AOE}=total annual electrical energy consumption as determined in 4.1.2.5.2.
H_e=3,412 Btu's/kWh, conversion factor for kilowatt-hours to Btu's.

4.1.4.2 *Multiple conventional ovens.* If the cooking appliance includes more than one conventional oven, calculate the energy factor for all of the ovens, R_{TO}, using the following equations:

For electric ovens,

$$R_{TO} = \frac{O_o}{E_{TO}},$$

where:
O_o=47.09 kWh's per year, annual useful cooking energy output.
E_{TO}=total energy consumption as determined according to 4.1.2.6.

For gas ovens,

$$R_{TO} = \frac{O_o}{E_{TOG} + (E_{TOE} \times H_e)},$$

where:
O_o=160,700 Btu's per year, annual useful cooking energy output.
E_{TOG} and E_{TOE} are determined according to 4.1.2.6.2.
H_e=3,412 Btu's/kWh, conversion factor for kilowatt-hours to Btu's.

4.2 *Conventional cooking top*

4.2.1 *Conventional cooking top cooking efficiency*

4.2.1.1 *Electric surface unit cooking efficiency.* Calculate the cooking efficiency, Eff_{SU}, of the electric surface unit under test, and defined as:

$$Eff_{SU} = W \times C_P \times \left(\frac{T_{su}}{H_E \times E_{CT}}\right),$$

where:
W=measured weight of test block, W_1 or W_2, expressed in pounds.
C_P=0.23 Btu's/lb-° F, specific heat of test block.
T_{su}=temperature rise of the test block: final test block temperature, T_{CT}, as determined in 3.2.2, minus the initial test block temperature, T_I, expressed in ° F.
H_E=3.412 Btu's/Wh, conversion factor of watt-hours to Btu's.
E_{CT}=measured energy consumption, as determined according to 3.2.2, expressed in watt-hours.

4.2.1.2 *Gas surface unit cooking efficiency.* Calculate the cooking efficiency, Eff_{SU}, of the gas surface unit under test, and defined as:

$$Eff_{SU} = \frac{W_2 \times C_P \times T_{su}}{E},$$

where:
W_2=measured weight of test block according to 3.3.2, expressed in pounds.
C_p and T_{su} are the same as defined in 4.2.1.1.

$$E = \left[(E_{CT} - E_{CP}) \times H\right] + (E_{IC} \times H_E),$$

where:
E_{CT}=total gas consumption for the gas surface unit test as defined in 3.2.2.
E_{IC}=electrical energy consumed by an ignition device of a gas surface unit as defined in 3.2.2.
H_E=3.412 Btu's/Wh, conversion factor of watt-hours to Btu's.
H=either H_n or H_s, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3, expressed in Btu's per standard cubic foot of gas.
E_{CP}=P x T, (pilot consumption, in standard cubic feet, during unit test) where

$$P = \frac{P_c}{L_c},$$ (pilot flow in standard cubic feet per hour)

where:

P_c=any pilot lights gas consumption defined in 3.2.2.1.

L_t=elapsed time of the cooking top pilot lights test as defined in 3.1.2.1.

T_T=the elapsed test time as defined in 3.2.2.

4.2.1.3 *Conventional cooking top cooking efficiency.* Calculate the conventional cooking top cooking efficiency, Eff_{CT}, using the following equation:

$$Eff_{CT} = \frac{1}{n} \sum_{i=1}^{n} (Eff_{SU})i,$$

where:

n=number of surface units in the cooking top.

Eff_{SU}=the efficiency of each of the surface units, as determined according to 4.2.1.1 or 4.2.1.2.

4.2.2 *Conventional cooking top annual energy consumption.*

4.2.2.1 *Conventional electric cooking top energy consumption.* Calculate the annual energy consumption of an electric cooking top, E_{CA}, in kilowatt-hours per year and defined as:

$$E_{CA} = \frac{O_{CT}}{Eff_{CT}},$$

where:

O_{CT}=277.7 kWh per year, annual useful cooking energy output.

Eff_{CT}=conventional cooking top cooking efficiency as defined in 4.2.1.3.

4.2.2.2 *Conventional gas cooking top*

4.2.2.2.1 *Annual cooking energy consumption.* Calculate the annual energy consumption for cooking, E_{CC}, in Btu's per year for a gas cooking top and defined as:

$$E_{CC} = \frac{O_{CT}}{Eff_{CT}},$$

where:

O_{CT}=947,500 Btu's, annual useful cooking energy output.

Eff_{CT}=the gas cooking top efficiency as defined in 4.2.1.3.

4.2.2.2.2 *Annual energy consumption of any continuously burning gas pilots.* Calculate the annual energy consumption of any continuously burning gas pilot lights of the cooking top, E_{pc}, in Btu's per year and defined as:

$$E_{pc} = P \times A \times H,$$

where:

P=pilot light flow rate as defined in 4.2.1.2, or as measured in 3.2.2.1.

A=8,760 hours, the total number of hours in a year.

H=either H_n or H_m, the heating value of the gas used in the test as specified in 2.2.2.2. and 2.2.2.3, expressed in Btu's per standard cubic foot of gas.

4.2.2.2.3 *Total annual energy consumption of a conventional gas cooking top.* Calculate the total annual energy consumption of a conventional gas cooking top, E_{CA}, in Btu's per year and defined as:

$$E_{CA} = E_{CC} + E_{PC},$$

where:

E_{CC}=energy consumption for cooking as determined in 4.2.2.2.1.

E_{PC}=annual energy consumption of the pilot lights as determined in 4.2.2.2.2.

4.2.3 *Conventional cooking top energy factor.* Calculate the energy factor, or ratio of useful cooking energy output for cooking to the total energy input, R_{CT}, as follows:

For an electric cooking top the energy factor is the same as the cooking efficiency as determined according to 4.2.1.3.

For gas cooking tops,

$$R_{CT} = \frac{O_{CT}}{E_{CA}},$$

where:

O_{CT}=947,500 Btu's per year, annual useful cooking energy output of cooking top.

E_{CA}=total annual energy consumption of cooking top determined according to 4.2.2.2.3.

4.3 *Conventional range.*

4.3.1 *Conventional range annual energy consumption.* Calculate the conventional range annual energy consumption, E_R, in kWh's per year for electrical energy and Btu's per year for gas energy, and defined as:

$E_R = E_{AT} + E_{CA}$, where gas and electrical energy are added separately, and where

$E_{AT} = E_{AO}$ or E_{TO}, the conventional oven(s) annual energy consumption in kWh's per year and/or Btu's per year as determined in 4.1.2.5 or 4.1.2.6.

C_{CA}=the conventional cooking top annual energy consumption in kWh's per year or Btu's per year as defined in 4.2.2.

4.3.2 *Conventional range cooking efficiency.* Calculate the conventional range cooking efficiency, Eff_R, and defined as:

$$Eff_R = \frac{1}{\frac{0.145}{Eff_O} + \frac{0.855}{Eff_{CT}}},$$

where:

$Eff_O = Eff_{AO}$ or Eff_{TO}, the cooking efficiency of the oven(s) as determined according to 4.1.3.1 or 4.1.3.2.

Eff_{CT}=cooking top efficiency as determined in 4.2.1.3.

The constants 0.145 and 0.855 are fractions of the annual useful energy output represented by oven usage and cooking top usage respectively.

4.3.3 *Conventional range energy factor.* Calculate the energy factor, or the ratio of the useful cooking energy output to the total energy input on a yearly basis for the complete range, R_R, and defined as:

$$R_R = \frac{O_R}{E_R},$$

where:

O_R=1,108,000 Btu's, annual useful cooking energy output.

E_R=total annual energy consumption as determined in 4.3.1 and with all values for electrical energy converted from kilowatt-hours to Btu's by multiplying by 3,412 Btu's per kWh.

4.4 *Microwave oven.*

4.4.1 *Specific microwave oven cooking efficiency for each test load.* Calculate the specific microwave oven cooking efficiency, Eff_i, for each test load and defined as:

$$Eff_i = \frac{W \times F \times T_M}{E_M},$$

where:
W=size of the test load, in milliliters $T_M=T_f-T_i$,
where:
T_f=the final temperature expressed in °F of the test load as defined in 3.2.3.
T_i=the initial temperature expressed in °F of the test load as defined in 3.2.3.
F=.000646 Watt-hr/Ml-°F (used to convert milliliters of water times degrees Fahrenheit to watt-hours).
E_M=the energy consumption as defined in 3.2.3.

4.4.2 *Microwave oven cooking efficiency.* Calculate the microwave oven cooking efficiency, Eff_{MO}, and defined as:

$$Eff_{MO} = \frac{1}{n}\sum_{i=1}^{n} Eff_i$$

n=4, the number of test loads.
Eff_i=the specified microwave cooking efficiency of each test load as determined in 4.4.1.

4.4.3 *Microwave oven annual energy consumption.* Calculate the microwave oven annual energy consumption, E_{MO}, in kWh's per year, and defined as:

$$E_{MO} = \frac{O_M}{Eff_{MO}} + (P_{MC} \times H_k),$$

where:
O_M=34.2 kWh's per year, the microwave oven annual useful cooking energy output.
Eff_{MO}=the microwave oven cooking efficiency as defined in 4.4.2.
P_{MC}=the power rating of features (such as clocks), expressed in watts. The power rating is the power drawn from the electrical supply when the microwave oven is turned off.
H_k=8.76, the number of thousand hours in a year.

4.4.4 *Microwave oven energy factor.* Calculate the energy factor or the ratio of the useful cooking energy output to total energy input on a yearly basis, R_{MO}, and defined as:

$$R_{MO} = \frac{O_M}{E_{MO}},$$

where:
O_M=34.2 kWh, annual useful cooking energy output.
E_{MO}=annual total energy input as determined in 4.4.3.

4.5 *Microwave/conventional range.*

4.5.1 *Annual energy consumption.*

4.5.1.1 *Annual energy consumption of the conventional oven for cooking.*

4.5.1.1.1 *Annual primary energy consumption.* Calculate the annual primary energy consumption for cooking of a conventional oven in combination with a microwave oven, E_{COM}, expressed in Btu's for gas ovens and in kilowatt-hours for electric ovens, with the following equation:

$$E_{COM}=K\times E_{CO},$$

where:
K=0.82, estimated fraction of usage for a conventional oven due to microwave oven usage.
E_{CO}=energy consumption as calculated in 4.1.2.1.1.

4.5.1.1.2 *Annual secondary energy consumption for a gas oven.* Calculate the annual secondary energy consumption for cooking of a gas oven in combination with a microwave oven, E_{SOM}, expressed in kilowatt-hours, with the following equation:

$$E_{SOM}=K\times E_{SO},$$

where:
K=0.82, as defined in 4.5.1.1.1.
E_{SO}=energy consumption as calculated in 4.1.2.1.2.

4.5.1.2 *Annual energy consumption of the conventional cooking top.* Calculate the annual energy consumption of a cooking top in combination with a microwave oven, E_{CAM}, expressed in kilowatt-hours for an electric cooking top and in Btu's for a gas cooking top, with the following equations:
For electric cooking tops:

$$E_{CAM}=L\times E_{CA},$$

where:
L=0.85, estimated fraction of usage for a conventional cooking top due to mircowave oven usage.
E_{CA}=energy consumption as calcuated in 4.2.2.1.
For gas cooking tops:

$$E_{CAM}=(L\times E_{CC})+E_{PC},$$

where:
E_{CC}=annual energy consumption for cooking as determined in 4.2.2.2.1.
E_{PC}=annual energy consumption of surface pilots as determined in 4.2.2.2.2.
L=0.85, as defined above.

4.5.1.3 *Total annual energy consumption of microwave/conventional range.*

4.5.1.3.1 *Microwave/conventional electric range.* Calculate the total annual energy consumption of all-electric microwave/conventional range, E_{RM}, expressed in kilowatt-hours per year with the following equation:

$$E_{RM}=E_{COM}+E_{SC}+E_{CL}+E_{CAM}+E_{MO},$$

where:
E_{COM}=primary energy consumption for oven cooking as determined in 4.5.1.1.1.
E_{SC}=primary energy consumption for oven self-cleaning as determined in 4.1.2.3.1.
E_{CL}=conventional oven clock energy consumption as determined in 4.1.2.4.
E_{CAM}=cooking top energy consumption as determined in 4.5.1.2.
E_{MO}=microwave oven energy consumption as determined in 4.4.3.

4.5.1.3.2 *Microwave/conventional gas range.* For a microwave/conventional range with a conventional gas cooking top and gas oven calculate the total annual gas consumption, E_{RMG}, in Btu's and defined as:

$$E_{RMG}=E_{COM}+E_{SC}+E_{CAM}+E_{PO}+E_{PC},$$

where:
E_{COM}, E_{SC}, and E_{CAM} are the same as defined in 4.5.1.3.1.
E_{PO}=gas oven pilot energy consumption as determined in 4.1.2.2.
E_{PC}=gas cooking top pilot energy consumption as determined in 4.2.2.2.2.
Calculate the total annual electrical energy consumption, E_{RME}, in kilowatt-hours and defined as:

$$E_{RME}=E_{MO}+E_{SOM}+E_{SS}+E_{CL},$$

where:
E_{MO}=microwave oven energy consumption as determined in 4.4.3.
E_{SOM}=secondary energy consumption for oven cooking as determined in 4.5.1.1.2.
E_{SS}=secondary energy consumption for oven self-cleaning as determined in 4.1.2.3.2.
E_{CL}=conventional oven clock energy consumption as determined in 4.1.2.4.

The total annual energy consumption of a gas and electric microwave/conventional range, E_{RM}, is comprised of E_{RMG}, expressed in Btu's, and E_{RME}, expressed in kilowatt-hours, as computed above.

4.5.2. *Cooking efficiency of microwave/conventional range.* Calculate the cooking efficiency of a microwave/conventional range, Eff_{RM}, and defined as:

$$Eff_{RM} = \frac{1}{\frac{0.1250}{Eff_{AO}} + \frac{0.7643}{Eff_{CT}} + \frac{0.1107}{Eff_{MO}}},$$

where:
Eff_{AO}=cooking efficiency of conventional oven as determined in 4.1.3.1.
Eff_{CT}=cooking efficiency of the cooking top as determined in 4.2.1.3.
Eff_{MO}=microwave oven cooking efficiency as determined in 4.4.2.

The constants 0.1250, 0.7643 and 0.1107 are the fractions of total annual useful energy output represented by conventional oven usage, cooking top usage, and microwave oven usage respectively.

4.5.3. *Energy factor of microwave/conventional range.* Calculate the energy factor of a microwave/conventional range, R_{RM}, and defined as:
For all-electric ranges,

$$R_{RM} = \frac{O_{RM}}{E_{RM}},$$

where:
O_{RM}=308.9 kWh, annual useful cooking energy output.
E_{RM}=total annual energy consumption as determined in 4.5.1.3.1.

For ranges which use both gas and electrical energy,

$$R_{RM} = \frac{O_{RM}}{(E_{RME} \times H_e) + E_{RMG}},$$

where:

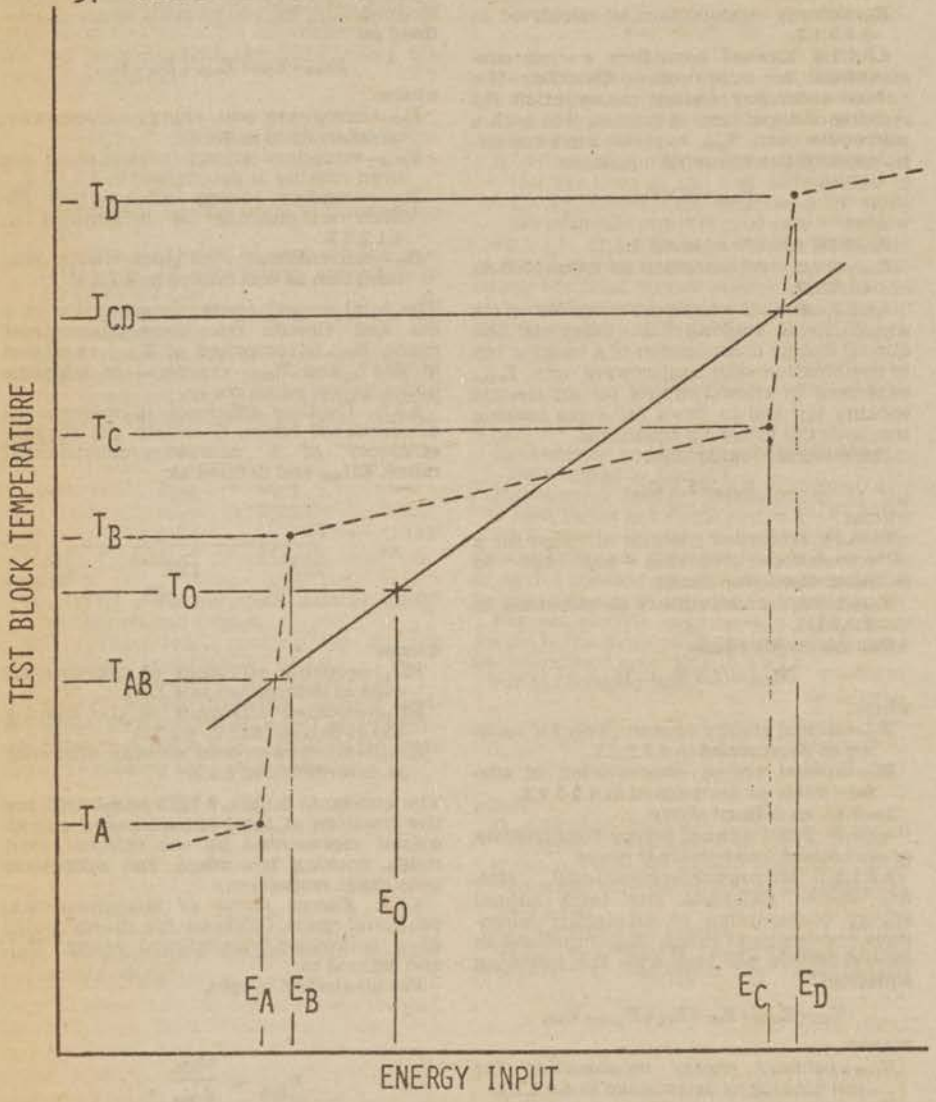
O_{Rm}=1,054,000 Btu, annual useful cooking energy output.

E_{RME}=total annual electrical energy consumption as determined in 4.5.1.3.2.

E_{RMG}=total annual gas energy consumption as determined in 4.5.1.3.2.

H_e=3412 Btu's/kWh, conversion factor for kilowatt-hours to Btu's.

5. ILLUSTRATION OF CONVENTIONAL OVEN TEST DATA



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[3128-01]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Unvented Home Heating Equipment

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for unvented home heating equipment. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act. The effect of this action is to establish standard methods of testing when testing is required by the Act or by regulations implementing other parts of the program.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

A. BACKGROUND

On October 1, 1977, pursuant to the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91) the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) under the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), with regard to the energy conservation program for consumer products. DOE hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for unvented home heating equipment pursuant to section 323 (43 U.S.C. 6293) of the Act. These test procedures were proposed by notice issued May 11, 1977 (42 FR 23860) for unvented home heating equipment. Public hearings on the proposed test procedures were held on July 6, 1977.

By notice issued May 24, 1977 (42 FR 27896), DOE established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in subpart A. Final test procedures for room air conditioners, dishwashers, electric refrigerators and electric refrigerator-freezers, freezers, television sets, clothes dryers, waters heaters, clothes washers, dehumidifers, humidifiers, and central air conditioners have been prescribed in subpart B. Test procedures for ranges and ovens, furnaces, and vented home heating equipment have been pro-

posed for inclusion in subpart B. DOE has also established a subpart C for appliance energy efficiency improvement targets. An outline of the provisions of subparts A and B of part 430 which have so far been established, including provisions in this rulemaking, is as follows:

SUBPART A—GENERAL PROVISIONS SECTION

Sec.
430.1 Purpose and scope.
430.2 Definitions.

SUBPART B—TEST PROCEDURES

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
(g) Unvented home heating equipment.
(h) Television sets.

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(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.

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430.22 Units to be tested (reserved).
430.24 Representations regarding measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
(g) Unvented home heating equipment.
(h) Television sets.

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(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.

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APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-freezers

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Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers
Appendix E—Uniform Test Method for Measuring the Energy Consumption of Water Heaters
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners
Appendix G—Uniform Test Method for Measuring the Energy Consumption of Unvented Home Heating Equipment
Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets

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Appendix J—Uniform Test Method for Measuring the Energy Consumption of Clothes Washers
Appendix K1—Uniform Test Method for Measuring the Energy Consumption of Central System Humidifiers
Appendix K2—Uniform Test Method for Measuring the Energy Consumption of Room Humidifiers
Appendix L—Uniform Test Method for Measuring the Energy Consumption of Dehumidifiers
Appendix M—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners

B. DISCUSSION OF COMMENTS

Comments were received from industry, trade associations and members of the public. The major issues raised by the comments are discussed below.

1. ANNUAL OPERATING COST CALCULATIONS FOR PRIMARY HEATERS

Comments were received stating that primary heaters are typically not sized to meet exactly the design heat loss of a structure and that annual operating costs calculated on such a basis would be misleading. The proposed test procedures used an assumption that the maximum power input of a primary heater matched the design heat loss of the structure in which it was to be installed. Information was presented by commenters that showed the typical sizing of primary heaters to be 10 to 20 percent larger than the design heat loss of the structure. The National Bureau of Standards (NBS) has recommended to DOE that a change be made to the unvented home heating equipment test procedures which incorporates a 20 percent oversizing factor as being representative of residential applications of primary heaters. This recommendation has been accepted by DOE and a change has been made in today's final rule whereby the equation for the average annual energy consumption contained in section 3.1 has been modified. This modification replaces the term, "P_E", the maximum power input of primary heaters, with the term, "design heating requirement". The design heating requirement is equal to "P_E" divided by 1.2, the oversizing factor.

Several other commenters pointed out that if heaters are oversized more than the typical 20 percent, the annual operating cost would not be any higher than a heater that is oversized by 20 percent. This comment relates to the fact that the value of the design heating requirement is derived from the heater size in the test procedures. DOE agrees that oversized (larger than 20 percent) heaters will not consume more energy than properly sized heaters. However, in order to determine an estimated annual operating cost based on a representative average-use cycle, it was necessary to assume a typical fixed oversizing factor.

A comment was received that suggested using a 68° F indoor temperature instead of 70° F in the annual energy consumption calculations. DOE has determined that a 70° F indoor temperature is representative of typical thermostat settings used today. If data become available that show different consumer usage patterns, the energy consumption calculations can be modified to reflect those patterns.

Another commenter suggested that consumers might be influenced to buy smaller heaters that may not meet their particular heating requirements. This comment apparently was based upon the assumption that the consumer would use information derived from the test procedures without information on the heat output needed for the particular space the consumer wished to heat. While it is imperative that a consumer have basic information about his heating requirements prior to making any decisions concerning the purchase of a heater, DOE believes this information is more appropriately found elsewhere then by operation of the test procedures themselves. It is expected, for example, that labels for heating equipment under the Federal Trade Commission (FTC) labeling program can deal adquately with this item of needed additional information.

2. ANNUAL OPERATING COST CALCULATIONS FOR SUPPLEMENTARY HEATERS

Many comments were submitted criticizing the use of 133 hours per year as a representative average use cycle for supplementary heaters. Other commenters suggested that both primary and supplementary heaters be labeled on the basis of cost per hour of continuous use. Several commenters stated that primary and supplementary heaters should have annual operating costs based on the same number of hours of use per year.

A review of background information revealed that data was unavailable to support the 133 hours per year of use for supplementary heaters. DOE examined the possibility of comparing primary and supplementary heaters based on the same number of hours of use per year but has determined that treating a supplementary heater as a primary source of heat is not consistent with the typical usage patterns of supplementary heaters.

DOE has determined that there is not sufficient data available at this time on which to base the establishment of a representative average-use cycle for supplementary heaters. Therefore, DOE has determined to

delay that portion of the test procedures dealing with establishing estimated annual operating costs for supplementary heaters. DOE will propose test procedures for determining estimated annual operating costs of supplementary heaters as soon as practicable, unless it determines that the test procedures cannot be developed which meet the requirements of section 323(b) of the Act and publishes such determination in the FEDERAL REGISTER together with the reasons therefor.

The test procedures promulgated today, do, however, provide for the determination of an estimated hourly operating cost for supplementary heaters. This is based on cost per hour of continuous use. DOE has determined that the estimated hourly operating cost is a measure of energy consumption that is likely to assist consumers in making purchasing decisions.

Several commenters were concerned that consumers could be misinformed if primary and supplementary heaters had different labeled operating costs based on different usage patterns. DOE agrees this possibility could occur but also recognizes that the differences in usage patterns for these two products do in fact exist. Through DOE consumer education programs and FTC labeling program information is expected to be made available to the consumer so that he can make an informed decision when purchasing a heating device.

3. AVERAGE ANNUAL ENERGY CONSUMPTION EQUATION

Commenters suggested that a common method of calculating annual energy consumption should be adopted for all types of heating systems, i.e., unvented home heating equipment, vented home heating equipment, and furnaces and boilers. The final rule prescribed today contains modifications to the annual energy consumption calculation in section 3.1. The equation in section 3.1 has been changed to be consistent with the annual energy consumption equation in the final rule for furnaces and boilers and for vented heaters. The changes made to the equation in section 3.1 include: replacing the maximum power input term, "P_E", with the term "design heating requirement", which is equal to "P_E" divided by 1.2 (oversizing factor); replacing the expression—"D" (4,000 degree days) times "A" (24 hours per day) divided by "Δt" (60° F design temperature difference) with the value 2080 (the national average heating load hours); and using the constant adjustment factor "C" (0.77) in place of "C_D" (the ASHRAE correction factor). In addition, the degree day map of the United States contained in the proposed test procedures has been changed to a heating load hour map.

Several commenters criticized the value of the correction factor "C_D" used in the proposed average annual energy consumption equation. Another commenter stated that use of a constant "C_D" factor to determine estimated annual operating costs for different geographic regions was not correct.

NBS has reviewed the development of the "C_D" factor that was published in Table 2 of Chapter 43 in the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Systems Handbook—1976. The available background information supports the use of a correction factor to adjust energy consumption calculations to measured field values. However, very little evidence was found to substantiate the use of a "C_D" factor that varied by geographic region. As a result of this review, NBS has recommended to DOE that a correction factor of 0.77 be used in the energy consumption equations for all types of heating systems and all fuel types. The value 0.77 was selected from the 1973 ASHRAE Systems Handbook as being representative of typical heating system installations. The selection of a constant correction factor is based on the best available information and will be used in the final test procedures until such time as further data can be developed to determine an energy consumption equation, without an adjustment factor, that yields agreement with energy consumption measurements taken in the field.

Another commenter stated that the degree day method is only valid in geographic regions with the range of 3,000 to 7,000 degree days per heating season. NBS has recommended that the energy consumption calculations prescribed in this rule be used for all geographic regions in the United States. DOE has accepted this recommendation and therefore no limitation has been made on the useful range of the degree day method.

4. UNITS TO BE TESTED

Several commenters criticized the sampling provision contained in proposed § 430.23. The commenters stated that the 5 percent tolerance on the mean of the sample was too restrictive and would lead to the testing of a large number of units in order to satisfy the sampling requirements. Information was supplied by the commenters that showed typical industry tolerances on heater output are +5 to −10% of the nameplate rating. DOE has evaluated these inputs and has determined that a change in the sampling provision is warranted. The sampling provision contained in the final rule prescribed today allows a ±7.5% tolerance on the mean of the sample.

Test procedures prescribed under section 323 of the Act are intended ultimately to be used throughout the program, such as for labeling under section 324, for monitoring the progress of manufacturers toward meeting the energy efficiency improvement targets under section 325, and for enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions as to how a test procedure should be applied (e.g., sampling of production units), may differ. DOE, NBS, and FTC are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) in writing (including a representation on a label), or
>
> (2) in any broadcast advertisement, respecting the energy consumption of such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate some of the difficulties associated with a general sampling provision, § 430.23, which is concerned with the number of units to be tested, has been reserved in the final test procedures. Also, sampling requirements which apply only for advertising unvented home heating equipment have been reorganized into § 430.24(g) of the final test procedures. Section 430.24(g) has been revised slightly from the proposed § 430.23(g). Most notably, the units tested are now required only to be representative of production units or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act. Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon § 430.22(g). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model where representations under § 430.24(g) are concerned.

5. HEATER DESIGN, LOCATION AND METHOD OF CONTROL

One commenter stated that heater design, location, and method of control will have substantial impact on energy consumption. DOE agrees that these design characteristics may influence energy consumption, but because of insufficient data with which to evaluate these effects DOE has determined that changes to the test procedures are not technically feasible at this time. Therefore, no changes have been made to the final test procedures in this regard.

6. UNVENTED GAS HEATERS

The test procedures proposed for unvented home heating equipment included provisions for unvented gas home heating equipment. Several comments were submitted suggesting that unvented heaters be eliminated from the consumer product efficiency and labeling program because of the pending ban on the sale of unvented gas heaters by the Consumer Product Safety Commission (CPSC). The CPSC proposed a ban on the sale of unvented gas heaters on February 14, 1978 (43 FR 6235) and conducted public hearings on March 6, 1978. A final determination is expected by CPSC in July, 1978. Therefore, DOE has delayed the issuance of the portions of the test procedures that deal exclusively with unvented gas heaters pending the CPSC decision.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for unvented home heating equipment prescribed today are included in Subpart B and are substantially the same as those proposed, with the exception of the changes discussed above.

2. GENERAL PROVISIONS

Also prescribed today are definitions of "Baseboard electric heater," "Basic model," with respect to unvented home heating equipment, "Ceiling electric heater," "Floor electric heater," "Home heating equipment, not including furnaces," "Portable electric heater," "Unvented home heating equipment," and "Wall electric heater." These definitions for unvented home heating equipment were previously proposed in subpart A (42 FR 23860, May 11, 1977). The definitions of the terms "primary heater" and "supplementary heater" have been added. Comments which were received regarding these definitions and the issues which they raised have been discussed earlier in this notice.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. Instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24(g) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for unvented home heating equipment supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of unvented home heating equipment, or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of unvented home heating equipment, must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, part 430 of chapter II of title 10, Code of Federal Regulations, is amended as set forth below, effective June 15, 1978.

Issued in Washington, D.C., May 2, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

1. Section 430.2 is amended by adding a subparagraph (7)(i) as part of the definition of "Basic model," and by adding in appropriate alphabetical order the definitions of "baseboard electric heater," "ceiling electric heater," "electric heater," "floor electric heater," "home heating equipment, not including furnaces," "portable electric heater," "primary heater," "supplementary heater," "unvented home heating equipment," and "wall electric heater," to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

* * * * *

(7)(i) with respect to unvented home heating equipment, having essentially identical functional physical and electrical characteristics.

* * * * *

"Baseboard electric heater" means an electric heater which is intended to be recessed in or surface mounted on walls at floor level, which is characterized by long, low physical dimensions, and which transfers heat by natural convection and/or radiation.

"Ceiling electric heater" means an electric heater which is intended to be recessed in, surface mounted on, or hung from a ceiling, and which transfers heat by radiation and/or convection (either natural or forced).

"Electric heater" means an electric appliance in which heat is generated from electrical energy and dissipated by convection and radiation and includes baseboard electric heaters, ceiling electric heaters, floor electric heaters, portable electric heaters, and wall electric heaters.

"Floor electric heater" means an electric heater which is intended to be recessed in a floor, and which transfers by radiation and/or convection (either natural or forced).

"Home heating equipment, not including furnaces" means vented home heating equipment and unvented home heating equipment.

"Portable electric heater," means an electric heater which is intended to stand unsupported, and can be moved from place to place within a structure. It is connected to electric supply by means of a cord and plug, and transfers heat by radiation and/or convention (either natural or forced).

"Primary heater" means a heating device that is the principal source of heat for a structure and includes baseboard electric heaters, ceiling electric heaters, and wall electric heaters.

"Supplementary heater" means a heating device that provides heat to a space in addition to that which is supplied by a primary heater. Supplementary heaters include portable electric heaters.

"Unvented home heating equipment" means a class of home heating equipment not including furnaces, used for the purpose of furnishing heat to a space proximate to such heater directly from the heater and without duct connections and includes electric heaters and unvented gas heaters.

* * * * *

"Wall electric heater" means an electric heater (excluding baseboard electric heaters) which is intended to be recessed in or surface mounted on walls, which transfers heat by radiation and/or convection (either natural or forced) and which includes forced convectors, natural convectors, radiant heaters, high wall or valance heaters.

* * * * *

2. Section 430.22 is amended by adding a paragraph (g), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(g) Unvented Home Heating Equipment.

(1) The estimated annual operating cost for primary heaters, shall be the product of (i) the average annual electric energy consumption in kilowatt-hours per year, determined according to 3.1 of appendix G of this subpart and (ii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated hourly operating cost for supplementary heaters, shall be the product of (i) the maximum power input in kilowatts, determined according to 2.1 of appendix G of this subpart, (ii) 1 hour of continuous use, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest 0.01 dollar per hour.

(3) The estimated hourly operating cost for unvented home heating equipment shall be the product of (i) the maximum power input in kilowatts for electric heaters, determined according to 2.1 of appendix G of this subpart, (ii) 1 hour of continuous use, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest 0.01 dollar per hour.

(4) The estimated regional annual operating cost for primary heaters, shall be the product of (i) the regional annual electric energy consumption in kilowatt-hours per year for primary heaters determined according to 3.2 of appendix G of this subpart and (ii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(5) Other useful measures of energy consumption for unvented home heating equipment shall be those measures of energy consumption for unvented home heating equipment which the Secretary of Energy determines are likely to assist consumers in making purchasing decisions and which are derived from the application of appendix G of this subpart.

* * * * *

3. Section 430.24 is amended by adding paragraph (g) to read as follows:

430.24 Representations regarding measures of energy consumption.

* * * * *

(g) *Unvented home heating equipment.* (1) Except as provided in paragraph (g)(3) of this section, no manufacturer, distributor, retailer, or private labeler of unvented home heating equipment may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(g) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±7.5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (g)(1) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to unvented home heating equipment is prescribed under section 324 of the Act, § 430.24(g) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption of the label.

* * * * *

4. Subpart B of Part 430 is amended to add an Appendix G, to read as follows:

APPENDIX G—UNIFORM METHOD FOR MEASURING THE ENERGY CONSUMPTION OF UNVENTED HOME HEATING EQUIPMENT

1. *Testing Conditions.*

1.1 *Installation.*

1.1.1 *Electric heater.* Install heater according to manufacturer's instructions. Heaters shall be connected to an electrical supply circuit of a nameplate voltage with a wattmeter installed in the circuit. The wattmeter shall have a maximum error not greater than 1 percent.

1.2 *Temperature regulating controls.* All temperature regulating controls shall be shorted out of the circuit or adjusted so that they will not operate during the test period.

1.3 *Fan controls.* All fan controls shall be set at the highest fan speed setting.

1.4 *Ambient temperature.* Maintain the room ambient air temperature (T_r) between 68° and 72° F.

1.5 *Energy supply.*

1.5.1 *Electrical supply.* Supply electricity to the heater within 1 percent of the nameplate voltage.

1.6 *Energy flow instrumentation.* Install one or more wattmeters which measure the quantity of electrical energy supplied to the heater, with error no greater than 1 percent.

2. *Test procedures and measurements.*

2.1 *Electric power measurement.* Establish the test conditions set forth in 1 of this appendix. Allow an electric heater to warm up for at least 5 minutes before recording the maximum electric power measurement from the wattmeter.

2.2 *Recorded values.*

2.2.1 Record the test room temperature, T_r, for each test in degrees Fahrenheit.

2.2.2 *Electrical power values.*

2.2.2.1 Primary heaters, the maximum electric power input (P_E).

2.2.2.2 Supplementary heaters, the maximum electric power input (P_{ES}).

3. *Calculation of Derived Results from Test Measurements.*

3.1 Average Annual Electric Energy Consumption for Primary Heaters.

Calculate the average annual electric energy consumption for primary heaters, E_E, expressed in kilowatt-hours per year, and defined as:

$$E_E = \frac{(\text{design heating requirement})(2080)(C)}{M_E}$$

where:

2080=national average annual heating load hours.

M_E=1.0, rated full load efficiency for electric heaters.

C=0.77, adjustment factor design heating requirement=P_E/1.2.

where:

P_E=the maximum power input of primary heater, in kilowatts, as measured in 2 of this Appendix.

1.2=oversizing factor corresponding to heater being typically 20% larger than the design hearing requirement.

3.2 Average Annual Electric Energy Consumption for Primary Heaters by Geographic Region of the United States. Calculate the average annual electric energy consumption by geographic region of the United States, $E_{E,R}$, expressed in kilowatt-hours per year, and defined as:

$$E_{E,R} = \frac{(HLH)\ (\text{design heating requirement})(C)}{M_E}$$

where:

HLH = heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 1.

design heating requirement as defined in 3.1; C as defined in 3.1; and M_E as defined in 3.1.

[FR Doc. 78-12461 Filed 5-9-78; 8:45 am]

FIGURE 1

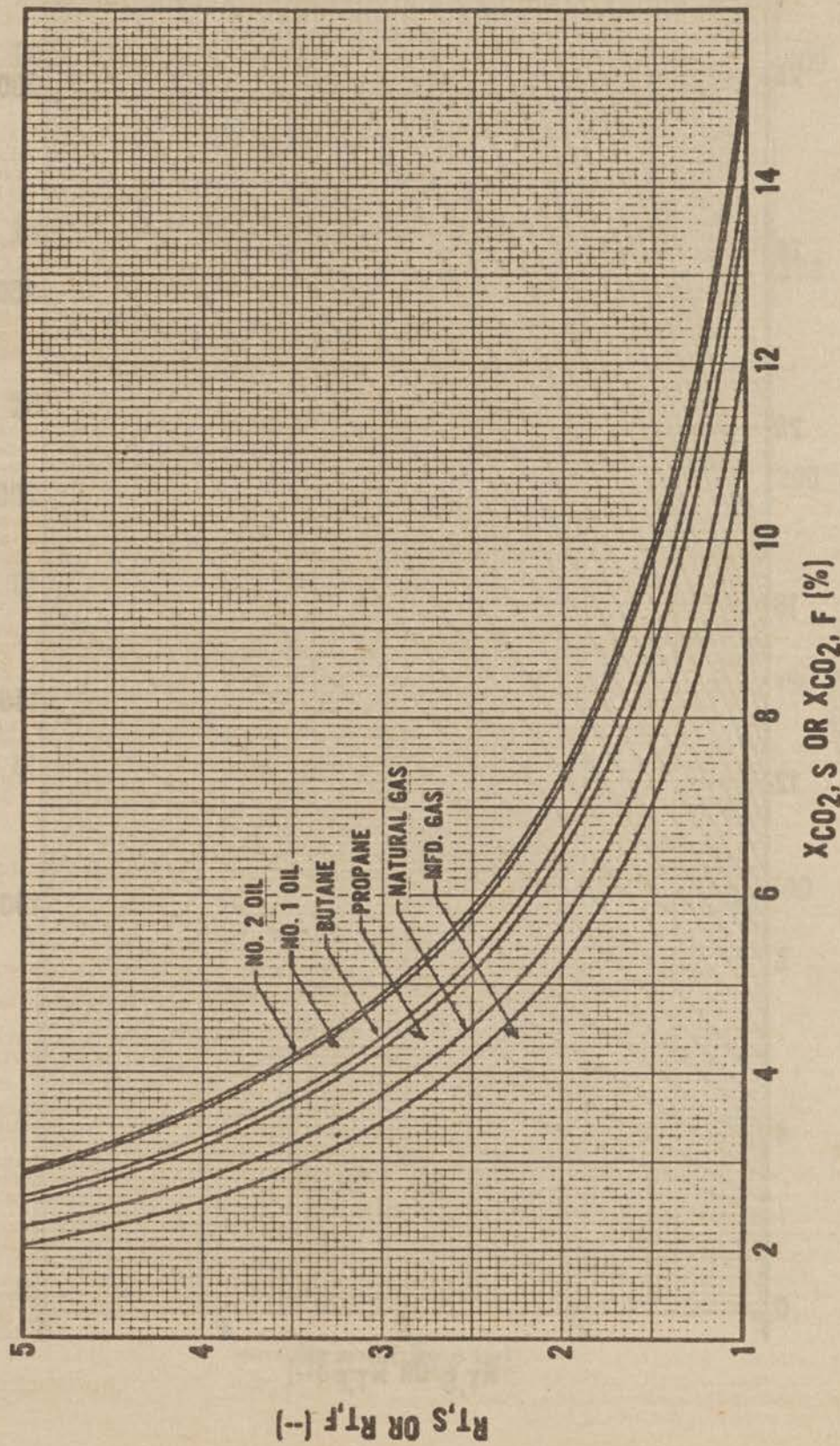


FIGURE 2a

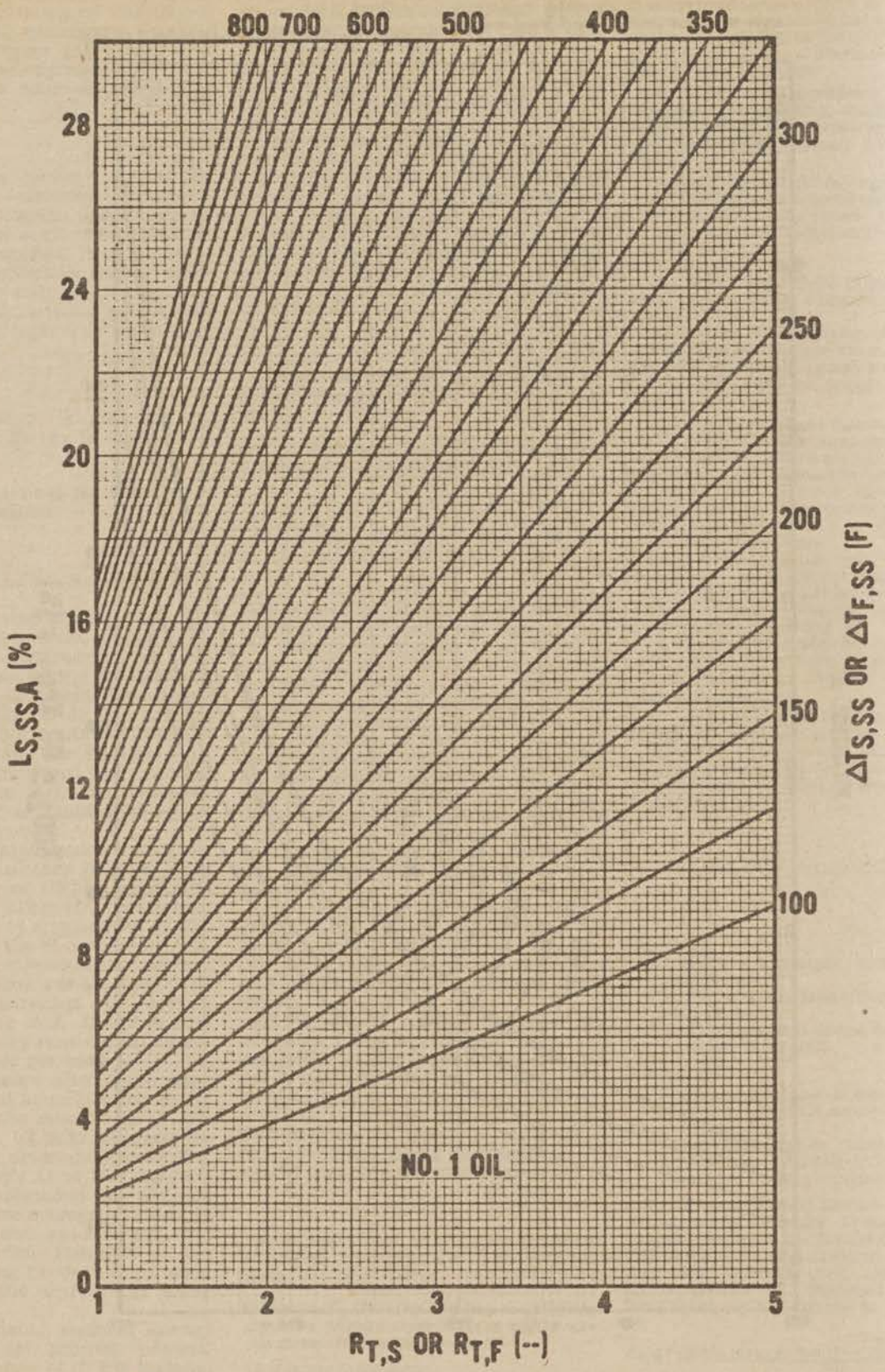

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
NO. 1 OIL
1
2
3
4
5
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

FIGURE 2b

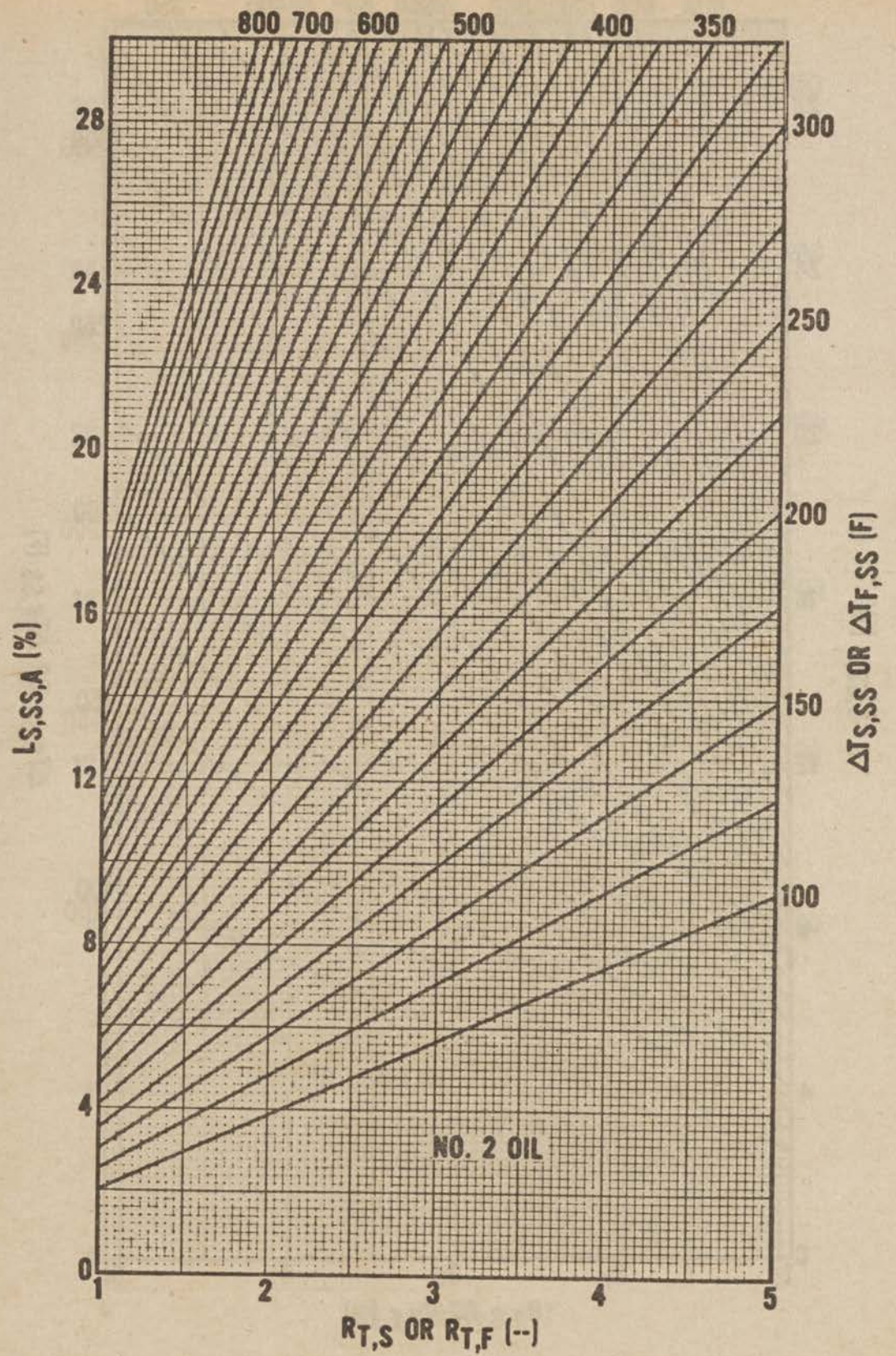

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
NO. 2 OIL
1
2
3
4
5
$L_{S,SS,A}$ (%)
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

FIGURE 2c

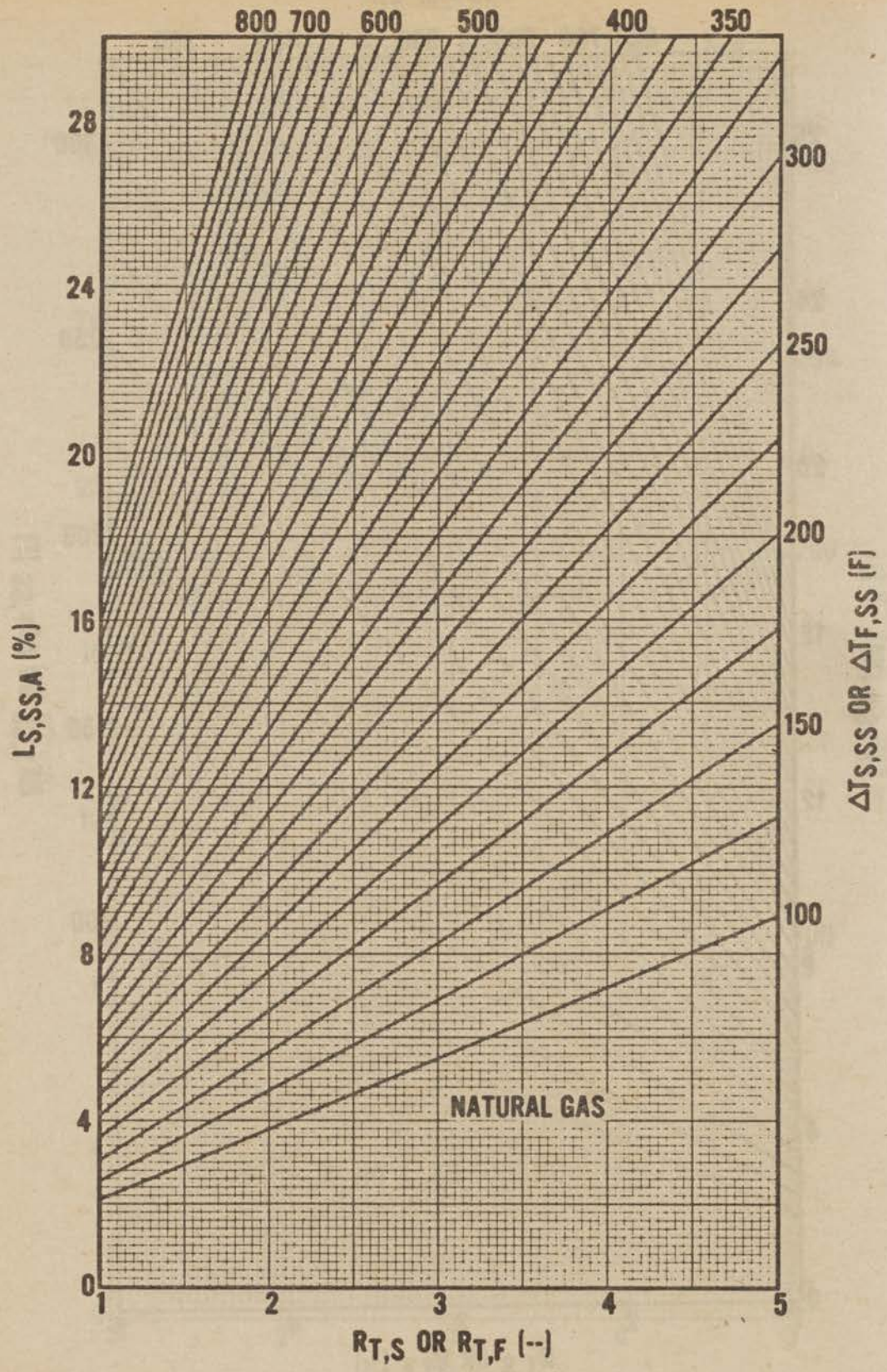
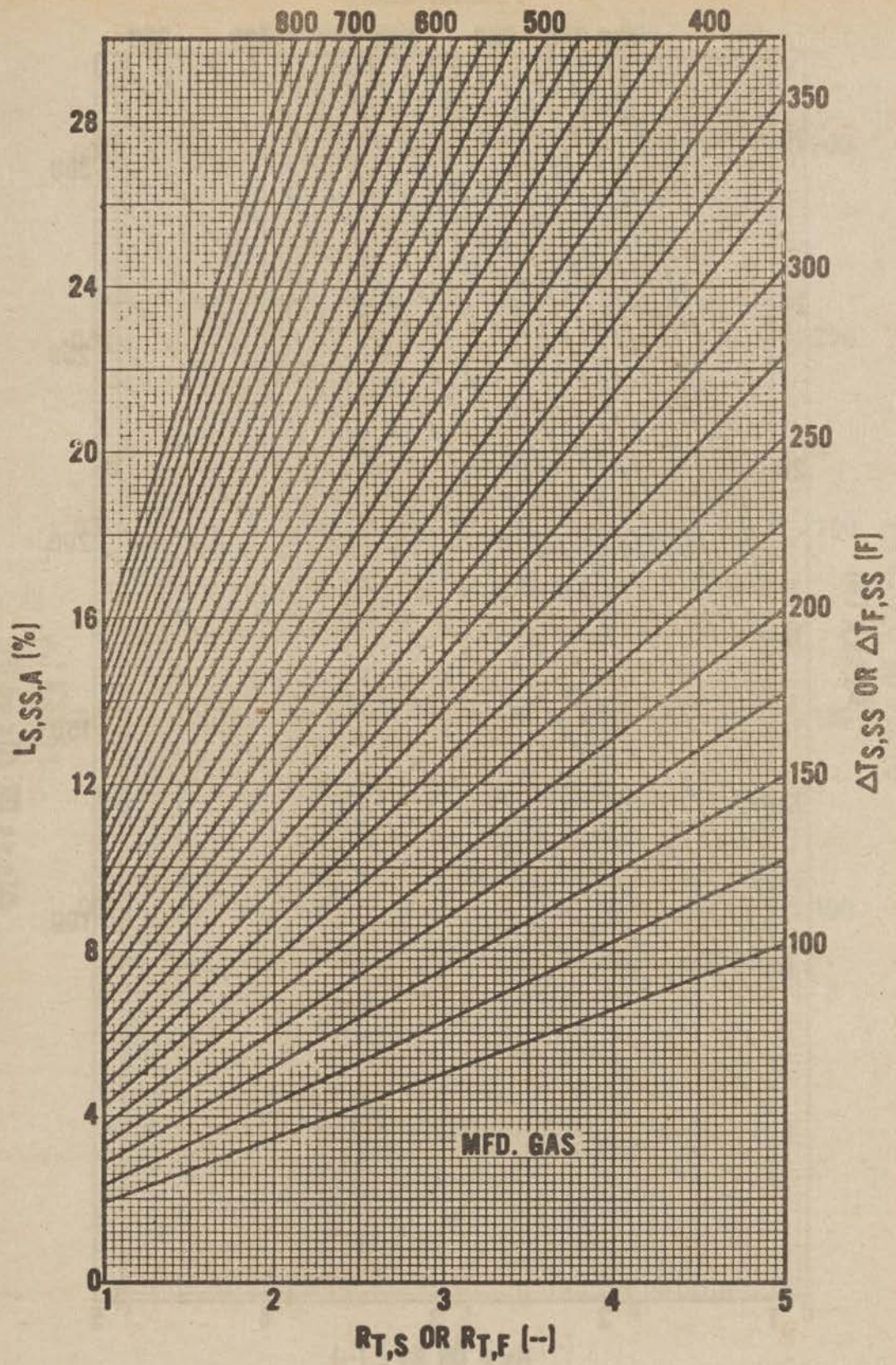

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
NATURAL GAS
1
2
3
4
5
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ [F]
$R_{T,S}$ OR $R_{T,F}$ [--]

FIGURE 2d


800
700
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500
400
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24
20
16
12
8
4
0
350
300
250
200
150
100
MFD. GAS
1
2
3
4
5
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ [F]
$R_{T,S}$ OR $R_{T,F}$ [--]

FIGURE 2e

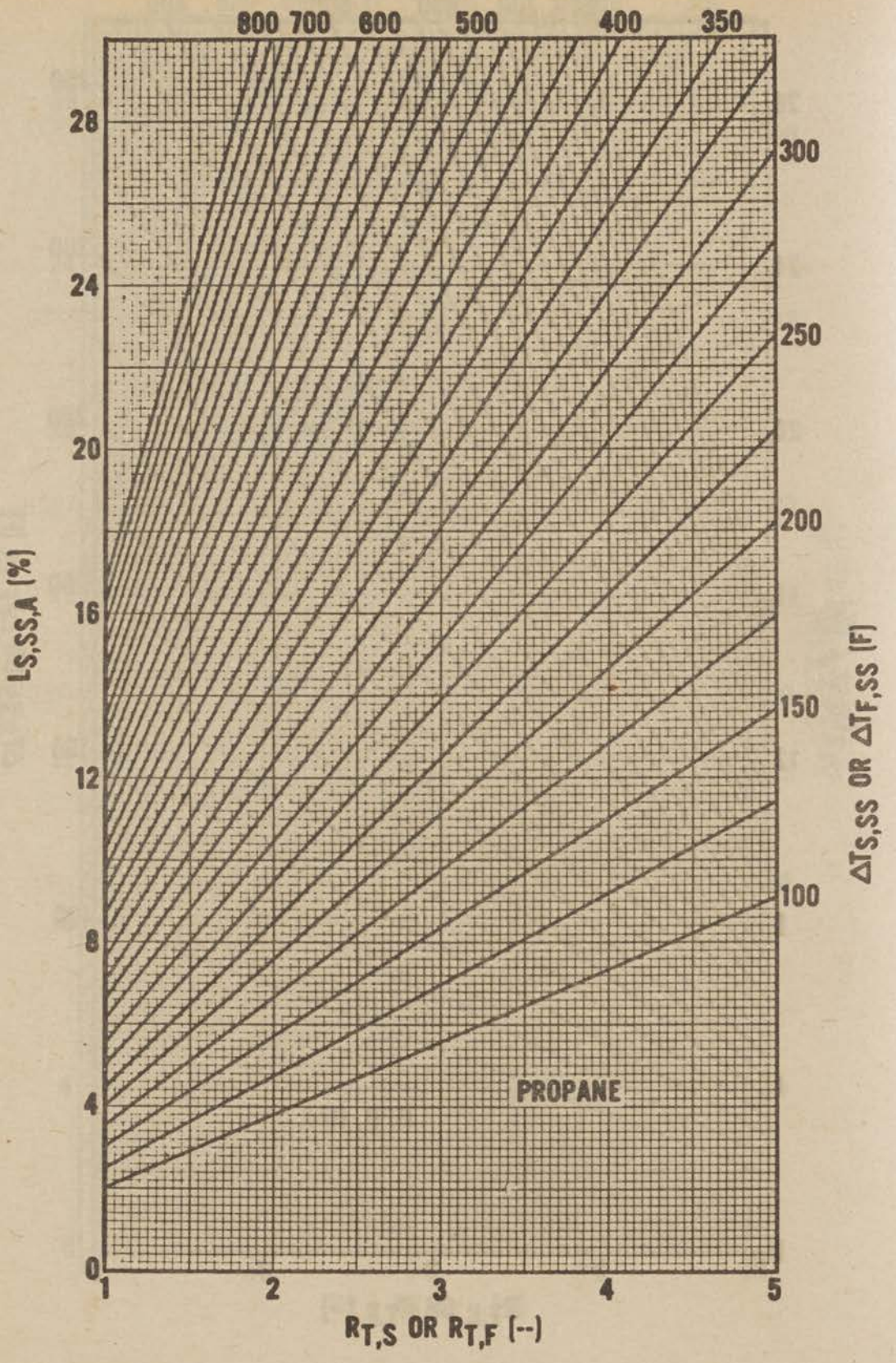

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
1
2
3
4
5
PROPANE
$L_{S,SS,A}$ (%)
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

FIGURE 2f

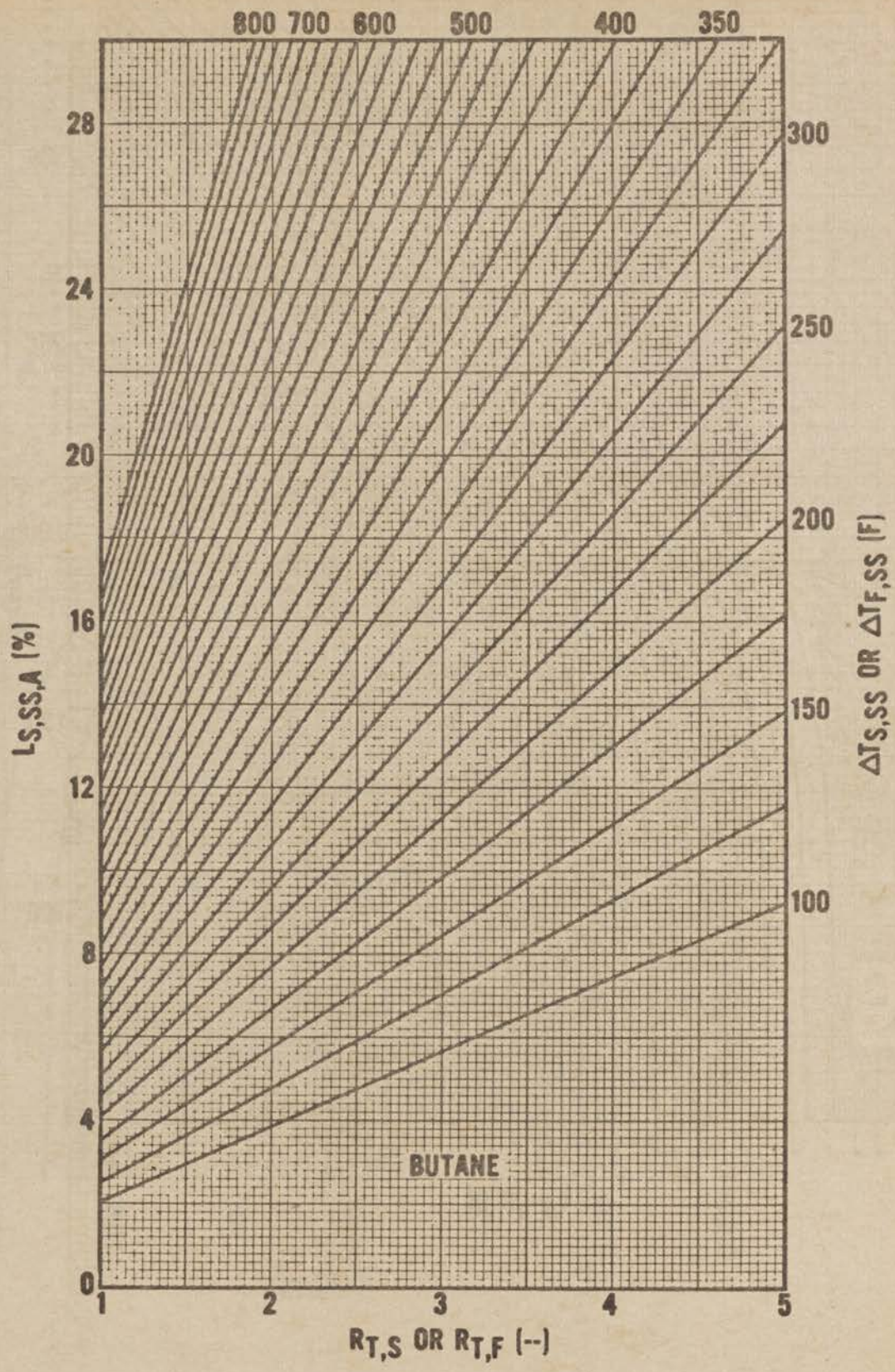
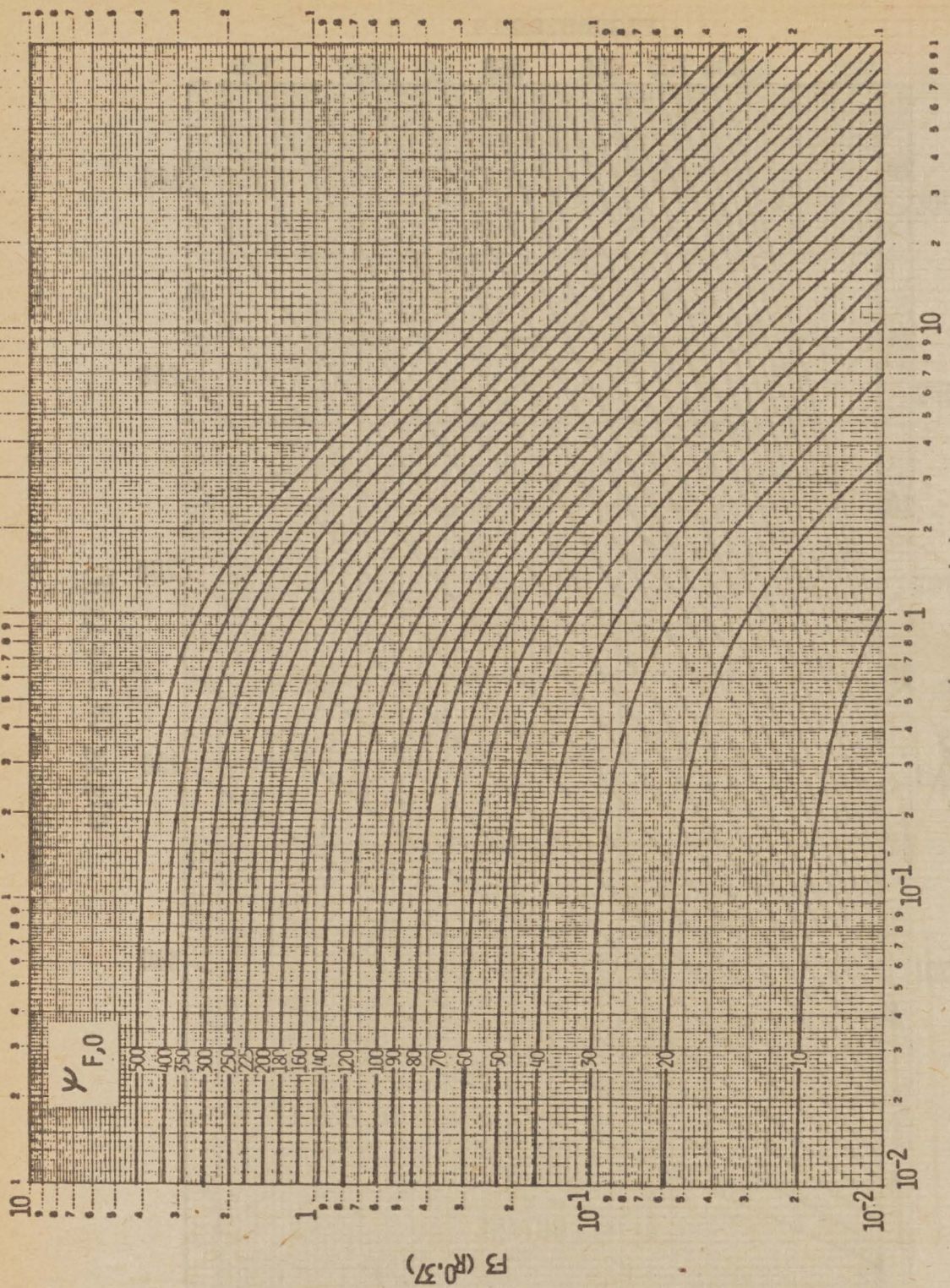

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
BUTANE
1
2
3
4
5
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

FIGURE 3


F3 (R6,37)
t OFF/τ OFF(—)
ψ F,0
500
400
350
300
250
225
200
180
160
140
120
100
90
80
70
60
50
40
30
20
10
10
1
10-1
10-2

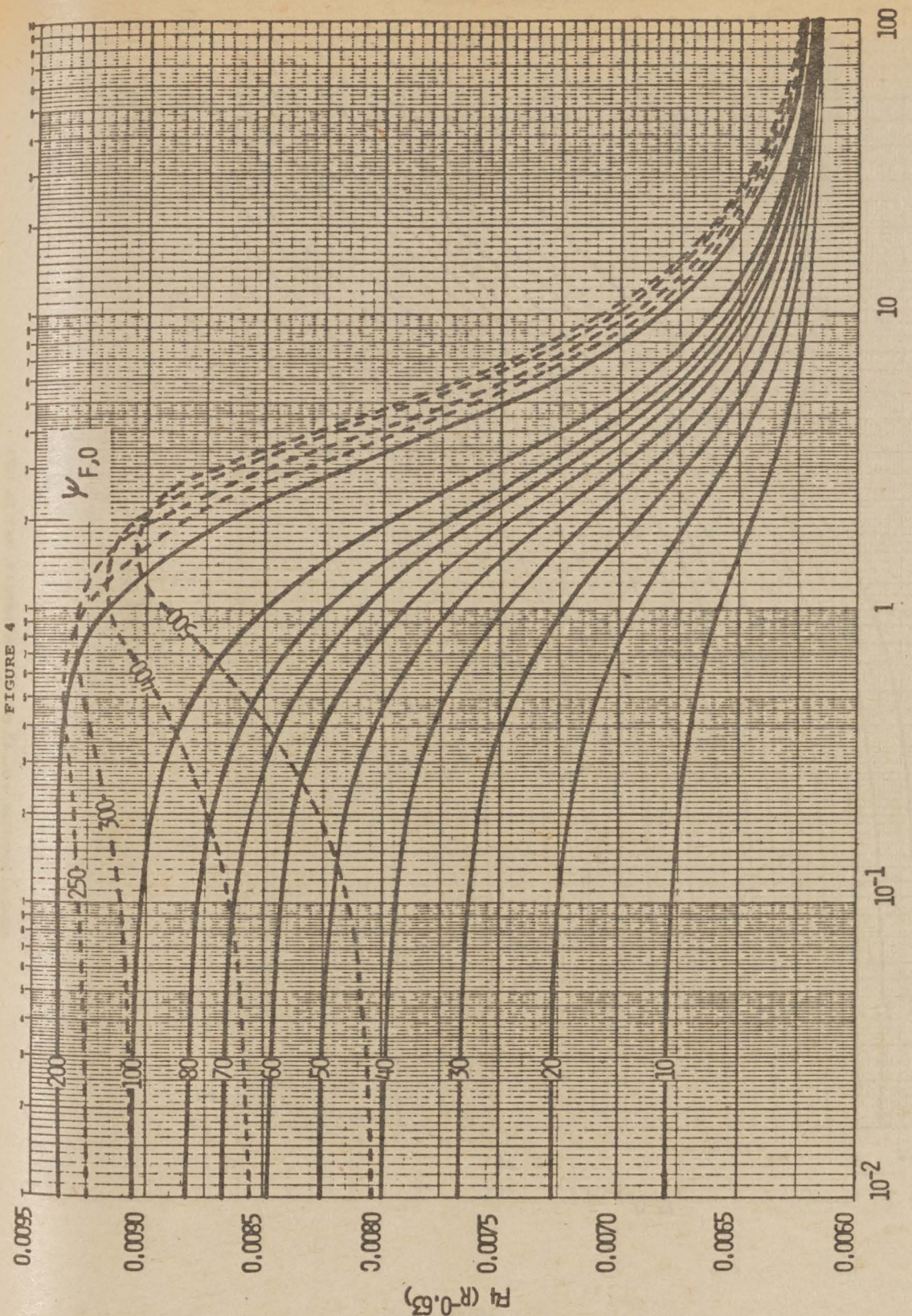

$\psi_{F,0}$
200
100
80
70
60
50
40
30
20
10
0.0095
0.0090
0.0085
0.0080
0.0075
0.0070
0.0065
0.0060
P_4 ($R^{-0.63}$)
10^{-2}
10^{-1}
1
10
100
t_{OFF}/τ_{OFF} (--)

FIGURE 4

FIGURE 5

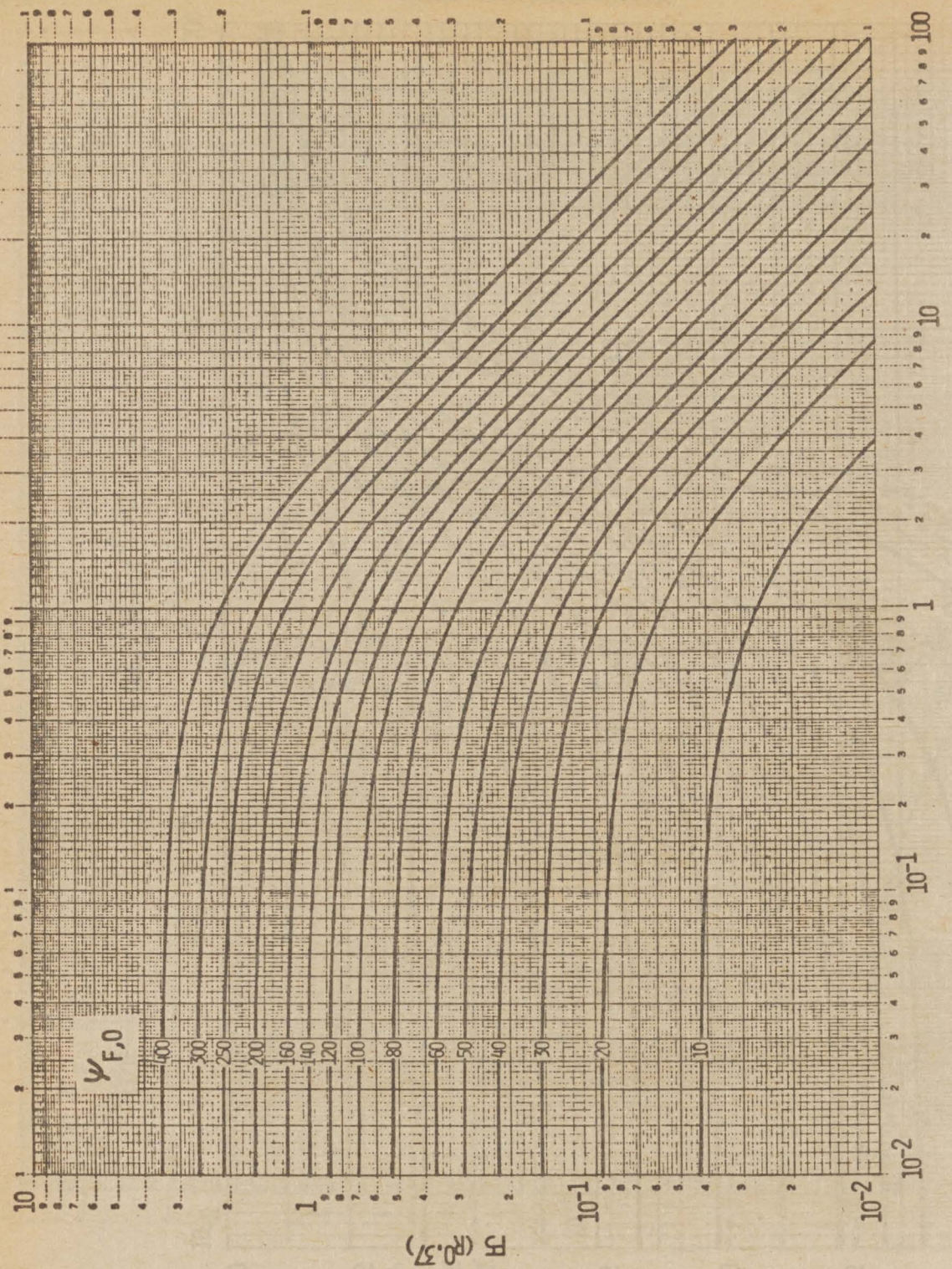
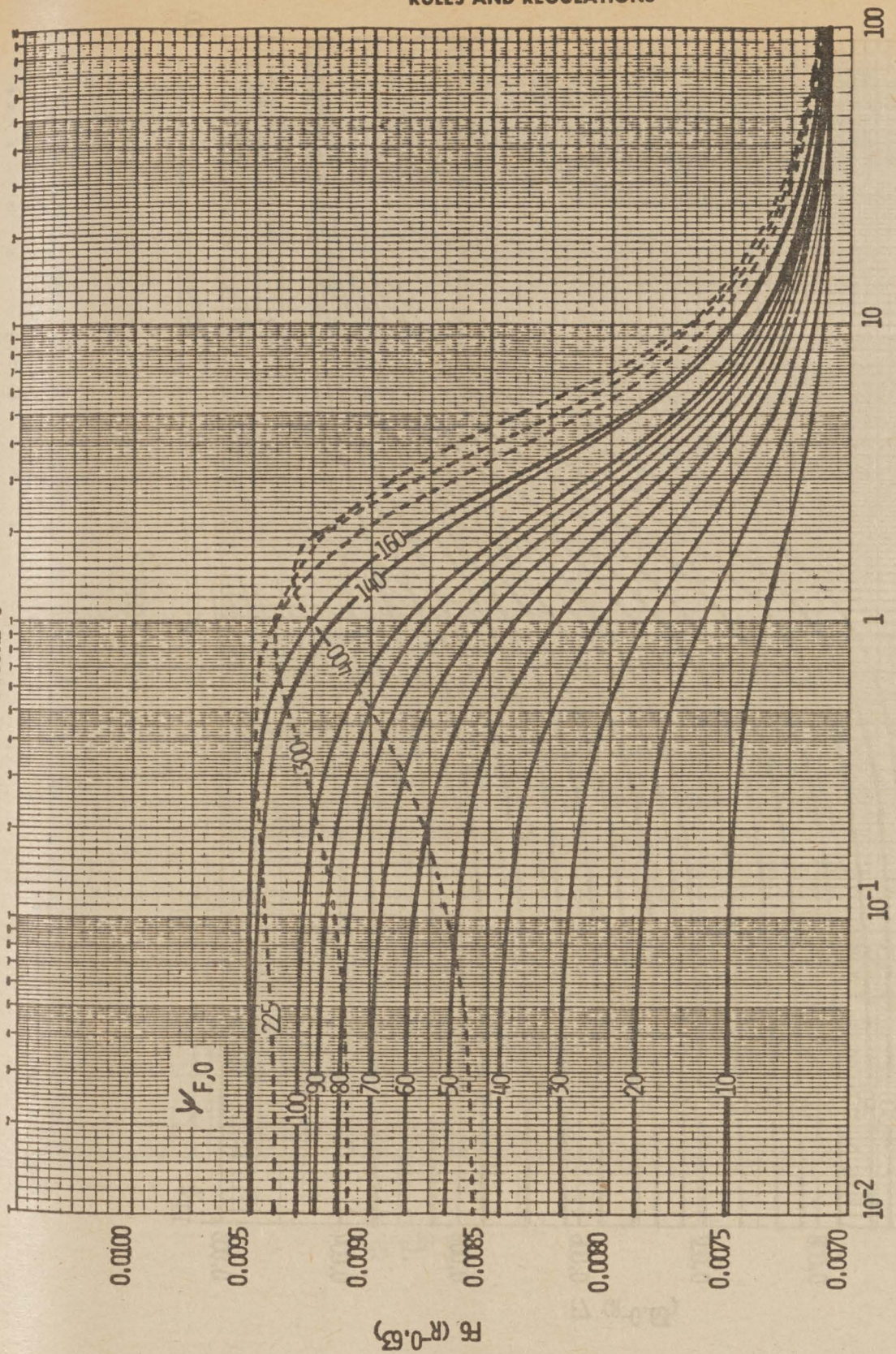

$\psi_{F,0}$
400
300
250
200
160
140
120
100
80
60
50
40
30
20
10
F_5 ($R_{0.37}$)
$t_{OFF}/\tau_{OFF}(-)$
10
1
10^{-1}
10^{-2}
100

FIGURE 6


$\psi_{F,0}$
225
100
90
80
70
60
50
40
30
20
10
300
160
140
100
0.0100
0.0095
0.0090
0.0085
0.0080
0.0075
0.0070
F_0 ($R_{-0.63}$)
10^{-2}
10^{-1}
1
10
100
t_{OFF}/τ_{OFF} (--)

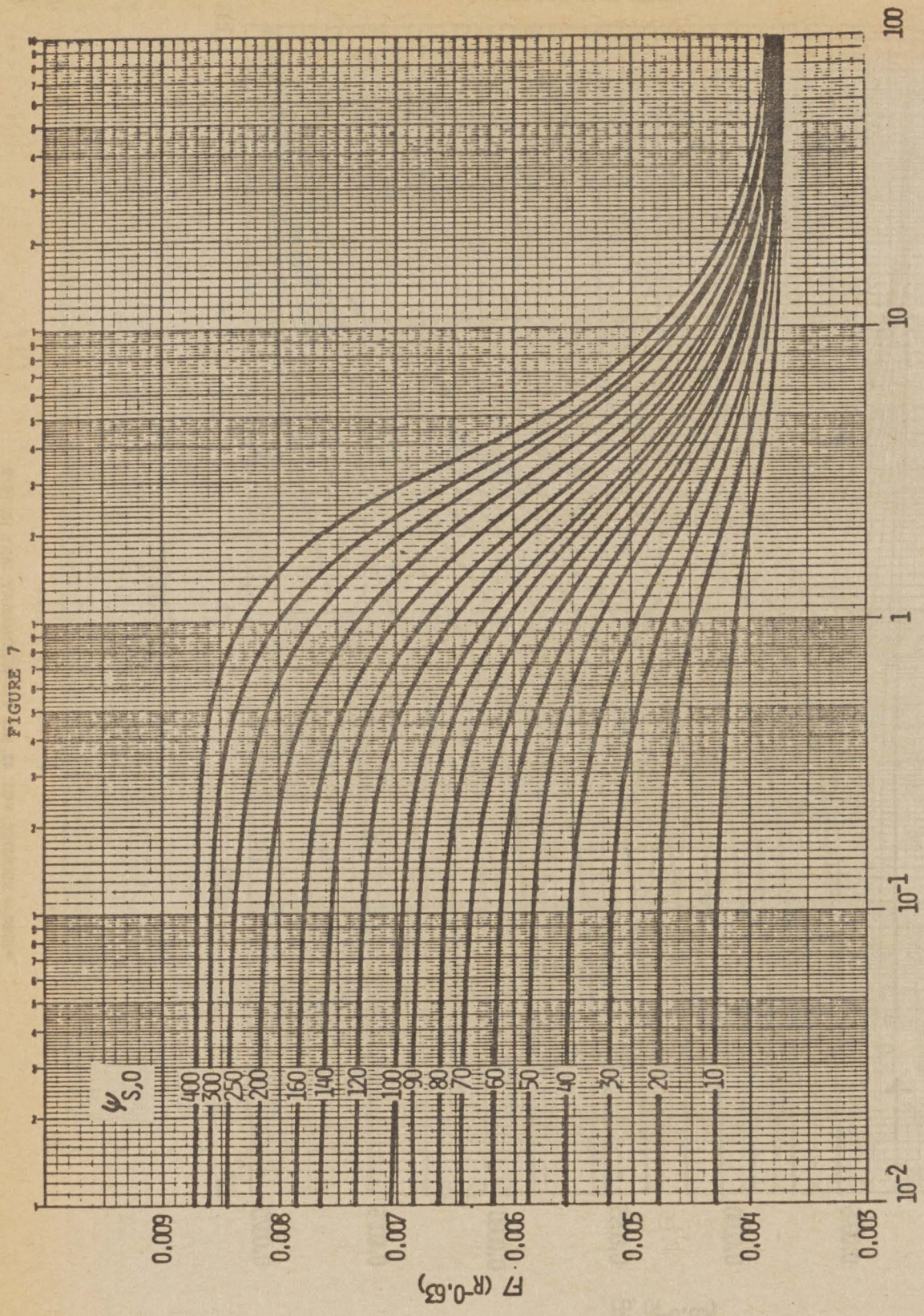

$\psi_{S,0}$
400
300
250
200
160
140
120
100
90
80
70
60
50
40
30
20
10
0.009
0.008
0.007
0.006
0.005
0.004
0.003
F (R=0.63)
10^{-2}
10^{-1}
1
10
100
t_{OFF}/τ_{OFF}(—)

FIGURE 7

FIGURE 8

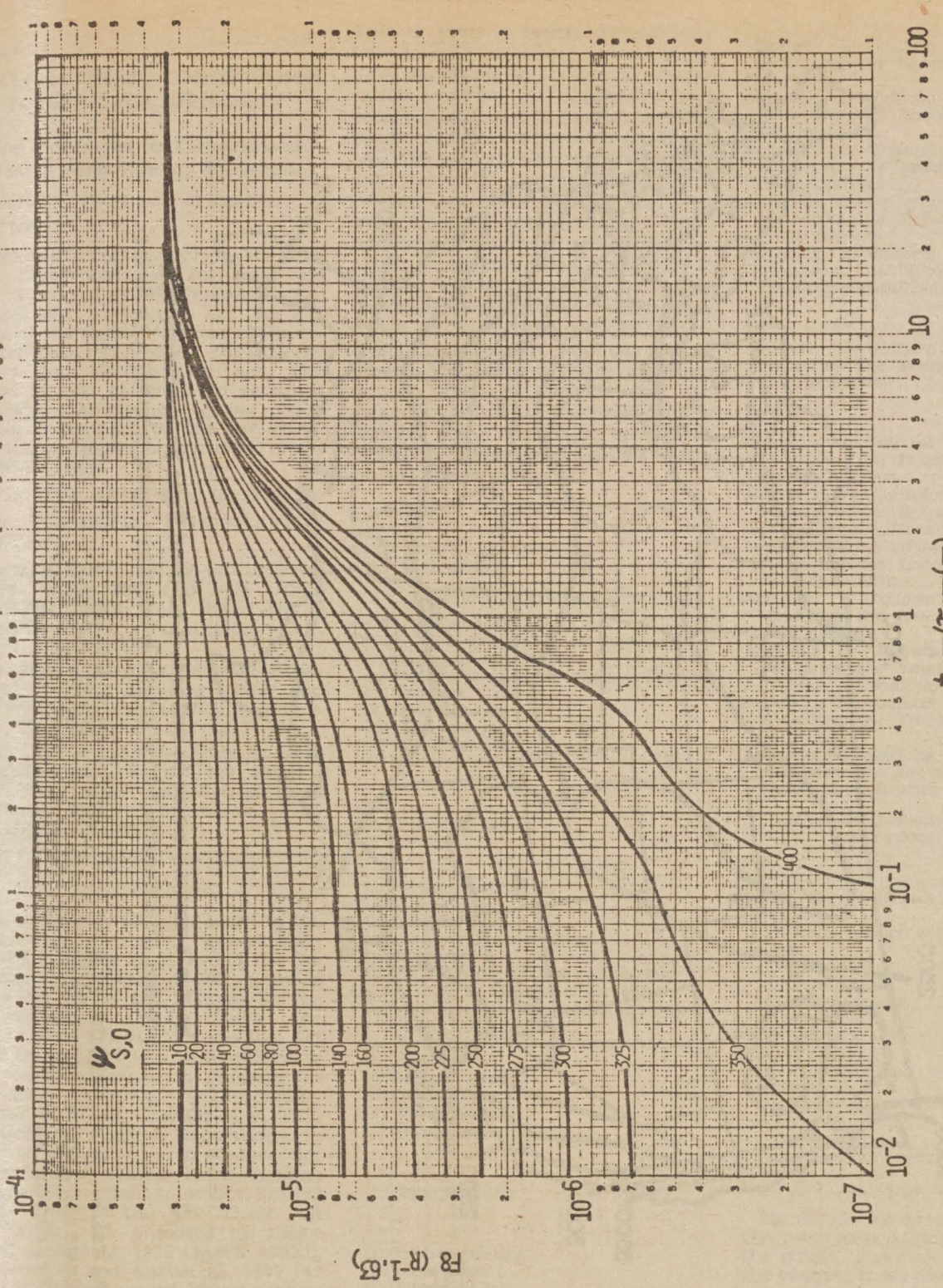
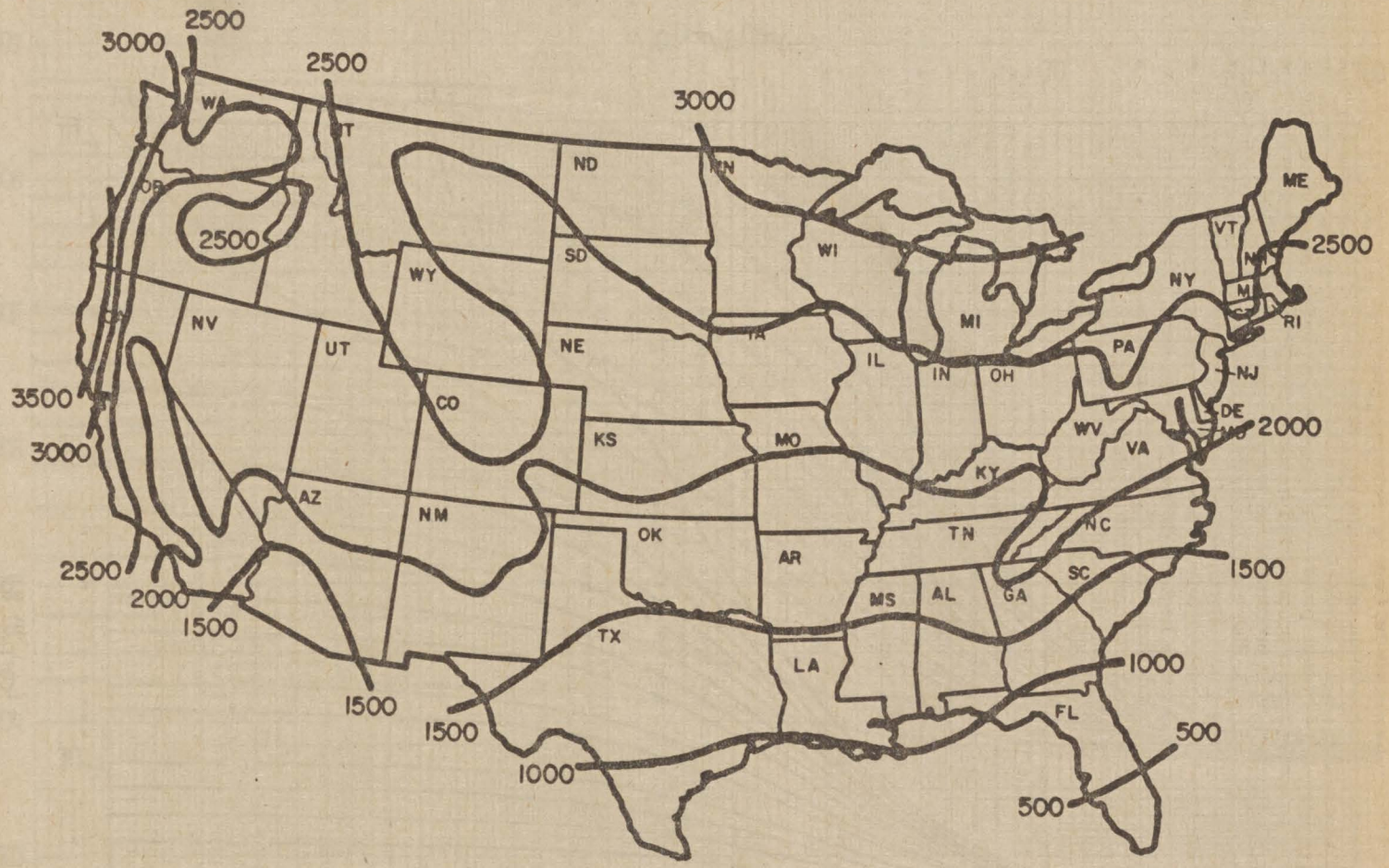

$\psi_{S,0}$
10
20
40
60
80
100
140
160
200
225
250
275
300
325
350
400
10^{-4}
10^{-5}
10^{-6}
10^{-7}
10^{-2}
10^{-1}
1
10
100
$t_{OFF}/\tau_{OFF}(-)$
F_8 (R=1.63)

FIGURE 9

Heating Load Hours (HLH) for the United States and Territories



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized, and consequently not too accurate in mountainous regions, particularly in the Rockies.

Alaska - 3500 HLH
Hawaii and Territories - 0 HLH

[3128-01]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Furnaces and Vented Home Heating Equipment

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for furnaces and vented home heating equipment. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act. The effect of this action is to establish standard methods of testing when testing is required by the Act or by regulations implementing other parts of the program.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Office of Conservation), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-4635.

Jim Merna (Media Relations), Room 3104, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 292-566-9833.

Laurence J. Hyman (Office of General Counsel), Room 7150, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, pursuant to the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91), the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) under the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), with regard to the energy conservation program for consumer products. DOE hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for furnaces and vented home heating equipment pursuant to section 323 (42 U.S.C. 6293) of the Act. These test procedures were proposed by notice issued August 11, 1977 (42 FR 40826), for furnaces and August 31, 1977 (42 FR 43930), for vented home heating equipment. Public hearings on the proposed test procedures were held on October 4, 1977, for furnaces and on November 2, 1977, for vented home heating equipment.

By notice issued May 24, 1977 (42 FR 27896), DOE established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in subpart A. Final test procedures for room air conditioners, dishwashers, electric refrigerators and electric refrigerator-freezers, freezers, television sets, clothes dryers, water heaters, clothes washers, dehumidifiers, humidifiers, and central air conditioners have been prescribed in subpart B. Test procedures for ranges and ovens and unvented home heating equipment have been proposed for inclusion in subpart B. DOE has also established a subpart C for appliance energy efficiency improvement targets. An outline of the provisions of part 430 which have so far been established, including the provisions in this rulemaking, is as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
430.1 Purpose and scope.
430.2 Definitions.

SUBPART B—TEST PROCEDURES

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.

* * * * *

(h) Television sets.

* * * * *

(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.
(n) Furnaces.
(o) Vented home heating equipment.
430.23 Units to be tested (reserved).
430.24 Representations regarding measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.

* * * * *

(h) Television sets.

* * * * *

(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.
(n) Furnaces.
(o) Vented home heating equipment.

APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-freezers.

* * * * *

Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers
Appendix E—Uniform Test Method for Measuring the Energy Consumption of Water Heaters
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners

* * * * *

Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets

* * * * *

Appendix J—Uniform Test Method for Measuring the Energy Consumption of Clothes Washers
Appendix K1—Uniform Test Method for Measuring the Energy Consumption of Central System Humidifiers
Appendix K2—Uniform Test Method for Measuring the Energy Consumption of Room Humidifiers
Appendix L—Uniform Test Method for Measuring the Energy Consumption of Dehumidifiers
Appendix M—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners
Appendix N—Uniform Test Method for Measuring the Energy Consumption of Furnaces
Appendix O—Uniform Test Method for Measuring the Energy Consumption of Vented Home Heating Equipment

SUBPART C—ENERGY EFFICIENCY IMPROVEMENT TARGETS

Sec.
430.31 Purpose and scope.
430.32 Energy efficiency improvement targets
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) [Reserved].
(f) Television sets.
(g) [Reserved].
(h) Television sets.
(i) [Reserved].
(j) [Reserved].
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.

B. Discussion of Comments

Comments were received from industry, trade associations and members of the public. The major issues raised by the comments are discussed below.

1. BURDEN OF TESTING

Several commenters criticized various aspects of the proposed test procedures as imposing significant testing burdens upon the industry.

Several commenters stated that, under their understanding of proposed sampling provisions 430.23 (n) and (o),

the number of units to be tested would be large, and consequently burdensome. The commenters provided examples of the large number of units they believed would be required to be tested.

While it is not clear how these numbers were derived, they appear to result from misunderstanding the application of the proposed sampling plan. DOE verified the appropriateness of using the sampling provisions for furnaces and vented heaters by using typical furnace data. The correct application of the sampling provisions resulted in sample sizes much more reasonable than those cited by the commenters.

Also cited by the commenters as contributing to the burden of testing was the large number of basic models existing in the furnace and vented heater industry which would have to be tested. In an attempt to reduce the number of basic models to be tested, commenters suggested DOE adopt a definition of basic model in which models would be grouped by common design characteristics. All units within such a basic model grouping would have energy efficiency characteristics either nearly identical to, or capable of correlation with, each other. DOE does not have sufficient information to determine the validity of such an approach. Therefore, DOE has determined that the definition of basic model in the proposed test procedures will remain the same in the final rules described today.

Many commenters suggested other alternative sampling plans they believed were less burdensome. DOE has weighed these alternative sampling plans against the need for accuracy in the determination of any energy measure and, after an analysis of the available statistical and economic information, DOE has determined that the proposed sampling plan results in reasonable accuracy without producing an unreasonable testing burden. Therefore, DOE has not changed the proposed sampling provision in the final rule issued today.

In addition to the large sample sizes discussed above, several of those commenting cited the cost and time of conducting tests as contributing substantially to the burden of testing. One of those commenting noted the cost of energy to conduct the test, due to the long test time, would itself become a significat factor contributing to high testing cost.

These comments have been considered, and DOE has agreed to modify slightly the test procedures for the final rule. The modifications simplify the test procedures and result in reducing the testing time without reducing the accuracy of the test results. DOE believes these modifications, discussed separately in item 5, significantly reduce the cost of implementing the tests.

2. SAMPLING REQUIREMENTS

Several commenters addressed themselves to aspects of the sampling provisions contained in the proposed test procedures.

The test procedures prescribed under section 323 of the Act are intended to be used throughout the consumer products program, such as for labeling under section 324, for monitoring the progress of manufacturers towards meeting the energy efficiency improvement targets under section 325, and for enforcement testing under section 326.

These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions as to how a test procedure should be applied (e.g., sampling of production units), may differ. DOE, the National Bureau of Standards (NBS) and the Federal Trade Commission (FTC) are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—
>
> (1) in writing (including a representation on a label), or
>
> (2) in any broadcast advertisement, respecting the energy consumption of such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate some of the difficulties associated with a general sampling provision, section 430.23, which is concerned with the number of units to be tested, has been reserved in the final test procedures. Also, sampling requirements which apply only for purposes of advertising furnaces and vented heaters have been reorganized into §§ 430.24 (n) and (o) of the final test procedures. Sections 430.24 (n) and (o) have been revised slightly from proposed §§ 430.23 (n) and (o). Most notably, the units tested may now be representative of production units as well as actual production units. This change is intended to reduce any burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act. Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption identified in or based upon §§ 430.22 (n) or (o). It should also be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model where representations under §§ 430.24 (n) and (o) are concerned.

Comments pertaining to several proposed test procedures criticized the language of the proposed sampling provisions for incorrectly relating the sample mean and the true mean. DOE has corrected the language to relate the two means properly. Specifically, there is to be at least 95 percent confidence that the true mean of any measure of the basic model lies within ±5 percent of the mean of such measures of the sample.

3. TEST PROCEDURE SCOPE

Several commenters stated that the proposed test procedures did not consider all relevant factors. Others stated the test procedures did not accurately characterize the factors they did consider.

The test procedures incorporate a heat loss method in which the sensible and latent heat losses through the stack and flue are determined. Since these losses will depend on such factors as load, cycling rate, chimney height, oversizing, the type of draft control device, the infiltration characteristics of the residence and the weather profile, it is desirable to measure in the laboratory the qualities which characterize the performance of a furnace or boiler under standardized conditions to provide the best prediction of its performance under field conditions. The furnaces and vented heater test procedures prescribed today evaluate the unit plus any vent system component, or other auxiliary equipment essential to the performance of the unit, that accompanies it when it is distributed in commerce.

Under these procedures, testing is done only on new units and estimated annual operating costs refer only to the product's efficiency and performance under laboratory conditions. Annual maintenance costs, product reliability and other factors contributing to estimates of life cycle costs are not included.

One of those commenting stated that the proposed test procedures for furnaces could not serve as a reliable guide to the energy efficiency of heating systems unless it considered the entire heating system, including the smoke pipe and chimney. This individual stated that a significant energy savings potential is available by improving heat recovery in the smoke pipe and chimney. DOE agrees that

there is some energy savings opportunity in this area but considers it unfeasible in the test procedure to credit accurately smoke pipe and chimney heat recovery to a furnace system considering the multitude of installation arrangements encountered in the field.

This individual also suggested the proposed test procedures be expanded to allow flexibility in the determination of the draft factors. He believed credit should be given in the test procedures to devices that restrict stack flow, thereby improving the efficiency of the heating system. DOE believes it is inappropriate at this time to give credit to a device that restricts stack flow when there is a possibility the furnace will be installed with a stack system that is sized such that the heating system will receive little or no benefit from the device. Furthermore, such a device is not within the scope of these procedures because it would not accompany the furnace when it is distributed in commerce.

Other commenters believed the proposed test procedures for furnaces were too limited because they did not include credits for night setback and zone control in estimating annual operating costs. DOE has determined these items should not be directly addressed in the furnace and vented heater test procedures because data is unavailable at this time to determine typical consumer usage patterns.

Finally, commenters stated the proposed definition of "furnace" was too broadly drafted. They stated that the proposed definition, by including in its scope units with hourly heat input rates of up to 400,000 British thermal units (Btu's) for furnaces and boilers, did not accurately represent the residential furnace market and that a substantial number of units manufactured for commercial purposes were being incorrectly included in these test procedures. It was suggested that the limit be reduced to 175,000 Btu's per hour for gas furnaces and 225,000 Btu's per hour for oil furnaces.

As a result of these comments DOE has made an analysis of the residential furnace market and has determined that a reduction of the upper limit of input rate is warranted. DOE has also determined it appropriate to separate the upper limits for furnaces from those for boilers, but not for different types of fuel. The upper limits prescribed in the final rule are 300,000 Btu's per hour for boilers and 225,000 Btu's per hour for furnaces.

4. ESTIMATED ANNUAL OPERATING COSTS

Many of those commenting raised questions regarding accuracy and usefulness of the estimated annual operating costs to be derived from the test procedures. These questions concerned the effects of variations in heating season and energy costs across the country, variations due to the type of home construction, temperature controls (zone control, night setback and consumer preferences), and overestimation of the average number of heating load hours in a season from the use of 65° F as a balance point temperature for degree day computations. Usefulness of estimated annual operating costs to the consumer was also criticized on the basis that equipment selection is usually made by builders or heating system contractors and not by the consumer.

DOE agrees these factors can have an effect on how closely annual operating costs derived from these test procedures approximate the costs of actual operation. The test procedures have been designed to evaluate the energy efficiency and typical cost of operation of a furnace or vented heater during a representative average use cycle rather than the actual operating cost of a specific furnace in a specific application. The primary purpose of the estimated annual operating costs derived from the test procedures is to provide a basis for comparing the efficiency levels of different heating systems when operating under a typical usage pattern. This comparison should be useful both to consumers and to builders or contractors selling homes to consumers conscious of energy costs.

In addition, several commenters suggested a change in the outdoor balance point temperature (currently 65° F) used in the test procedures. DOE is aware of the fact that the use of 65° F as a balance point temperature may not represent current house construction techniques and the trend toward reducing residential infiltration rates. However, changing the balance point temperature would require an extensive and lengthy analysis and, until such data is available, DOE has determined that the existing standard practice of using 65° F as a base temperature will be used in these test procedures.

5. STEADY STATE, HEAT-UP, AND COOL-DOWN TESTING PROCEDURES (FLUE AND STACK REQUIREMENTS)

A commenter suggested an improved method of measuring the steady state efficiency as well as the heat-up and cool-down temperature. It was suggested that this be used for gas and oil fueled furnaces, boilers, and vented heaters.

This procedure claimed to improve the DOE proposed procedures in the following respects:

A single stack procedure, instead of a 5 foot stack for steady state tests and a 2 foot stack for heat-up and cool-down tests as proposed by DOE, would be easier to conduct because it would not require a shutdown and restart of the furnace for removal of the 5-foot stack and replacement with the 2-foot stack.

Standardizing the stack height at a constant 5 feet, instead of using a length whose top is 5 feet 6 inches above the highest point of the draft hood relief opening as originally proposed, would make it possible to use the same stack on all appliances with the same draft hood outlet size.

The 5-foot stack would be more representative of stack heights in the field than the 2-foot stack used in the proposed test procedures for heat-up and cool-down temperature measurements.

The use of a thermocouple grid on nine thermocouples rather than a single thermocouple would be more accurate for the heat-up and cool-down test.

As a result of NBS' evaluation and recommendation, modifications based on part of the procedures suggested by the commenter have been incorporated and are now a part of the final test procedures prescribed today. The modified steady state portion of the suggested procedures has not been accepted because it would allow heat transfer from the flue gases to the conditioned air in a manner that is not representative of normal operation (i.e., with the draft hood open). The suggested 5-foot stack has been adopted and the proposed 2-foot stack has been eliminated. Also, the location of the thermocouples for measuring stack temperature in the steady state test has been made common with the location for heat-up and cool-down tests. These changes have eliminated the need to replace the 5-foot stack with a 2-foot flue pipe, and reduced the testing time from that required by the procedures as proposed.

The suggested method of achieving identical CO_2 levels upstream of dilution, through restricting the stack outlet during the heat-up and cool-down tests, has been incorporated into the test procedures for units with integral draft diverters.

The use of nine parallel, connected thermocouples, instead of one centrally located thermocouple, has also been accepted.

It was also suggested that all temperature and CO_2 measurements be made downstream of the draft control device. However, due to possible cooling and dilution of the flue gases, DOE considered it preferable to measure temperature and CO_2 concentration upstream of dilution whenever possible. In furnaces or vented heaters with a common flue gas collection point, this presents no problem. Flue gases of such furnaces and vented heaters are now measured upstream of dilution and with a 5-foot stack pipe rather than the 2-foot flue pipe as proposed. Units with integral draft di-

verters, however, typically have no common collection point. To measure flue gases upstream of dilution, one must therefore simulate a flue by sealing the draft diverter and restricting the stack to reduce air flow. Thus, for furnaces and vented heaters with integral draft diverters, DOE has accepted the suggestions of these commenters and appropriately modified the test procedures. Also, instructions have been incorporated into section 2.6 of appendix N and O to insure that radiation shields be used on the thermocouples where radiation may be a problem.

6. DESIGN HEATING REQUIREMENT FOR ELECTRIC FURNACES

The proposed test procedures contained a constant, 0.5, as the typical ratio of steady state efficiency to 100 times the average furnace sizing factor (assumed to be 1.7). The constant was criticized by commenters as oversimplifying the ratios for different categories of furnaces and vented heaters. DOE agrees and has removed this constant, 0.5, from the test procedures. The calculation employing the constant has been replaced by a calculation of typical design heating requirement based upon a common table now incorporated into the final rule for electric, gas or oil fueled furnaces, boilers, or vented heaters for various output capacities. The output capacity is now a specified part of the test procedures.

7. TEST ROOM AIR TEMPERATURE

Several comments were received regarding the proposed limitation of 65° to 75° F on test room air temperature. These comments expressed concern that this limitation would require equipment to air-condition the test lab at substantial cost. One of those commenting estimated that an initial investment of $60,000 would be required to air-condition a typical test facility. Several recommendations suggested wider ranges of test room air temperatures be allowed. NBS evaluated the impact that such a change would make on test data and determined that enlarging the allowable range would have a negligible effect on test results if the data was mathematically corrected to a standard ambient air temperature. Therefore, a provision has been added to section 4 of Appendices N and O that allows a test room air temperature range of 65° to 100° F, with a correction factor to be applied in the calculation procedure adjusting the test results to a standard ambient temperature of 70° F.

8. BURNER AIR SHUTTER ADJUSTMENTS

Comments were directed at the proposed method of adjusting the air shutter of gas burners at their maximum setting prior to testing. The recommendation was that burners be adjusted in accordance with the manufacturer's instructions to avoid improper operation such as poor combustion, slow ignition, lifting flames, etc. DOE has reviewed this suggestion and agrees the manufacturer's recommended adjustment is appropriate. The test procedure has been changed to incorporate this recommendation.

9. BOILER WATER FLOW ADJUSTMENTS

Comments noted that the proposed sections 2.5.4 and 2.5.5 for adjusting the water flow rate were inconsistent. These proposed sections referenced different ANSI standards for gas and oil fueled boilers, which used different outlet water temperatures. The test procedures have been changed to make the outlet water temperature adjustment proposed for oil fueled equipment the adjustment for gas and electric equipment as well. Comments also noted that test conditions were not specified for oil fueled steam boilers. A steam boiler adjustment setting for steam pressure has now been specified in section 2.5.4.

10. HEATING CAPACITY RATING

A suggestion was made that the test procedures include a definition of heating capacity as the product of the measured steady state efficiency and the input to the appliance. This suggestion has been accepted and incorporated in the test procedures.

11. STEADY STATE CALCULATIONS FOR FLUE LOSS

A comment stated that flue losses calculated by the DOE procedures do not agree closely with those used and accepted as established industry practices for natural gas and, in particular, the methods employed by American Gas Association Laboratories (AGA Labs). NBS investigated these practices and recommended several changes to the assigned values of stoichiometric air to fuel ratio (A/F) in table 3, used to calculate flue losses, to represent typical properties of natural gases being distributed in the field. DOE has adopted this change in order to obtain closer agreement with existing methods.

12. EFFECTIVENESS OF STACK (OR FLUE) DAMPERS

A comment was made that calculations used to predict savings associated with the use of stack (or flue) dampers did not appear to reflect adequately boundary layer flow effects. It was claimed that the factor D_o, which is derived from the percentage of open area in the stack or flue, did not take into account the location and shape of that open area (i.e., an open area in the center of the damper plate as opposed to a space around the outside edge when the damper is closed). This comment predicted that stack (or flue) dampers would not be properly evaluated by the proposed calculation for D_o in section 4.3.

NBS has investigated the effects of boundary layer flow by testing various dampers. The results of these tests showed that the equation as proposed was sufficient to measure accurately stack (or flue) damper effectiveness. However, as a result of this investigation, the equation in section 4.3 has been changed from that proposed to correct a discontinuity of the curve at $A_D/A_S=0.59$. As a result of this change, the discontinuity is no longer present, and calculated values of D_o are now available for all ratios of A_D/A_S.

Another commenter stated that the proposed test procedures indicated that a furnace equipped with a stack (or flue) damper, which when closed has an effective area of 80 percent or less, will use more energy than a furnace or vented heater without a stack (or flue) damper. The commenter believed this was incorrect. DOE agrees and has eliminated the draft factor in the equations for determining effective flue temperatures if the factor exceeds unity.

13. STACK (OR FLUE) DAMPER OPERATION DURING THE COOL-DOWN TEST

In the proposed rule, to evaluate the unit's fuel utilization efficiency, direct vent systems equipped with a flue damper were to be tested with the device in place and closed during the cool-down portion of the test, while nondirect vent units that utilize a stack damper were to have a calculation rather than a test. This procedure was criticized as inconsistent.

This apparent inconsistency is explained by considering the importance of measuring flue gas temperatures. On furnaces with a stack (or flue) damper it is more representative of normal operation if the stack (or flue) damper is in place and closed during the cool-down test. Therefore, DOE has retained this method in the test procedures wherever possible. However, this method is possible only on a direct vent unit with a flue damper or a unit with a stack damper and barometric draft regulator. Units equipped with an integral draft diverter or a draft hood have these draft relief devices sealed during the cooled-down test to measure accurately flue gas temperature and CO_2 as discussed in item 5. However, this procedure of blocking the draft relief devices does not allow the heat trapped by the stack damper to spill into the room as it normally would in the home. Therefore, to account for this effect on these units the procedures contain an additional correction factor to evaluate damper effectiveness.

14. EFFICIENCY DEGRADATION OF OIL FUELED FURNACES

In one comment it was indicated that soot build-up occurs in normal operation of most oil burning furnaces in the field which, in turn, causes a reduction of the fuel utilization efficiency of those furnaces. It was requested that the test procedures incorporate a measurement of fuel utilization efficiency under conditions representative of the soot build-up during typical usage.

DOE has been unable to determine a representative condition of soot build-up given the variations in maintenance to which any furnace or vented heater may be exposed. As a result, DOE has determined that the test procedures prescribed today should be used to test new units only.

It was also suggested that the cost of annual maintenance, such as removing soot build-up, be a component of the estimated annual operating cost. The term "estimated annual operating cost" is defined in the Act as "the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product." Therefore, the annual cost of maintenance does not fall within the definition of "estimated annual operating costs," and is not included in the final rule prescribed today.

15. STACK (OR FLUE) DAMPERS ON OUTDOOR FURNACES, BOILERS, OR VENTED HEATERS

One comment stated the proposed test procedures would show greater energy savings for the use of a stack damper on outdoor furnaces than on indoor furnaces, a result he believed inconsistent with known data.

In practice, a stack damper on outdoor equipment does not result in an energy savings since all heat trapped by the damper is discharged through the draft relief openings to the outdoors. The test procedures for furnaces and vented heaters intended for installation outdoors or in unheated areas, such as attics or crawl spaces, specify a D_o factor only for flue dampers. A flue damper is the only type of damper that saves energy on outdoor units since heat can be trapped in the heat exchanger on the furnace side of the draft relief device. This savings is correctly accounted for in the test procedures.

16. BLOCKING THE SOURCE OF COMBUSTION AIR

One commenter stated that following the procedures for outdoor installation resulted in blocking off the air intake. To avoid the possibility, a cautionary statement has been added to section 2.2.3 stating: "care should be taken not to block the air intake with insulation."

17. ENERGY SAVINGS DUE TO ELECTRIC-IGNITION

According to some commenters, the proposed test procedures failed to reflect accurately the energy savings available by using electric-ignition devices. NBS investigated this claim and determined that a modification to the calculation procedure was necessary to produce more realistic values. This has been accomplished by including a correction factor in the calculation of $C_{T.OFF}$ in section 4.2.23 for furnaces and section 4.1.23 for vented heaters.

18. EFFICIENCIES AT REDUCED FIRING RATES

One commenter suggested DOE further evaluate the assumption that a furnace with a reduced firing rate will have the same efficiency at both reduced and full firing rates. He suggested efficiencies are generally lower at reduced firing rates.

DOE has determined that conventional reduced firing rate furnaces have lower steady state efficiencies at the reduced firing rate since the inlet air openings, sized for the full firing rate, provide large amounts of excess air. However, when considering seasonal efficiency, the effect of reduced steady state efficiency at the reduced firing rate is offset by reduced cycling. Consequently, even though the test procedures do not directly account for the lower steady state efficiency at reduced firing rates, they do correctly predict the seasonal efficiency of the conventional reduced firing rate furnace.

19. CONSTANT PART LOAD UTILIZATION EFFICIENCIES

Commenters also suggested DOE further evaluate the assumption that part load utilization efficiency is constant for all climatic conditions in all parts of the country. NBS performed an evaluation of this assumption prior to the issuance of the proposed test procedures. The same furnace or vented heater will have different representative part loads in different parts of the country. However, these differences were not found to be of a magnitude requiring expanded test procedures to determine a regional annual utilization efficiency. The efficiency, as now determined, uses a one temperature "bin" approach to calculate the representative part load for furnaces or vented heaters in each region of the United States during one heating season. A multitemperature "bin" approach would be needed to provide a more exact regionalized test procedure. NBS considered a six temperature "bin" method and found the additional incremental accuracy did not warrant the more lengthy calculation procedure.

20. SPECIFIED FUEL CHARACTERISTICS

At the public hearing, it was suggested the tolerances for natural gas as specified for testing (i.e., higher heat value equal to 1,025 Btu's per cubic foot, ±5 percent) be deleted and that whatever pipeline gas is distributed to be used for the test gas.

The higher heating value of natural gas varies for many parts of the country depending on the source of the natural gas. Also, in winter many companies "peak shave;" that is, in periods of high demand, the natural gas delivered to customers is supplemented by mixing it with propane gas. Consequently, during periods of high demand (i.e., cold weather) the heating value and specific gravity of the distributed gas can vary.

The ±5 percent tolerance on higher heating value for all test gases is specified because the constants used for determining steady state flue loss, A/F (stoichiometric air to fuel ratio), and $L_{L.A}$ (latent heat loss), are dependent on maintaining the test gases within the specified tolerances. In these test procedures it is necessary both to limit the variation of the specific heating value of the fuel and to measure the actual value with an accuracy of 1 percent. Thus, the test procedures prescribed today retain the tolerances for natural gas originally specified.

21. WATER PUMP ENERGY MEASUREMENT

Section 3.1.6 required pump energy (PE) to be measured. Comments noted that due to the variety of piping arrangements that can be attached to a boiler in the field, the PE consumption can differ considerably from one installation to another. It was recommended that a typical electric power rating be used for the calculation instead of a laboratory measurement. NBS recommended a typical rating of 0.13 kW which has now been incorporated into section 3.1.2 of appendix N.

22. OIL BURNER ADJUSTMENTS

Section 2.4.2 specified that oil burners be adjusted to give the best CO_2 reading. Comment was received that this was not a realistic setting for boiler burners. It was further noted that boilers are sold in two basic ways: as bare boilers to be equipped with any oil burner available in the field (as decided by the customer or the installing contractor), or as a boiler-burner unit incorporating a flame retention burner matched to the boiler by the manufacturer. According to the comment, boilers in both categories are rated by the manufacturer in terms of CO_2 adjustment which is 10 percent for the bare boiler and 12 percent for the boiler with the burner as part of the package. It was stated there are oil burners available that can produce 13 percent to 14 percent CO_2 in the labo-

ratory. However, such values cannot be obtained in practice since a margin must be allowed for safety to cover daily variations in available draft, air density, etc.

To better represent the field installed condition, the statement directing the tester to adjust the unit to the "best" CO_2 has been changed to direct him to adjust the unit to the CO_2 reading recommended by the manufacturer. Additionally, the specification for smoke has been changed from a No. 2 to a No. 1 smoke adjustment to better represent field conditions.

The statement, "adjust to the manufacturers CO_2 recommendation" is not intended to limit the CO_2 to 10 percent or 12 percent. If a higher CO_2 level is possible while achieving the prescribed smoke setting, then that adjustment is permissible if the manufacturer normally recommends it for field adjustment. In any case, the No. 1 smoke setting governs burner adjustment irrespective of the manufacturer's CO_2 recommendations.

23. BURNER OPERATING HOURS

Comments were made that the number of burner operating hours predicted by the proposed test procedures was greater than the actual number of burner operating hours of furnaces in the field.

The calculation for burner operating hours is based on an average or typical design heating requirement and the average or typical heating load hours. The design heating requirement is determined in the test procedures using a value of output capacity (Q_{out}) for a particular furnace or vented heater. The heating load hours are determined using the standard 65° F base. These determinations do not fully account for internal loads and the dynamic nature of the heating flow of the structure. As a consequence, the design heating requirements and heat load hours determined by these calculations tend to be larger than the actual heating loads required to be met by the heating appliances and, therefore, the burner operating hours and the annual energy consumption are over-estimated. NBS has reviewed much of the technical information available on this subject; in particular, the information published by the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE). DOE has adopted the NBS recommendation of including a constant adjustment factor in the furnace, vented heaters and unvented heater test procedures. This adjustment factor will improve the agreement between the average calculated operating cost and the actual cost incurred by the consumer.

After reviewing data, NBS recommended, and DOE accepted the value of 0.77 as the adjustment factor. This is applied in the determination of burner operating hours for fossil fueled units and in the determination of annual energy consumption for electric units.

Also, some commenters criticized the assumed oversizing factor of 70 percent used in the calculation of burner operating hours. In the field, many furnaces and vented heaters are considerably more than 70 percent oversized. Consequently, they operate fewer hours, at a higher firing rate, than would less oversized furnaces or vented heaters. However, the oversizing practices of the past are being moderated today because of an increasing awareness that oversized equipment is less efficient. Therefore, DOE believes the 70 percent oversizing factor is currently an appropriate factor to use in these calculation procedures.

These procedures provide a basis for comparing furnaces and vented heaters based on the design heat loss of the house. Consequently, a larger capacity furnace or vented heater will show approximately the same cost of operation as a smaller furnace or vented heater when each is compared for cost of operation at the same design heat loss, providing both have the same seasonal efficiency.

24. JACKET LOSS MEASUREMENT PROCEDURE

One comment stated that the procedures used in the referenced ANSI Standard for jacket loss measurement (ANSI Z21.47) would not properly evaluate the jacket loss of an underfired boiler. According to the commenter, the most significant jacket loss of such boilers is through the bottom. As an alternate method of determining this jacket loss, he suggested conducting a full thermal efficiency test as specified in other ANSI standards for boilers. These standards measure and add the output energy, in the heated water at steady state operation, to the flue loss, expressed as a percent of the total input, and subtract this total from 100 percent.

The standards suggested by the commenter themselves do not measure jacket loss through the bottom, although they do provide for determining the total boiler jacket losses. These standards deduce jacket losses from a measured heat output.

A direct measure of the heat output of a furnace or vented heater would be considerably more difficult, and as yet has not been developed. Since the proposed procedure accurately measures fuel utilization efficiency for both furnaces and boilers, DOE has determined to retain the procedure originally proposed for measuring jacket losses.

25. SIMPLIFICATION OF DATA COLLECTION AND COMPUTATION

Several commenters expressed concern over the lengthy and difficult calculations and the many measurements contained in the proposed test procedures. The calculations as proposed were necessary to allow a fair comparison of diverse central heating equipment types and produce reasonably realistic numerical results. Existing industry test procedures measure steady state efficiencies, but do not account for any part load or seasonal performance effects. The additional data requirements of the DOE test procedures are due to the treatment of the part load and seasonal effects necessary to estimate annual operating costs and to give credit for equipment features that improve efficiency under part load conditions.

26. MANUAL CALCULATIONS

The proposed test procedures were designed to allow manual computation methods and included several tables and families of graphs. Several members of industry attempted to carry out the indicated calculations, using specific equipment examples and manual methods. Unsatisfactory results were reported in terms of repeatability, precision and manpower costs. Commenters noted that computers are generally available and that their use as the normal computation method would be far more practical. DOE recognizes the validity of these comments by industry and will assist in the transformation from manual to computer procedures. A computer program for the calculations, based on the worksheet contained in the test procedures, is available to all interested parties in the DOE Public Reading Room, Freedom of Information Office, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461

27. UTILIZATION EFFICIENCY BASED ON PRIMARY ENERGY SOURCE

One commenter believed it would be deceptive to the consumer to consider energy efficiency only at the point of use. The commenter stated that energy efficiency should be determined from the primary energy source, i.e., the power plant.

Section 323(a)(4)(A) of the Act requires DOE to prescribe test procedures for different consumer products for the determination of an estimated annual operating cost for each product and at least one other measure of energy consumption which DOE determines is likely to assist consumers in making purchasing decisions. DOE has determined the measures of energy consumption prescribed today will be useful to consumers and are likely to assist them in making purchasing decisions. DOE does not consider it necessary to prescribe any additional measures of energy consumption at this time.

28. PROPANE PILOT UTILIZATION

Comment was received from the liquid petroleum (LP) gas industry em-

phasizing their concern with any action which would preclude the use of gas pilots on LP gas fueled heaters. These test procedures do not preclude the use of pilots on LP gas heaters.

29. COMPARISON OF VENTED HEATERS AND FURNACES

A commenter stated the test procedures should allow for a fair comparison of all types of heating equipment and therefore must be as consistent as possible among types and still consider the different usage patterns and conditions of operation to which vented heaters and furnaces are exposed. The commenter suggested that a correction factor could be applied to the vented heater calculation to account for these differences.

DOE has determined it appropriate to address vented heaters in the test procedures in the same way as furnaces, since the typical use of vented heaters is as a primary heat source in a home. Furthermore, DOE believes a correction factor applied to the vented heater test procedures in order to reflect typical differences between annual cost of operation of vented heaters and furnaces could be misleading. Such a correction factor giving higher annual operating costs for furnaces might imply to a consumer that the seasonal efficiencies of furnaces are generally lower than those of vented heaters.

30. MISCELLANEOUS

After careful consideration of all of the comments and further consultation with NBS and FTC, DOE has made some editorial and minor technical changes in the proposed test procedures that were not discussed above and incorporated them in the final rule prescribed today.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for furnaces and vented home heating equipment prescribed today are included in subpart B and are substantially the same as those proposed, with the exception of the changes discussed above. As with the proposed procedures, the methodology of the tests incorporate parts of the following standards: American National Standards Institute (ANSI) Z11.182-1965 (R1971), Z21.11.1-1974, Z21.13-1974, Z21.44-1973, Z21.47-1973, Z21.48-1976, Z21.49-1975, and Z91.1-1972, Underwriters Laboratory (UL) 729-1976, 730-1974, and 896-1973, Air Conditioning and Refrigeration Institute (ARI) 280-74, and The Hydronic Institute (HI) "Testing and Rating Standard for Cast Iron and Steel Heating Boilers — January 1977." These standards are used in the test procedures with additional methodology to determine energy consumption. For purposes of DOE's program, the incorporated standards remain applicable as presently written, regardless of any subsequent amendment of the ANSI, UL, ARI, or HI standards, until further amendment by DOE. Copies of these standards are available for inspection at the DOE Public Reading Room.

Under the requirements of section 32(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70), the Administrator of FEA is to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilize or incorporate any commercial standards. As noted earlier, the Administrator's functions have been assumed by the Secretary of Energy.

Copies of the test procedures for furnaces and vented home heating equipment, which incorporate the abovementioned commercial standards, have been transmitted to the Attorney General and to the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition, in accordance with section 32(c). Neither official has any comments, nor do they recommend against the incorporation or use of these commercial standards in the final test procedures for furnaces and vented home heating equipment.

2. GENERAL PROVISIONS

Also prescribed today are definitions of "Basic model" with respect to furnaces and vented home heating equipment, "Direct vent system," "Electric central furnace," "Forced air central furnace," "Furnace," "Gravity central furnace," "Low pressure steam or hot water boiler," "Outdoor furnace or boiler," "Vented home heating equipment," "Vented heater," "Vented wall furnace," "Vented floor furnace," and "Vented room heater." The definitions for furnaces and boilers were previously proposed in subpart A issued July 28, 1977, (42 FR 40826, August 11, 1977). The definitions for vented home heating equipment were previously proposed in subpart A issued August 22, 1977 (42 FR 43930 August 31, 1977). Comments which were received regarding these definitions and the issues which they raised have been discussed earlier in this notice.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program (e.g., labeling, targets) vary, application of the standard test methodology prescribed today may differ in some respects for each program element. It is expected that instructions on how to apply the standard test methodology to these other elements of the appliance program will be proposed for comment in the near future.

The requirements of § 430.24 (n) and (o) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for furnaces and vented home heating equipment supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of furnaces or vented home heating equipment, or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of furnaces or vented home heating equipment, must now employ test procedures identical to those specified in today's final rule.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185 Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulation, is amended as set forth below, effective.

Issued in Washington, D.C., May 2, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

1. Section 430.2 is amended by adding subparagraphs (14) and (15) as part of the definition of "basic model" and by adding in appropriate alphabetical order the definitions of "direct vent system," "electric boiler," "electric central furnace," "forced air central furnace," "furnace," "gravity central furnace," "low pressure steam or

hot water boiler," "outdoor furnace or boiler," "vented home heating equipment" or "vented heater," "vented floor furnace," "vented room heater," and "vented wall furnace," to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

(14) with respect to furnaces, having the same primary energy source and essentially identical functional, physical and electrical characteristics.

(15) with respect to vented home heating equipment, having the same primary energy source and essentially identical functional, physical and electrical characteristics.

* * * * *

"Direct vent system" means a system supplied by a manufacturer which provides outdoor air or air from an unheated space (such as an attic or crawl space) directly to a furnace or vented heater for combustion and for draft relief if the unit is equipped with a draft control device.

"Electric boiler" means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds per square inch gauge (psig) steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

"Electric central furnace" means a furnace designed to supply heat through a system of ducts with air as the heating medium, in which heat is generated by one or more electric resistance heating elements and the heated air is circulated by means of a fan or blower.

"Forced air central furnace" means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

"Furnace" means a device designed to be the principal heating source for the living space of a residence having a heat input rate less than 300,000 Btu's per hour for electric boilers and low pressure steam or hot water boilers, or 225,000 Btu's per hour for forced air central furnaces, gravity central furnaces, and electric central furnaces.

"Gravity central furnace" means a gas fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

"Low pressure steam or hot water boiler" means an electric, gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 pounds psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

"Outdoor furnace or boiler" is a furnace or boiler normally intended for installation out-of-doors or in an unheated space (such as an attic or a crawl space).

"Vented home heating equipment" or "vented heater" means a class of home heating equipment, not including furnaces, designed to furnish warmed air to the living space of a residence, directly from the device, without duct connections (except that boots not to exceed 10 inches beyond the casing may be permitted) and includes: vented wall furnace, vented floor furnace, and vented room heater.

"Vented floor furnace" means a self-contained vented heater suspended from the floor of the space being heated, taking air for combustion from outside this space. The vented floor furnace supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

"Vented room heater" means a self-contained, free standing, nonrecessed, vented heater for furnishing warmed air to the space in which it is installed. The vented room heater supplies heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

"Vented wall furnace" means a self-contained vented heater complete with grilles or the equivalent, designed for incorporation in, or permanent attachment to, a wall of a residence and furnishing heated air circulated by gravity or by a fan directly into the space to be heated through openings in the casing.

2. Section 430.22 is amended by adding paragraphs (n) and (o), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(n) *Furnaces.* (1) The estimated annual operating cost for furnaces is the sum of (i) the product of the average annual fuel energy consumption, in Btu's per year for gas or oil furnaces or in kilowatt-hours per year for electric furnaces, determined according to 4.8 or 4.10 of appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided pursuant to section 323(b)(2) of the Act, plus (ii) the product of the average annual auxiliary electric energy consumption in kilowatt-hours per year, determined according to 4.9 of appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year.

(2) The annual fuel utilization efficiency for furnaces, expressed in percent, is the ratio of annual output of useful energy delivered to the heated space to the annual fuel energy input to the furnace determined according to 4.2.33 of appendix N of this subpart for gas and oil furnaces and determined in accordance with 4.1 of appendix N of this subpart for electric furnaces.

(3) The estimated regional annual operating cost for furnaces is the sum of (i) the product of the regional annual fuel energy consumption in Btu's per year for gas or oil furnaces or in kilowatt-hours per year for electric furnaces, determined according to 4.12 and 4.14 of appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided pursuant to section 323(b)(2) of the Act, plus (ii) the product of the regional auxiliary electrical energy consumption in kilowatt-hours per year, determined according to 4.13 of appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year.

(4) Other useful measures of energy consumption for furnaces shall be those measures of energy consumption which the Secretary of Energy determines are likely to assist consumers in making purchasing decisions and which are derived from the application of appendix N of this subpart.

(o) *Vented home heating equipment.* (1) The estimated annual operating cost for vented home heating equipment is the sum of (i) the product of the average annual fuel energy consumption in Btu's per year, determined according to 4.7 of appendix O of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator, plus (ii) the product of the average annual auxiliary electric energy consumption in kilowatt-hours per year, determined according to 4.8 of appendix O of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administra-

tor, the resulting sum rounded off to the nearest dollar per year.

(2) The annual fuel utilization efficiency for vented home heating equipment, expressed in percent, is the ratio of annual output of useful energy delivered to the heated space to the annual fuel energy input to the vented heater determined according to 4.1.33 of Appendix O of this subpart.

(3) The estimated regional annual operating costs for vented home heating equipment computed for different typical design heating requirements is the sum of (i) the product of the regional annual fuel energy consumption for the typical design heating requirement being used, in Btu's per year for gas or oil vented heaters determined according to 4.10 of Appendix O of this subpart, and the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Administrator plus (ii) the product of the regional annual auxiliary electrical energy consumption in kilowatt-hours per year determined according to 4.11., as appropriate, of Appendix O of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting sum then being rounded off to the nearest dollar per year.

(4) Other useful measures of energy consumption for vented home heating equipment shall be those measures of energy consumption which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix O of this subpart.

3. Section 430.24 is amended by adding paragraphs (n) and (o) to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

* * * * *

(n) *Furnaces.* (1) Except as provided in paragraph (n)(3) of this section, no manufacturer, distributor, retailer, or private labeler of furnaces may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(n) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (n)(1) of this section is to be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to furnaces is prescribed under Section 324 of the Act, this paragraph (n) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption of the label.

(o) *Vented home heating equipment.* (1) except as provided in paragraph (o)(3) of this section, no manufacturer, distributor, retailer, or private labeler of vented home heating equipment may make any representation with respect to or based upon a measure or measures of energy consumption described in Section 430.22(o) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) The sample selected for paragraph (o)(1) of this section is to be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to vented heaters is prescribed under Section 324 of the Act, this paragraph (o) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

(4) Subpart B of Part 430 is amended to add Appendices N and O, to read as follows:

APPENDIX N—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF FURNACES

1.0 *Definitions.*

1.1 "Steady-state conditions" means equilibrium conditions as indicated by temperature variations of not more than 3° F (1.7° C) in the stack gas temperature for units equipped with integral draft diverters, or not more than 5° F (2.8° C) in flue gas temperature for units equipped with draft hoods, barometric draft regulators, or direct vent systems, in three successive temperature readings taken 15 minutes apart.

1.2 "Steady-state conditions for low pressure steam and hot water boilers" means steady-state conditions as defined in 1.1 above and variations of not more than 4° F (2.2° C) in the outlet water temperature for hot water boilers in three successive readings taken 15 minutes apart.

1.3 "Flue gases" means all gases in the flue during the duration of combustion in the combustion chamber, including reaction products, inerts and any excess air.

1.4 "Excess air" means air which passes through the combustion chamber and the furnace flues in excess of that which is theoretically required for complete combustion.

1.5 "Flue" means a conduit between the flue outlet of the furnace and the integral draft diverter, draft hood, barometric draft regulator, vent terminal, or any other point of draft relief.

1.6 "Furnace outlet" means the opening provided in a furnace for the exhaust of the flue gases from the combustion chamber.

1.7 "Flue losses" means the sum of sensible and latent heat losses above room temperature of the flue gases leaving the furnace.

1.8 "Stack" means the portion of the exhaust system downstream of the draft diverter, draft hood or barometric draft regulator.

1.9 "Stack gases" means the mixture of the flue gases and air that enters at the draft diverter, draft hood, integral draft diverter, or barometric draft regulator.

1.10 "Barometric draft regulator or barometric damper" means a device designed to maintain a constant draft in a furnace or boiler.

1.11 "Air shutter" means an adjustable device for varying the size of the primary air inlet(s) to the combustion chamber or power burner.

1.12 "Power burner" means a furnace burner which supplies air for combustion at a pressure exceeding atmospheric pressure, or a burner which depends on the draft induced by a fan incorporated in the furnace for proper operation.

1.13 "Vent limiter" means a device which limits the flow of air from the atmospheric diaphragm chamber of a gas pressure regulator to the atmosphere. A vent limiter may be a limiting orifice or other limiting device.

1.14 "Vent/air intake terminal" means a device which is located on the outside of a building and is connected to a furnace by a system of conduits. It is composed of an air intake terminal through which the air for combustion is taken from the outside atmosphere, and an exhaust terminal from which flue gases are discharged.

1.15 "Resistance heating element" means the electrical conducting medium which is intended to be heated by an electric current and which dissipates this heat into the air or water.

1.16 "Induced draft" means drawing air into the combustion chamber by mechanical means.

1.17 "Plenum" means an air compartment, that is attached to, or is an integral part of a forced air furnace and which is designed to either distribute the heated air after it leaves the heat exchanger in the case of a supply plenum, or collects the air which enters the return inlet in the case of a return plenum.

1.18 "Heat input" (Q_{in}) means the rate of energy supplied in a fuel to a furnace, operating under steady state conditions, expressed in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

1.19 "Draft hood" means a device that is not an integral part of the furnace or boiler, and which is connected to the furnace or boiler by a short length of flue pipe. It is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft hood, (2) prevent a back draft from entering the furnace, and (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of the furnace.

1.20 "Higher heating value" (HHV) means the heat produced per unit of fuel when complete combustion takes place at constant pressure and the products of combustion are cooled to the initial temperature of the fuel and air and when the water vapor formed during combustion is condensed. The higher heating value is expressed in Btu's per pound, Btu's per cubic foot for gaseous fuel, or Btu's per gallon for liquid fuel.

1.21 "Integral draft diverter" means a device that is an integral part of a furnace and which is designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft diverter, (2) prevent a back draft from entering the furnace, (3) neutralize the effect of stack action of the chimney or gas vent upon the operation of the furnace.

1.22 "Stack damper" is a device installed downstream of the integral draft diverter, draft hood, or barometric draft regulator and which is designed to automatically open the venting system when the appliance is in operation and to automatically close off the venting system when the appliance is in a standby condition.

1.23 "Flue damper" is a device installed between the furnace and the integral draft diverter, draft hood, barometric draft regulator or vent terminal on a unit not equipped with a draft control device and which is designed to automatically open the venting system when the appliance is in operation and to automatically close-off the venting system when the appliance is in a standby condition.

1.24 "Air tube" means a tube which carries combustion air from the fan to the burner nozzle for combustion.

1.25 "Infiltration parameter" means that portion of unconditioned outside air drawn into the heated space as a consequence of loss of conditioned air through the exhaust system of a furnace or boiler.

1.26 "Vent pipe" means passages and conduits in a direct vent system through which gases pass from the combustion chamber to the outdoor air.

1.27 "Heating capacity" (Q_{out}) means the rate of useful heat output from a furnace, operating under steady state conditions, expressed in Btu's per hour. For furnaces intended to be installed indoors it is obtained by multiplying the "heat input" (Q_{in}) by the steady state efficiency (η_{ss}) divided by 100. For furnaces intended to be installed outdoors it is obtained by multiplying (A) the "heat input" (Q_{in}) by (B) the difference of the steady state efficiency divided by 100 and the quantity (3.3) (L_j) divided by 100, where L_j is the jacket loss as determined in 3.4 of this appendix.

2.0 *Testing conditions.*

2.1 *Installation of test plenum, duct work, and piping.*

2.1.1 Gravity central furnaces (including direct vent systems). Install and equip gravity central furnaces with a vertical supply test plenum or extended casing and horizontal test ducts as described in section 2.9.1 of ANSI Standard Z21.47-1973.

2.1.2 Forced air central furnaces (including direct vent systems). Equip gas-fueled forced air central furnaces with a plenum and test duct as described in Sections 2.1.9 and 2.1.10 of ANSI Standard Z21.47-1973. Equip oil fueled forced air central furnaces with a plenum and test duct as described in Section 6.2 of ANSI Standard Z91.1-1972.

2.1.3 Low pressure steam and hot water boilers (including direct vent systems). Install gas-fueled low pressure steam and hot water boilers as prescribed in section 2.9 of ANSI Standard Z21.13-1974. Install oil-fueled low pressure steam and hot water boilers as prescribed in sections 7.0 and 8.1.1 through 8.1.3 of the Hydronic Institute Testing and Rating Standard for Cast Iron and Steel Heating Boilers, January 1977 edition.

2.1.4 Electric central furnaces. Install equipment for testing in accordance with ARI Standard 280-74, section 4 and figure 1.

2.1.5 Electric boilers.

Install equipment in accordance with manufacturer's instructions.

2.2 *Flue and Stack Requirements*

2.2.1 Gravity and Forced air central furnaces. 2.2.1.1 Gravity and gas fueled forced air central furnaces employing integral draft diverters.

Attach to, and vertically above, the diverter outlet of gas fueled gravity and forced air central furnaces employing draft diverters with vertically discharging outlets, a test stack having a length of five (5) feet and a cross sectional area the same size as the furnace outlet. Cover the test stack with insulation having an R value of not less than 7 (°F-HR—ft²/Btu) and an outer layer of aluminum foil. Attach a 90 degree elbow and a vertical test stack 5 feet long to the diverter outlet of furnaces employing draft diverters with horizontally discharging outlets. Cover the elbow and test stack with insulation having an R value of not less than 7 (°F-HR—ft²/Btu) and an outer layer of aluminum foil.

2.2.1.2 Gas fueled gravity and forced air central furnaces which employ draft hoods. Test gas fueled gravity and forced air central furnaces which employ draft hoods having vertically discharging outlets with the draft hood in place and a five foot long insulated pipe attached to the hood outlet. Test gas fueled furnaces having a horizontally discharging hood outlet, with the draft hood in place and an insulated elbow and a five foot long vertical insulated pipe attached to the hood outlet. Insulate with insulation having an R value not less than 7 (°F-HR—ft²/Btu) and an outer layer of aluminum foil. Use an elbow and pipe with a cross sectional area the same size as the hood discharge outlet.

2.2.1.3 Oil fueled forced air central furnaces.

Flue connections for oil fueled forced air central furnaces are to be as described in Figures 1 and 2 of ANSI Standard Z91.1-1972. Use elbows and flue connections with the same cross sectional area as the furnace outlet and covered as described in Figure 2 of ANSI Standard Z91.1-1972 with insulation having an R value not less than 7 (°F-HR—ft²/Btu) and an outer layer of aluminum foil. Allow no opening between the furnace and the point where the flue gas sample is to be taken or the flue gas temperature is to be measured. If a barometric draft regulator is incorporated in the furnace, seal it during all tests.

2.2.2 Gas and oil fueled low pressure steam and hot water boilers (not including direct vent systems). Set up gas fueled low pressure steam and hot water boilers employing draft diverters with the same flue and stack arrangement described in section 2.2.1.1 for gas fueled furnaces with draft diverters.

Set up gas fueled low pressure steam and hot water boilers employing draft hoods with the same flue and stack arrangement described in section 2.2.1.2 for gas fueled furnaces with draft hoods.

Flue connections for oil fueled low pressure steam and hot water boilers are the same as those described in section 2.2.1.3 for oil fueled forced air central furnaces.

2.2.3 Direct vent systems. Keep the vent/air intake system supplied by the manufacturer in place during all tests. Test units intended for installation with a variety of vent pipe lengths with the minimum vent length recommended by the manufacturer. Do not connect a furnace or boiler employing a direct vent system to a chimney or induced draft source. Vent combustion products solely on the provision of venting incorporated in the furnace and the vent/air intake system supplied with it. On units which are not designed to significantly preheat the incoming air, insulate the first 18 inches of vent pipe downstream of the furnace outlet with a layer of insulation having an R value of 7 (°F-HR—ft²/Btu) covered with a layer of aluminum foil. Care should be taken not to block the air intake with insulation. For units designed to significantly preheat the incoming combustion air cover all surfaces of the vent/air intake system exposed to ambient air with insulation having an R value not less than 7 (°F-HR—ft²/Btu) and a layer of aluminum foil, where the combustion air temperature exceeds the room temperature by more than 30° F (16.76 C°).

2.3 *Fuel supply.*

2.3.1 Natural gas. For a furnace utilizing natural gas, maintain the gas supply to the unit under test at a normal inlet test pressure of 7 to 10 inches water column immediately ahead of all controls. Maintain the regulator outlet pressure at normal test pressure approximately at that recommended by the manufacturer. Use natural gas having a specific gravity of approximately 0.65 and a higher heating value within ±5% of 1025 Btu per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the natural gas to be used in the test with an error no greater than one percent.

2.3.2 Propane gas. For a furnace or boiler utilizing propane gas, maintain the gas supply to the unit under test at a normal inlet pressure of 11 to 13 inches water column. Immediately ahead of all controls maintain the regulator outlet pressure, on units so equipped, approximately at that recommended by the manufacturer. Use propane HD-5 having a specific gravity of approximately 1.53 and a higher heating value within ±5% of 2500 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the propane to be used in the test with an error no greater than one percent.

2.3.3 Other test gas. The specific gravity of other test gases shall approximate the values given in Table IX of ANSI Standard Z21.47-1973. Maintain the test pressures immediately ahead of all controls between the "normal" and "increased" values of test pressures given in Table X in the ANSI Standard. Use gas with a measured higher heating value within ±5% of the values specified in Table IX of ANSI Standard Z21.47-1973. Determine the actual higher heating value of the gas used in the test with an error no greater than 1 percent.

2.3.4 Oil supply. For a furnace or boiler utilizing fuel oil, use fuel oil No. 1 or No. 2 conforming to the specifications outlined in Tables 2 and 3 of ANSI Standard Z91.1-1972. Measure the higher heating value of the test fuel oil with an error no greater than one percent.

2.3.5 Electrical supply. For an electric furnace or boiler, or for an auxiliary electric component of a gas or oil fueled furnace or boiler, maintain the electrical supply to the test unit within one percent of the nameplate voltage for the entire duration of the test. If a voltage range is used for nameplate voltage, maintain the electrical supply within one percent of the center of the nameplate voltage range.

2.4 *Burner adjustments.*

2.4.1 Gas Burner adjustments. Adjust burners of gas fueled furnances or boilers to their maximum Btu ratings at normal test pressure specified in 2.3 of this Section. Correct the burner input rate to 60° F and 30 inches of mercury barometric pressure and within ±2 percent of the hourly Btu rating specified by the manufacturer, as measured after 15 minutes of operation starting with all parts of the furnace at room temperature. Set the primary air shutters in accordance with the manufacturer's recommendation to give a good flame at this adjustment. If, however, the setting results in the deposit of carbon during any test specified herein, the tester shall adjust the shutters and burners until no more carbon is deposited and shall perform the tests again with the new settings.

If a vent limiting means is provided on a gas pressure regulator, keep it in place during all tests.

2.4.2 Oil burner adjustments. Adjust the burners of oil fueled furnaces or boilers to give the CO_2 reading recommended by the manufacturer and an hourly Btu input during the steady-state performance test described below which is within plus or minus 2 percent of the furnace manufacturer's specified normal hourly Btu input rating. Smoke in the flue may not exceed a No. 1 smoke during the steady-state performance test as measured by the procedure in ANSI Standard Z11.182-1965 (R1971) (American Society for Testing and Materials D 2156-65 (1970)). Maintain the average draft over the fire and in the flue during the steady-state performance test at that recommended by the manufacturer. Do not allow draft fluctuations exceeding 0.005 inches of water gauge. Do not make additional adjustments to the burner during the required series of performance tests. The instruments and measuring apparatus for this test are described in section 6.3 of ANSI Standard Z91.1-1972.

2.5 *Circulating air, steam, or water flow adjustments.*

2.5.1 Gas fueled forced air central furnaces (including direct vent systems).

Adjust the external static pressure and air flow rate as specified in sections 2.1.11, 2.1.12, and 2.1.13 of ANSI Standard Z21.47-1973. Measure outlet air temperature in accordance with section 2.1.9 of the same standard.

2.5.2 Gravity central furnaces (including direct vent systems). Maintain the air flow rate through the furnace such that the average normal air temperature rise at steady-state is not greater than 130° F above the inlet air temperature when the furnace is equipped with the vertical test plenum of extended casing and horizontal test ducts as described in section 2.1.1. Measure the outlet air temperature as specified in section 2.9.1 of ANSI Standard Z21.47-1973. Measure the inlet air temperature measured at the center of the plane of each inlet air opening by means of a single No. 24 American Wire Gauge (AWG) thermocouple, suitably shielded from direct radiation.

2.5.3 Oil fueled forced air central furnaces (including direct vent systems). Adjust the external static pressure and air flow rate as specified in table 5 and section 6.2 of ANSI Standard Z91.1-1972.

2.5.4 Gas and oil fueled low pressure steam and hot water boilers (including direct vent systems). For hot water boilers, adjust the water flow rate to produce a water temperature rise, during steady-state operation, of between 120° F (48.9 C) and 165° F (73.9 C) and an outlet water temperature of 200° F (93.3 C) plus or minus 5° F (2.8 C). For steam boilers, conduct the steady-state performance test described in 3.1 at atmospheric pressure or at a pressure not exceeding 2 psig.

2.5.5 Electric central furnaces. Use the air quantity and pressures specified by the Air Conditioning and Refrigeration Institute (ARI) Standard 280-74, section 6.2.1 and 6.2.3.

2.5.6 Electric boilers. Adjust the flow of water or steam as specified in section 2.5.4 for gas and oil fueled boilers.

2.6 *Location of temperature measuring instrumentation.*

2.6.1 Gas fueled gravity furnaces, forced air furnaces, and boilers (including direct vent systems). For units employing an intergral draft diverter, install nine thermocouples, wired in parallel, in a horizontal plane in the 5-foot test stack located 1 foot from the test stack inlet. Equalize the length of all thermocouple leads before paralleling. Arrange the thermocouples in a grid with one thermocouple in the center of the test stack, and eight thermocouples along imaginary lines intersecting at right angles in the horizontal plane at points one-third and two-thirds of the distance betweeen the center of the pipe and the pipe wall.

For units which employ a draft hood, or a direct vent system which does not significantly preheat the incoming combustion air, install nine thermocouples, wired in parallel, in a horizontal plane located within 12 inches (304.8 mm) of the furnace or boiler outlet, and upstream of the draft hood on units so equipped. Equalize the length of all thermocouple leads before paralleling and arrange the thermocouples as described above.

For funaces or boilers which employ direct vent systems that significantly preheat the incoming combustion air, install nine thermocouples, wired in parallel, in a plane parallel to and located within 6 inches (152.4 mm) of the vent/air intake terminal. Equalize the length of all thermocouple leads before paralleling and arrange the thermocouples as described above.

Use bead-type thermocouples having wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the flame, install radiation shields on the flame side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Locate the thermocouples used for measuring conditioned warm air as described in ANSI Z21.47-1973, sections 2.1.9 and 2.9.1. Measure the temperature of the inlet air by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

Measure the inlet and outlet water temperature on gas fueled hot water boilers as shown in figure 3 of ANSI Standard Z21.13-1974.

2.6.2 *Oil fueled forced air central furnaces and boilers (including direct vent systems).* Install nine thermocouples, wired in parallel and having equal length leads, in a plane perpendicular to the axis of the flue pipe. For systems other than direct vent systems which significantly preheat the incoming air, locate this plane at the position of the single thermocouple shown in figure 2 of ANSI Standard Z91.1-1972. For direct vent systems which significantly preheat the incoming air, locate the plane within 6 inches (152.4 mm) of the outlet of the vent/air intake terminal. Arrange the thermocouples as described in section 2.6.1.

Use bead-type thermocouples having a wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the flame, install radiation shields on the flame side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Locate the thermocouples for measuring conditioned warm air as described in section 6.2 of ANSI Standard Z91.1-1972. Measure the temperature of the inlet air by means of a single thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

Measure the inlet and outlet water temperatures on oil fueled hot water boilers as described in section 7.4 and figure 2 of the January 1977 edition of the Hydronic Institute Standard "Testing and Rating Standard for Cast Iron and Steel Heating Boilers."

2.6.3 *Electric furnaces.* Install nine thermocouples, wired in parallel and having equal length leads, as shown in figure 1 of ARI Standard 280-74, for measuring the conditioned warm air temperature. Establish the temperature of the inlet air by means of a single thermocouple suitably shielded from radiation and located in the center of the plane of each inlet air opening. Use bead-type thermocouples having a wire size not greater than No. 24 AWG.

2.6.4 *Electric boilers.* Measure the inlet and outlet water temperatures on electric hot water boilers as specified in section 2.6.2 for oil fueled hot water boilers.

2.7 *Combustion measurement instrumentation.* Analyze the samples of stack and flue gases for furnaces and determine the concentration by volume of carbon dioxide present in the dry stack or flue gas, with instrumentation providing readings with an accuracy of ±0.1 percentage points.

2.8 *Energy flow instrumentation.* Install one or more instruments, which measure, as appropriate, the rate of electrical energy combustion, gas flow, or fuel oil supplied to the furnace or boiler, with an error no greater than one percent.

2.9 *Room ambient temperature.* During the time period required to perform all the testing and measurement procedures specified in section 3.0, maintain the room temperature within ±5° F (+2.8 C) of the value T_{RA} measured during the steady state performance test. During these tests, the room temperature may not exceed 100° F (37.8 C) or fall below 65° F (18.3 C). Use the procedure outlined in section 2.1.14 of ANSI Standard Z21.47-1973 to measure room temperature.

2.10 *Equipment used to measure mass flow rate in flue and stack.* The tracer gas chosen for this task should have a density which is less than or approximately equal to the density of air. Use a gas that is of a different chemical species or different concentration from the flue gas to be measured

and unreactive with the environment to be encountered. Using instrumentation of either the batch or continuous type, measure the concentration of tracer gas with an accuracy of ±2 percent of the value of the concentration measured.

3.0 *Testing and measurements.*

3.1 *Steady-State testing.*

3.1.1 *Gas fueled gravity furnaces, forced air central furnaces, and low pressure steam and hot water boilers (including direct vent systems).* The following procedure is to be used for gas fueled gravity furnaces, forced air central furnaces, and boilers (including direct vent systems).

Set up the furnace or boiler as specified in sections 2.1., 2.2, and 2.3. Begin the steady-state performance test by operating the burner and the circulating air blower or water pump, with the adjustments specified by 2.4.1 and 2.5, until steady-state conditions are attained as indicated by a temperature variation of not more than—(1) 3° F (1.7C) in the stack gas temperature for furnaces and boilers equipped with draft diverters (2) 5° F (2.8C) in the flue gas temperature for furnaces and boilers equipped with either draft hoods, or direct vent systems, and (3) 4° F (2.2C) in the outlet water temperature for hot water boilers; in three successive readings taken 15 minutes apart.

On units employing draft diverters, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady-state stack gas temperature ($T_{S.SS.X}$) using the nine thermocouples located in the 5 foot test stack as described in 2.6.1. Secure a sample of the stack gases in the plane where $T_{S.SS.X}$ is measured and determine the concentration by volume of carbon dioxide ($X_{CO2.S}$) present in dry stack gas.

On units employing draft hoods or direct vent systems, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady-state flue gas temperature, ($T_{F.SS.X}$) using the nine thermocouples located in the flue pipe as described in Section 2.6.1. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2($X_{CO2.F}$) present in dry flue gas.

Determine the steady-state heat input rate (Q_{in}), including pilot gas, by multiplying the measured higher heating value of the test gas by the steady-state gas input rate corrected to standard conditions of 60° F and 30 inches of mercury. Use measured values of gas temperature and pressure at the meter and the barometric pressure to correct the metered gas flow rate to standard conditions.

Measure the steady-state electric power to the power burner (PE) on units so equipped. For furnaces, measure the steady-state electrical power to the conditioned air blower (BE). For hot water boilers, use a steady state water pump power of 0.13kW.

After the above test measurements have been complete on units employing integral draft diverters, secure a sample of the flue gases at the inlet to the draft diverter and determine the concentration of CO_2 ($X_{CO2.F}$) present. In obtaining this sample of flue gas, move the sampling probe around to assure that an average value is obtained for the CO_2 concentration. For units with multiple heat exchanger outlets, draw and weight a sample from each outlet, to obtain the average CO_2 concentration for the unit. Block the draft diverter relief opening and cover the draft diverter and flue gas collection box (on a power vented unit) with insulation having an R value no less than 7 (°F-HR—ft²/Btu) and an outer layer of aluminum foil. If the unit is turned off during the process of blocking the diverter relief opening, run it until steady-state conditions (as defined above) are again achieved. Progressively restrict the test stack outlet until the concentration of CO_2 in flue gas samples secured from the test stack in the plane where $T_{S.SS.X}$ was measured is within ±0.2 percentage points of the previously determined value of $X_{CO2.F}$. Measure the flue gas temperature ($T_{F.SS}$) using the nine thermocouples located in the 5 foot test stack as described in 2.6.1.

3.1.2 Oil fueled forced air central furnaces and low pressure steam and hot water boilers (including direct vent systems). Set up and adjust the furnace or boiler as specified in sections 2.1, 2.2 and 2.3.4. Begin the steady-state performance test by operating the burner and the circulating air blower or water pump with the adjustments specified by 2.4.2 and 2.5 until steady-state conditions are attained as indicated by a temperature variation of not more than—(1) 5° F (2.8C) in the flue gas temperature for furnaces and boilers and (2) 4° F (2.2C) in the outlet water temperature for hot water boilers; in three successive readings taken 15 minutes apart.

Smoke in the flue for units equipped with power burners, may not exceed a No. 1 smoke during the steady-state performance test as measured by the procedure described in ANSI Standard Z11.182-1975 (R1971) (ASTM D 2156-65 (1970)). Maintain the average draft over the fire and in the breeching during the steady-state performance test at that recommended by the manufacturer. Draft fluctuations may not exceed 0.005 inches of water gauge.

Measure the room temperature (T_{RA}) as described in 2.9 and measure the steady state flue gas temperature ($T_{F.SS}$) using nine thermocouples located in the flue pipe as described in 2.6.1. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 ($X_{CO2.F}$) present in dry flue gas.

Measure and record the steady-state heat input rate (Q_{in}) and the steady-state electrical power to the power burner (PE) on units so equipped. For furnaces, measure the steady-state electrical power to the conditioned air blower (BE). For hot water boilers, use a steady-state water pump power of BE=0.13 kW.

3.1.3 Electric forced air central furnaces. Measure the rated power input (E_{in}) of electric furnaces according to the test procedure specified in ARI Standard 280-74, section 5.1. Take all measurements at the standard rating condition described in 6.2.1 of ARI Standard 280-74. Supply electricity as specified in section 2.3.5 of this appendix.

3.1.4 Electric boilers. Adjust flow conditions as specified in section 2.5.4. Maintain electrical supply as specified in section 2.3.5. Operate the boiler until steady state conditions are reached as indicated in section 1.2 of this appendix. Take three measurements of the total power input to the boiler each at a 10-minute interval, and average the measurements to find the rated power input (E_{in}).

3.2 *Flue temperature measurements—cool down test.*

3.2.1 Gas and oil fuel gravity and forced air central furnaces (including direct vent systems). Turn off the main burner after steady-state testing is completed, and measure the flue gas temperature, by means of the 9 thermocouples described above, at 1.5 ($T_{F.OFF}(t_3)$) and 9.0 minutes ($T_{F.OFF}(t_4)$) after the burner shuts off. By-pass the damper control in units employing stack dampers and integral draft diverter or draft hood so that the damper remains open during the cool down test.

During this off-period, allow a time delay, t^+, between burner shut down and blower shut down of either 3 minutes or until the supply air temperature drops to a value of 40° F (22.2C) above the inlet air temperature, whichever results in the longest blower on time. However, if the furnace employs a single motor to drive a power burner and an indoor air circulating blower, turn off the blower and the burner together. If the blower delay time exceeds 3 minutes, measure the time t^+ between burner shut off and blower shut off using a stop watch. For oil fueled furnaces not equipped with stack dampers, maintain the draft in the flue pipe within a range of −0.001 and +0.005 inches of water gauge of the average draft maintained during the steady state test described in 3.1 if the optional test in 3.6 is being carried out, or within ±0.01 inches of water gauge of the average steady-state draft if it is not. For a direct vent system with a flue damper or a furnace equipped with both a stack damper and a barometric damper, close the flue or stack damper during the cool down test. Keep the main burner(s) off until equilibrium conditions are attained, as indicated by variations in the flue gas temperature of not more than 3° F (1.7C) between three successive readings taken 15 minutes apart. For units employing a continuously burning pilot light, take a third flue gas temperature measurement and determine the off-period minimum flue gas temperature ($T_{F.OFF.}(\infty)$). For units not employing a continuously burning pilot light, set ($T_{F.OFF.}(\infty)$) equal to the room temperature T_{RA}. During this cool down test, measure the energy input rate to the pilot light (Q_P), if the unit is so equipped, within an accuracy of ±3%. Record all measured values.

3.2.2 Gas and oil fueled boilers (including direct vent systems). After steady-state testing has been completed, turn the main burner(s) off and measure the flue gas temperature at 3.75 ($T_{F.OFF}(t_3)$) and 22.5 ($T_{F.OFF}(t_4)$) minutes after the burner shuts off, using the 9 thermocouples described above. During this off-period, do not allow water to circulate through the hot water boilers. Make a third flue gas temperature measurement 45 minutes after the burner shuts off to determine the off-period minimum flue gas temperature ($T_{F.OFF.}(\infty)$). During this cool-down test, measure the energy input rate to the pilot light (Q_P), if the unit is so equipped, to within an accuracy of ±3 percent. Record all measured values. For oil fueled units not equipped with stack dampers, maintain the draft in the flue within the same ranges called out in section 3.2.1 above. For direct vent systems with flue dampers or boilers equipped with both stack dampers and barometric dampers, close the flue or stack damper during the cool down test.

3.3 *Flue gas temperature measurements—Heat-up test.*

3.3.1 Gas and oil fueled central furnaces (including direct vent systems). After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature using the 9 thermocouples described above, at 0.5 ($T_{F.ON}(t_1)$) and 2.5 ($T_{F.ON}(t_2)$) minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up

by 1.5 minutes (t^-), unless—(1) the furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together or (2) the delay time would result in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the burner at the highest temperature. If the fan control is permitted to start the blower, measure the time delay, t^-, using a stop watch. Record the measured temperatures. During the heat up test for oil fueled furnaces, maintain the draft in the flue pipe within ±0.01 inches of water gauge of the manufacturer's recommended on-period draft.

3.3.2 Gas and oil fueled boilers (including direct vent systems). Fifty minutes after the main burner(s) is turned off for the cool down test, turn on the steam or hot water boiler and measure the flue gas temperature using the 9 thermocouples described above, at 1.0 ($T_{F.ON}(t_1)$) and 5.5 ($T_{F.ON}(t_2)$) minutes after the main burner(s) comes on. Start the pump circulating the water through the hot water boiler simultaneously with the main burner(s) and maintain the water flow rate at that maintained during the steady state test described in Section 3.1. During the heat up test for oil fired boilers, maintain the draft in the flue pipe within ±0.01 inches of water column of the manufacturer's recommended on-period draft. Record the measured temperatures.

3.4 *Jacket loss measurement.* For units intended to be installed outdoors or in a unheated space perform a jacket loss test. Measure the jacket loss (L_J) in accordance with the following ANSI standards and record the total loss and ambient room temperature during the test:

(i) Gas fueled gravity and forced air central furnaces—Z21.47-1973, section 2.9.1 and appendix F.

(ii) Gas and oil fueled low pressure steam and hot water boilers—ANSI Z21.47-1973, section 2.9.1 and appendix F.

(iii) Oil fueled forced air central furnaces—Z91.1-1972, appendix B.

3.5 *Measurement for determining effectiveness of automatic stack damper.* Measure the cross sectional area of the stack (A_s), the net area of the damper plate (A_D) (the area of the damper plate minus the area of any holes in the plate), and the angle (Ω) the damper plate makes, when closed, with a plane perpendicular to the axis of the stack.

3.6 *Optional procedure for determining D_P, D_F, D_S for systems equipped with power burners.* On power burner systems not employing automatic stack dampers, or power burner systems with a stack damper and a draft diverter or draft hood, measure D_F (the ratio of gas mass flow rate through the flue during the off-cycle to the gas mass flow rate though the flue during the on-cycle at identical temperatures) during the cool down test described in Section 3.2. On systems for which the flue or stack damper is to be closed during the cool down test described in section 3.2, measure D_P (the ratio of the rate of flue gas mass flow through the furnace during the off-period to the rate of flue gas mass flow through the furnace during the on-period) during a separate cool down test. Conduct this separate cool down test after the heat up test described in section 3.3 is completed by running the unit after the heat up test until steady-state conditions are reached, as indicated by a temperature variation of not more than—(1) 5° F (2.8 C) in the flue gas temperature for furnaces and boilers, and (2) 4° F (2.2 C) in the outlet water temperature for hot water boilers; in three successive readings taken 15 minutes apart, and then shutting the unit off with the stack or flue damper controls by-passed or adjusted so that the stack or flue damper remains open during the resulting cool down period. If a draft was maintained on oil furled units in the flue pipe during the steady-state performance test described in section 3.1 maintain the same draft (within 0.001 and +0.005 inches of water gauge of the average steady-state draft) during this cool down period. Measure the flue gas mass flow rate ($m_{F.OFF}$) during the cool down test described above at a specific off-period flue gas temperature and correct to obtain its value at the steady-state flue gas temperature ($T_{F.SS}$), using the procedure described below.

Within 1 minute after the unit is shut off to start the cool down test for determining D_P, begin feeding a tracer gas into the combustion chamber at a constant flow rate of V_T, and at a point which will allow for the best possible mixing with the air flowing through the chamber. (On units equipped with an oil fired power burner the best location for injecting this tracer gas appears to be through a hole drilled in the air tube). Periodically measure the value of V_T with an instantaneously reading flow meter having an accuracy of ±3 percent of the quantity measured and maintain that value at less than 1 percent of the air flow rate through the furnace. If a combustible tracer gas is used, there should be a delay period between the time the unit is shut off and the time the tracer gas is first injected to prevent ignition of the tracer gas.

Between 5 and 6 minutes after the unit is shut off to start the cool down test, measure the flue gas temperature, $T_{F,OFF}^*$, using the 9 thermocouples described above. At the same time the flue gas temperature is measured, measure the percent volumetric concentration of tracer gas, C_T, in the flue gas in the same plane where $T_{F,OFF}^*$ is determined. Obtain the concentration of tracer gas using an instrument which will result in an accuracy of ±² percent in the measured value of C_T. If the use of a continuous readings type instruments results in a delay time between drawing of a sample and its analysis, take this delay into account so the temperature measurement and the measurement of tracer gas concentration coincide. Determine the temperature of the tracer gas entering the flow (T_T) and the barometric pressure (P_B).

The rate of the flue gas mass flow through the furnace and the factors D_P, D_F, and D_S are calculated by the equations in sections 4.4.1, 4.4.2, and 4.4.3 of this appendix.

4.0 Calculation of derived results from test measurements.

4.1 Annual fuel utilization efficiency for electric furnaces and boilers. The annual fuel utilization efficiency for electric furnaces and boilers, $EFFY_{A-E}$, is given by:

$EFFY_{A-E}=100$ (for indoor units).

$EFFY_{A-E}=100-3.3\ L_J$ (for electric forced air central furnaces intended for outdoor installation).

$EFFY_{A-E}=100-4.7\ L_J$ (for electric boilers intended for outdoor installation).

where

L_J=the jacket loss as determined in section 3.4 of this Appendix, in percent.

4.2 *Annual fuel utilization efficiency for gas or oil furnaces.* Perform the following calculations to determine the annual fuel utilization efficiency of a gas or oil furnace. Figure 10 provides an illustration of a worksheet which may be used to tabulate the results of test measurements and calculations.

4.2.1 System number. Determine the system number for the type of furnace being tested in accordance with table 1 or 2.

4.2.2 Ration of combustion air to stoichiometric air. Determine the ratio of combustion air mass flow rate of stoichiometric air mass flow rate, $R_{T.F}$, for the test fuel from Figure 1 by using the value of dry flue gas CO_2 concentration, $X_{CO2.F}$, determined in accordance with section 3.1 of this appendix.

4.2.3 Ratio of combustion and relief air to stoichiometric air. For a system employing an integral draft diverter, or draft hood, determine the ratio of the sum of combustion and relief air mass flow rate stoichiometric air mass flow rate, $R_{T.S}$, from figure 1 for the type of test fuel, by using the value of dry stack gas CO_2 concentration, X_{CO2S}, determined in accordance with section 3.1 of this appendix.

4.2.4 Average sensible heat loss at full-load steady state operation. For a system employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S.SS.A}$, expressed as a percent, from figure 2 using the value of $R_{T.S}$ determined in 4.2.3, the type of test fuel, and $\Delta T_{S.SS}$, where

$$\Delta T_{S.SS}=T_{S.SS.X}-T_{RA}$$

where:

$T_{S.SS.X}$=measured stack gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this appendix, in degrees Fahrenheit.

T_{RA}=measured room temperature of conditioned space in which furnace or boiler is tested, determined in accordance with section 2.9 of this appendix, in degrees Fahrenheit.

For systems not employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S.SS.A}$, expressed as a percent, from figure 2 using the value of $R_{T'F}$ determined in 4.2.2, the type of test fuel, and $\Delta T_{F.SS}'$ where:

$\Delta T_{F.SS}=T_{F.ss}-T_{RA}$

where:

$T_{F.SS}$=flue gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this appendix, in degrees Fahrenheit.

T_{RA} as defined above.

4.2.5 Steady state efficiency. Calculate the steady-state efficiency (excluding jacket loss), η_{SS}' expressed in percent and defined as

$$\eta_{SS}=100-L_{L.A}-L_{S.SS.A}$$

where:

$L_{L.A}$=average latent heat loss of the test fuel determined in accordance with Table 3, in percent.

$L_{S.SS.A}$=as defined in 4.2.4

4.2.6 Average ration of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation. Determine the average ration of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation, S/F, for the system number to be tested from table 1 or 2.

4.2.7 Equivalent field stack gas temperature at full-load steady-state operation. Calculate the equivalent field stack gas tem-

perature at full-load steady-state operation, $T_{S.SS}$, expressed in degrees Fahrenheit and defined as:

$$T_{S,SS} = \frac{1}{S/F}\left[T_{F,SS} - T_{RA}\right] + T_{RA},$$

where:
$T_{F.SS}$ as defined in 4.2.4.
T_{RA} as defined in 4.2.4.
S/F as defined in 4.2.6.

4.2.8 On-cycle time constant. Calculate the on-cycle time constant, τ_{on}, expressed in minutes and defined as:

$$\tau_{on} = \frac{t_2 - t_1}{\ln\left[\frac{T_{F,SS} - T_{F,on}(t_1)}{T_{F,SS} - T_{F,on}(t_2)}\right]}$$

where:
for furnaces:
t_1=0.5 minutes.
t_2=2.5 minutes.
for boilers:
t_1=1.0 minute.
t_2=5.5 minutes.
$T_{F.on}(t_1)$=flue gas temperature measured at time (t_1) from start-up of the system burner determined in accordance with section 3.3 of this appendix, in degrees Fahrenheit.
$T_{F.on}(t_2)$=flue gas temperature measured at time (t_2) from start-up of the system burner determined in accordance with section 3.3 of this appendix, in degrees Fahrenheit.
$T_{F.SS}$ as defined in 4.2.4.

4.2.9 Effective flue gas temperature difference at startup. Calculate the effective flue gas temperature difference at start-up of the system burner, $\theta_{F.O.X.}$ expressed in degrees Fahrenheit and defined as:

$$\theta_{F,O,X,} = \left[T_{F,SS} - T_{F,on}(t_1)\right] e^{\frac{t_1}{\tau_{on}}}$$

where:
$T_{F.SS}$ as defined in 4.2.4.
$T_{F.on}(t_1)$ as defined in 4.2.8.
t_1 as defined in 4.2.8.
τ_{on} as defined in 4.2.8.

4.2.10 Off-cycle time constant. Calculate the off-cycle time constant, τ_{off}, expressed in minutes and defined as:

$$\tau_{off} = \frac{t_4 - t_3}{\ln\left[\frac{T_{F,OFF}(t_3) - T_{F,OFF}(\infty)}{T_{F,OFF}(t_4) - T_{F,OFF}(\infty)}\right]}$$

where:
for furnaces:
t_3=1.5 minutes.
t_4=9.0 minutes.
for boilers:
t_3=3.75 minutes.
t_4=22.5 minutes.
$T_{F.OFF}(t_3)$=flue gas temperature measured at time (t_3) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this appendix, in degrees Fahrenheit.
$T_{F.OFF}(t_4)$=flue gas temperature measured at time (t_4) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this appendix, in degrees Fahrenheit.
$T_{F.OFF}(\infty)$=minimum flue gas temperature determined in accordance with section 3.2 of this appendix, in degrees Fahrenheit.

4.2.11 Effective flue gas temperature difference at shut-down. Calculate the effective flue gas temperature difference at shutdown of the system burner, $\psi_{F.O.X}$, expressed in degrees Fahrenheit and defined as:

$$\psi_{F,O,X} = \left[T_{F,OFF}(t_3) - T_{F,OFF}(\infty)\right] e^{\frac{t_3}{\tau_{off}}}$$

where:
$T_{F.OFF}(t_3)$ as defined in 4.2.10.
$T_{F.OFF}(\infty)$ as defined in 4.2.10.
t_3 as defined in 4.2.10.
τ_{OFF} as defined in 4.2.10.

4/2/12 Minimum flue gas temperature difference above room temperature. Calculate the minimum flue gas temperature difference above room temperature, $\psi_{F.\infty.X}$. expressed in degrees Fahrenheit and defined as:

$$\psi_{F.\infty.X} = T_{F.OFF}(\infty) - T_{RA}$$

where:
$T_{F.OFF}(\infty)$ as defined in 4.2.10.
T_{RA} as defined in 4.2.4.

4.2.13 Minimum stack gas temperature difference above room temperature. Calculate the minimum stack gas temperature difference above room temperature, $\psi_{S.\infty.X}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1-4, and systems 5-8 for which

$$\left(\frac{S}{F}\right)\left(\frac{D_S}{D_F}\right) > 1:$$

$$\psi_{S,\infty,X} = \frac{(D_F)\,(\psi_{F,\infty,X})}{(S/F)\,(D_S)}$$

For systems numbered 5-8 for which

$$\left(\frac{S}{F}\right)\left(\frac{D_S}{D_F}\right) \leq 1:$$

$$\psi_{S.\infty.X} = \psi_{F.\infty.X}$$

where:
D_F=off-cycle flue gas draft factor selected from table 1 or, for units with power burners where D_F is measured, determined in accordance with section 4.4.2 of this appendix.
D_S=off-cycle stack gas draft factor selected from table 1 or, for units with power burners where D_F is measured, determined in accordance with section 4.4.3 of this appendix.
S/F as defined in 4.2.6.
$\psi_{F.\infty.X}$ as defined in 4.2.12.

4.2.14 Effective stack gas temperature difference at shut-down. Calculate the effective stack gas temperature difference at shut-down, $\psi_{S.O.X.}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1-4, and systems 5-8 for which

$$\left(\frac{S}{F}\right)\left(\frac{D_S}{D_F}\right) > 1:$$

$$\psi_{S,O,X} = \frac{(D_F)\,(\psi_{F,O,X})}{(S/F)\,(D_S)}$$

For systems 5-8 for which

$$\left(\frac{S}{F}\right)\left(\frac{D_S}{D_F}\right) \leq 1:$$

$$\psi_{S.O.X} = \psi_{F.O.X}$$

where:
D_F as defined in 4.2.13.
$\psi_{F.O.X}$ as defined in 4.2.11.
S/F as defined in 4.2.6.
D_S as defined in 4.2.13.
$\tau_3 \alpha_{F.O.X}$ as defined in 4.2.11.

4.2.15 Correction factors for systems 9-12. Calculate a correction factor which corrects for the use of outdoor air for combustion instead of air at room temperature, C_S, defined as;

$$C_S = 1 + \frac{(70-42)\,\eta_{SS}}{(T_{F,SS} - T_{RA})\,100}$$

where:
42=average outdoor temperature corresponding to 5,200 degree day location, in degrees fahrenheit.
η_{ss} as defined in 4.2.5.
$T_{F,SS}$ as defined in 4.2.4.
70 assumed average indoor air temperature.
T_{RA} as defined in 4.2.4.
The correction factor which corrects for the effect of outdoor air passing through the heat exchanger during the off-period, C'_s, is defined as:

$$C'_s = 1.22$$

4.2.16 Multiplication factor for sensible heat loss during burner on-cycle. Calculate a multiplication factor for sensible heat loss during burner on-cycle, $K_{S,on}$, defined as:

$$K_{S,on} = 100\ C_p \frac{\left[1 + (R_{T,F})(A/F)\right]}{\left(\frac{P - T_{,F}}{HHV_A}\right)}$$

where:
C_p=0.24 Btu per pound—degree Fahrenheit, specific heat of air.
$R_{T,F}$ as defined in 4.2.2.
A/F=stoichiometric air/fuel ratio determined in accordance with Table 3.
HHV_A=average higher heating value of the test fuel determined in accordance with Table 3, in Btu's per pound.

4.2.17 Multiplication factor for sensible heat loss during burner off-cycle. Calculate a multiplication factor for sensible heat loss during burner off-cycle, $K_{S,OFF}$, defined as:
For systems numbered 1-4:

$$K_{S,OFF} = \frac{(T_{F,SS} - T_{RA} + 530)^{1.19} (D_F)(K_{S,on})}{(T_{F,SS} - T_{RA})^{0.56}}$$

where:
530=assumed average indoor temperature in degrees Rankine.
$T_{F,SS}$ as defined in 4.2.4.
T_{RA} as defined in 4.2.4.
D_F as defined in 4.2.13.
$K_{S,on}$ as defined in 4.2.16.
For systems numbered 5-8:

$$K_{S,OFF} = \frac{(T_{S,SS} - T_{RA} + 530)^{1.19} (D_S)(S/F)(K_{S,on})}{(T_{S,SS} - T_{RA} + 70 - 42)^{0.56}}$$

where:
$T_{S,SS}$ as defined in 4.2.7.
D_S as defined in 4.2.13.
T_{RA} as defined in 4.2.4.
S/F as defined in 4.2.6.
$K_{S,on}$ as defined in 4.2.16.
530 as defined above.
42 as defined in 4.2.15.
70 as defined in 4.2.15.
For systems numbered 9-12:

$$K_{S,OFF} = \frac{(T_{F,SS} - T_{RA} + 530)^{1.19} (K_{S,on})(D_F)}{(T_{F,SS} - T_{RA} + 70 - 42)^{0.56}}$$

where:
$T_{F,SS}$ as defined in 4.2.4.
D_F as defined in 4.2.13.
T_{RA} as defined in 4.2.4.
$K_{S,on}$ as defined in 4.2.16.
530 as defined above.
42 as defined in 4.2.15.
70 as defined in 4.2.15

4.2.18 Multiplication factor for infiltration loss during burner on-cycle. Calculate a multiplication factor for infiltration loss during burner on-cycle, $K_{I,on}$, defined as:
For systems numbered 1-8:

$$K_{I,on} = (\phi)(S/F)(K_{S,on})$$

where:
ϕ=0.7, infiltration parameter.
S/F as defined in 4.2.6.
$K_{S,on}$ as defined in 4.2.16.

4.2.19 Multiplication factor for infiltration loss during burner off-cycle. Calculate a multiplication factor for infiltration loss during burner off-cycle $K_{I,OFF}$, defined as:
For systems numbered 1-8:

$$K_{I,OFF} = \frac{(T_{S,SS} - T_{RA} + 530)^{1.19} (K_{I,on})(D_S)}{(T_{S,SS} - T_{RA} + 70 - 42)^{0.56}}$$

where:
$T_{S,SS}$ as defined in 4.2.7.
530 as defined in 4.2.17.
42 as defined in 4.2.15.
$K_{I,on}$ as defined in 4.2.18.
D_S as defined in 4.2.13.
70 as defined in 4.2.15.
T_{RA} as defined in 4.2.4.

4.2.20 Ratio of average burner on-time per cycle to on-cycle time constant. Calculate the ratio of average burner on-time per cycle to on-cycle time constant, t_{on}/τ_{on}, defined as:

$$\frac{t_{on}}{\tau_{on}}$$

where:
For furnaces:
t_{on}=3.87 minutes, the average burner on-time per cycle.
τ_{on} as defined in 4.2.8.
For boilers:
t_{on}=9.68 minutes, the average burner on-time per cycle.
τ_{on} as defined in 4.2.8.

4.2.21 Ratio of average burner off-time per cycle to off-cycle time constant. Calculate the ratio of average burner off-time per cycle to off-cycle time constant, t_{off}/τ_{off}, defined as:

$$\frac{t_{off}}{\tau_{off}}$$

where:
For furnaces:
t_{off}=13.3 minutes, the average burner off-time per cycle,
τ_{off} as defined in 4.2.10.
For boilers:
t_{off}=33.26 minutes, the average burner off-time per cycle,
τ_{off}=as defined in 4.2.10.

4.2.22 Effective flue gas temperature difference at burner start-up, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner start-up, corrected for burner cycling effect, $\theta_{F,O}$, expressed in degrees Fahrenheit and defined as:
For systems 1-8:

$$\theta_{F,O} = (C_{t,on})(\theta_{F,O,X})$$

For systems 9-12:

$$\theta_{F,O} = (C_{t,on})(C_s)(\theta_{F,O,X})$$

where:

$$C_{t,on} = \frac{1 - \frac{(\psi_{F,O,X})(e^{-t_{off}/\tau_{off}})}{(T_{F,SS} - T_{F,OFF}(\infty))}}{1 - \frac{(\theta_{F,O,X})(\psi_{F,O,X})(e^{-(t_{on}/\tau_{on} + t_{on}/\tau_{off})})}{(T_{F,SS} - T_{F,OFF}(\infty))^2}}$$

where:
$\theta_{F,O,X}$ as defined in 4.2.9
C_s as defined in 4.2.15
$\psi_{F,O,X}$ as defined in 4.2.11
t_{OFF}/τ_{OFF} as defined in 4.2.21
t_{on}/τ_{on} as defined in 4.2.20
$T_{F,SS}$ as defined in 4.2.4
$T_{F,OFF,(\infty)}$ as defined in 4.2.10

4.2.23 Effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{F,O}$.
For systems 1-8:

$$\psi_{F,O} = (C_{t,OFF})(\psi_{F,O,X})$$

For systems 9-12:

$$\psi_{F,O} = (C_{t,OFF})(C_s')(\psi_{F,O,X})$$

where:

$$C_{t,off} = \frac{\left[1 - \frac{(\theta_{F,O,X})(e^{-t_{on}/\tau_{on}})}{(T_{F,SS} - T_{F,OFF}(\infty))}\right]}{1 - \frac{(\theta_{F,O,X})(\psi_{F,O,X})(e^{-(t_{on}/\tau_{on} + t_{on}/\tau_{on})})}{(T_{F,SS} - T_{F,OFF}(\infty))^2}}$$

where:
$\psi_{F,O,X}$ as defined in 4.2.11.
C_S' as defined in 4.2.15.
$\theta_{F,O,X}$ as defined in 4.2.9.
t_{OFF}/τ_{OFF} as defined in 4.2.21.
t_{on}/τ_{on} as defined in 4.2.20.
$T_{F,SS}$ as defined in 4.2.4.
$T_{F,OFF}$, (∞) as defined in 4.2.10.
C_{IID}=1, for units with continuously burning pilot lights, 0.90 for units with intermittent ignition devices or cycling pilots.

4.2.24 Effective minimum flue gas temperature difference above room temperature, corrected for burner cycling effect. Calculate the effective minimum flue gas temperature difference above room temperature, $\psi_{F,\infty}$, corrected for burner cycling effect, expressed in degrees Fahrenheit and defined as:

For systems numbered 1–8:

$$\psi_{F,\infty}=\psi_{F,\infty,X}$$

For systems numbered 9–12:

$$\psi_{F,\infty}=(C_S')(\psi_{F,\infty,X})$$

where:
C_S' as defined in 4.2.15.
$\psi_{F,\infty,X}$ as defined in 4.2.12.

4.2.25 Effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective stack as temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{S,O}$, expressed in degrees Fahrenheit and defined as:

For systems numbered 1–8:

$$\psi_{S,O}=(\psi_{S,O,X})(C_{I,off})$$

Where:
$C_{I,off}$ as defined in 4.2.23.
$\psi_{S,O,X}$ as defined in 4.2.14.

4.2.26 Off-cycle sensible heat loss integration factors. For systems numbered 1–4, determine off-cycle sensible heat loss integration factors, F3 and F4, from Figures 3 and 4, respectively, using values of $\psi_{F,O}$ defined in section 4.2.23, and t_{off}/τ_{off} defined in section 4.2.21.

For systems numbered 5–8 determine off-cycle sensible heat loss integration factors, F5 and F6, from Figures 5 and 6, respectively, using values of $\psi_{S,O}$ defined in section 4.2.25, and and t_{off}/τ_{off} defined in section 4.2.21.

For systems numbered 9–12 determine the off-cycle sensible heat loss integration factors, F5 and F6, from Figures 5 and 6, respectively, using values of $\psi_{F,O}$ defined in section 4.2.23 and t_{off}/τ_{off} defined in section 4.2.21.

4.2.27 Off-cycle infiltration heat loss integration factors. For systems numbered 1–8, determine off-cycle infiltration heat loss integration factors, F7 and F8, from Figures 7 and 8, respectively, using values of $\psi_{S,O}$ defined in section 4.2.25, and and t_{off}/τ_{off} defined in section 4.2.21.

4.2.28 On-cycle sensible heat loss. Calculate the on-cycle sensible heat loss of the system, $L_{S,ON}$, expressed in percent and defined as:

For systems numbered 1–8:

$$L_{S,ON} = L_{S,SS,A} - (K_{S,ON})(\theta_{F,O}) - (t_{on}/\tau_{on}) \times \left[\frac{1}{t_{on}/\tau_{on}}\right]\left[(1-e^{\ }\right],$$

For systems numbered 9–12:

$$L_{S,OFF} = (K_{S,OFF})(t_{off}/t_{on}) \times \left[(F5) + (\psi_{S,\infty,X})(F6)\right],$$

where:
$K_{S,OFF}$ as defined in 4.2.17.
t_{off} as defined in 4.2.21.
t_{on} as defined in 4.2.20.
F3, F4, F5, and F6 as defined in 4.2.26.
$\psi_{F,\infty}$ as defined in 4.2.24.
$\psi_{S,\infty,X}$ as defined in 4.2.13.

4.2.30 On-cycle infiltration heat loss. Calculate the on-cycle infiltration heat loss of the system, $L_{I,ON}$, expressed in percent and defined as:

For systems numbered 1–8:

$$L_{I,ON}=K_{I,ON}(70-42),$$

where:
$K_{I,ON}$ as defined in 4.2.18.
70 as defined in 4.2.15.
42 as defined in 4.2.15.

For systems numbered 9–12:

$$L_{I,ON}=0$$

4.2.31 Off-cycle infiltration. heat loss. Calculate the off-cycle infiltration heat loss of the system $L_{I,OFF}$, expressed in percent and defined as:

For systems numbered 1–8:

$$L_{I,OFF} = K_{I,OFF}(70-42)(t_{off}/t_{on}) \times \left[(F7) + (\psi_{S,\infty,X})(F8)\right],$$

where:
$K_{I,OFF}$ as defined in 4.2.19.
70 as defined in 4.2.15.
42 as defined in 4.2.15.
t_{off} as defined in 4.2.21.
t_{on} as defined in 4.2.20.
F7, F8 as defined in 4.2.27.
$\psi_{S,\infty,Y}$ as defined in 4.2.13.

For systems numbered 9–12:

$$L_{I,OFF}=0$$

4.2.32 Part-load fuel utilization efficiency. Calculate the part-load fuel utilization efficiency, expressed in percent and defined as:

for indoor units -

$$\eta_u = 100 - L_{L,A}\left[\frac{t_{on}}{t_{on}+\left[\frac{Q_P}{Q_{in}}\right](t_{off})}\right] \times \left[L_{S,ON} + L_{S,OFF} + L_{I,ON} + L_{I,OFF}\right]$$

for outdoor units -

$$\eta_u = 100 - L_{L,A} - C_j(L_j)\left[\frac{t_{on}}{t_{on}+\left[\frac{Q_P}{Q_{in}}\right](t_{off})}\right] \times \left[L_{S,ON} + L_{S,OFF}\right]$$

where:

C_j=3.3 for furnaces intended to be installed outdoors.

4.7 for boilers intended to be installed outdoors.

Q_P=Pilot flame fuel input rate determined in accordance with section 3.2 of this Appendix, in Btu's per hour.

Q_{IN}=Full-load input rate (including pilot flame fuel input rate) determined in accordance with section 3.1 of this Appendix, in Btu's per hour.

L_j=Jacket loss determined in accordance with section 3.4 of this Appendix, in percent.

$L_{L\text{-}A}$ as defined in 4.2.5.

t_{on} as defined in 4.2.20.

t_{off} as defined in 4.2.21.

$L_{S,ON}$ as defined in 4.2.28.

$L_{S,OFF}$ as defined in 4.2.29.

$L_{L,ON}$ as defined in 4.2.30.

$L_{L,OFF}$ as defined in 4.2.31

4.2.33 Annual fuel utilization efficiency. Calculate the annual fuel utilization efficiency, $EFFY_A$, defined as:

$$EFFY_A = \frac{(\eta_{SS})(\eta_u)(5200)}{(\dot{V}_{SS})(5200) + (2.5)(\eta_u)(Q_u)(1.7)(4600)}$$

where:

$Q_u = \frac{P}{(Q_{in})}$

5,200=The average number of annual heating degree-days for the United States.

4,600=The average number of nonheating season hours per year that the energy to the pilot light is assumed wasted.

1.7=Average furnace sizing factor.

n_{ss}=As defined in 4.2.5.

n_u=As defined in 4.2.32.

Q_P=As defined in 4.2.32.

Q_{IN}=As defined in 4.2.32.

4.3 *Additional requirements for furnaces utilizing a stack (or flue) damper.* Calculate the stack (or flue) damper effectiveness, D_o, defined as:

$$D_o = \sqrt{\frac{5}{5 + \frac{(2.6)\left(\frac{A_D'}{A_S}\right)^{1.58}}{\left(1 - \frac{A_D'}{A_S}\right)^2}}}$$

where:

$A_D' = A_D\cos(\Omega)$.

A_S=Cross sectional area of the stack determined in accordance with section 3.5 of this appendix, in square inches.

A_D=Net area of the damper plate determined in accordance with section 3.5 of this appendix, in square inches.

Ω=The angle the damper plate makes, when closed, with a plane perpendicular to the axis of the stack, determined in accordance with section 3.5 of this appendix.

4.4 *Additional requirements for furnaces utilizing indoor air for combustion and draft control.* For units obtaining combustion air and draft control air from inside the residence, determine the appropriate factor describing the ratio of on-cycle stack flow to on-cycle flue flow (S/F), the ratio of off-cycle flue flow to on-cycle flue flow at identical temperatures (D_F), and the ratio of off-cycle stack flow to on-cycle stack flow at identical temperatures (D_S) from Table 1.

4.4.1 *Optional procedure for determination of D_P* for furnaces or boilers employing a power burner. Calculate the ratio (D_P) of the rate of flue gas mass flow through the furnace or boiler during the off period, $m_{F,OFF}$ ($T_{F,SS}$), to the rate of flue gas mass flow during the on-period, $m_{F,SS}$ ($T_{F,SS}$), and defined as:

$$D_P = \frac{\dot{m}_{F,OFF}\ (T_{F,SS})}{\dot{m}_{F,SS}\ (T_{F,SS})},$$

For gas fueled units or oil fueled units for which no draft is maintained during the steady-state or cool down test:

$$\dot{m}_{F,OFF}\ (T_{F,SS}) = \dot{m}_{F,OFF}\ (T^*_{F,OFF}) \times \left[\frac{T_{F,SS} - T_{RA}}{T^*_{F,OFF} - T_{RA}}\right] 0.56 \left[\frac{T^*_{F,OFF} + 460}{T_{F,SS} + 460}\right]^{1.19}$$

For oil fueled units tested with an imposed draft as described in section 3.6:

$$m_{F.OFF}\ (T_{F.SS}) = m_{F.OFF}\ (T^*_{F.OFF})$$

where:

$T_{F.SS}$=As defined in 4.2.4.

$T^*_{F.OFF}$=Flue gas temperature during the off-period measured in accordance with section 3.6 of this appendix, in degrees fahrenheit.

42 as defined in 4.2.15.

460=Conversion factor to convert degrees fahrenheit to degrees rankine.

T_{RA} as defined in 4.2.4.

$$\dot{m}_{F,OFF}\ (T^*_{F,OFF}) = \frac{(100 - C_T)\ \dot{V}_T\ \rho_F}{C_T}$$

where:

V_T=Flow rate of tracer gas through the furnace measured in accordance with section 3.6 of this appendix, in cubic feet per minute.

C_T=Concentration by volume of tracer gas present in the flue gas sample measured in accordance with section 3.6 of this appendix, in percent.

P_F=The density the flue gas would have at the temperature T_T in lb per cu ft. It may be approximated by the equation:

$$\rho_F \simeq 1.325\left(\frac{P_B}{T_T + 460}\right)$$

where:

T_T=Temperature of tracer gas entering flow meter measured in accordance with section 3.6 of this appendix, in degrees fahrenheit.

P_B=Barometric pressure measured in accordance with section 3.6 of this appendix, in inches of mercury.

$$\dot{m}_{F,SS}\ (T_{F,SS}) = \left[(R_{T,F})\left(\frac{A}{F}\right) + 1\right]\frac{Q_{in}}{(HHV_A)(60)}$$

where:

$R_{T.F.}$ as defined in 4.2.2.

A/F as defined in 4.2.16.

Q_{in} as defined in 4.2.32.

HHV_A as defined in 4.2.16.

60=Conversion factor to convert hours to minutes.

4.4.2 Optional procedure for determination of off-cycle draft factor for flue gas flow for furnaces or boilers employing a power burner. Calculate the off-cycle draft factor for flue gas flow, D_F, defined as:

for systems numbered 2, 4, 6, 8 or 10: $D_F = D_P$,

for system number 12: $D_F = (D_P)(D_o)$,

where:

D_P as defined in 4.4.1.

D_o as defined in 4.3.

4.4.3 Optional procedure for determination of off-cycle draft factor for stack gas flow for furnaces or boilers employing a power burner. Calculate the off-cycle draft factor for stack gas flow, D_S, defined as:

for system number 2: D_S=1.0.

for system number 4: $D_S = (0.79 + D_P)/1.4$.

for system number 6: $D_S = D_o$.

For system number 8:

$$D_S = \begin{cases} (D_o)(D_P), & \text{if } D_o \leq \frac{1}{(S/F)} \\ (D_o)(D_P) + \frac{(0.85 - (D_o)(D_P))(D_o - \frac{1}{(S/F)})}{1 - \frac{1}{(S/F)}}, & \text{if } D_o > \frac{1}{(S/F)} \end{cases}$$

where:
D_F as defined in 4.4.1.
D_o as defined in 4.3.

4.5 *Additional Requirements for Furnaces Utilizing a Direct Vent System.* For furnaces utilizing a direct vent system or intended for outdoor installation, determine the appropriate S/F factor and D_F factor from Table 2. If a unit is equipped with a power burner, the optional procedure described in section 4.4.2 of this section may be used to calculate D_F using the value of D_F determined in section 4.4.1 of this section.

4.6 *Additional Requirements for Furnaces Which Modulate or Vary Fuel Input Without Controlling Excess Combustion Air.* Test a furnace which is equipped with a mechanism for reducing the rate of fuel input, but does not provide a means for controlling excess combustion air, at its maximum firing rate in accordance with test procedures in section 3. Use these test results to calculate a seasonal efficiency and an annual operating cost based upon a single fixed fuel input rate.

4.7 *National Average Number of Burner Operating Hours.* Calculate the average number of burner operating hours, BOH, defined as:

BOH=(A)(C) (2,080) (average design heating requirement)−B (2,080).

where:
2,080=National average annual heating load hours (average design heating requirement) is expressed in KBtu/hr and is obtained from Table 4 using the proper value of Q_{out}.
$Q_{out}=(\eta_{ss}/100)\ (Q_{in})$ rounded off to the nearest 1,000 Btu/hr for units intended for installation in a heated space and $Q_{out}=Q_{in}[(\eta_{ss}/100)-(3.3)\ (L_l/100)]$ rounded off to the nearest 1,000 Btu/hr for units intended for installation outdoors or in an unheated space.
η_{ss} as defined in 4.2.5.
Q_{IN} as defined in 4.2.32.

$$A = \frac{100{,}000}{(341{,}300)\ (PE + y\ BE) + (Q_{in} - Q_P)\ \eta_u}$$

$$B = \frac{(2)\ (Q_P)\ (\eta_u)\ (A)}{100{,}000},$$

C=0.77, adjustment factor which serves to adjust the calculated design heating requirement and heating load hours to the actual heating load experienced by a heating system.
PE=Power burner electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this appendix, in kilowatts.
BE=Circulating-air blower (or circulating-water pump) electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this appendix, in kilowatts.
$y=1+((t^+-t^-)/3.87)$ for furnaces, 1.00 for boilers and 1.00 for furnaces employing a single motor to drive a power burner and air circulating fan or blower, the ratio of average blower or pump on time to average burner on time.

where:
t^+=Blower delay time determined in accordance with section 3.2.1 of this appendix, in minutes
t^-=Blower delay time determined in accordance with section 3.3.1 of this appendix, in minutes.
Q_{in} as defined in 4.2.32.
Q_P as defined in 4.2.32.
η_u as defined in 4.2.32.
(2)=Ratio of the average length of a heating season in hours to the average heating load hours.
100,000=Factor that accounts for percent and KBtu.

4.8 *Average Annual Fuel Energy Consumption for Gas or Oil Fueled Furnaces or Boilers.* Calculate the average annual fuel energy consumption for gas or oil fueled furnaces or boilers, E_F, expressed in Btu's per year, and defined as:

$E_F=(Q_{IN}-Q_P)(BOH)+(8760)(Q_P)$,

where:
Q_{IN} as defined in 4.2.32.
Q_P as defined in 4.2.32.
BOH as defined in 4.7.
8,760=Total number of hours in a year.

4.9 *Average Annual Auxiliary Electrical Energy Consumption for Gas or Oil Fueled Furnaces or Boilers.* Calculate the average annual auxiliary electrical energy consumption, E_{AE}, expressed in kilowatt-hours per year and defined as:

$E_{AE}=(PE+y\ BE)(BOH)$

where:
PE as defined in 4.7.
BE as defined in 4.7.
y as defined in 4.6.
BOH as defined in 4.7.

4.10 *Average Annual Electric Energy Consumption for Electric Furnaces or Boilers.* Calculate the average annual electric energy consumption for electric furnaces or boilers, E_E, expressed in kilowatt-hours per year, and defined as:

$$L_L = \frac{(100)\ (2080)\ (\text{design heating requirement})}{EFFY_{A-E}\ (3.413)} - (C)$$

where:
100=Conversion factor to convert percent to decimal fraction

(design heating requirement) is expressed in KBtu/hr and is obtained from Table 4 with Q_{out} set equal to the quantity (E_{IN}) (3.413) rounded off to the nearest 1000 Btu's per hour for units intended for installation in a heated space and (E_{IN}) (3.413) ((100−(3.3)(L_l))/(100) for units intended for installation out-of-doors or in an unheated space.
where:
E_{in}=electric power input in watts measured in accordance with sections 3.1.3 and 3.1.4 of this Appendix.
2,080 as defined in 4.7.
$EFFY_{A-E}$ as defined in 4.1.
3.413 conversion factor corresponding to 1 watt=3.413 Btu/hr.
L_l as defined in 3.4.
C as defined in 4.7.

4.11 *Average Number of Burner Opening Hours in Different Geographic Regions of the United States and in Buildings with Different Design Heating Requirements.* Calculate the average number of burner operating hours by geographic region of the United States, BOH_R, defined as:

$BOH_R=(C)(A)(HLH))$(typical design heating requirement)−B(HLH)

where:
HLH=Heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 9.

$$B = \frac{(2)\ (A)\ (Q_P)\ (\eta_u)}{100{,}000},$$

where:
(2) as defined in 4.7.
A as defined in 4.7.
Q_P as defined in 4.2.32.
η_u as defined in 4.2.32.
100,000 as defined in 4.7.
C as defined in 4.7.

Typical design heating requirement as given in Table 4 for the appropriate value of Q_{OUT}, where Q_{out} is defined in 4.7.

4.12 *Average annual fuel energy consumption for gas or oil fueled furnaces or boilers located in different geographic regions of the United States and in buildings with different design heating requirements.* Calculate the average annual fuel energy consumption for a specific geographic region and for a specific typical design heating requirement, $E_{F,R}$, expressed in Btu's per year, and defined as:

$$E_{F,R}=(Q_{IN}-Q_P)+(8760)\ (Q_P)$$

where:
Q_{IN} as defined in 4.2.32.
Q_P as defined in 4.2.32.
BOH_R as defined in 4.11.
8760 as defined in 4.8.

4.13 *Average annual auxiliary electrical energy consumption for gas or oil fueled furnaces or boilers in different geographic regions of the United States and in buildings with different design heating requirements.* Calculate the average annual auxiliary electrical energy consumption for a specific geographic region and for a specific typical design heating requirement, $E_{AE,R}$ expressed in kilowatt-hours per year and defined as:

$$E_{AE,R}=(PE+y\ BE)\ (BOH_R)$$

where:
PE as defined in 4.7.
BE as defined in 4.7.
y as defined in 4.6.
BOH_R as defined in 4.11.

4.14 *Average annual electric energy consumption for electrical furnaces or boilers in different geographic regions of the United States and in buildings with different design heating requirements.* Calculate the average annual electric energy consumption by geographic region of the United States, $E_{E,R}$, expressed in kilowatt-hours per year, and defined as:

$$E_{E,R} = \frac{(100)\ (C)\ (HLH)\ (\text{design heating requirement})}{(EFFY_{A-E})\ (3.413)}$$

where:
100 as defined in 4.10.
HLH as defined in 4.11.
(design heating requirement) as defined in 4.10.
$EFFY_{A-E}$ as defined in 4.1.
3.413 as defined in 4.10.
C as defined in 4.7.

where:
100 as defined in 4.10.
HLH as defined in 4.11.
(design heating requirement) as defined in 4.10.
$EFFY_{A-E}$ as defined in 4.1.
3.413 as defined in 4.10.
C as defined in 4.7.

Table 1

Factors Describing Air Flow Rate for Gas and Oil-Fired Furnaces or Boilers Utilizing Indoor Air for Combustion and Draft Control

Type of Burner	Units Without a Stack Damper but with Draft Hood or Draft Diverter				Barometric Draft Control				Units With a Stack Damper and Draft Hood or Draft Diverter				Barometric Draft Control			
	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S
Atmospheric	1	2.4	1.0	1.0	3	1.4	1.0	1.0	5	2.4	1.0	D_o	7	1.4	1.0	D_o
Power *	2	2.4	0.4	1.0	4	1.4	0.4	0.85	6	2.4	0.4	D_o	8	1.4	0.4	$(D_o)(D'_p)$

where

$$D'_p = \begin{cases} 0.4, \text{if } D_o \leq 1/(S/F) \\ \dfrac{0.4 + (0.85 - (0.4)(D_o))(D_o - 1/(S/F))}{D_o (1 - 1/(S/F))}, \text{if } D_o > 1/(S/F) \end{cases}$$

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and DOE.

*A power burner may incorporate a device on its air inlet which opens the air inlet when the appliance is in operation and closes the air inlet when the appliance is in the standby condition.

Table 2

Factors Describing Air Flow Rates for Gas or Oil-Fired Furnaces/Boilers Intended for Installation Out-of-Doors or Intended for Indoor Installation But Equipped With a Direct Vent System

Type of Burner	Units Without A Stack or Flue Damper		Units With a Flue Damper		Type of Draft	S/F
	System#	D_F	System#	D_F	None	1
Atmosphere	9	1.00	11	D_o	barometric damper	1.4
Power	10	0.40	12	$0.40 \times D_o$	draft diverter	2.4

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and DOE.

Table 3

Values of Higher Heating Value (HHV$_A$), Stoichiometric Air/Fuel Ratio (A/F), and Latent Heat Loss ($L_{L,A}$) for Typical Fuels

Fuels	HHV (Btu/lb) A	A/F(--)	L (%) L,A
No. 1 Oil	19,800	14.56	6.55
No. 2 Oil	19,500	14.49	6.50
Natural Gas	20,120	14.45	9.55
Manufactured Gas	18,500	11.81	10.14
Propane	21,500	15.58	7.99
Butane	20,890	15.36	7.79

Table 4

Average and Typical Design Heating Requirements for Furnaces and Boilers with Different Output Capacities

Furnace or Boiler Output Capacity, Q_{OUT} (Btu/hr)	Average Design Heating Requirements (KBtu/hr)	Typical Design Heating Requirements (KBtu/hr)
26,000 - 34,000	20	15,20
35,000 - 42,000	25	20, 25, 30
43,000 - 51,000	30	25, 30, 35
52,000 - 59,000	35	30, 35, 40, 45
60,000 - 76,000	40	35, 40, 45, 50
77,000 - 93,000	50	40, 45, 50, 60
94,000 - 110,000	60	50, 60, 70, 80
111,000 - 127,000	70	60, 70, 80, 90
128,000 - 144,000	80	70, 80, 90, 100
145,000 - 161,000	90	80, 90, 100, 110, 120
162,000 - 178,000	100	90, 100, 110, 120, 130
179,000 - 195,000	110	100, 110, 120, 130, 140
over 196,000	130	120, 130, 140, 150, 160

FIGURE 1

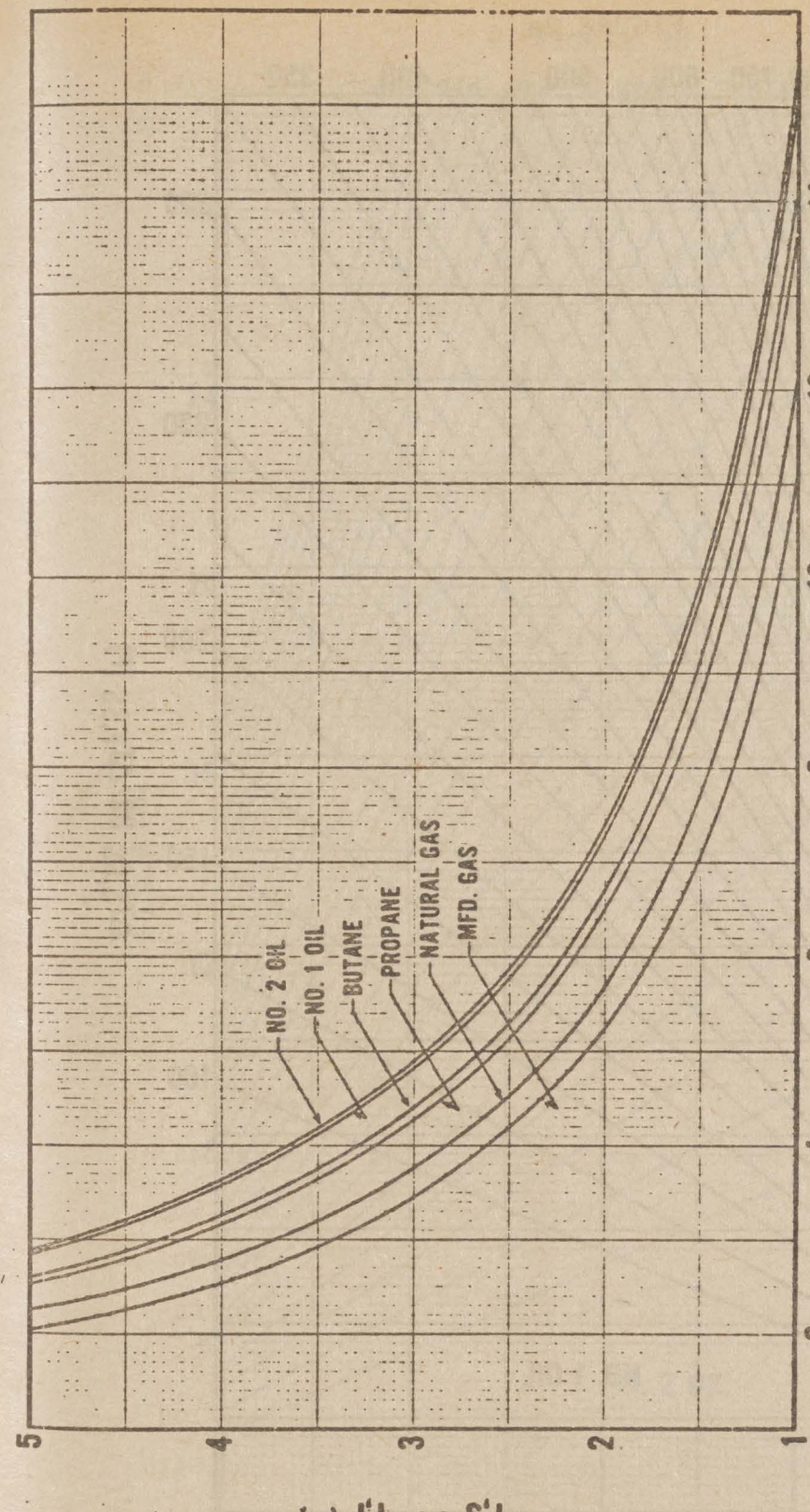

NO. 2 OIL
NO. 1 OIL
BUTANE
PROPANE
NATURAL GAS
MFD. GAS
$F_{T,S}$ OR $R_{T,F}$ [--]
$X_{CO_2,S}$ OR $X_{CO_2,F}$ [%]
1
2
3
4
5
2
4
6
8
10
12
14

FIGURE 2a

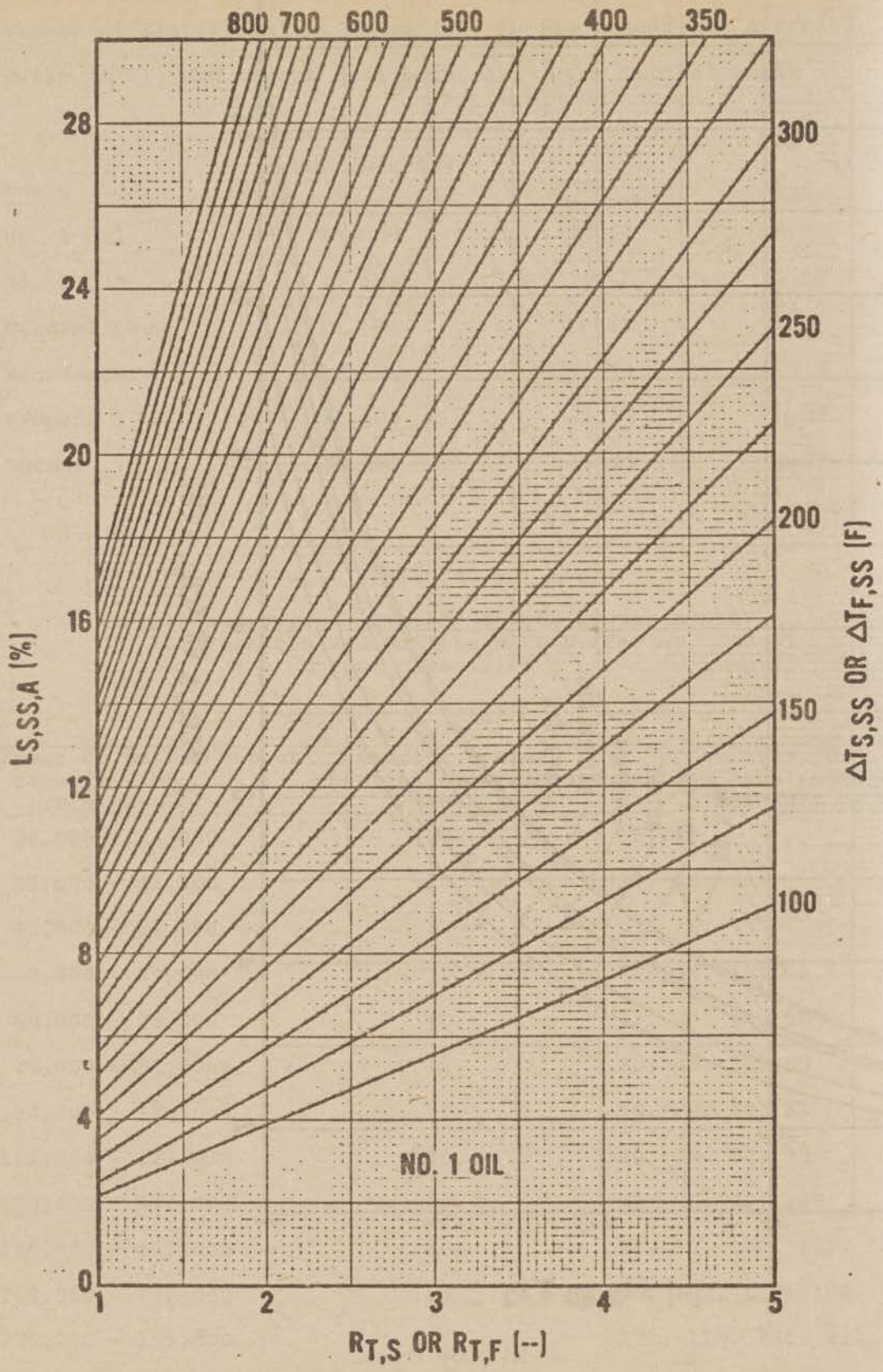

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
NO. 1 OIL
1
2
3
4
5
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ [--]

FIGURE 2b

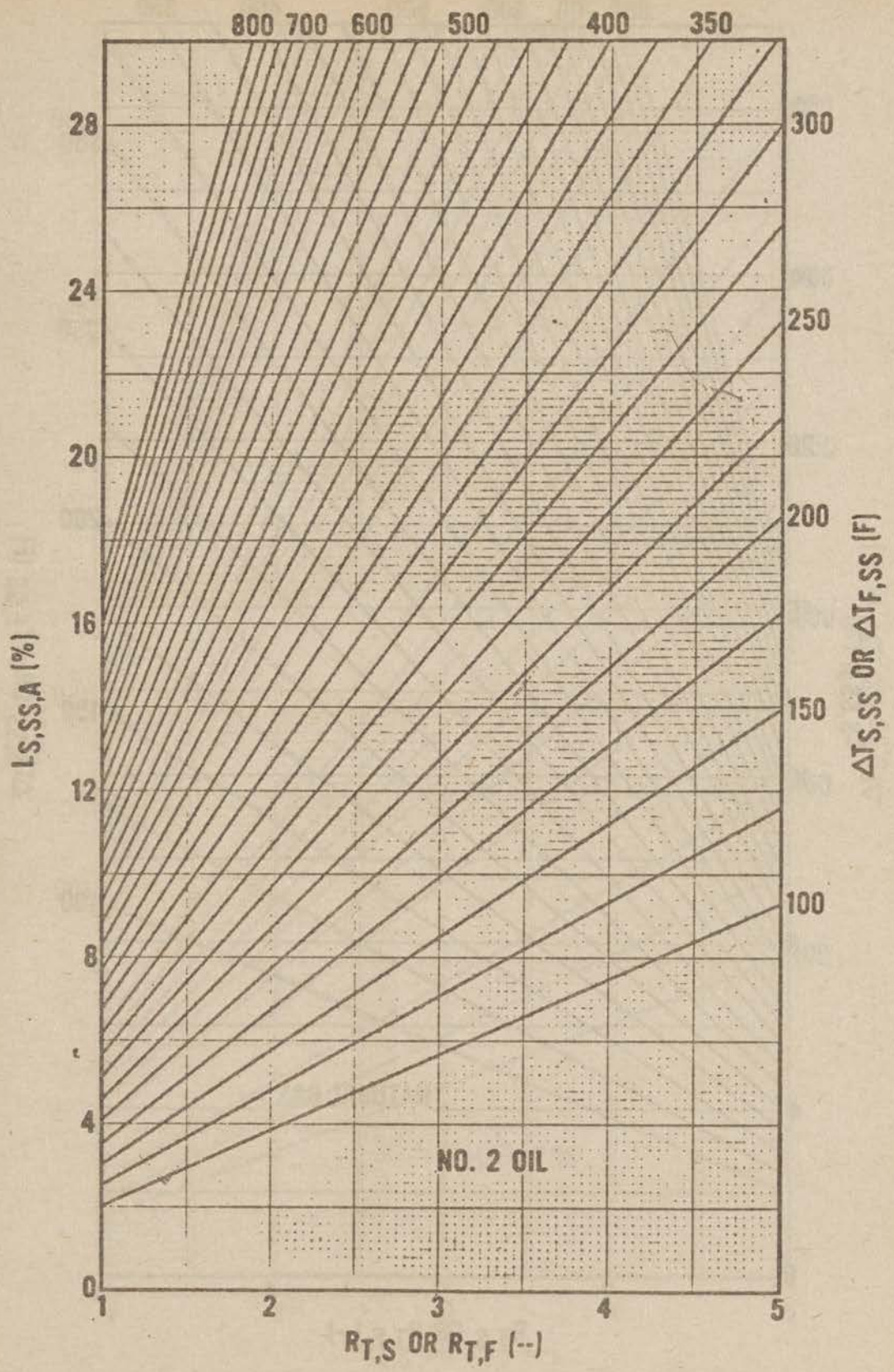

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
NO. 2 OIL
1
2
3
4
5
$L_{S,SS,A}$ (%)
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

FIGURE 2c

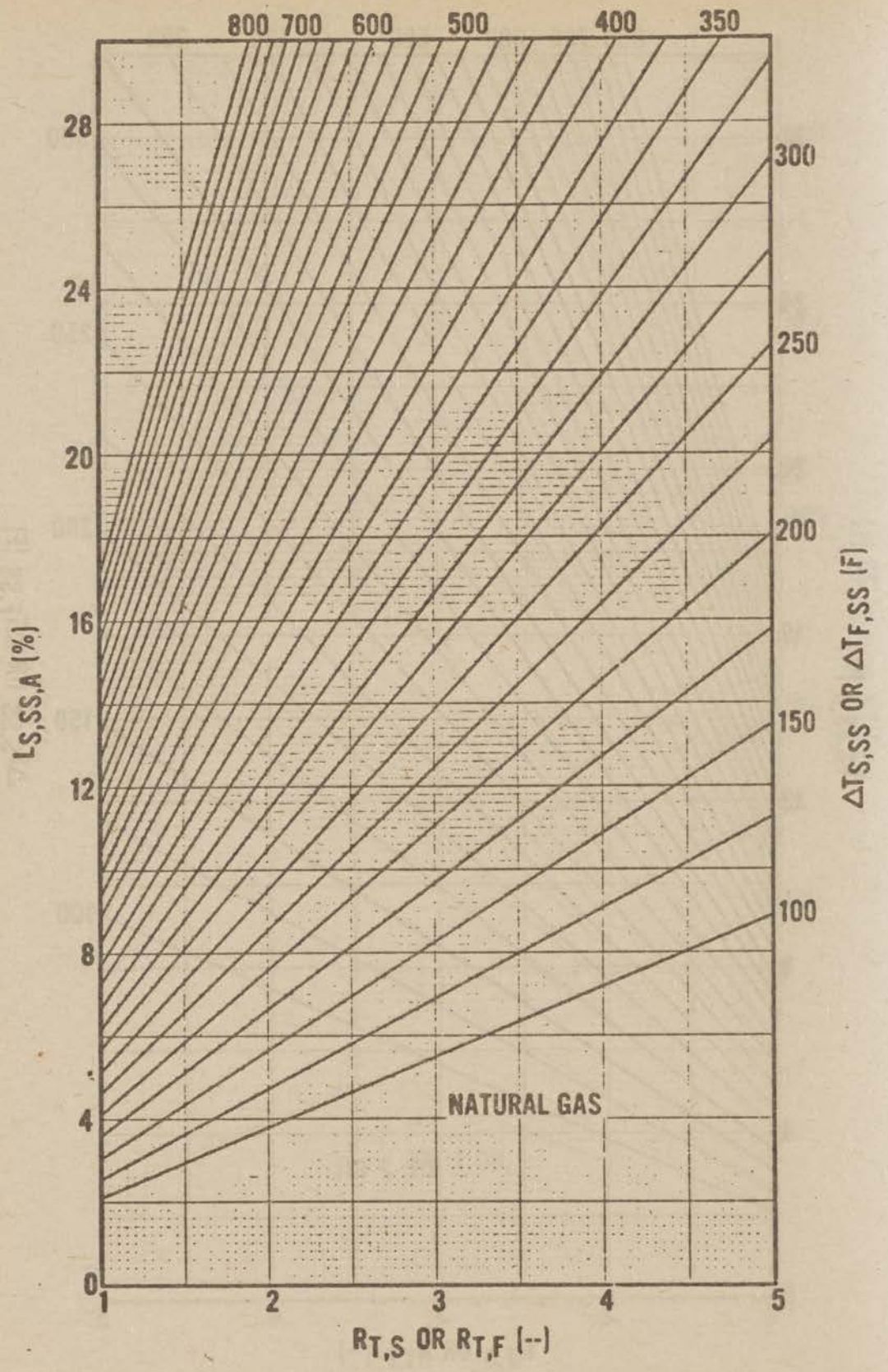

800 700 600 500 400 350
28
24
20
16
12
8
4
0
1
2
3
4
5
300
250
200
150
100
NATURAL GAS
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ [F]
$R_{T,S}$ OR $R_{T,F}$ [--]

FIGURE 2d

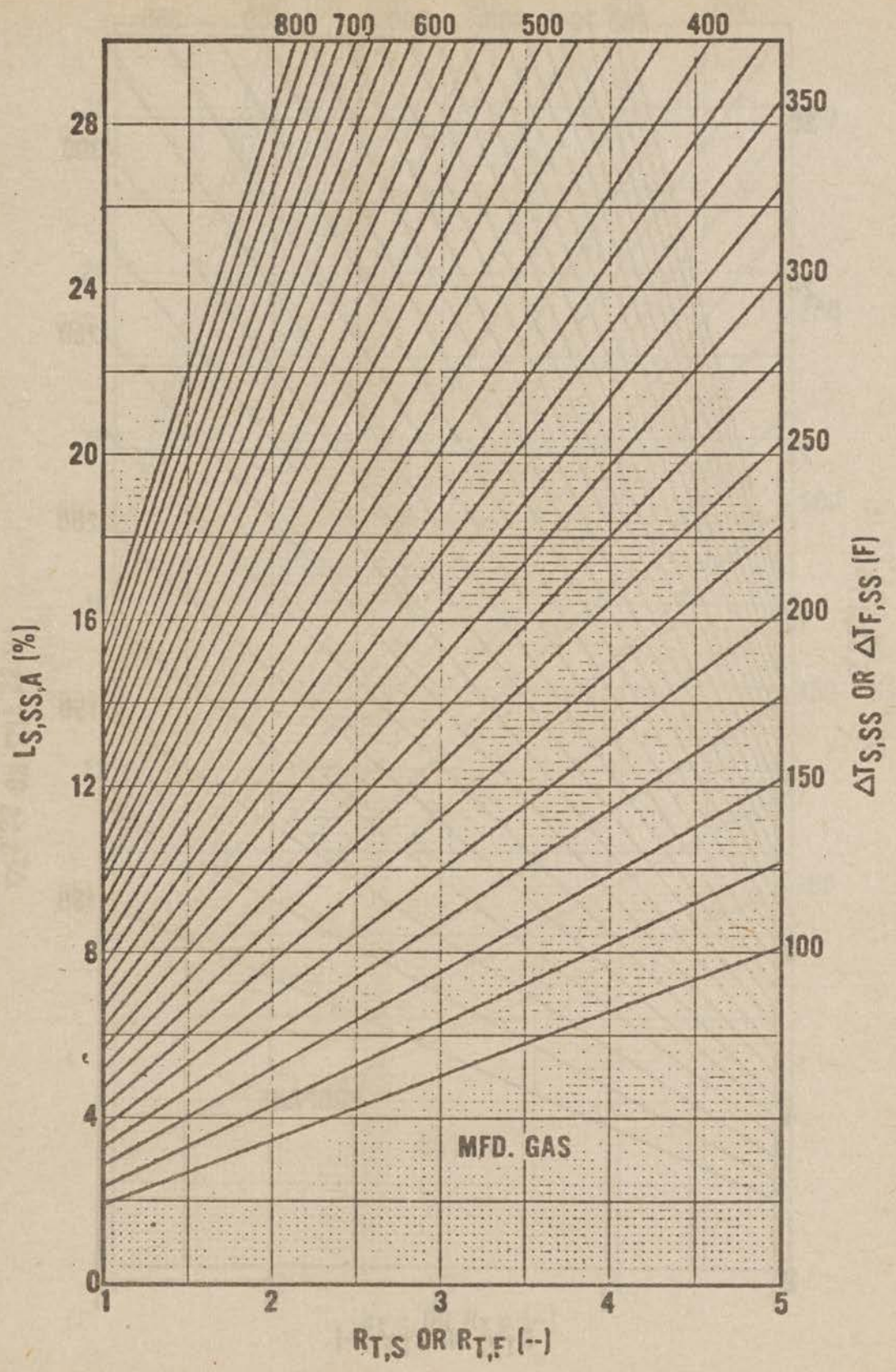

800
700
600
500
400
28
24
20
16
12
8
4
0
350
300
250
200
150
100
MFD. GAS
1
2
3
4
5
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ [--]

FIGURE 2e

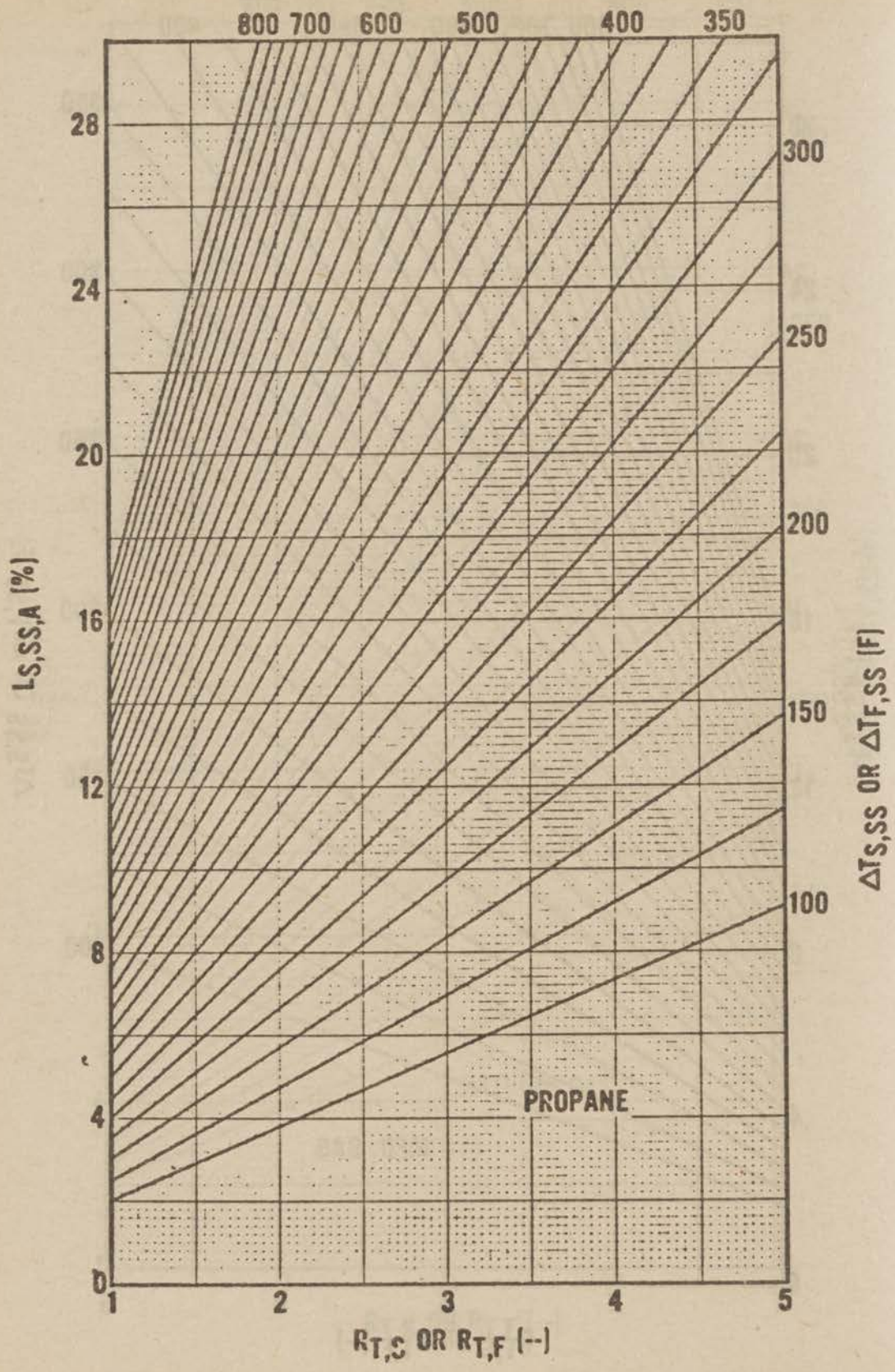
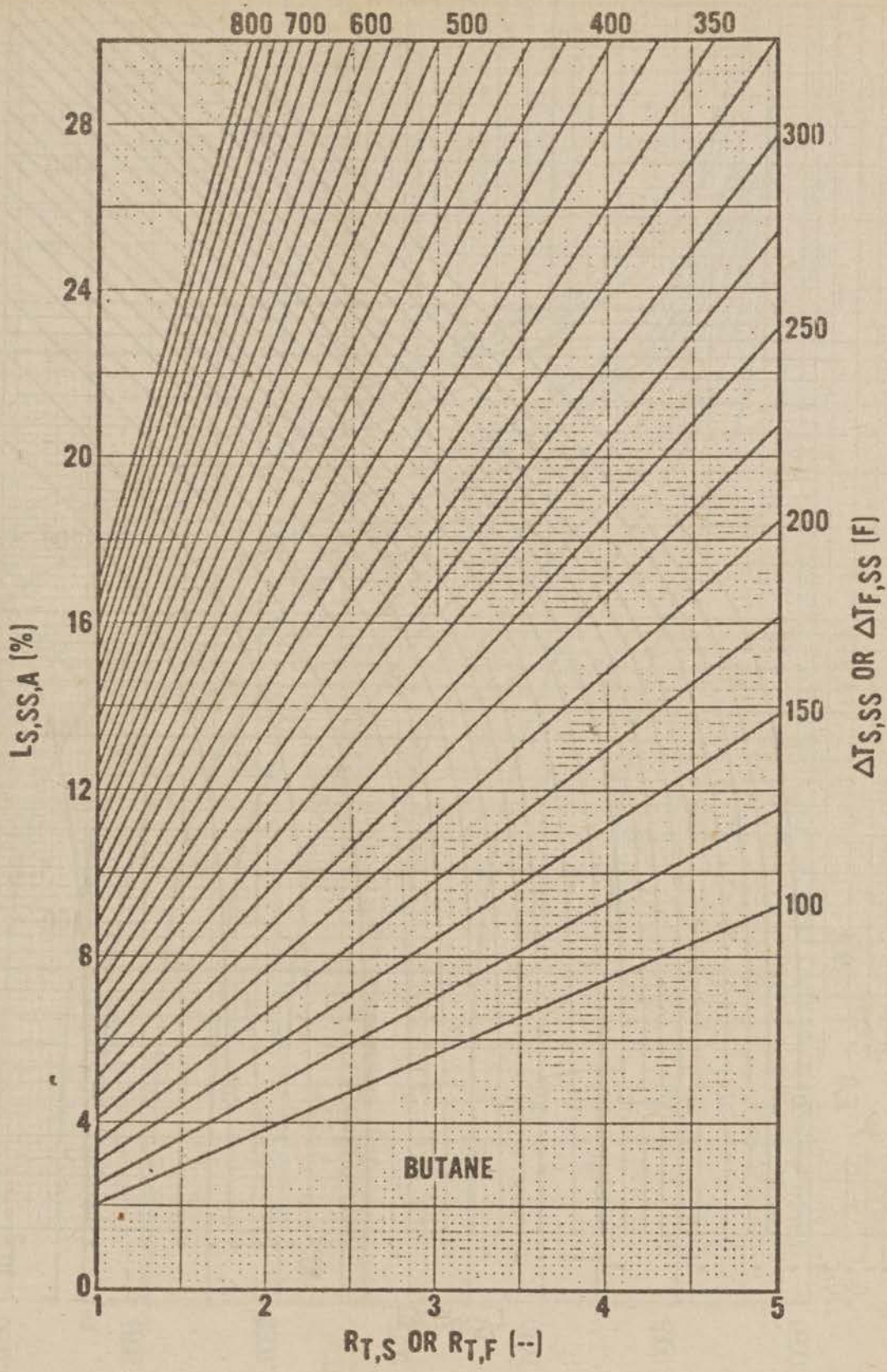

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
PROPANE
1
2
3
4
5
LS,SS,A (%)
ΔTS,SS OR ΔTF,SS (F)
RT,S OR RT,F (--)

FIGURE 2f


800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
BUTANE
1
2
3
4
5
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

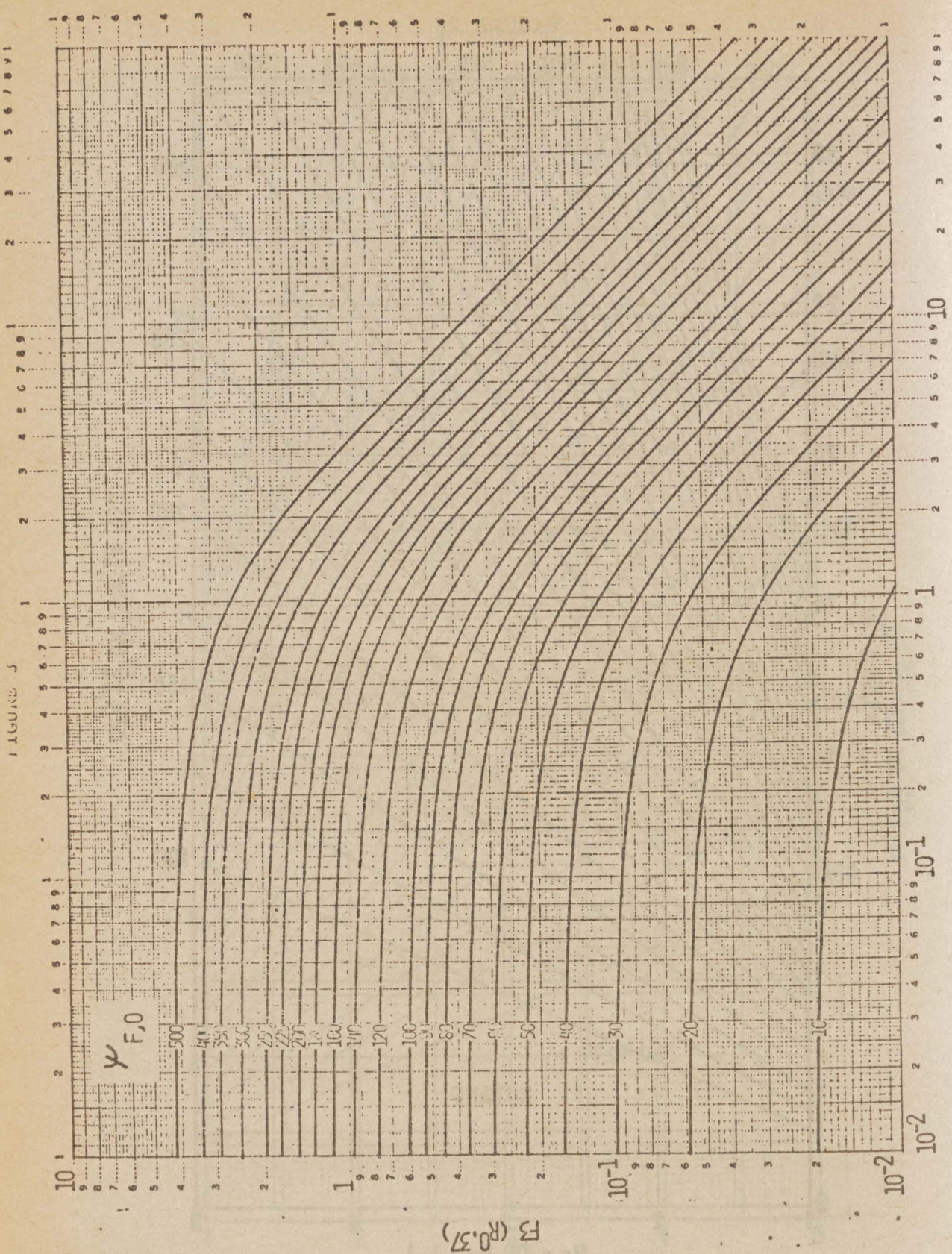


FIGURE 3
$\psi_{F,0}$
500
400
350
300
250
225
200
175
160
140
120
100
90
80
70
60
50
40
30
20
10
$F_3(R_{0.37})$
$t_{OFF}/\tau_{OFF}(--)$
10
1
10^{-1}
10^{-2}

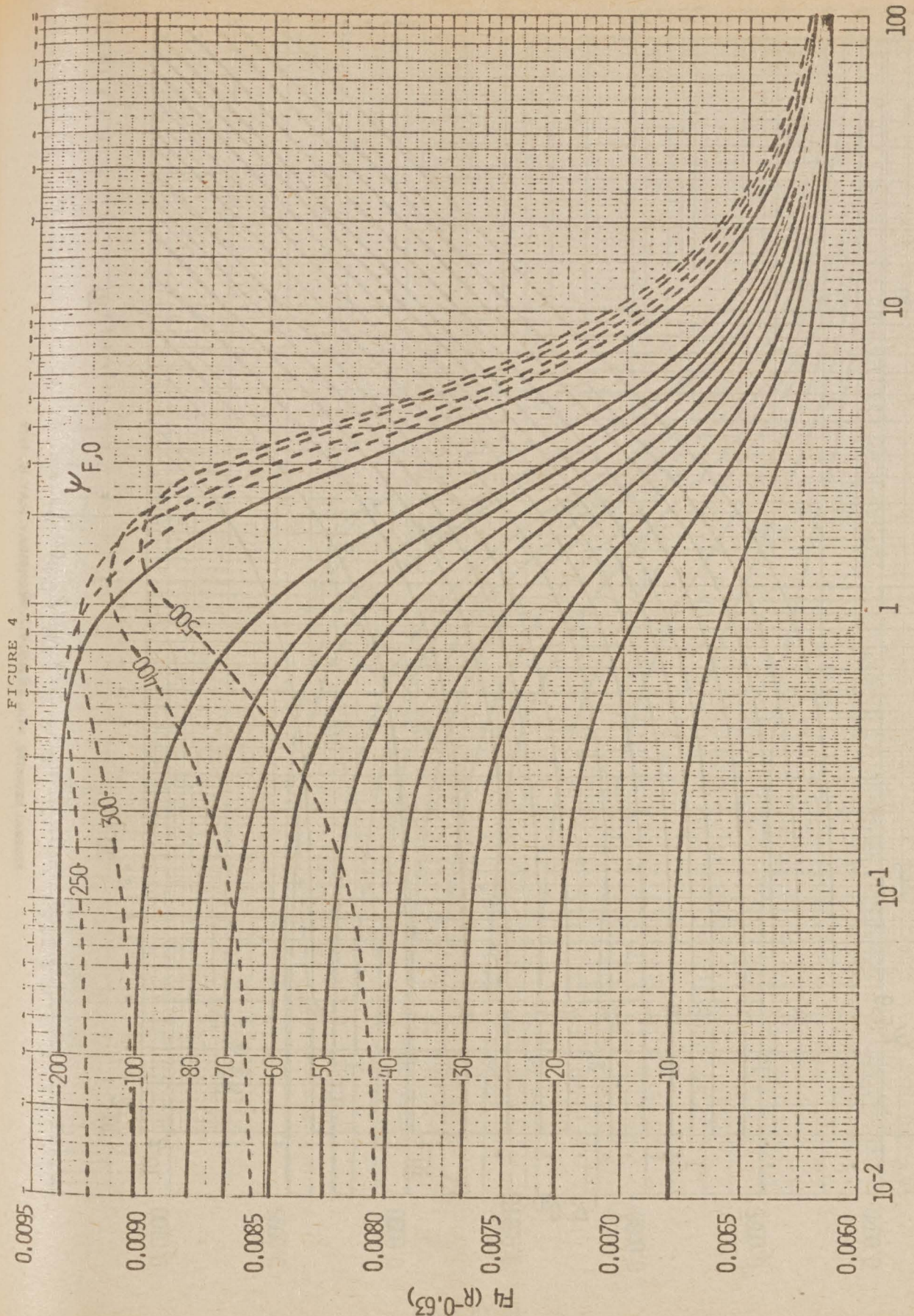
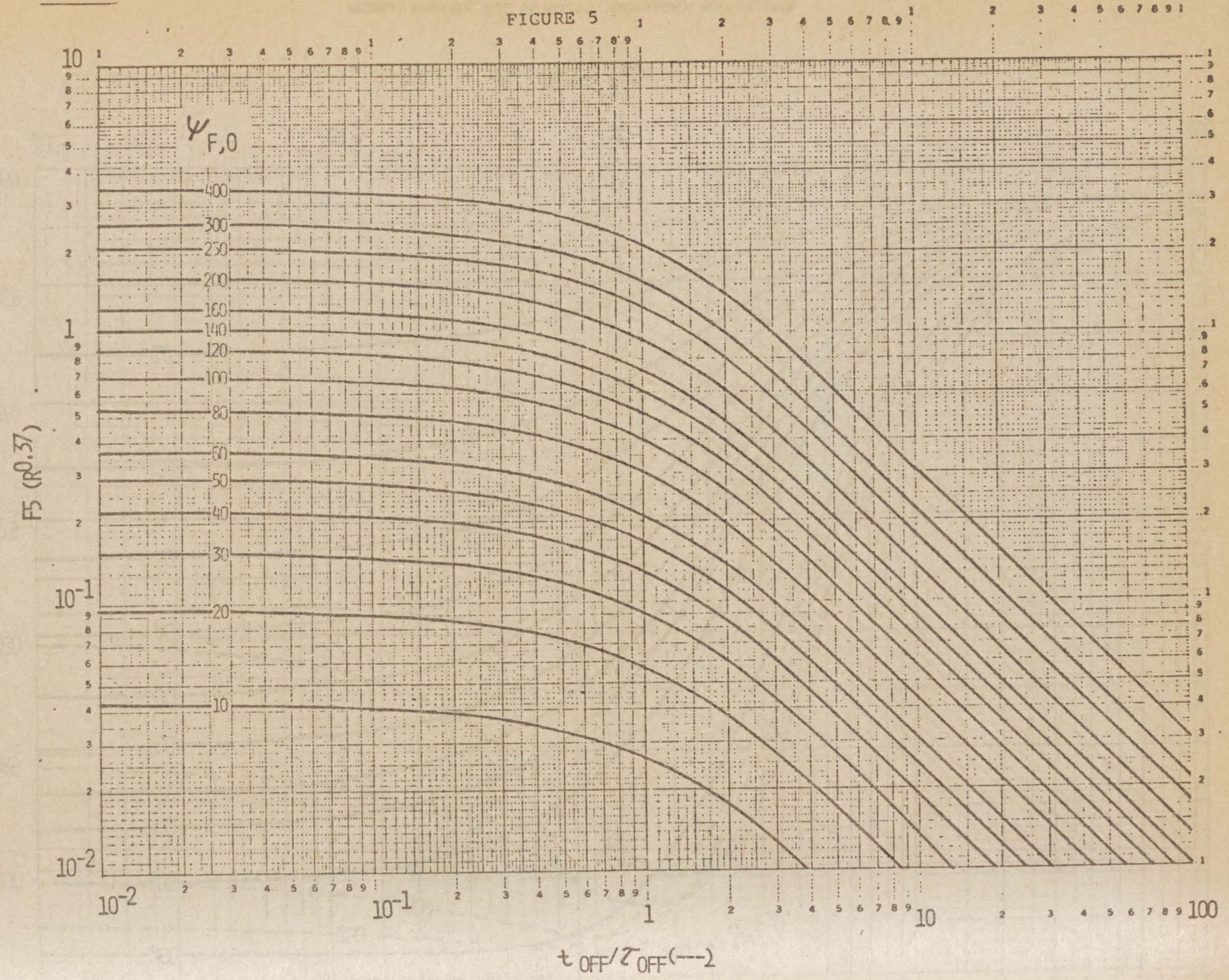

$\psi_{F,0}$
500
400
300
250
200
100
80
70
60
50
40
30
20
10
0.0095
0.0090
0.0085
0.0080
0.0075
0.0070
0.0065
0.0060
F_4 ($R^{-0.63}$)
10^{-2}
10^{-1}
1
10
100
t_{OFF}/τ_{OFF}(--)

FIGURE 4

FIGURE 5


$\Psi_{F,0}$
400
300
250
200
160
140
120
100
80
60
50
40
30
20
10
FS ($R^{0.37}$)
10^{-2}
10^{-1}
1
10
100
t_{OFF}/τ_{OFF} (---)

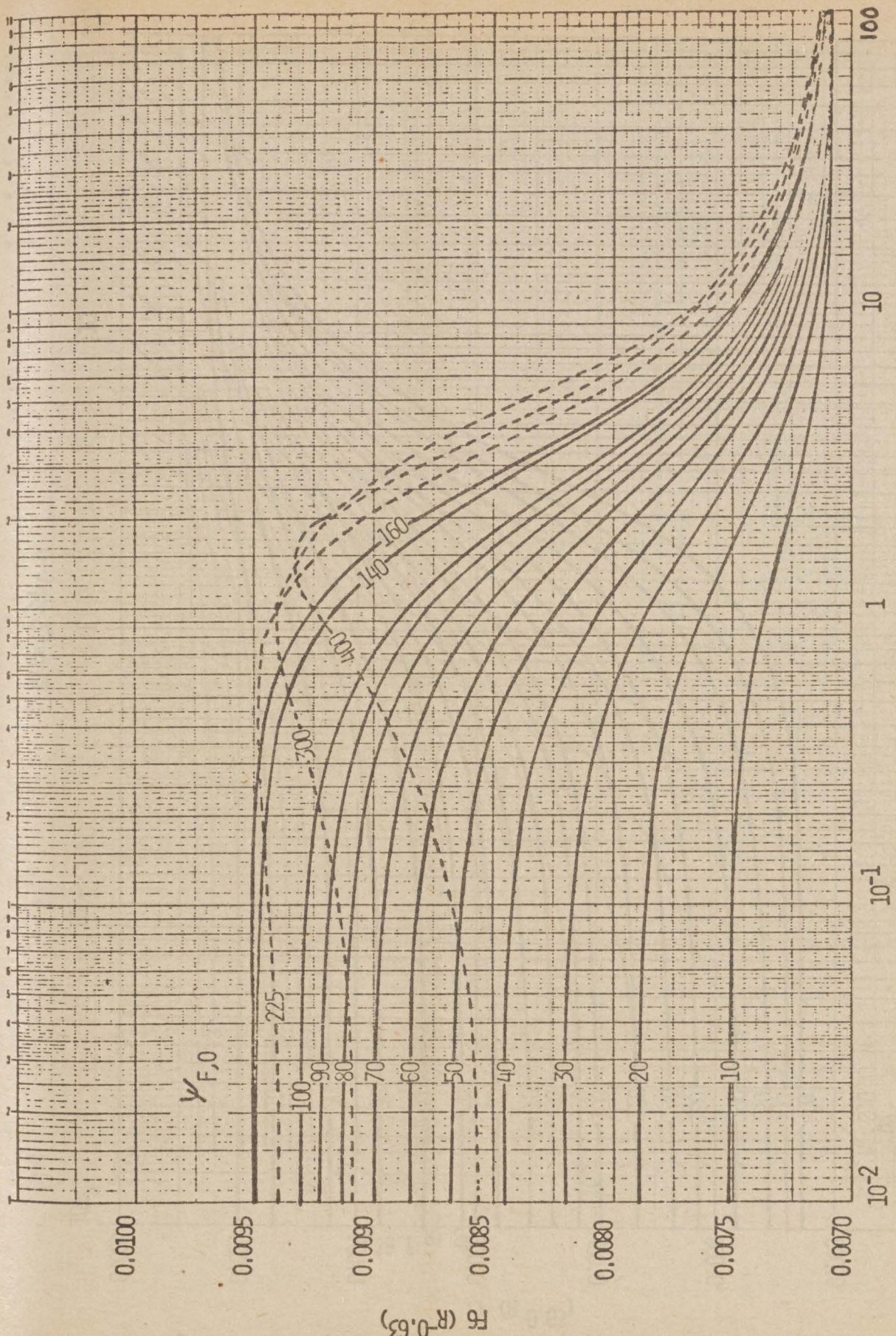

0.0100
0.0095
0.0090
0.0085
0.0080
0.0075
0.0070
$\bar{F}\Delta\ (R^{-0.63})$
$\psi_{F,0}$
225
100
90
80
70
60
50
40
30
20
10
300
400
140
160
10^{-2}
10^{-1}
1
10
100
$t_{OFF}/\tau_{OFF}(-)$

FIGURE 6

FIGURE 7

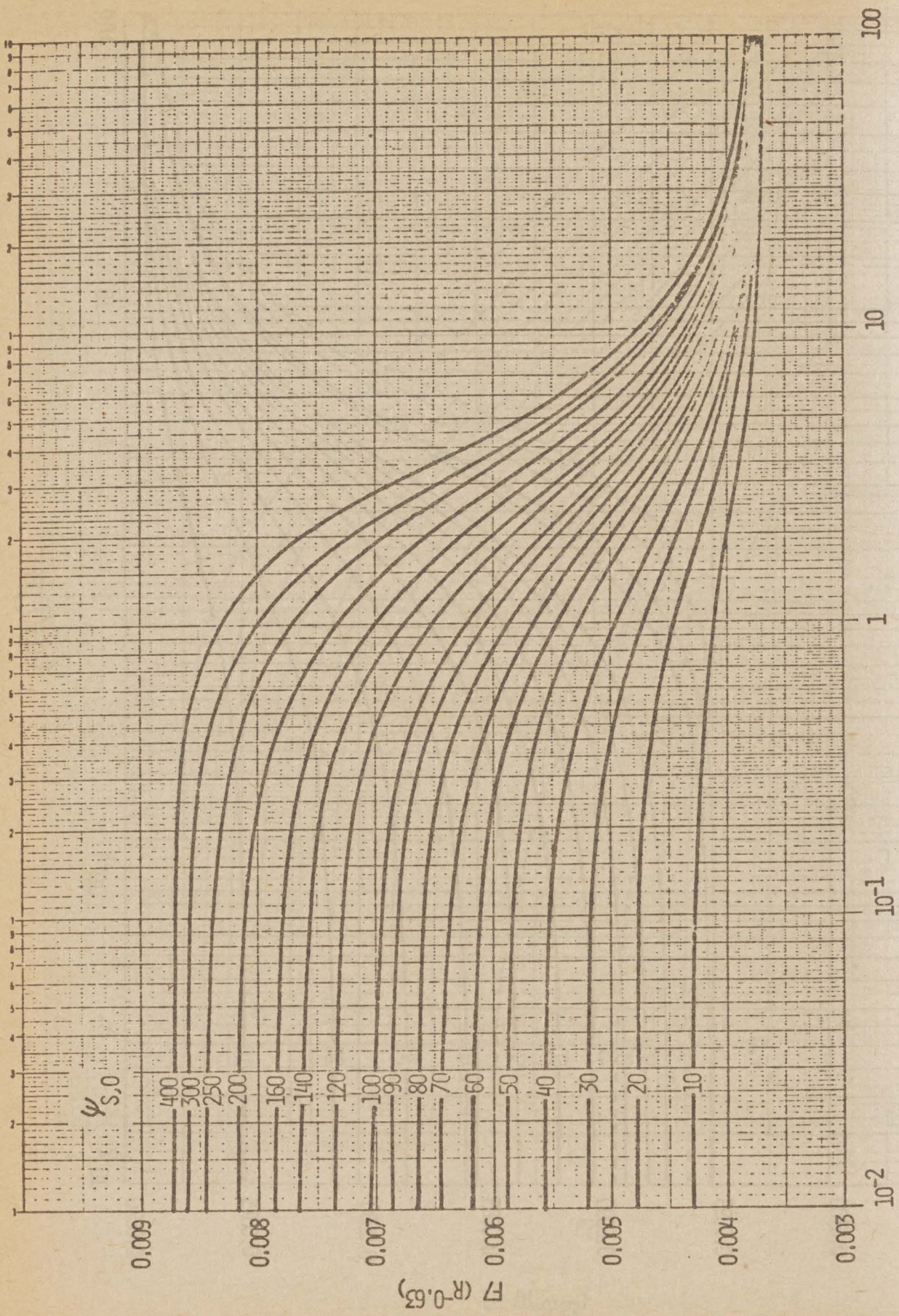

$F\ (R^{-0.63})$
0.009
0.008
0.007
0.006
0.005
0.004
0.003
$t_{OFF}/\tau_{OFF}(--)$
10^{-2}
10^{-1}
1
10
100
$\psi_{S,0}$
400
300
250
200
160
140
120
100
90
80
70
60
50
40
30
20
10

FIGURE 8

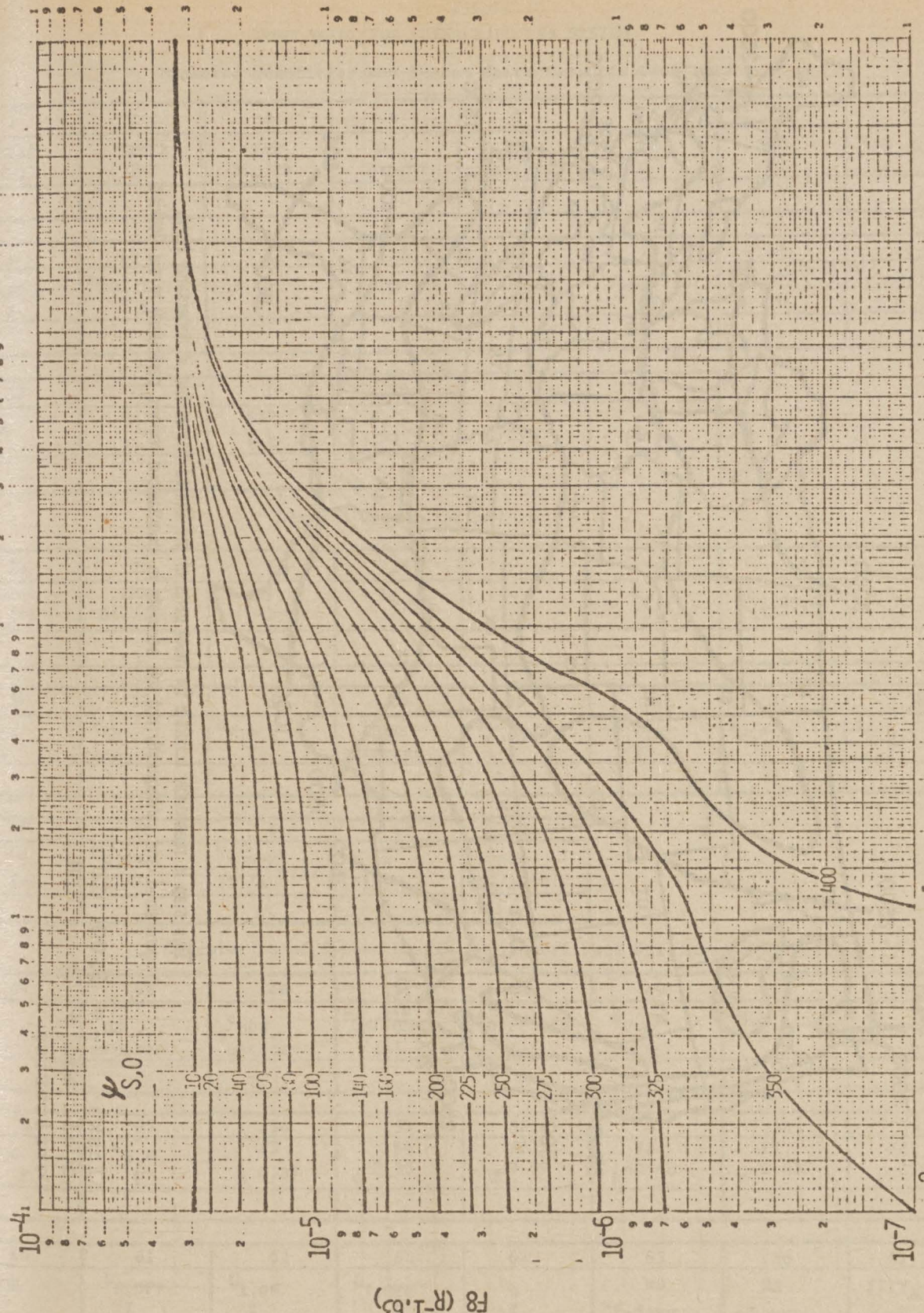
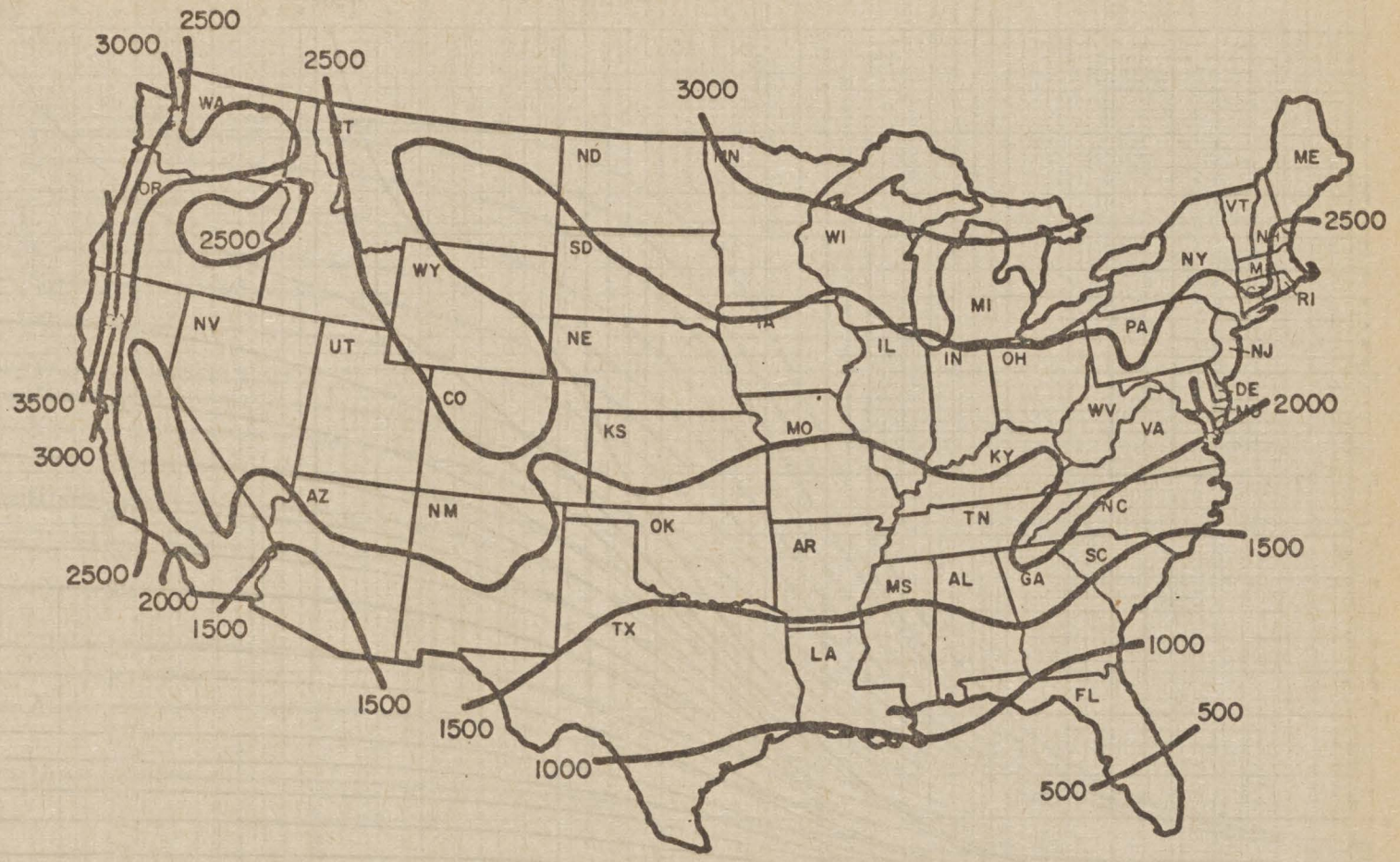

$\psi_{S,0}$
10
20
40
60
80
100
140
165
200
225
250
275
300
325
350
400
10^{-4}
10^{-5}
10^{-6}
10^{-7}
10^{-2}
10^{-1}
1
10
100
t_{OFF}/τ_{OFF} (—)
FB (R-1.63)

FIGURE 9

Heating Load Hours (HLH) for the United States and Territories



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized, and consequently not too accurate in mountainous regions, particularly in the Rockies.

Alaska - 3500 HLH
Hawaii and Territories - 0 HLH

FIGURE 10

WORK SHEET FOR FURNACE/BOILER SYSTEM

Measured Quantities and System Characteristic Constants

1	2	3	4	5	6	7	8
SYS# (-)	TFUEL (-)	HHV Btu/lb.	Q_{IN} Btu/hr.	Q_F Btu/hr.	PE kW	BE kW	$X_{CO_2,S}$ %

9	10	11	12	13	14	15	16
$T_{S,SS,X}$ F	$X_{CO_2,F}$ %	$T_{F,SS}$ F	$T_{F,ON}(t_1)$ F	$T_{F,ON}(t_2)$ F	$T_{F,OFF}(t_3)$ F	$T_{F,OFF}(t_4)$ F	$T_{F,OFF}(\infty)$ F

17	18	19	20	21	22
T_{RA} F	L_J %	S/F (-)	D_F (-)	D_S (-)	y (-)

Derived System Parameters

23	24	25	26	27	28	29	30
PF (-)	HHV_A Btu/lb.	A/F (-)	$L_{L,A}$ %	C_J (-)	$R_{T,F}$ (-)	$L_{S,SS,A}$ %	η_{SS} %

31	32	33	34	35	36	37	38
$T_{S,SS}$ F	τ_{ON} minutes	$\theta_{F,0,X}$ F	τ_{OFF} minutes	$\psi_{F,0,X}$ F	$\psi_{F,\infty,X}$ F	$\psi_{S,\infty,X}$ F	$\psi_{S,0,X}$ F

39	40	41	42	43
C_S (-)	$K_{S,ON}$ (%)/F	$K_{S,OFF}$ (%)/$R^{0.37}$	$K_{I,ON}$ (%)/F	$K_{I,OFF}$ (%)/$R^{0.37}$

Calculation of System Losses and Annual Fuel Utilization Efficiency

44	45	46	47	48	49	50	51
T_{OA} F	t_{ON} minutes	t_{OFF} minutes	t_{ON}/τ_{ON} (-)	t_{OFF}/τ_{OFF} (-)	$\theta_{F,0}$ F	$\psi_{F,0}$ F	$\psi_{F,\infty}$ F

52	53	54	55	56	57	58	59
$\psi_{S,0}$ F	$\psi_{S,\infty}$ F	F3 $R^{0.37}$	F4 $R^{-0.63}$	F5 $R^{0.37}$	F6 $R^{-0.63}$	F7 $R^{-0.63}$	F8 $R^{-1.63}$

60	61	62	63	64	65	66	67
$L_{S,ON}$ %	$L_{S,OFF}$ %	$L_{I,ON}$ %	$L_{I,OFF}$ %	η_u %	DD °F-days	HR hours	$EFFY_A$ %

APPENDIX O—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF VENTED HOME HEATING EQUIPMENT

1.0 *Definitions.*

1.1 "Steady-state conditions for vented home heating equipment" means equilibrium conditions as indicated by temperature variations of not more than 5° F (2.8C) in the flue gas temperature for units equipped with draft hoods, barometric draft regulators or direct vent systems, in three successive readings taken 15 minutes apart or not more than 3° F (.17C) in the stack gas temperature for units equipped with integral draft diverters in three successive readings taken 15 minutes apart.

1.2 "Flue gases" means reaction products resulting from the combustion of a fuel with the oxygen of the air, including the inerts and any excess air.

1.3 "Excess air" means air which passes through the combustion chamber and the vented heater flues in excess of that which is theoretically required for complete combustion.

1.4 "Flue" means a conduit between the flue outlet of a vented heater and the integral draft diverter, draft hood, barometric damper or vent terminal through which the flue gases pass prior to the point of draft relief.

1.5 "Heater outlet" means the opening provided in a vented heater for the exhaust of the flue gases from the combustion chamber.

1.6 "Flue losses" means the sum of sensible and latent heat losses above room temperature of the flue gases leaving a vented heater.

1.7 "Stack" means the portion of the exhaust system downstream of the integral draft diverter, draft hood or barometric draft regulator.

1.8 "Stack gases" means the flue gases combined with dilution air that enters at the integral draft diverter, draft hood or barometric draft regulator.

1.9 "Barometric draft regulator or barometric damper" means a mechanical device designed to maintain a constant draft in a vented heater.

1.10 "Air shutter" means an adjustable device for varying the size of the primary air inlet(s) to the combustion chamber power burner.

1.11 "Power burner" means a vented heater burner which supplies air for combustion at a pressure exceeding atmospheric pressure, or a burner which depends on the draft induced by a fan incorporated in the furnace for proper operation.

1.12 "Vent limiter" means a device which limits the flow of air from the atmospheric diaphragm chamber of a gas pressure regulator to the atmosphere. A vent limiter may be a limiting orifice or other limiting device.

1.13 "Vent/air intake terminal" means a device which is located on the outside of a building and is connected to a vented heater by a system of conduits. It is composed of an air intake terminal through which the air for combustion is taken from the outside atmosphere, and a vent terminal from which flue gases are discharged.

1.14 "Induced draft" means a method of drawing air into the combustion chamber by mechanical means.

1.15 "Plenum" means an air compartment, that is attached to, or is an integral part of, a vented heater and which is designed to either distribute the heated air after it leaves the heat exchanger in the case of a supply plenum, or in the case of a return plenum, collects the air which enters the return inlet.

1.16 "Heat input" (Q_{in}) means the rate of energy supplied in a fuel to a vented heater, operating under steady state conditions, expressed in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

1.17 "Higher heating value" (HHV) means the heat produced per unit of fuel when complete combustion takes place at constant pressure and the products of combustion are cooled to the initial temperature of the fuel and air and when the water vapor formed during combustion is condensed. The higher heating value is usually expressed in Btu's per pound, Btu's per cubic foot for gaseous fuel, or Btu's per gallon for liquid fuel.

1.18 "Integral draft diverter" means a device which is an integral part of a vented heater, designed to (1) provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft diverter, (2) prevent a back draft from entering the vented heater, (3) neutralize the stack action of the chimney or gas vent upon the operation of the vented heater.

1.19 "Draft hood" means a device which performs the same function as an integral draft diverter, but is not an integral part of the vented heater, and is connected to the vented heater by a short length of flue pipe.

1.20 "Vent pipe" means the passages and conduits in a direct vent system through which gases pass from the combustion chamber to the outdoor air.

1.21 "Infiltration parameter" means that portion of unconditioned outside air drawn into the heated space as a consequence of loss of conditioned air through the exhaust system of a vented heater.

1.22 "Vaporizing type oil burner" means a device with an oil vaporizing bowl or other receptacle designed to operate by vaporizing liquid fuel oil by the heat of combustion, and mixing the vaporized fuel with air.

1.23 "Air tube" means a tube which carries combustion air from the burner fan to the burner nozzle for combustion.

1.24 "Stack damper" is a device installed downstream of the integral draft diverter, draft hood, or barometric draft regulator, designed to open the venting system when the appliance is in operation and to close off the venting system when the appliance is in the standby condition.

1.25 "Flue damper" is a device installed between the furnace and the integral draft diverter, draft hood, barometric draft regulator or, vent terminal which is not equipped with a draft control device, designed to open the venting system when the appliance is in operation and to close the venting system when the appliance is in a standby condition.

1.26 "Heating capacity" (Q_{out}) means the rate of useful heat output from a vented heater, operating under steady state conditions, expressed in Btu's per hour. For room and wall heaters, it is obtained by multiplying the "heat input" (Q_{in}) by the steady state efficiency (n_{ss}) divided by 100. For floor furnaces, it is obtained by multiplying (A) the "heat input" (Q_{in}) by (B) the steady state efficiency divided by 100, minus the quantity (3.3) (L_j) divided by 100, where L_j is the jacket loss as determined in 3.4 of this appendix.

2.0 *Testing conditions.*

2.1 *Installation of test unit.*

2.1.1 Vented wall furnaces (including direct vent systems). Install gas fueled vented wall furnaces for test as specified in Sections 2.1.3 and 2.1.4 of ANSI Z21.49-1975. Install gas fueled wall furnaces with direct vent systems for test as described in 2.1.3 and 2.1.4 of ANSI Z21.44-1973. Install oil fueled vented wall furnaces as specified in UL-730-1974, Section 33. Install oil fueled vented wall furnaces with direct vent systems as specified in UL-730-1974, section 34.

2.1.2 Vented floor furnaces. Install vented floor furnaces for test as specified in sections 35.1 through 35.5 of UL standard 729-1976.

2.1.3 Vented room heaters. Install in accordance with manufacturer's instructions.

2.2 *Flue and stack requirements.*

2.2.1 Gas fueled vented home heating equipment employing integral draft diverters and draft hoods (excluding direct vent system). Attach to, and vertically above the outlet of gas fueled vented home heating equipment employing draft diverters or draft hoods with vertically discharging outlets, a five (5) foot long test stack having a cross sectional area the same size as the draft diverter outlet. Cover the test stack with insulation having an R value of not less than 7 (°F-HR-Ft²/Btu) and an outer layer of aluminum foil.

Attach to the outlet of vented heaters having a horizontally discharging draft diverter or draft hood outlet a 90 degree elbow, and a five (5) foot long vertical test stack. A horizontal section of pipe may be used on the floor furnace between the diverter and the elbow if necessary to clear any framing used in the installation. Use the minimum length of pipe possible for this section. Use stack, elbow, and horizontal section with same cross sectional area as the diverter outlet. Cover with insulation having an R value of not less than 7 (°F-HR-Ft²/Btu), and an outer layer of aluminum foil.

2.2.2 Oil fueled vented home heating equipment (excluding direct vent systems). Use flue connections for oil fueled vented floor furnaces as specified in section 35 of UL 729-1976, section 34.10 through 34.18 of UL 730-1974 for oil fueled vented wall furnaces and sections 36.2 and 36.3 of UL 896-1973 for vented room heaters.

Allow no opening on the oil heater between the heater and the point where the flue gas sample is to be taken or the flue gas termperature is to be measured. If a barometric draft regulator is incorporated in the heater, it shall be sealed during all tests. Cover all elbows and flue connectors between the heater outlet and a point 12 inches (304.8mm) downstream of the thermocouple location described in section 2.6 with insulation having an R value not less than 7 (°F-HR-Ft²/Btu) and an outer layer of aluminum foil.

2.2.3 Direct vent systems. Have the exhaust/air intake system supplied by the manufacturer in place during all tests. Test units intended for installation with a variety of vent pipe lengths with the minimum length recommended by the manufacturer. Do not connect a heater employing a direct vent system to a chimney or induced draft source. Vent the gas solely on the provision for venting incorporated in the heater and the vent/air intake system supplied with it. On units which are not designed to preheat the incoming air, cover the first 18 inches of vent pipe downstream of the heater outlet with insulation having an R value of not

less than 7 (°F-HR-ft²/Btu) and an outer layer of aluminum foil. Care should be taken to not block the air intake with insulation.

For units designed to significantly preheat the incoming combustion air, cover all surfaces of the vent/air intake system exposed to ambient air where the combustion air temperature exceeds the room temperature by more than 30° F 16.7C) with insulation having an R value not less than 7 (°F-HR-ft²/Btu) and a layer of aluminum foil.

2.3 *Fuel supply.*

2.3.1 Natural gas. For a vented heater utilizing natural gas, maintain the gas supply to the unit under test at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches water column. Maintain the regulator outlet pressure at normal test pressure approximately at that recommended by the manufacturer. Use natural gas having a specific gravity of approximately 0.65 and a higher heating value within ±5 percent of 1,025 Btu per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the natural gas to be used in the test with an error no greater than one percent.

2.3.2 Propane gas. For a vented heater utilizing propane gas, maintain the gas supply to the unit under test at a normal inlet pressure of 11 to 13 inches water column and a specific gravity of approximately 1.53. Maintain the regulator outlet pressure, on units so equipped, approximately at that recommended by the manufacturer. Use propane having a specific gravity of approximately 1.53 and a higher heating value within ±5 percent of 2,500 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the propane to be used in the test with an error no greater than one percent.

2.3.3 Other test gas. Use other test gases with characteristics as described in section 2.2, table VII, of ANSI Standard Z21.11.1-1974. Use gases with a measured higher heating value within ±5 percent of the values specified in the above ANSI standard. Determine the actual higher heating value of the gas used in the test with an error no greater than one percent.

2.3.4 Oil supply. For a vented heater utilizing fuel oil, use No. 1 fuel oil (kerosene) for vaporizing type burners and either No. 1 or No. 2 fuel oil, as specified by the manufacturer, for mechanical atomizing type burners. Use No. 1 fuel oil with a viscosity meeting the specification as specified in UL-730-1974, section 36.9. Use test fuel conforming to the specifications given in tables 2 and 3 of ANSI Standard Z91.1-1972 for No. 1 and No. 2 fuel oil. Measure the higher heating value of the test fuel with an error no greater than one percent.

2.3.5 Electrical supply. For an auxiliary electric component of a vented heater, maintain the electrical supply to the test unit within one percent of the nameplate voltage for the entire test cycle. If a voltage range is used for nameplate voltage, maintain the electrical supply within one percent of the mid-point of the nameplate voltage range.

2.4 *Burner adjustments.*

2.4.1 Gas burner adjustments. Adjust the burners of gas fueled vented heaters to their maximum Btu ratings at the test pressure specified in 2.3 of this section. Correct the burner input rate to 60° F (15.6C) and 30 inches of mercury barometric pressure and within ±2 percent of the hourly Btu rating specified by the manufacturer as measured after 15 minutes of operation starting with all parts of the vented heater at room temperature. Set the primary air shutters in accordance with the manufacturer's recommendations to give a good flame at this adjustment. Do not allow the deposit of carbon during any test specified herein.

If a vent limiting means is provided on a gas pressure regulator, have it in place during all tests.

2.4.2 Oil burner adjustments. Adjust the burners of oil fueled vented heaters to give the CO_2 reading recommended by the manufacturer and an hourly Btu input, during the steady-state performance test described below, which is within plus or minus 2 percent of the heater manufacturer's specified normal hourly Btu input rating. On units employing a power burner do not allow smoke in the flue to exceed a No. 1 smoke during the steady-state performance test as measured by the procedure in ANSI Standard Z11.182-1965 (R1971) (ASTM D 2156-65(1970)). If, on units employing a power burner, the smoke in the flue exceeds a No. 1 smoke during the steady-state test, readjust the burner to give a lower smoke reading, and, if necessary a lower CO_2 reading, and start all tests over. Maintain the average draft over the fire and in the flue during the steady-state performance test at that recommended by the manufacturer and draft fluctuations at less than 0.005 inches of water gauge. Do not make additional adjustments to the burner during the required series of performance tests. The instruments and measuring apparatus for this test are described in Section 6.3 of ANSI Standard Z91.1-1972.

2.5 *Circulating air adjustments.*

2.5.1 Forced air vented wall furnaces (including direct vent systems). During tests maintain the air flow through the heater as specified by the manufacturer and operate the vented heater with the outlet air temperature between 80° F and 130° F above room temperature. If adjustable air discharge registers are provided, adjust them so as to provide the maximum possible air restriction. Measure air discharge temperature as specified in Section 2.14 of ANSI Z21.49-1975.

2.5.2. Fan type vented room heaters and floor furnaces. During tests on fan type furnaces and heaters, adjust the air flow through the heater as specified by the manufacturer. If adjustable air discharge registers are provided, adjust them to provide the maximum possible air restriction.

2.6 *Location of temperature measuring instrumentation.*

2.6.1 Gas fueled vented home heating equipment (including direct vent systems). For units employing an integral draft diverter, install nine thermocouples, wired in parallel, in a horizontal plane in the five foot test stack located one foot from the test stack inlet. Equalize the length of all thermocouple leads before paralleling. Locate one thermocouple in the center of the stack. Locate eight thermocouples along imaginary lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the stack and the stack wall.

For units which employ a draft hood or units which employ a direct vent system which does not significantly preheat the incoming combustion air, install nine thermocouples, wired in parallel, in a horizontal plane located within 12 inches (304.8 mm) of the heater outlet and upstream of the draft hood on units so equipped. Locate one thermocouple in the center of the pipe and eight thermocouples along imaginary lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the pipe and the pipe wall.

For units which employ direct vent systems that significantly preheat the incoming combustion air, install nine thermocouples, wired in parallel, in a plane parallel to and located within 6 inches (152.4 mm) of the vent/air intake terminal. Equalize the length of all thermocouple leads before paralleling. Locate one thermocouple in the center of the flue pipe and eight thermocouples along imaginary lines intersecting at right angles in this plane at points one third and two thirds of the distance between the center of the flue pipe and the pipe wall.

Use bead-type thermocouples having wire size not greater than No. 24 American Wire Gauge (AWG). If there is a possibility that the thermocouples could receive direct radiation from the fire, install radiation shields on the fire side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Install thermocouples for measuring conditioned warm air temperature as described in ANSI Z21.49-1975, section 2.14 establish the temperature of the inlet air by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

2.6.2 Oil fueled vented home heating equipment (including direct vent systems).

Install nine thermocouples, wired in parallel and having equal length leads, in a plane perpendicular to the axis of the flue pipe. Locate this plane at the position shown in Figure 34.4 of UL 730-1974, or Figures 35.1 and 35.2 of UL 729-1976 for a single thermocouple, except that on direct vent systems which significantly preheat the incoming combustion air, it shall be located within 6 inches (152.4mm) of the outlet of the vent/air intake terminal. Locate one thermocouple in the center of the flue pipe and eight thermocouples along imaginary lines intersecting at right angles in this plane at points one third and two thirds of the distance between the center of the pipe and pipe wall.

Use bead-type thermocouples having a wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the fire, install radiation shields on the fire side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Install thermocouples for measuring the conditioned warm air temperature as described in section 35.12 through 35.17 of UL 730-1974. Establish the temperature of the inlet air by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

2.7 *Combustion measurement instrumentation.* Analyze the samples of stack and flue gases for vented heaters to determine the concentration by volume of carbon dioxide present in the dry gas with instrumentation which will result in a reading having an accuracy of ±0.1 percentage points.

2.8 *Energy flow instrumentation.* Install one or more instruments, which measure the rate of gas flow or fuel oil supplied to the vented heater, and if appropriate, the

electrical energy with an error no greater than one percent.

2.9 *Room ambient temperature.* During the time period required to perform all the testing and measurement procedures specified in section 3.0, maintain the room temperature within ±5° F (±2.8C) of the value T_{RA} measured during the steady state performance test. At no time during these tests shall the room temperature exceed 100° F (37.8C) or fall below 65° F (18.3C). Use the procedure outlined in section 2.1.14 of ANSI Standard Z21.47-1973 to measure room temperature.

2.10 *Equipment used to measure mass flow rate in flue and stack.* The tracer gas chosen for this task should have a density which is less than or approximately equal to the density of air, and be of a different chemical species or different concentration from the flue or stack gas to be measured. Use a gas unreactive with the environment to be encountered. Using instrumentation of either the batch or continuous type, measure the concentration of tracer gas with an accuracy of ±2 percent of the value of the concentration measured.

3.0 *Testing and measurements.*

3.1 *Steady-State testing.* 3.1.1 Gas Fueled Vented Home Heating Equipment (Including Direct Vent Systems).

Set up the vented heater as specified in 2.1, 2.2, and 2.3. Begin the steady-state performance test by operating the burner and the circulating air blower, on units so equipped, with the adjustments specified by 2.4.1 and 2.5, until steady-state conditions are attained as indicated by a temperature variation of not more than 3° F (1.7° C) in the stack gas temperature for vented heaters equipped with draft diverters or 5° F (2.8° C) in the flue gas temperature for vented heaters equipped with either draft hoods or direct vent systems; in three successive readings taken 15 minutes apart.

On units employing draft diverters, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady-state stack gas temperature ($T_{S\text{-}SS\text{-}X}$) using the nine thermocouples located in the 5 foot test stack as specified in 2.6.1. Secure a sample of the stack gases in the plane where $T_{S\text{-}SS\text{-}X}$ is measured and determine the concentration by volume of carbon dioxide ($X_{CO2\text{-}S}$) present in dry stack gas.

On units employing draft hoods or direct vent systems, measure the room temperature (T_{RA}) as described in 2.9 and measure the steady-state flue gas temperature, ($T_{F\text{-}SS}$), using the nine thermocouples located in the flue pipe as described in Section 2.6.1. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 ($X_{CO2\text{-}F}$) present in dry flue gas. In addition, for units employing draft hoods, secure a sample of the stack gas in a horizontal plane in the five foot test stack located one foot from the test stack inlet; and determine the concentration by volume of CO_2 ($X_{CO2\text{-}S}$) present in dry stack gas.

Determine the steady-state heat input rate (Q_{in}) including pilot gas by multiplying the measured higher heating value of the test gas by the steady-state gas input rate corrected to standard conditions of 60° F and 30 inches of mercury. Use measured values of gas temperature and pressure at the meter and the barometric pressure to correct the metered gas flow rate to standard conditions.

Measure the steady-state electric power to the power burner (PE) and the steady state electrical power to the conditioned air blower (BE), on units so equipped.

After the above test measurements have been completed on units employing draft diverters, secure a sample of the flue gases at the inlet to the draft diverter and determine the concentration of CO_2 ($X_{CO2\text{-}F}$) present. In obtaining this sample of flue gas, move the sampling probe around to assure that an average value is obtained for the CO_2 concentration. For units with multiple heat exchanger outlets, draw and weight a sample from each outlet to obtain the average CO_2 concentration for the unit. Block the draft diverter relief opening and cover the draft diverter and flue gas collection box (on a power vented unit) with insulation having an R value no less than 7 (°F-HR-ft 2/Btu) and an outer layer of aluminum foil. However, if the design is such that applying insulation to all areas of the draft diverter housing would result in a reduction of normal air flow over the heat exchanger, do not insulate those areas of the draft diverter housing. If the unit is turned off during the process of blocking the diverter relief opening, run it until steady-state conditions (as defined above) are again achieved. Then, progressively restrict the test stack outlet until the concentration of CO_2 in flue gas samples secured from the test stack in the plane where $T_{S\text{-}SS\text{-}X}$ was measured is within ± 0.2 percentage points of the previously determined value of X_{CO_2F}. Measure the flue gas temperature ($T_{F\text{-}SS}$) using the nine thermocouples located in the 5 foot test stack as specified in 2.6.1.

3.1.2 Oil Fueled Vented Home Heating Equipment (Including Direct Vent Systems).

Set up and adjust the vented heater as specified in sections 2.1, 2.2, and 2.3.4. Begin the steady-state performance test by operating the burner and the circulating air blower, on units so equipped, with the adjustments specified by 2.4.2 and 2.5 until steady-state conditions are attained as indicated by a temperature variation of not more than 5° F (2.8° C) in the flue gas temperature in three successive readings taken 15 minutes apart.

Do not allow smoke in the flue, for units equipped with power burners, to exceed a No. 1 smoke during the steady-state performance test as measured by the procedure described in ANSI Standard Z11.182-1965 (R1971) (ASTM D 2156-65 (1970)). Maintain the average draft over the fire and in the breeching during the steady-state performance test at that recommended by the manufacturer and do not allow draft fluctuations to exceed 0.005 inches of water gauge.

Measure the room temperature (T_{RA}) as described in 2.9 and measure the steady state flue gas temperature ($T_{F\text{-}SS}$) using nine thermocouples located in the flue pipe as described in 2.6.2. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 ($X_{CO2\text{-}F}$) present in dry flue gas.

Measure and record the steady-state heat input rate (Q_{in}) and the steady-state electrical power to the power burner (PE) and the conditioned air blower (BE), on units so equipped.

3.2 *Flue temperature measurements—cool down test.* After steady-state testing is completed, turn off the main burner and measure the flue gas temperature by means of the nine thermocouples described above, at 1.5 ($T_{F\text{-}OFF}$ (t_a)) and 9 ($T_{F\text{-}OFF}$ (t_b)) minutes after the burner shuts off. Bypass the damper control on units employing stack dampers and draft diverters or draft hoods so that the damper remains open during the cool down test. During this off-period, operate the indoor air circulating blower, on units so equipped, during the first 3 minutes of the off period and then turn it off, unless the vented heater employs a single motor to drive a power burner and an indoor air circulating blower in which case both shall be turned off together. For oil fueled vented heaters not equipped with stack dampers, maintain the draft in the flue pipe within −0.001 and +0.005 inch of water gauge of the manufacturers recommended on-period average draft if the optional test in 3.6 is being carried out, and within ±0.01 inch of water gauge of the average steady-state draft if it is not. For a direct vent system with a flue damper or a vented heater equipped with both a stack damper and a barometric damper, close the flue or stack damper during the cool down test. Keep the main burner(s) off until equilibrium conditions are attained, as indicated by variations in the flue gas temperature of not more than 3° F (1.7° C) between three successive readings taken 15 minutes apart. For units employing a continuously burning pilot light, take a third flue gas temperature measurement to determine the off-period minimum flue gas temperature ($T_{F\text{-}OFF}$ (∞)). For units not employing a continuously burning pilot light, set $T_{F\text{-}OFF}$ (∞) equal to the room temperature T_{RA}. During this cool down test, measure the energy input rate to the pilot light (Q_P), if the unit is so equipped, within an accuracy of ±3 percent. Record all measured values.

3.3 *Flue gas temperature measurements—heat up test.* No heat up test shall be performed for oil fueled vented heaters equipped with vaporizing type burners. For all other vented heaters, after equilibrium conditions are achieved following the cool down test and the required measurements performed, turn on the vented heater and measure the flue gas temperature, using the nine thermocouples described above, at 0.5 ($T_{F\text{-}ON}(t_1)$) and 2.5 ($T_{F\text{-}ON}(t_2)$) minutes after the main burner(s) comes on. Keep the indoor air circulating fan off, on units so equipped, during the first 1.5 minutes of this warm up test and then turn it on unless the vented heater employs a single motor to drive a power burner and an indoor air circulating blower, in which case start both together. Record the measured temperatures. During the heat up test for oil fueled vented heaters maintain the draft in the flue pipe within ±0.01 inch of the manufacturer's recommended on-period draft.

3.4 *Jacket loss measurement.* Conduct a jacket loss test for vented floor furnaces. Measure the jacket loss (L_j) in accordance with the ANSI standard Z21.48-1976 Section 2.12. and record result.

3.5 *Measurement for determining effectiveness of automatic stack damper.* Determine the effectiveness of an automatic stack damper (D_e), in vented heaters so equipped, by measuring the cross sectional area of the stack (A_S), the net area of the damper plate (A_D) (the area of the damper plate minus the area of any holes in the plate), and the angle which the damper plate makes when closed with a plane perpendicular to the axis of the stack. The equation in section 4.2 is then employed to calculate D_e.

3.6 *Optional procedure for determining D_P, D_F, and D_S for systems equipped with power burners.* On power burner systems not employing automatic stack dampers, or power burner systems with a stack damper and a draft diverter or draft hood, measure D_F during the cool down test described in section 3.2. On systems for which the flue or stack damper is to be closed during the cool down test described in section 3.2, measure D_P during a separate cool down test. Conduct this separate cool down test after the

heat up test described in section 3.3 is completed. Conduct the test by letting the unit run after the heat up test until steady-state conditions are reached, as indicated by temperature variation of not more than plus or minus 5° F (2.8° C) in the flue gas temperature in three successive readings taken 15 minutes apart, and then shutting the unit off with the stack or flue damper controls by-passed or adjusted so that the stack or flue damper remains open during the resulting cool down period. If a draft was maintained on oil fueled units in the flue pipe during the steady-state performance test described in section 3.1, maintain the same draft (within a range of −.001 to +.005 inches of water gauge of the average steady-state draft) during this cool down period.

Measure the flue gas mass flow rate ($m_{F,OFF}$) during the cool down test described above at a specific off-period flue gas temperature and corrected to obtain its value at the steady-state flue gas temperature ($T_{F,SS}$), using the procedure described below.

Within one minute after the unit is shut off to start the cool down test for determining D_P, begin feeding a tracer gas into the combustion chamber at a constant flow rate of V_T, and at a point which will allow for the best possible mixing with the air flowing through the chamber. (On units equipped with an oil fired power burner, the best location for injecting this tracer gas appears to be through a hole drilled in the air tube.) Periodically measure the value of V_T with an instantaneously reading flow meter having an accuracy of ±3 percent of the quantity measured. Maintain V_T at less than 1 percent of the air flow rate through the furnace. If a combustible tracer gas is used, there should be a delay period between the time the unit is shut off and the time the tracer gas is first injected to prevent ignition of the tracer gas.

Between 5 and 6 minutes after the unit is shut off to start the cool down test, measure the flue gas temperature, $T^*_{F,OFF}$, using the 9 thermocouples described above. At the same instant the flue gas temperature is measured, also measure the percent volumetric concentration of tracer gas C_T in the flue gas in the same plane where $T^*_{F,OFF}$ is determined. Obtain the concentration of tracer gas using an instrument which will result in an accuracy of ±2 percent in the value of C_T measured. If use of a continuous reading type instrument results in a delay time between drawing of a sample and its analysis, this delay should be taken into account so that the temperature measurement and the measurement of tracer gas concentration coincide. In addition, determine the temperature of the tracer gas entering the flow meter (T_T) and the barometric pressure (P_B).

The rate of the flue gas mass flow through the vented heater and the factors D_P, D_T, and D_S are calculated by the equations in sections 4.3.1, and 4.3.3 of this Appendix.

4.0 CALCULATION OF DERIVED RESULTS FROM TEST MEASUREMENTS.

4.1 *Annual Fuel Utilization Efficiency for Gas or Oil Vented Home Heating Equipment.* The following calculations are to be performed to determine the annual fuel utilization efficiency of gas or oil vented home heating equipment. Figure 10 provides an illustration of a worksheet which may be used to tabulate the results of test measurements and calculations.

4.1.1 System number. Determine the system number for the type of vented heater being tested in accordance with Table 1 or 2.

4.1.2 Ratio of combustion air mass flow rate to stoichiometric air mass flow rate. Determine the ratio of combustion air mass flow rate to stoichiometric air, mass flow rate, $R_{T,F}$, from Figure 1 for the test fuel, by using the value of dry flue gas CO_2 concentration, $X_{CO_2,F}$, determined in accordance with section 3.1 of this Appendix.

4.1.3 Ratio of combustion and relief air mass flow rate to stoichiometric air mass flow rate. For systems employing an integral draft diverter or draft hood, determine the ratio of the sum of combustion and relief air mass flow rate to stoichiometric air mass flow rate $R_{T,S}$, from Figure 1 for the type of test fuel, by using the value of dry stack gas CO_2 concentration, $X_{CO_2,S}$, determined in accordance with section 3.1 of this Appendix.

4.1.4 Average sensible heat loss at full-load steady state operation. For systems employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S,SS,A}$, expressed as a percent, from Figure 2 using the value of $R_{T,S}$ determined in 4.1.3, the type of test fuel, and $\Delta T_{S,SS}$, where

$$\Delta T_{S,SS} = T_{S,SS} - T_{RA}$$

where

$T_{S,SS}$ = measured stack gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Fahrenheit

T_{RA} = measured room temperature of the conditioned space in which the vented heater is tested, in degrees Fahrenheit, determined in accordance with section 2.9 of this Appendix

For systems not employing an integral draft diverter, determine the average sensible heat loss at full-load steady-state operation, $L_{S,SS,A}$, expressed as a percent; from Figure 2 using the value of $R_{T,F}$ determined in 4.1.2, the type of test fuel, and $\Delta T_{F,SS}$, where

$$\Delta T_{F,SS} = T_{F,SS} - T_{RA}$$

where

$T_{F,SS}$ = flue gas temperature at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in degrees Fahrenheit.

T_{RA} = as defined above.

4.1.5 Steady-state efficiency. Calculate the steady-state efficiency (excluding jacket loss), η_{SS}, expressed in percent and defined as

$$\eta_{SS} = 100 - L_{L,A} - L_{S,SS,A}$$

where

$L_{L,A}$ = average latent heat loss of the test fuel determined in accordance with Table 3, in percent.

$L_{S,SS,A}$ = as defined in 4.1.4.

4.1.6 Average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady-state operation. Determine the average ratio of stack gas mass flow rate to flue gas mass flow rate at full-load steady state operation S/F, from Table 1 or 2 for the system number to be tested.

For units with integral draft diverters or draft hoods calculate the quantity (1.3) $(R_{T,S}/R_{T,F})$. If this calculated quantity is greater than the value of S/F obtained from Table 1 or 2, use it in place of the value from the Table, in all other calculations in this section involving the parameter S/F.

4.1.7 Equivalent field stack gas temperature at full-load steady-state operation. Calculate the equivalent field stack gas temperature at full-load steady-state operation, $T_{SS,S}$, expressed in degrees Fahrenheit and defined as:

$$T_{S,SS} = \frac{1}{S/F}\,[T_{F,SS} - T_{RA}] + T_{RA}$$

where

$T_{F,SS}$ as defined in 4.1.4

T_{RA} as defined in 4.1.4

S/F as defined in 4.1.6

4.1.8 On-cycle time constant. Calculate the on-cycle time constant, τ_{on}, expressed in minutes and defined as:

$$\tau_{on} = \frac{t_2 - t_1}{\ln\left[\dfrac{T_{F,SS} - T_{F,on(t_1)}}{T_{F,SS} - T_{F,on(t_2)}}\right]}$$

where

t_1 = 0.5 minutes

t_2 = 2.5 minutes

$T_{F,on(t_1)}$ = flue gas temperature measured at time (t_1) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit

$T_{F,on(t_2)}$ = flue gas temperature measured at the time (t_2) from a cold start-up of the system burner determined in accordance with section 3.3 of this Appendix, in degrees Fahrenheit

$T_{F,SS}$ = as defined in 4.1.4

For vaporizing type oil burners, $\tau_{on} = 0$.

4.1.9 Effective degree gas temperature difference at start-up. Calculate the effective flue gas temperature difference at start-up of the system burner, $\Theta_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\theta_{F,O,X} = [T_{F,SS} - T_{F,on}(t_1)]\, e^{\frac{t_1}{\tau_{on}}}$$

where:

$T_{F,SS}$ as defined in 4.1.4

$T_{F,on}(t_1)$ as defined in 4.1.8

t_1 as defined in 4.1.8

τ_{on} as defined in 4.1.8

For vaporizing type oil burners, $\theta_{F,O,X} = 0$.

4.1.10 Off-cycle time constant. Calculate the off-cycle time constant, τ_{off}, expressed in minutes and defined as

$$\tau_{OFF} = \frac{t_4 - t_3}{\ln\left[\dfrac{T_{F,OFF(t_3)} - T_{F,OFF(\infty)}}{T_{F,OFF(t_4)} - T_{F,OFF(\infty)}}\right]}$$

where

t_3 = 1.5 minutes

t_4 = 9.0 minutes

$T_{F,OFF}(t_3)$ = flue gas temperature measured at time (t_3) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit

$T_{F,OFF}(t_4)$ = flue gas temperature measured at time (t_4) after shut-down from steady-state operation of the system burner determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit.

$T_{F,OFF}(\infty)$ = minimum flue gas temperature determined in accordance with section 3.2 of this Appendix, in degrees Fahrenheit.

4.1.11 Effective flue gas temperature difference at shut-down. Calculate the effective flue gas temperature difference at shut-down of the system burner, $\Psi_{F,O,X}$, expressed in degrees Fahrenheit and defined as:

$$\Psi_{F,O,X} = [T_{F,OFF}(t_3) - T_{F,OFF}(\infty)]\, e^{\frac{t_3}{\tau_{OFF}}}$$

where

$T_{F,OFF}(t_3)$ as defined in 4.1.10

$T_{F,off}(\infty)$ as defined in 4.1.10

t_3 as defined in 4.1.10

τ_{off} as defined in 4.1.10

4.1.12 Minimum flue gas temperature difference above room temperature. Calculate the minimum flue gas temperature difference above room temperature, $\Psi_{F,\infty,X}$ expressed in degrees Fahrenheit and defined as:

$$\Psi_{F,\infty,X} = T_{F,OFF}(\infty) - T_{RA}$$

where

$T_{F,OFF}(\infty)$ as defined in 4.1.10

T_{RA} as defined in 4.1.4

4.1.13 Minimum stack gas temperature difference above room temperature. Calculate the minimum stack gas temperature difference above room temperature, $\Psi_{S,\infty,X}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1 through 4 and systems 5 through 8 for which $(S/F)Ds > D_F$

$$\Psi_{S,\infty,X} = \frac{(D_F)(\Psi_{F,\infty,X})}{(S/F)(D_S)}$$

where

D_F = off-cycle flue gas draft factor selected from Table 1, for units with power burners where D_F is measured, determined in accordance with section 4.3.2 of this Appendix.

Ds = off-cycle stack gas draft factor selected from Table 1, or, for units with power burners where D_F is measured, determined in accordance with section 4.3.3 of this Appendix.

S/F = as defined in 4.1.6

$\Psi_{F,\infty,X}$ = as defined in 4.1.12

for systems numbered 5-8: for which $(S/F)Ds \leq D_F$

$$\Psi_{S,\infty,X} = \Psi_{F,\infty,X}$$

4.1.14 Effective stack gas temperature difference at shut-down. Calculate the effective stack gas temperature difference at shut-down, $\psi_{S,O,X}$ expressed in degrees Fahrenheit and defined as:

For systems numbered 1 through 4 and systems 5 through 8 for which $(S/F)Ds > D_F$

$$\Psi_{S,O,X} = \frac{(D_F)(\Psi_{F,O,X})}{(S/F)(D_S)}$$

where

D_F as defined in 4.1.13

$\Psi_{F,O,X}$ as defined in 4.1.11

S/F as defined in 4.1.6

Ds as defined in 4.1.13

for systems numbered 5-8 for which $(S/F)Ds \leq D_F$

$$\Psi_{S,O,X} = \Psi_{F,O,X}$$

4.1.15 Correction factors for systems 9 through 12 Calculate a correction factor which corrects for the use of outdoor air for combustion instead of air at room temperature, Cs, defined as

$$C_S = 1 + \frac{(70-42)\eta_{SS}}{(T_{F,SS} - T_{RA})\,100}$$

where

42 = average outdoor temperature corresponding to 5200 degree day location, in degrees Fahrenheit

η_{SS} as defined in 4.1.5

$T_{F,SS}$ as defined in 4.1.4

70 assumed average indoor temperature

Calculate the correction factor which corrects for the effect of outdoor air passing through the heat exchanger during the off-period, C'_S, defined as:

$$C'_S = 1.22$$

4.1.16 Multiplication factor for sensible heat loss during burner on-cycle. Calculate a multiplication factor for sensible heat loss during burner on-cycle, $K_{S,on}$, defined as:

$$K_{S,\,on} = \frac{100 C_P [1 + (R_{T,F})(A/F)]}{HHV_A}$$

Where
- C_P = 0.24 Btu per pound-degree Fahrenheit, specific heat of air
- $R_{T,F}$ = as defined in 4.1.2
- A/F = stoichiometric air/fuel ratio determined in accordance with Table 3
- HHV_A = average higher heating value of the test fuel determined in accordance with Table 3, in Btu's per pound.

4.1.17 Multiplication factor for sensible heat loss during burner off-cycle. Calculate a multiplication factor for sensible heat loss during burner off-cycle, $K_{S,OFF}$, defined as:
for systems numbered 1-4:

$$K_{S,\,OFF} = \frac{(T_{F,SS} - T_{RA} + 530)^{1.19} (D_F)(K_{S,\,on})}{(T_{F,SS} - T_{RA})^{0.56}}$$

where
- 530 = assumed average indoor temperature in degrees Rankine
- $T_{F,SS}$ as defined in 4.1.4
- T_{RA} as defined in 4.1.4
- D_F as defined in 4.1.13
- $K_{S,on}$ as defined in 4.1.16

for systems numbered 5-8:

$$K_{S,\,OFF} = \frac{(T_{S,SS} - T_{RA} + 530)^{1.19} (D_S)(S/F)(K_{S,\,on})}{(T_{S,SS} - T_{RA} + 70 - 42)^{0.56}}$$

where
- $T_{S,SS}$ as defined in 4.1.7
- D_S as defined in 4.1.13
- S/F as defined in 4.1.6
- $K_{S,on}$ as defined in 4.1.16
- 530 as defined above
- 42 as defined in 4.1.15
- 70 as defined in 4.2.15
- T_{RA} as defined in 4.1.4

for systems numbered 9-12:

$$K_{S,\,OFF} = \frac{(T_{F,SS} - T_{RA} + 530)^{1.19} (D_F)(K_{S,\,on})}{(T_{F,SS} - T_{RA} + 70 - 42)^{0.56}}$$

where
- $T_{F,SS}$ as defined in 4.1.4
- D_F as defined in 4.1.13
- $K_{S,on}$ as defined in 4.1.16
- 530 as defined above
- 42 as defined in 4.1.15
- 70 as defined in 4.2.15
- T_{RA} as defined in 4.1.4

4.1.18 Multiplication factor for infiltration loss during burner on-cycle. Calculate a multiplication factor for infiltration loss during burner on-cycle, $K_{I,\,on}$, defined as:
for systems numbered 1-8:

$$K_{I,\,on} = (\Phi)(S/F)(K_{S,\,on})$$

where
- Φ = 0.7 infiltration parameter
- S/F as defined in 4.1.6
- $K_{S,on}$ as defined in 4.1.16

4.1.19 Multiplication factor for infiltration loss during burner off-cycle. Calculate a multiplication factor for infiltration loss during burner off-cycle $K_{I,\,off}$, defined as:
for systems numbered 1-8:

$$K_{I,\,OFF} = \frac{(T_{S,SS} - T_{RA} + 530)^{1.19} (K_{I,\,on})(D_S)}{T_{S,SS}(-T_{RA} + 70 - 42)^{0.56}}$$

where
- $T_{S,SS}$ as defined in 4.1.7
- 530 as defined in 4.1.17
- 42 as defined in 4.1.15
- $K_{I,on}$ as defined in 4.1.18
- D_S as defined in 4.1.13
- 70 as defined in 4.2.15
- T_{SA} as defined in 4.1.4

4.1.20 Ratio of average burner on-time per cycle to on-cycle time constant. Calculate the ratio of average burner on-time per cycle to on-cycle time constant, t_{on}/τ_{on}, defined as:

$$\frac{t_{on}}{\tau_{on}}$$

where
- t_{on} = 3.87 minutes, the average burner on-time per cycle
- τ_{on} as defined in 4.1.8

4.1.21 Ratio of average burner off-time per cycle to off-cycle time constant. Calculate the ratio of average burner off-time per cycle to off-cycle time constant, t_{off}/τ_{off}, defined as:

$$\frac{t_{off}}{\tau_{off}}$$

where
- t_{off} = 13.3 minutes, the average burner off-time per cycle
- τ_{off} as defined in 4.1.10

4.1.22 Effective flue gas temperature difference at burner start-up, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner start-up, corrected for burner cycling effect, $\Theta_{F,O}$, expressed in degrees Fahrenheit and defined as:

For systems 1-8:

$$\theta_{F,\,O} = (C_{t,\,on})(\theta_{F,\,O,\,X})$$

For systems 9-12:

$$\theta_{F,\,O} = (C_{t,\,on})(C_S)(\theta_{F,\,O,\,X})$$

where $C_{t,on}$ is given by:

$$C_{t,\,on} = \frac{1 - \frac{(\psi_{F,\,O,\,X})(e)^{-t_{off}/\tau_{off}}}{(T_{F,\,SS} - T_{F,\,OFF}(\infty))}}{1 - \frac{(\theta_{F,\,O,\,X})(\psi_{F,\,O,\,X})(e^{-(t_{on}/\tau_{on} + t_{off}/\tau_{off})})}{(T_{F,\,SS} - T_{F,\,OFF}(\infty))^2}}$$

for vaporizing type oil burners, $\theta_{F,O} = 0$.
where
- $\theta_{F,O,X}$ as defined in 4.1.9
- C_S as defined in 4.1.15
- $\psi_{F,O,X}$ as defined in 4.1.11
- t_{off}/τ_{off} as defined in 4.1.21
- t_{on}/τ_{off} as defined in 4.1.20
- $T_{F,SS}$ as defined in 4.1.4
- $T_{F,OFF}(\infty)$ as defined in 4.1.10

4.1.23 Effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective flue gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{F,O}$.
For systems 1-8:

$$\psi_{F,\,O} = (C_{t,\,off})(\psi_{F,\,O,\,X})$$

For systems 9-12:

$$\psi_{F,\,O} = (C_{t,\,off})(C_S')(\psi_{F,\,O,\,X})$$

Where $C_{t,off}$ is given by:

$$C_{t,\,off} = \frac{C_{IID}\left[1 - \frac{(\theta_{F,\,O,\,X})(e^{-t_{on}/\tau_{on}})}{(T_{F,\,SS} - T_{F,\,OFF}(\infty))}\right]}{1 - \frac{(\theta_{F,\,O,\,X})(\psi_{F,\,O,\,X})(e^{-(t_{on}/\tau_{on} + t_{off}/\tau_{off})})}{(T_{F,\,SS} - T_{F,\,OFF}(\infty)^2}}$$

where
- C_{IID} = 1, for units with continuously operating pilot light 0.90, for units with intermittent ignition devices or cycling pilots

- $\psi_{F,O,X}$ as defined in 4.1.11
- C_S' as defined in 4.1.15
- $\theta_{F,O,X}$ as defined in 4.1.9
- t_{off}/τ_{off} as defined in 4.1.21
- t_{on}/τ_{on} as defined in 4.1.20
- $T_{F,SS}$ as defined in 4.1.4
- $T_{F,OFF}(\infty)$ as defined in 4.1.10

4.1.24 Effective minimum flue gas temperature difference above room temperature, corrected for burner cycling effect. Calculate the effective minimum flue gas temperature difference above room temperature, $\Psi_{F,\infty}$, corrected for burner cycling effect, expressed in degrees Fahrenheit and defined as:

for systems numbered 1-8:

$$\Psi_{F,\,\infty}\Psi_{F,\,\infty,\,X}$$

for systems numbered 9-12:

$$\Psi_{F,\,\infty} = (C_S')(\Psi_{F,\,\infty,\,X})$$

where
- C'_S as defined in 4.1.15
- $\Psi_{F,\infty,X}$ as defined in 4.1.12

4.1.25 Effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect. Calculate the effective stack gas temperature difference at burner shut-down, corrected for burner cycling effect, $\psi_{S,O}$, expressed in degrees Fahrenheit and defined as:

for systems 1-8:

$$\psi_{S,\,O} = C_{t,\,off}\psi_{S,O,X}$$

where
- $C_{t,\,off}$ as defined in 4.2.23
- $\psi_{S,O,X}$ as defined in 4.2.11

4.1.26 Off-cycle sensible heat loss integration factors. For systems numbered 1-4, determine off-cycle sensible heat loss integration factors, $F3$ and $F4$, from Figures 3 and 4, respectively, using values of $\Psi_{F,O}$ defined in section 4.1.23, and t_{off}/τ_{off} defined in section 4.1.21.
For systems numbered 5-8, determine off-cycle sensible heat loss integration factors, F5 and F6, from Figures 5 and 6, respectively, using values of $\psi_{S,O}$, defined in section 4.1.25, and t_{off}/τ_{off} defined in section 4.1.21.
For systems numbered 9-12, determine, off-cycle sensible heat loss integration factors, $F5$ and $F6$, from Figures 5 and 6, respectively, using values of $\Psi_{F,O}$ defined in section 4.1.23, and t_{off}/τ_{off} defined in section 4.1.21.

4.1.27 Off-cycle infiltration heat loss integration factors. For systems numbered 1-8, determined off-cycle infiltration heat loss integration factors, $F7$ and $F8$, from Figures 7 and 8, respectively, using values of $\Psi_{S,O}$ defined in section 4.1.25, and t_{off}/τ_{off} defined in section 4.1.21.

4.1.28 On-cycle sensible heat loss. Calculate the on-cycle sensible heat loss of the system, $L_{S,ON}$, expressed in percent and defined:

for systems numbered 1-8:

$$L_{S,ON} = L_{S,SS,A} - (K_{S,\,ON})(\Theta_{F,\,O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right),$$

for systems numbered 9-12:

$$L_{S,\,ON} = (C_S)(L_{S,\,SS,\,A} - K_{S,\,ON})(\Theta_{F,\,O})\left(\frac{1}{t_{on}/\tau_{on}}\right)\left(1 - e^{-\frac{t_{on}}{\tau_{on}}}\right)$$

where
- C_S as defined in 4.1.15
- $L_{S,SS,A}$ as defined in 4.1.4
- $K_{S,ON}$ as defined in 4.1.16
- $\Theta_{F,O}$ as defined in 4.1.22
- t_{on}/τ_{on} as defined in 4.1.20

4.1.29 Off-cycle sensible heat loss. Calculate the off-cycle sensible heat loss of the system, $L_{S,OFF}$, expressed in percent and defined as:

for systems numbered 1-4:

$$L_{S,\,OFF} = (K_{S,\,OFF})\left(\frac{t_{off}}{t_{on}}\right)[(F3) + \Psi_{F,\,\infty})(F4)],$$

for systems numbered 5-8:

$$L_{S,\,OFF} = (K_{S,\,OFF})\left(\frac{t_{off}}{t_{on}}\right)[(F5) + (\Psi_{S,\,\infty,\,X})(F6)],$$

for systems numbered 9-12:

$$L_{S,\,OFF} = (K_{S\,OFF})\left(\frac{t_{off}}{t_{on}}\right)[(F5) + (\Psi_{F,\,\infty})(F6)],$$

where
- $K_{S,OFF}$ as defined in 4.1.17
- t_{off} as defined in 4.1.21
- t_{on} as defined in 4.1.20
- $F3$, $F4$, $F5$, and $F6$ as defined in 4.1.26
- $\Psi_{F,\infty}$ as defined in 4.1.24
- $\Psi_{S,\infty,X}$ as defined in 4.1.13

4.1.30 On-cycle infiltration heat loss. Calculate the on-cycle infiltration heat loss of the system, $L_{I,ON}$ expressed in percent and defined as:

for systems numbered 1-8:

$$L_{I,\,ON} = K_{I,\,ON}(70 - 42),$$

where
- $K_{I,ON}$ as defined in 4.1.18
- 70 as defined in 4.1.4
- 42 as defined in 4.1.15

for systems numbered 9-12:

$$L_{I,\,ON} = 0$$

4.1.31 Off-cycle infiltration heat loss. Calculate the off-cycle infiltration heat loss of the system $L_{I,OFF}$ expressed in percent and defined as:

for systems numbered 1-8:

$$L_{I,\,OFF}=K_{I,\,OFF}(70-42)\left(\frac{t_{of}}{t_{on}}\right)[(F7)+(\Psi_{S,\,\infty,\,X})(F8)]$$

where
- $K_{I,\,OFF}$ as defined in 4.1.19
- 70 as defined in 4.1.15
- 42 as defined in 4.1.15
- t_{off} as defined in 4.1.21
- t_{on} as defined in 4.1.20
- $F7$, $F8$ as defined in 4.1.27
- $\Psi_{S,\infty,X}$ as defined in 4.1.13

for systems numbered 9-12:

$$L_{I,\,OFF}=0$$

4.1.32 Part-load fuel utilization efficiency. Calculate the part-load fuel utilization efficiency, expressed in percent and defined as:

for indoor units—

$$\eta_u=100-L_{L,\,A}-\left[\frac{t_{on}}{t_{on}+\left(\frac{Q_P}{Q_{in}}\right)(t_{off})}\right]\times[L_{S,\,ON}+L_{S,\,OFF}+L_{I,\,ON}+L_{I,\,OFF}],$$

for vented floor furnaces

$$\eta_u=100-L_{L,\,A}-C_i(L_i)-\left[\frac{t_{on}}{t_{on}+\left(\frac{Q_P}{Q_{in}}\right)(t_{off})}\right]\times[L_{S,\,ON}+L_{S,\,OFF}+L_{I,\,ON}+L_{I,\,OFF}]$$

where
- C_I =3.3 for vented floor furnaces
- Q_P =pilot flame fuel input rate determined in accordance with section 3.2 of this Appendix, in Btu's per hour
- Q_{IN} =full-load input rate (including pilot flame fuel input rate) determined in accordance with section 3.1 of this Appendix, in Btu's per hour
- L_I =jacket loss determined in accordance with section 3.4 of this Appendix, in percent
- $L_{L,\,A}$ as defined in 4.1.5
- t_{on} as defined in 4.1.20
- t_{off} as defined in 4.1.21
- $L_{S,\,ON}$ as defined in 4.1.28
- $L_{S,\,OFF}$ as defined in 4.1.29
- $L_{I,\,ON}$ as defined in 4.1.30
- $L_{I,\,OFF}$ as defined in 4.1.31

4.1.33 Annual fuel utilization efficiency. Calculate the annual fuel utilization efficiency, $EFFY_A$, defined as: where

$$EFFY_A=\frac{(\eta_{SS})(\eta_u)(5200)}{(\eta_{SS})(5200)+(2.5)(\eta_u)\left(\frac{Q_P}{Q_{in}}\right)(1.7)(4600)}$$

where
- 5200=the average number of annual heating degree days for the United States
- 4600=the average number of non heating season hours per year that the energy to the pilot light is assumed wasted
- 1.7 =average vented heater sizing factor
- η_{SS} =as defined in 4.1.5
- η_u =as defined in 4.1.32
- Q_P =as defined in 4.1.32
- Q_{IN} =as defined in 4.1.32

4.2 *Additional Requirements for Vented Home Heating Equipment Utilizing a Stack (or Flue) Damper.* Calculate the stack (or flue) damper effectiveness, D_o, defined as:

$$D_o=\sqrt{\frac{5}{5+\frac{(2.6)\left(\frac{A'_D}{A_S}\right)^{1.58}}{\left(1-\frac{A'_D}{A_S}\right)^2}}}$$

where
- $A_D=A'_D\cos(\Omega)$
- A_S=cross sectional area of the stack determined in accordance with section 3.5 of this Appendix, in square inches
- A_D=net area of the damper plate determined in accordance with section 3.5 of this Appendix, in square inches
- Ω=the angle the damper plate makes when closed with a plane perpendicular to the axis of the stack determine in accordance with section 3.5 of this appendix

4.3 *Additional Requirements for Vented Home Heating Equipment Utilizing Indoor Air for Combustion and Draft Control.* For units obtaining combustion air and draft control air from inside the residence, the appropriate factor describing the ratio of on-cycle stack flow to on-cycle flue flow (S/E), the ratio of off-cycle flue flow to on-cycle flue flow at identical temperatures (D_P), and the ratio of off-cycle stack flow to on-cycle stack flow at identical temperatures (D_S) shall be determined from Table 1.

4.3.1 Optional procedure for determination of D_P for vented home heating equipment employing a power burner. Calculate the ratio (D_P) of the rate of flue gas mass flow through the vented heater during the off period, $\dot{m}_{F,\,OFF}(T_{F,SS})$, to the rate of flue gas mass flow during the on-period, $\dot{m}_{F,SS}(T_{F,SS})$, and defined as:

$$D_P=\frac{\dot{m}_{F,\,OFF}(T_{F,\,SS})}{\dot{m}_{F,\,SS}(T_{F,\,SS})},$$

For gas fueled units or oil fueled units for which no draft is maintained during the steady state or cool down tests:

$$\dot{m}_{F,\,OFF}(T,_{SS})=\dot{m}_{F,\,OFF}(T^*_{F,\,OFF})\times\left[\frac{T_{F,\,SS}-T_{RA}}{T^*_{F,\,OFF}-T_{RA}}\right]^{0.56}\left[\frac{T^*_{F,\,OFF}+460}{T_{F,\,SS}+460}\right]^{1.19}$$

For oil fueled units tested with an imposed draft as described in section 3.6:

$$\dot{m}_{F,\,OFF}(T_{F,SS})=\dot{m}_{F,\,OFF}(T^*_{F,\,OFF})$$

where
- $T_{F,SS}$ as defined in 4.1.4
- $T^*_{F,OFF}$=flue gas temperature during the off-period measured in accordance with section 3.6 of this Appendix, in degrees Fahrenheit
- T_{RA} as defined in 4.1.4
- 460=conversion factor to convert degrees Fahrenheit to degrees Rankine

$$\dot{m}_{F,\,OFF}(T_{F,\,OFF})=\frac{(100-C_t)\dot{V}_T\rho_F}{C_T}$$

where
- $\dot{V}_T$=flow rate of tracer gas through the vented heater measured in accordance with section 3.6 of this Appendix, in cubic feet per minute
- C_T=concentration by volume of tracer gas present in the flue gas sample measured in accordance with section 3.6 of this Appendix, in percent
- ρ_F=the density the flue gas would have at the temperature T_t in lb. per cu. ft. It may be approximated by the equation:

$$\rho_F\simeq 1.325\left(\frac{P_B}{T_t+460}\right)$$

where
- T_t=the temperature of the tracer gas entering the flow meter measured in accordance with section 3.6 of this appendix, in degrees Fahrenheit.
- 460=as defined above
- P_B=barometric pressure measured in accordance with section 3.6 of this Appendix, in inches of mercury

$$\dot{m}_{F,SS}(T_{F,SS})=\left[(R_{T,F})\left(\frac{A}{F}\right)+1\right]\frac{Q_{in}}{(60)(HHV_A)},$$

where
- $R_{T,F}$ as defined in 4.1.2
- A/F as defined in 4.1.16
- Q_{in} as defined in 4.1.32
- HHV_A as defined in 4.1.16

4.3.2 Optional procedure for determination of off-cycle draft factor for flue gas flow for vented home heating equipment employing a power burner. Calculate the off-cycle draft factor for flue gas flow, D_F, defined as:

for systems numbered 2, 4, 6, 8, or 10: $D_F=(D_P)$

for system number 12: $D_F=(D_P)(D_o)$,

where
- D_P as defined in 4.3.1
- D_o as defined in 4.2

4.3.3 Optional procedure for determination of off-cycle draft factor for stack gas flow for vented home heating equipment employing a power burner. Calculate the off-cycle draft factor for stack gas flow, D_S, defined as:

for system number 2: $D_S=1.0$

for system number 4: $D_S=(0.79+D_p)/1.4$

for system number 6: $D_S=D_o$

for system number 8:

$$D_S=\begin{cases}(D_o)(D_p), \text{ if } D_o\leq 1/(S/F)\\ (D_o)(D_p)+\dfrac{(0.85-(D_o)(D_p))(D_o-1/(S/F))}{\left(1-\frac{1}{(S/F)}\right)}, \text{ if } D_o>\dfrac{1}{(S/F)}\end{cases}$$

where
- D_p as defined in 4.3.1
- D_o as defined in 4.2

4.4 *Additional requirements for wall furnaces equipped with a direct vent system or floor furnaces designed to take combustion and draft control air from an unheated space.* For wall furnaces utilizing a direct vent system or floor furnaces designed to take their combustion and draft control air from an unheated space (such as a crawlspace), determine the appropriate S/F factor and D_F factor from Table 2. If a unit is equipped with a power burner, D_F, may be calculated as described in section 4.3.2 using the value of D_F determined in section 4.3.1 of this section.

4.5 *Additional requirements for vented home heating equipment which modulate or vary fuel input without controlling excess combustion air.* Test a vented heater, which is equipped with a mechanism for reducing the rate of fuel input but does not provide a means for controlling excess combustion air, at its maximum firing rate in accordance with test procedures in Section 3. Use these test results to calculate a seasonal efficiency and an annual operating cost which is based upon a single fixed fuel input rate.

4.6 *National average number of burner operating hours.* Calculate the average number of burner operating hours, BOH, defined as:

BOH=(A)(C)(2080)(average design heating requirement)—B(2080).

where:

2080=national average annual heating load hours average design heating requirement is expressed in KBtu/hr and is obtained from Table 4 using the proper value of Q_{OUT}.

where:

Q_{OUT} = the capacity of the unit equal to the quantities

$\frac{(Q_{in})(\eta_{ss})}{100}$ for room and wall heaters and

$\frac{(Q_{in})(\eta_{ss} - 3.3\ (L_y))}{100}$ for floor furnaces,

rounded off to the nearest 1000 Btu/hr.

Q_{IN} as defined in 4.1.32

$$A = \frac{100,000}{(341,300)\ (PE + y\ BE) + (Q_{in} - Q_P)\ (\eta_u)}$$

$$B = \frac{(2)\ (Q_P)\ (\eta_u)\ (A)}{100,000},$$

C=0.77, adjustment factor which serves to adjust the calculated design heating requirement and heating load hours to the actual heating load experienced by a heating system.

PE=power burner electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts.

2=ratio of the average length of a heating season in hours to the heating load hours.

BE=circulating-air blower electrical energy input rate at full-load steady-state operation determined in accordance with section 3.1 of this Appendix, in kilowatts.

Y=1.00 for vented heaters employing a single motor to drive a power burner and air circulating fan or blower, and 1.38 for all other vented heaters, the ratio of average blower on time to average burner time.

Q_{IN}=as defined in 4.1.32.

Q_P=as defined in 4.1.32.

η_a=as defined in 4.1.32.

100,000=factor that accounts for percent and KBtu.

4.7 *Average annual fuel energy consumption for vented home heating equipment.* Calculate the average annual fuel energy consumption for vented heaters, E_F, expressed in Btu's per year, and defined as:

$$E_F=(Q_{IN}-Q_P)\ (BOH)+(8760)\ (Q_P)$$

Q_{IN} as defined in 4.1.32.

Q_P as defined in 4.1.32.

BOH as defined in 4.6.

8760 total number of hours in a year.

4.8 *Average annual auxiliary electrical energy consumption for vented home heating equipment.* Calculate the average annual auxiliary electrical energy consumption, E_{AE}, expressed in kilowatt-hours per year and defined as:

$$E_{AE}=(PE+y\ BE)\ (BOH)$$

where:

PE as defined in 4.6.

BE as defined in 4.6.

y as defined in 4.6.

BOH as defined in 4.6.

4.9 *Average number of burner operating hours for vented home heating equipment located in different geographic regions of the United States and in buildings having different design heating requirements.* Calculate the average number of burner operating hours for different typical design heating requirements and for the geographic regions of the United States, BOH_R, defined as:

BOH_R=(C)(A)(HLH) (typical design heating requirement)—B (HLH)

where:

A as defined in 4.6.

HLH=heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 9.

(Typical design heating requirement) as given in Table 4 for the appropriate value of Q_{OUT}, where $_{out}$, is as defined in 4.6.

B as defined in 4.6.

C as defined in 4.6.

A as defined in 4.6.

4.10 *Average annual fuel energy consumption for vented home heating equipment located in different geographic regions of the United States in buildings with different design heating requirements.* Calculate the average annual fuel energy consumption for a specific geographic region and for a specific typical design heating requirement, $E_{F.R}$, expressed in Btu's per year, and defined as:

$$E_{F.R}=(Q_{IN}-Q_P)\ (BOH_R)+(8760)\ (Q_P)$$

where:

Q_{in} as defined in 4.1.32.

Q_P as defined in 4.1.32.

BOH_R as defined in 4.9.

8760 as defined in 4.8.

4.11 *Average annual auxiliary electrical energy consumption for vented home heating equipment located in different geographic regions of the United States and in buildings with different design heating requirements.* Calculate the average annual auxiliary electrical energy consumption for a specific geographic region and for a specific typical design heating requirement, $E_{AE.R}$, expressed in kilowatt-hours per year and defined as:

$$E_{AE.R}=(PE+y\ BE)\ (BOH_R)$$

where:

PE as defined in 4.6.

BE as defined in 4.6.

y as defined in 4.6.

BOH_R as defined in 4.9.

Table 1

Factors Describing Air Flow Rate for Gas and Oil-Fueled Vented Home Heating Equipment Utilizing Indoor Air for Combustion and Draft Control

Type of Burner	Units Without a Stack Damper but with Draft Hood or Draft Diverter				Units Without a Stack Damper but with Barometric Draft Control				Units With a Stack Damper and Draft Hood or Draft Diverter				Units With a Stack Damper and Barometric Draft Control			
	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S	System #	S/F	D_F	D_S
Atmospheric or Vaporizing	1	2.4	1.0	1.0	3	1.4	1.0	1.0	5	2.4	1.0	D_o	7	1.4	1.0	D_o
Power *	2	2.4	0.4	1.0	4	1.4	0.4	0.85	6	2.4	0.4	D_o	8	1.4	0.4	$(D_o)(D'_p)$

where

$$D'_p = \begin{cases} 0.4, \text{if } D_o \leq 1/(S/F) \\ \dfrac{0.4 + (0.85 - (0.4)(D_o))(D_o - 1/(S/F))}{D_o (1 - 1/(S/F))}, \text{ if } D_o > 1/(S/F) \end{cases}$$

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and DOE.

*A power burner may incorporate a device on its air inlet which opens the air inlet when the appliance is in operation and closes the air inlet when the appliance is in the standby condition.

Table 2

Factors Describing Air Flow Rates for Gas or Oil-Fueled Vented Heaters Equipped with a Direct Vent System or a Floor Furnace

Type of Burner	Units Without A Stack or Flue Damper		Units With a Flue Damper		Type of Draft	S/F
	System#	D_F	System#	D_F	None	1
Atmosphere or Vaporizing	9	1.00	11	D_o	barometric damper	1.4
Power	10	0.40	12	$0.40 \times D_o$	draft diverter	2.4

The above factors were developed by the National Bureau of Standards and are based upon information in the public literature, laboratory and computer simulation studies conducted at NBS, and laboratory and field data obtained by several research firms under contract to NBS and DOE.

Table 3

Values of Higher Heating Value (HHV_A), Stoichiometric Air/Fuel Ratio (A/F), and Latent Heat Loss ($L_{L,A}$) for Typical Fuels

Fuels	HHV_A (Btu/lb)	A/F(--)	$L_{L,A}$ (%)
No. 1 Oil	19,800	14.56	6.55
No. 2 Oil	19,500	14.49	6.50
Natural Gas	20,120	14.45	9.55
Manufactured Gas	18,500	11.81	10.14
Propane	21,500	15.58	7.99
Butane	20,890	15.36	7.79

Table 4

Average and Typical Design Heating Requirements for Vented Heaters with Different Output Capacities

Vented Heaters Output Capacity, Q_{OUT} (Btu/hr)	Average Design Heating Requirements (KBtu/hr)	Typical Design Heating Requirements (KBtu/hr)
5,000 - 10,000	5	5
11,000 - 16,000	10	5, 10
17,000 - 25,000	15	10, 15
26,000 - 34,000	20	15, 20
35,000 - 42,000	25	20, 25, 30
43,000 - 51,000	30	25, 30, 35
52,000 - 59,000	35	30, 35, 40, 45
60,000 - 76,000	40	35, 40, 45, 50

FIGURE 1

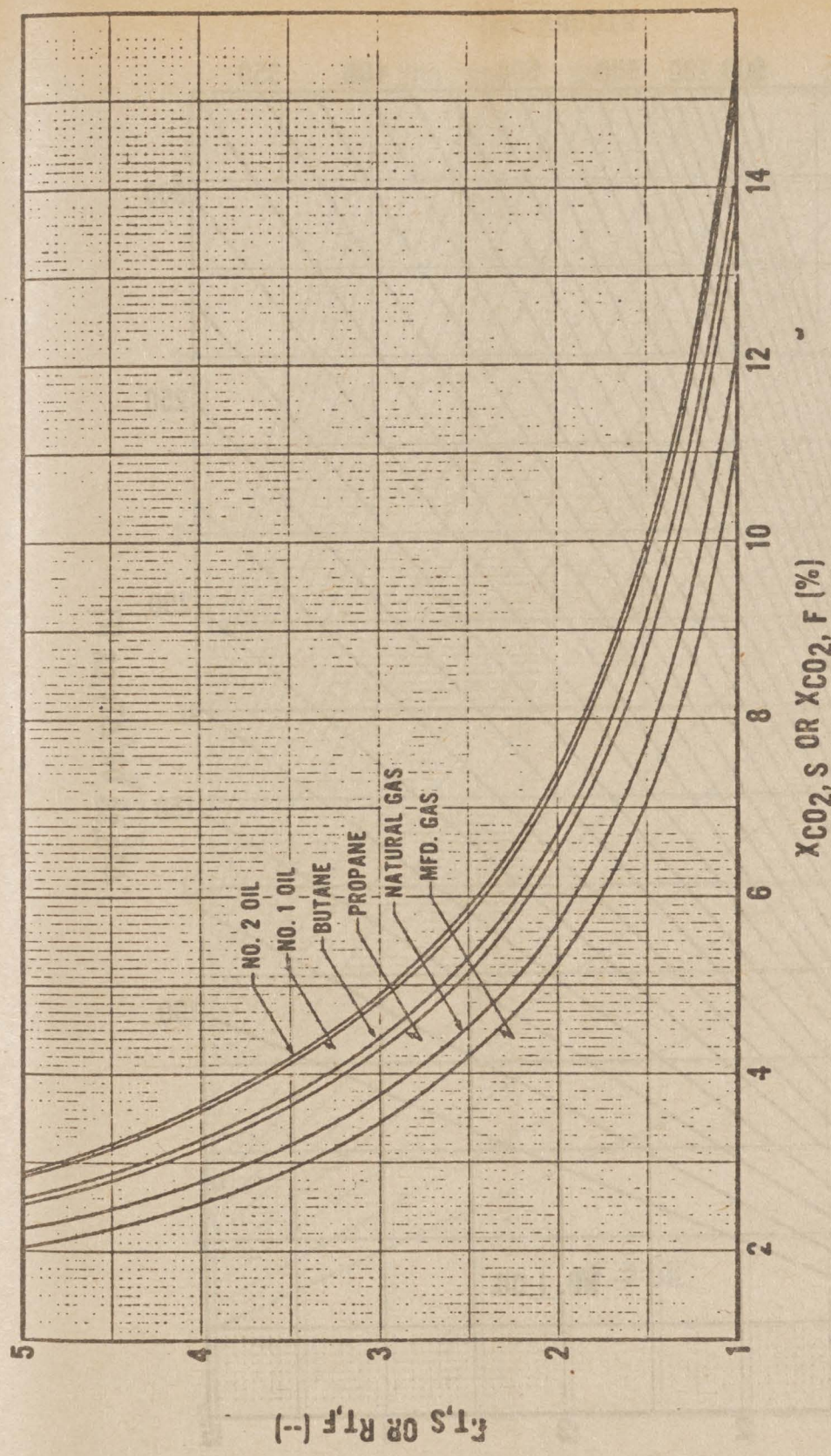

NO. 2 OIL
NO. 1 OIL
BUTANE
PROPANE
NATURAL GAS
MFD. GAS
1
2
3
4
5
2
4
6
8
10
12
14
$F_{T,S}$ OR $R_{T,F}$ (--)
$X_{CO_2,S}$ OR $X_{CO_2,F}$ (%)

FIGURE 2a

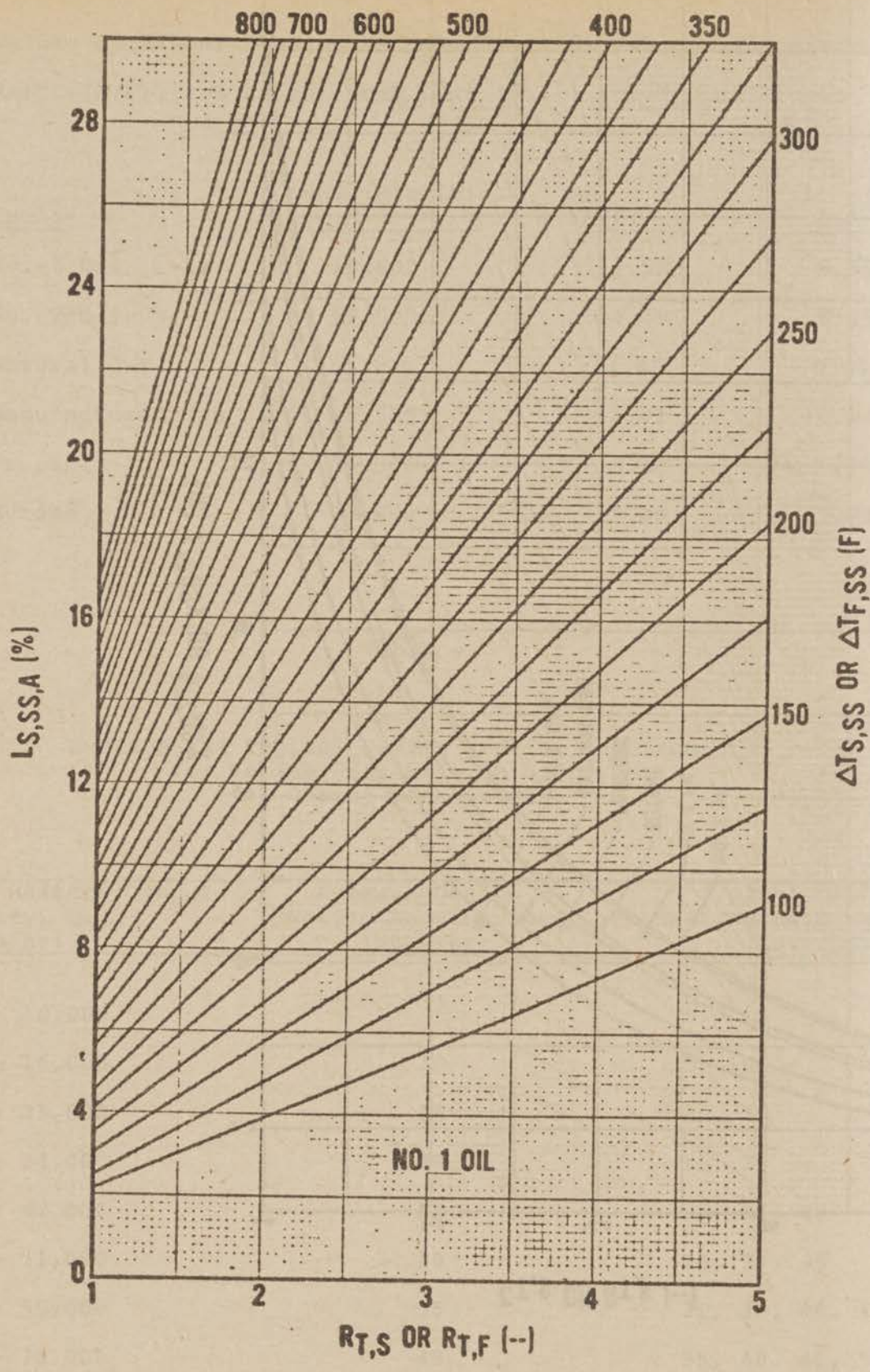

800 700 600 500 400 350
28
24
20
16
12
8
4
0
1
2
3
4
5
300
250
200
150
100
NO. 1 OIL
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

FIGURE 2b

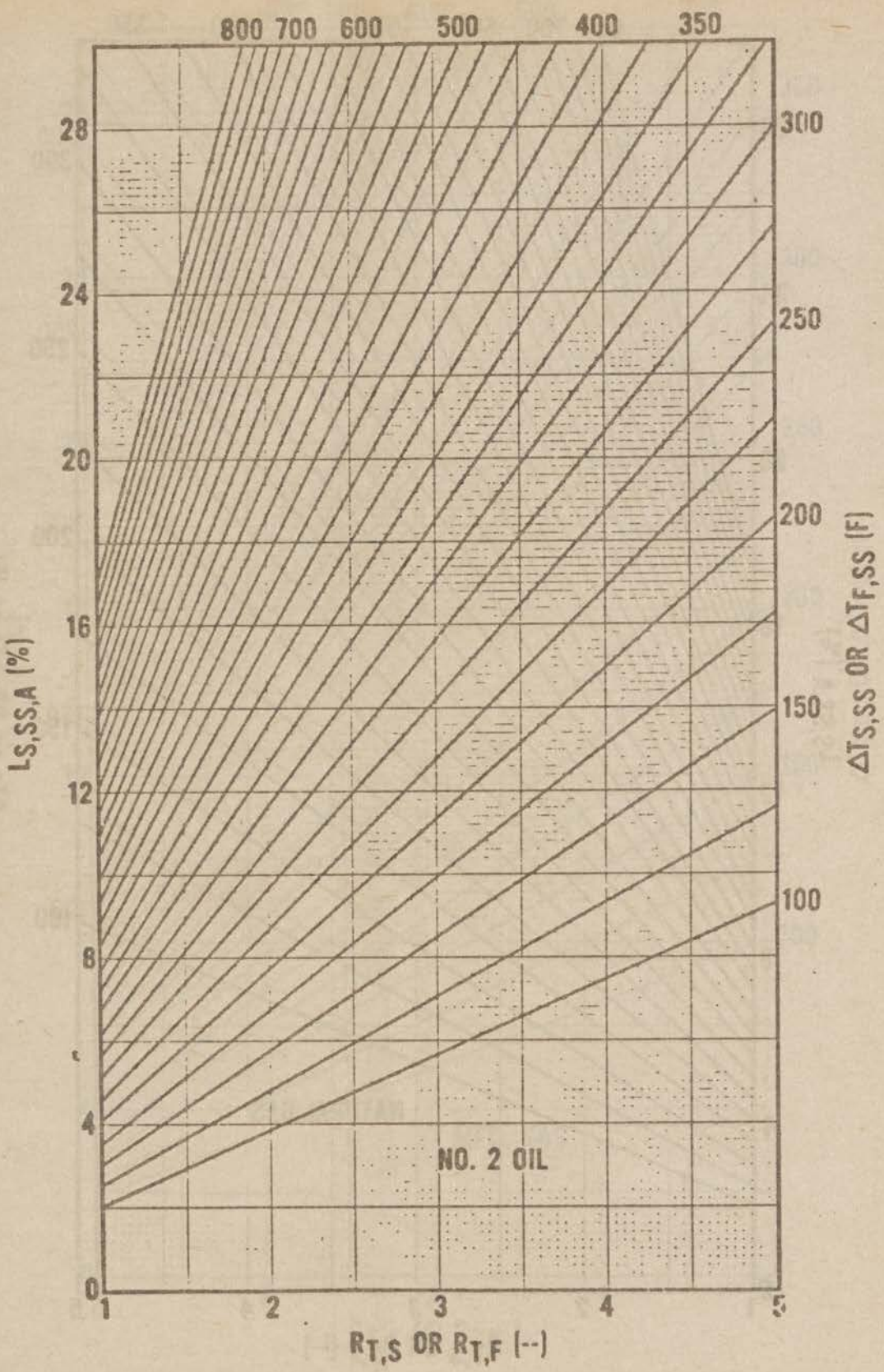

800 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
NO. 2 OIL
1
2
3
4
5
$L_{S,SS,A}$ (%)
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

FIGURE 2c

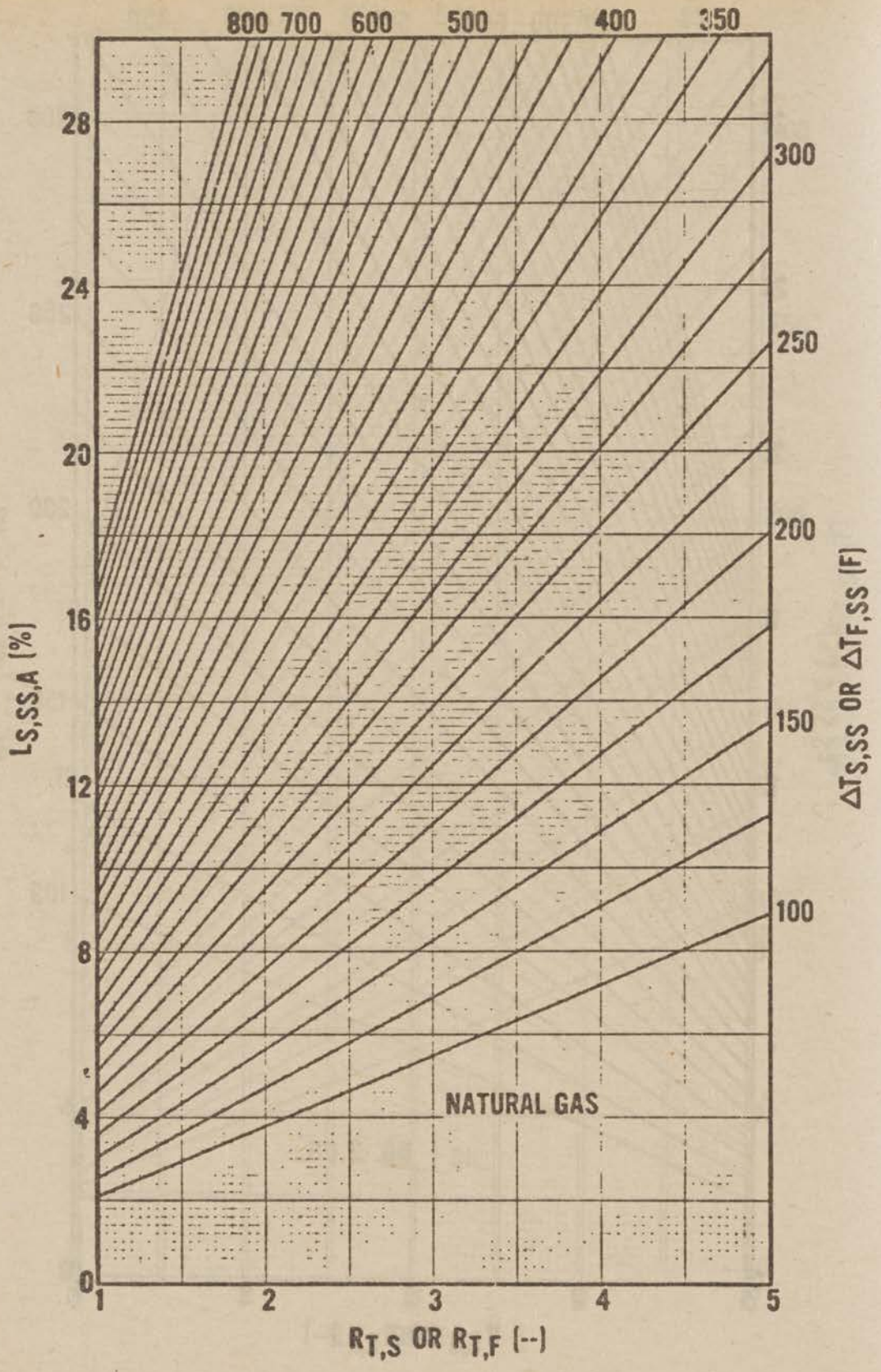

800 700 600 500 400 350
28
24
20
16
12
8
4
0
1
2
3
4
5
300
250
200
150
100
NATURAL GAS
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ [F]
$R_{T,S}$ OR $R_{T,F}$ [--]

FIGURE 2d

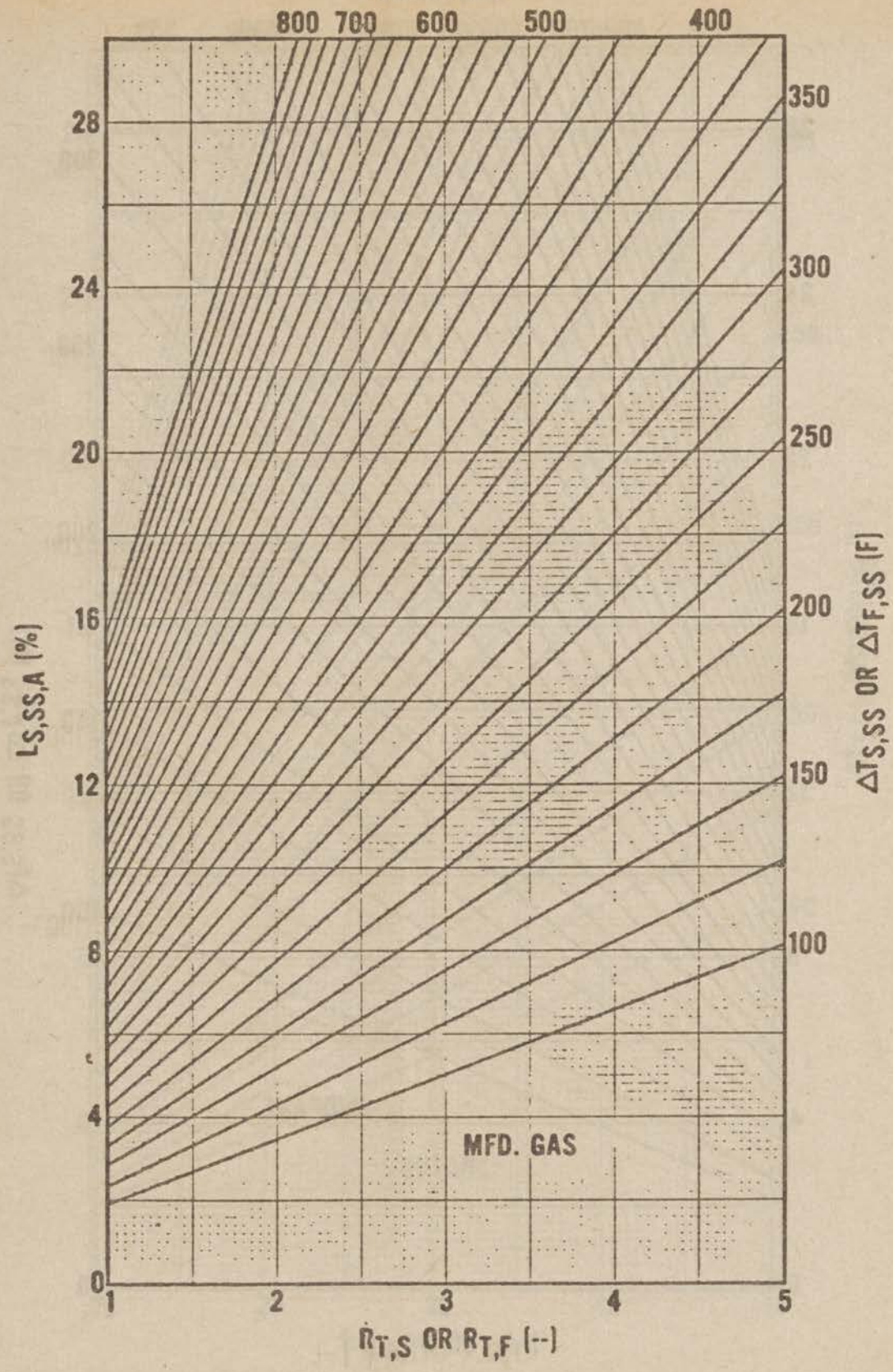

800 700 600 500 400
28
24
20
16
12
8
4
0
350
300
250
200
150
100
1
2
3
4
5
MFD. GAS
$L_{S,SS,A}$ [%]
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ [--]

FIGURE 2e

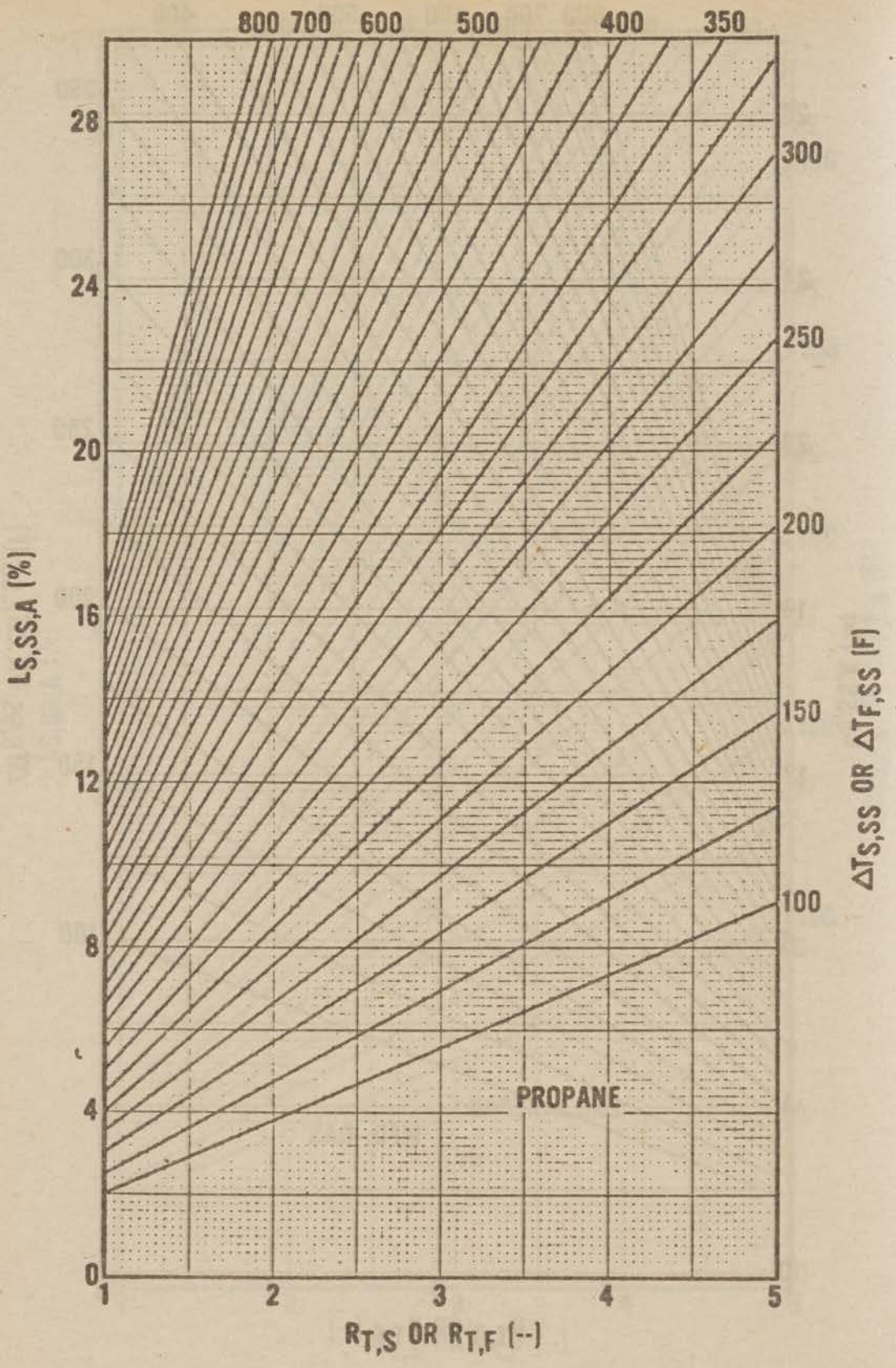
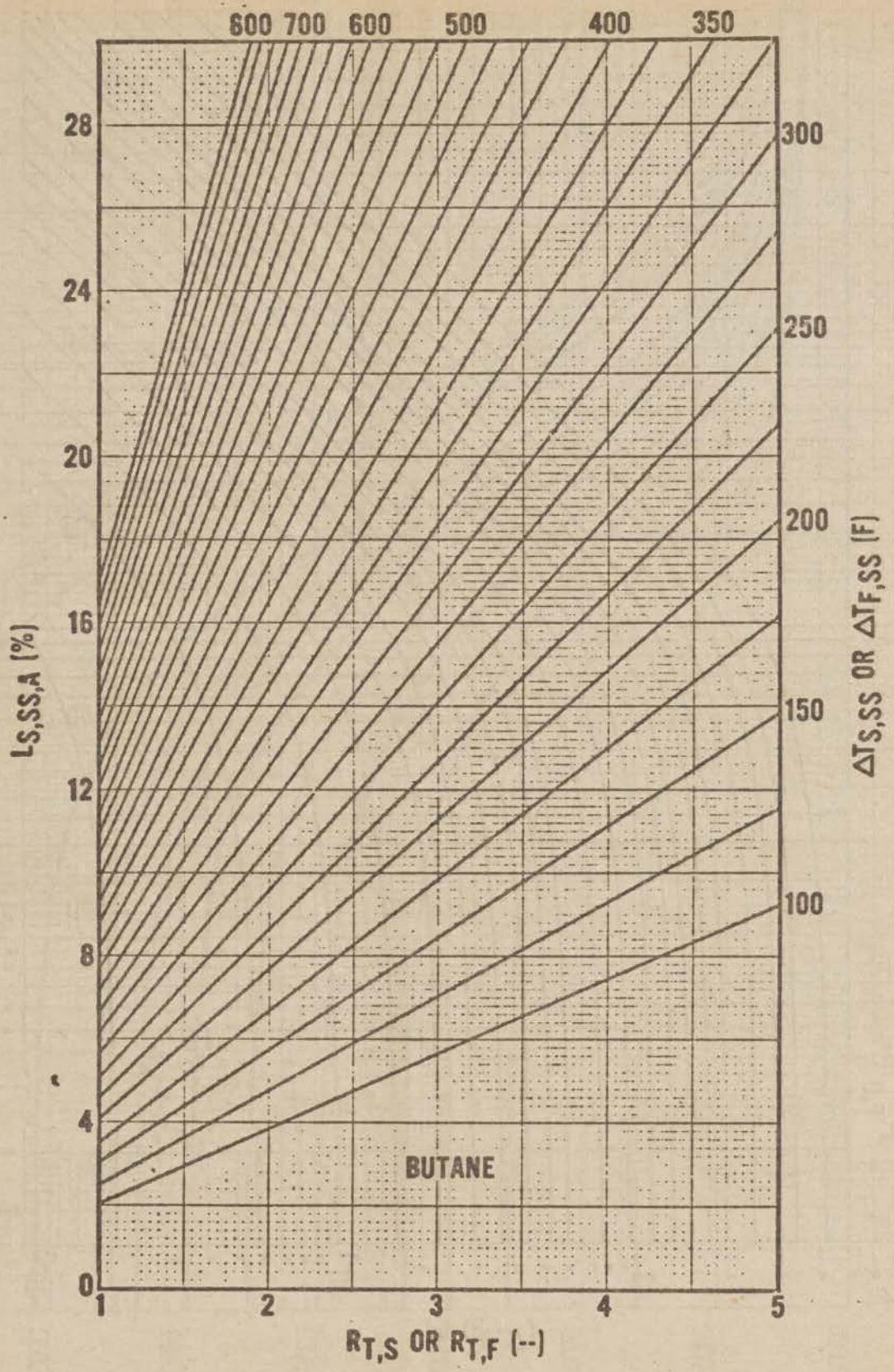

800 700 600 500 400 350
28
24
20
16
12
8
4
0
1
2
3
4
5
300
250
200
150
100
PROPANE
$L_{S,SS,A}$ (%)
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

FIGURE 2f


600 700 600 500 400 350
28
24
20
16
12
8
4
0
300
250
200
150
100
BUTANE
1
2
3
4
5
$L_{S,SS,A}$ (%)
$\Delta T_{S,SS}$ OR $\Delta T_{F,SS}$ (F)
$R_{T,S}$ OR $R_{T,F}$ (--)

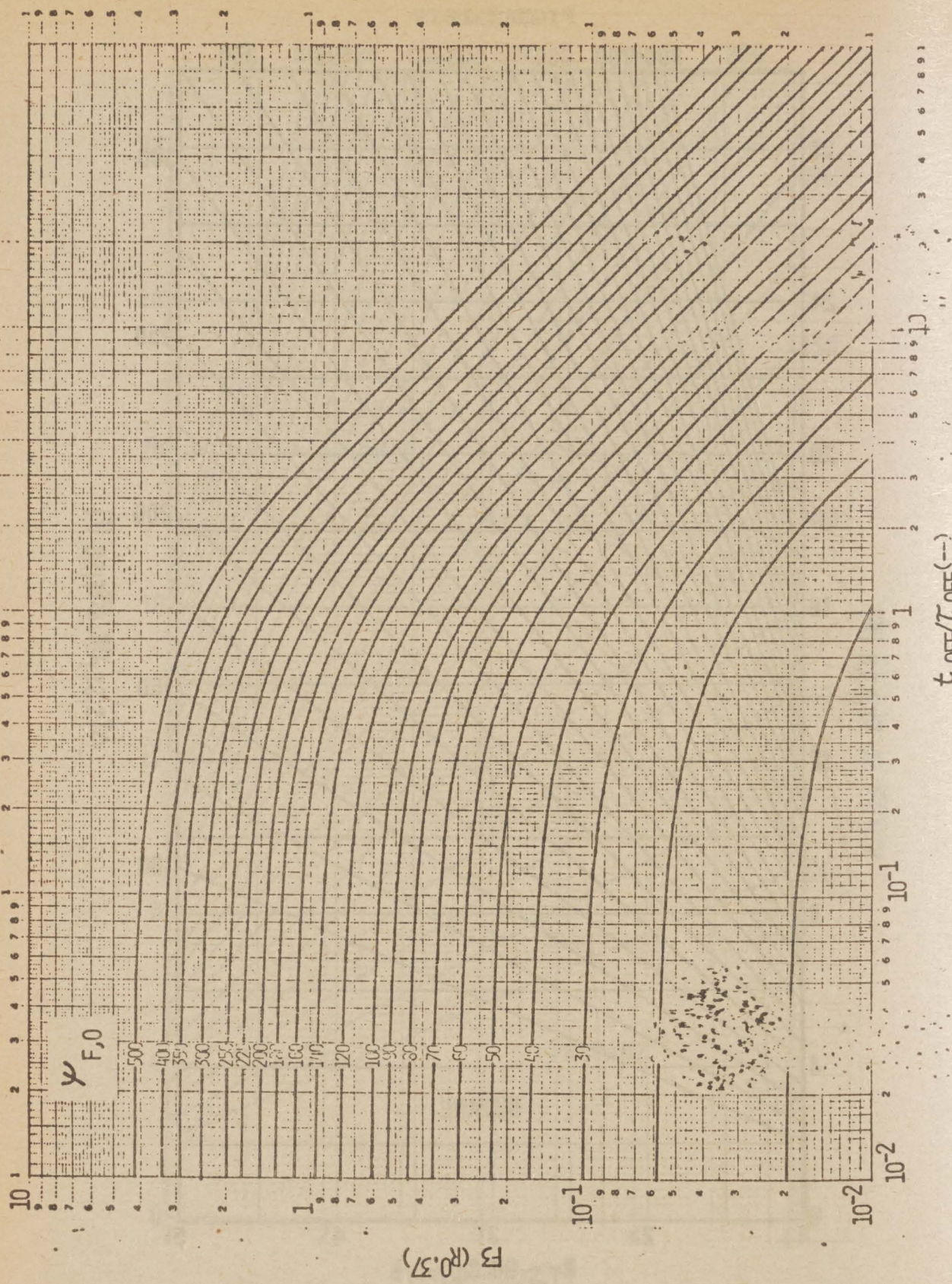


FIGURE 3
$\psi_{F,0}$
500
400
350
300
250
225
200
175
150
140
120
100
90
80
70
60
50
40
30
F_3 (R0.37)
$t_{OFF}/\tau_{OFF}(--)$
10
1
10^{-1}
10^{-2}

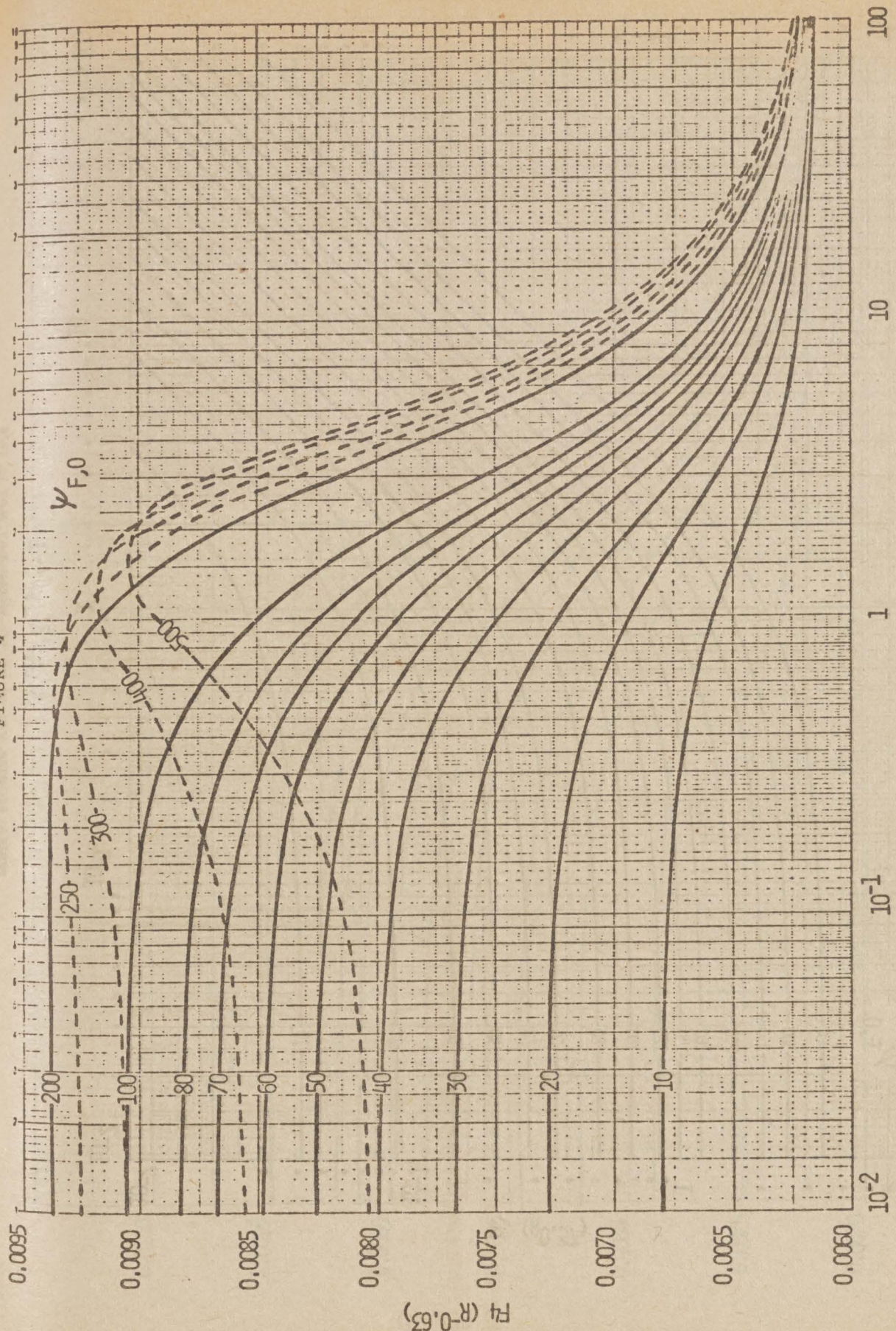
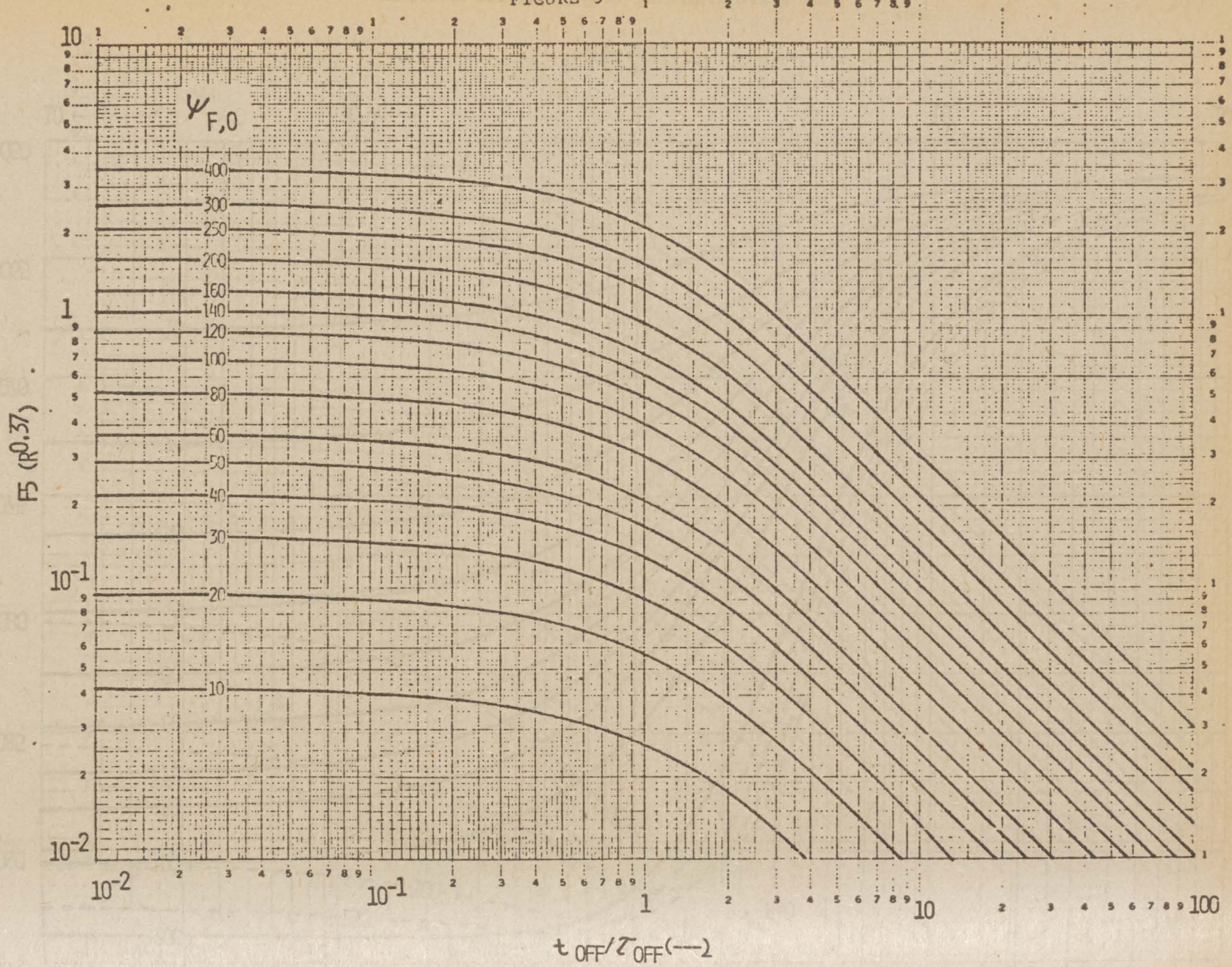

$F_4 (R^{-0.63})$
0.0095
0.0090
0.0085
0.0080
0.0075
0.0070
0.0065
0.0060
$t_{OFF}/\tau_{OFF}(--)$
10^{-2}
10^{-1}
1
10
100
$\psi_{F,0}$
500
400
300
250
200
100
80
70
60
50
40
30
20
10

FIGURE 4

FIGURE 5


$\Psi_{F,0}$
400
300
250
200
160
140
120
100
80
60
50
40
30
20
10
$F5\ (R^{0.37})$
$t_{OFF}/\tau_{OFF}(---)$
10^{-2}
10^{-1}
1
10
100

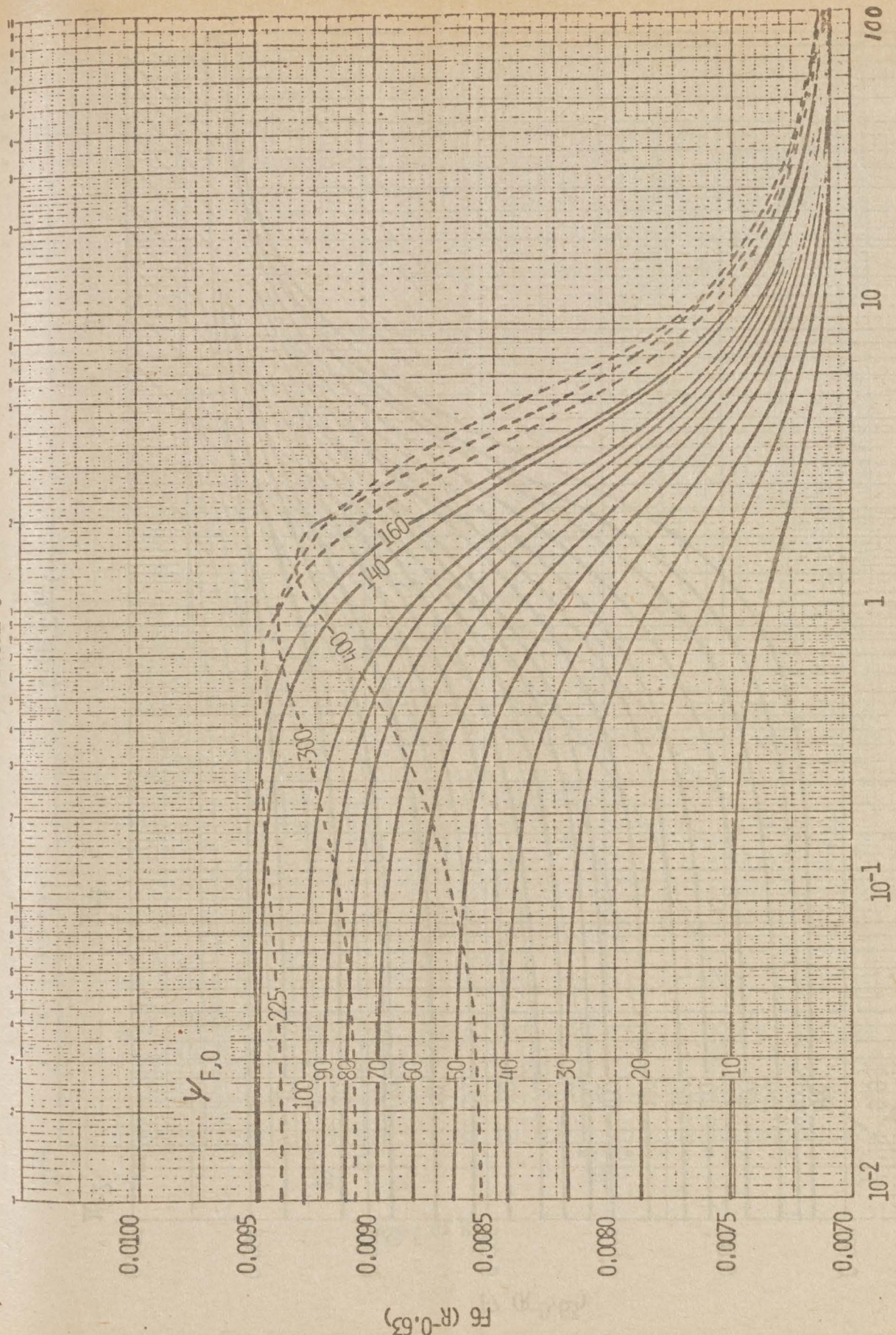

$F_R (R^{-0.63})$
0.0100
0.0095
0.0090
0.0085
0.0080
0.0075
0.0070
10^{-2}
10^{-1}
1
10
100
$t_{OFF}/\tau_{OFF}(--)$
$\psi_{F,0}$
225
100
90
80
70
60
50
40
30
20
10
300
160
140
120

FIGURE 6

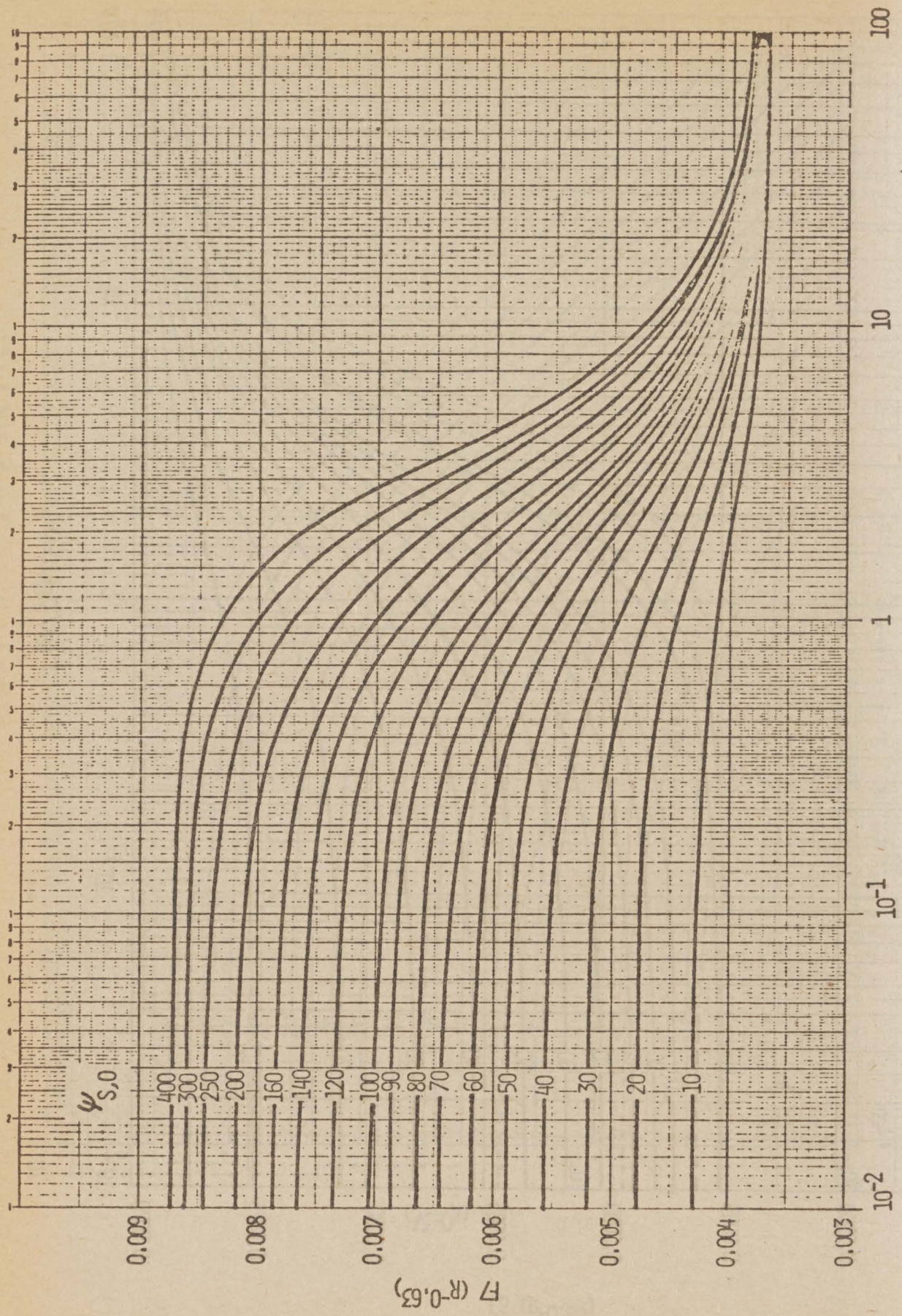

$F_T(R^{-0.63})$
0.009
0.008
0.007
0.006
0.005
0.004
0.003
$t_{OFF}/\tau_{OFF}(--)$
10^{-2}
10^{-1}
1
10
100
$\psi_{S,0}$
400
300
250
200
160
140
120
100
90
80
70
60
50
40
30
20
10

FIGURE 7

FIGURE 8

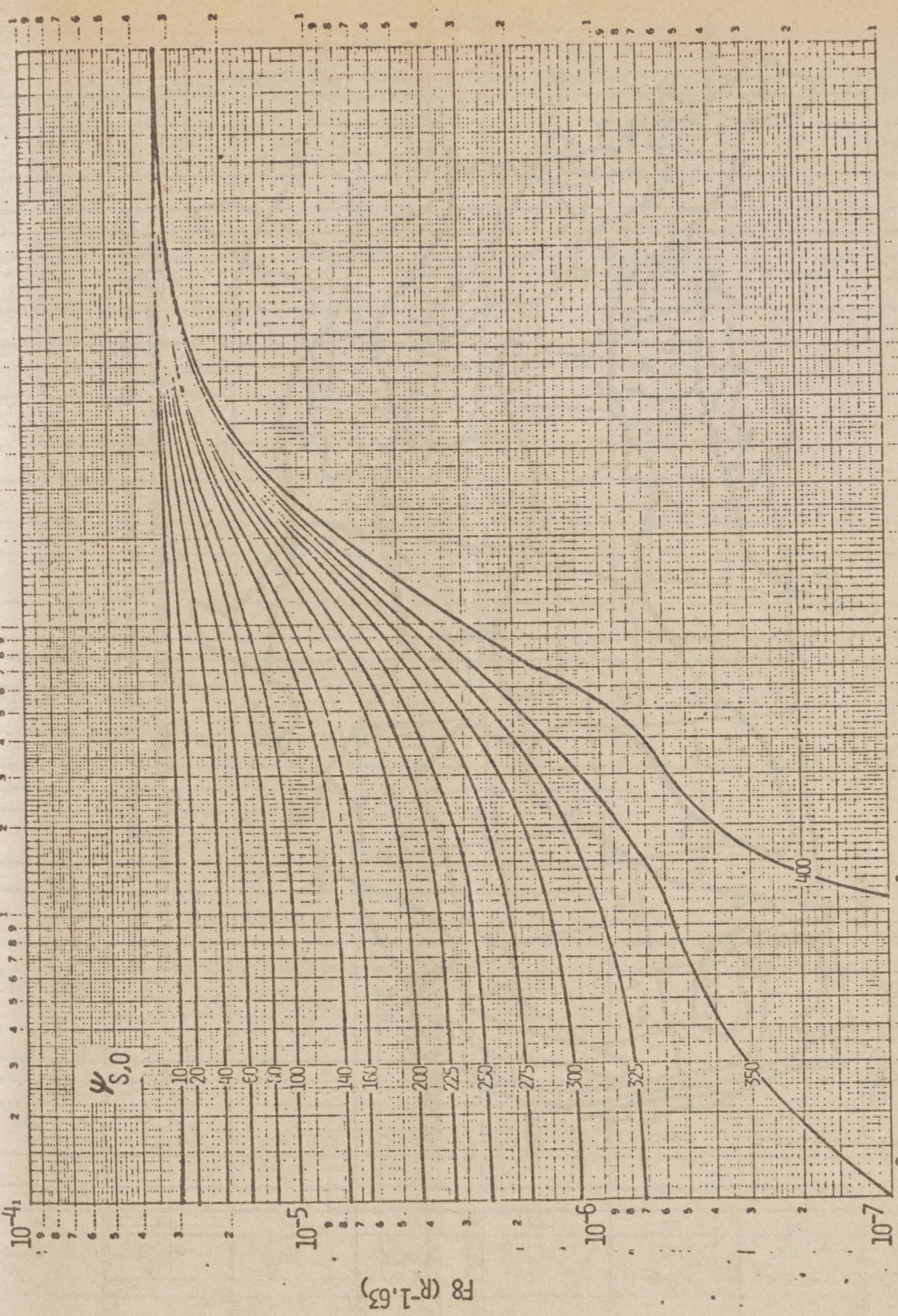
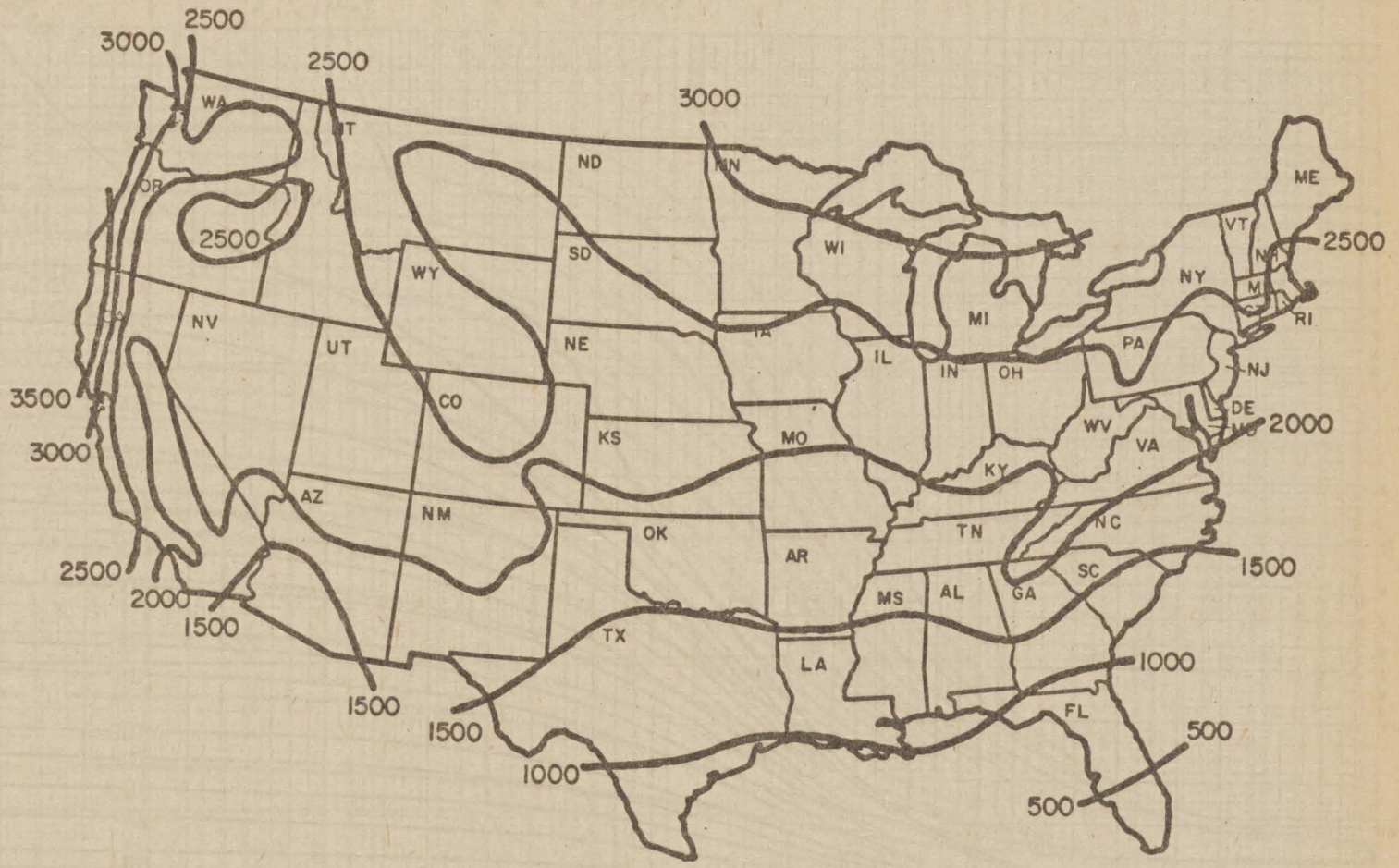

$\psi_{s,0}$
10
20
40
60
80
100
140
160
200
225
250
275
300
325
350
400
10^{-4}
10^{-5}
10^{-6}
10^{-7}
10^{-2}
10^{-1}
1
10
100
t_{OFF}/τ_{OFF} (—)
F8 ($R^{-1.63}$)

FIGURE 9

Heating Load Hours (HLH) for the United States and Territories



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized, and consequently not too accurate in mountainous regions, particularly in the Rockies.

Alaska - 3500 HLH
Hawaii and Territories - 0 HLH

FIGURE 10

WORK SHEET FOR VENTED HEATER SYSTEM

Measured Quantities and System Characteristic Constants

1	2	3	4	5	6	7	8
SYS# (-)	TFUEL (-)	HHV Btu/lb.	Q_{IN} Btu/hr.	Q_P Btu/hr.	PE kW	BE kW	$X_{CO_2,S}$ %

9	10	11	12	13	14	15	16
$T_{S,SS,X}$ F	$X_{CO_2,F}$ %	$T_{F,SS}$ F	$T_{F,ON}(t_1)$ F	$T_{F,ON}(t_2)$ F	$T_{F,OFF}(t_3)$ F	$T_{F,OFF}(t_4)$ F	$T_{F,OFF}(\infty)$ F

17	18	19	20	21	22
T_{RA} F	L_J %	S/F (-)	D_F (-)	D_S (-)	y (-)

Derived System Parameters

23	24	25	26	27	28	29	30
PF (-)	HHV_A Btu/lb.	A/F (-)	$L_{L,A}$ %	C_J (-)	$R_{T,F}$ (-)	$L_{S,SS,A}$ %	η_{SS} %

31	32	33	34	35	36	37	38
$T_{S,SS}$ F	τ_{ON} minutes	$\theta_{F,0,X}$ F	τ_{OFF} minutes	$\psi_{F,0,X}$ F	$\psi_{F,\infty,X}$ F	$\psi_{S,\infty,X}$ F	$\psi_{S,0,X}$ F

39	40	41	42	43
C_S (-)	$K_{S,ON}$ (%)/F	$K_{S,OFF}$ (%)/$R^{0.37}$	$K_{I,ON}$ (%)/F	$K_{I,OFF}$ (%)/$R^{0.37}$

Calculation of System Losses and Annual Fuel Utilization Efficiency

44	45	46	47	48	49	50	51
T_{OA} F	t_{ON} minutes	t_{OFF} minutes	t_{ON}/τ_{ON} (-)	t_{OFF}/τ_{OFF} (-)	$\theta_{F,0}$ F	$\psi_{F,0}$ F	$\psi_{F,\infty}$ F

52	53	54	55	56	57	58	59
$\psi_{S,0}$ F	$\psi_{S,\infty}$ F	F3 $R^{0.37}$	F4 $R^{-0.63}$	F5 $R^{0.37}$	F6 $R^{-0.63}$	F7 $R^{-0.63}$	F8 $R^{-1.63}$

60	61	62	63	64	65	66	67
$L_{S,ON}$ %	$L_{S,OFF}$ %	$L_{I,ON}$ %	$L_{I,OFF}$ %	η_u %	DD °F-days	HR hours	$EFFY_A$ %

[FR Doc. 78-12461 Filed 5-9-78; 8:45 am]

federal register

WEDNESDAY, MAY 10, 1978
PART III

INTERSTATE COMMERCE COMMISSION

■

CANONS OF CONDUCT

Proposed Revision

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1000]

CANONS OF CONDUCT

Proposed Revision

AGENCY: Interstate Commerce Commission.

ACTION: Proposed Rules.

SUMMARY: The Commission proposes to revise its existing Canons of Conduct, to adopt implementing and clarifying guidelines for some of the canons, to amend the list of employees required to submit confidential statements of employment and financial interests, and to prescribe additional canons of conduct applicable only to members of the Commission. The purpose is to simplify, clarify, and update the existing standards governing the conduct of members and employees.

COMMENTS: Interested persons may submit written comments on the proposed rules on or before June 9, 1978.

ADDRESS: Comments should be submitted to: Acting Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Mark L. Evans, General Counsel, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7312.

SUPPLEMENTARY INFORMATION: In April 1977, a staff committee was appointed to review the Commission's existing Canons of Conduct and to recommend changes. After the staff committee submitted its report, an Ad Hoc Committee of Commissioners was designated to make recommendations to the entire Commission. The Ad Hoc Committee proposed certain changes and additions to the Canons, including new Canons for Members, and also recommended the adoption of guidelines to interpret the Canons.

Both the staff and the Commission found that the existing Canons are sound and as tightly drawn as any agency's. At the same time, everyone agreed that the Canons needed further clarification in several critical areas.

The result of this comprehensive review is that the Commission proposes to tighten up the Canons even further in several places, to add a supplemental set of Canons for members only, and to expand the list of employees who are required, because of the sensitivity of their positions, to submit confidential statements of their employment and financial interests. As supplemented by the new guidelines for several provisions, the Canons now give members and employees a much clearer idea of what conduct is permitted and what conduct should be avoided.

The following paragraphs describe the key changes in the Canons and the principal provisions of the new guidelines. The following Canons remain as is except for minor editorial changes: Canon II; Canons 17 through 21, (which have been renumbered as 18 through 22, due to the establishment of new Canon 12, in lieu of former Canon 28); Canons 25 and 26 (formerly Canons 24 and 25); and Canons 30 and 31 (formerly Canons 29 and 30).

Canon 12: Amended version of former Canon 28. The Canon establishes a formal interpretation and advisory service under the direction of the Commission's General Counsel (who is designated Ethics Counselor) and Director of Personnel (who is designated Principal Deputy Ethics Counselor). Provision is made for the designation of additional Deputy Ethics Counselors as needed to furnish advice concerning the interpretation and application of the Canons of Conduct.

Canon 13: Amended version of former Canon 12. Clause (b) has been added which specifies that members and employees may not hold a financial interest in a firm that in turn owns or controls a for-hire transportation company if the firm has more than two percent of its assets invested in, or derives more than two percent of its income from, the transportation company.

Clauses (a), (b), and (c) distinguish between financial interests that are sufficiently direct, certain, and substantial to give rise to a possible appearance of a conflict of interest on the part of a member or employee, and financial interests that are so indirect, inconsequential, or remote as to avoid any such appearance. Both the former Canon and the amended Canon allow members and employees to own shares in a conglomerate or a mutual fund as long as the conglomerate or mutual fund has no more than ten percent of its assets invested in, and dervies no more than ten percent of its income from, for-hire transportation companies. The Commission recognized, however, that there may be a difference between a conglomerate that merely invests in a for-hire transportation company and one that owns or controls such a company. Clause (b) provides that a member or employee may own shares in a firm that owns or controls a transportation company only if the firm has no more than two percent of its assets invested in, and derives no more than two percent of its income from, the transportation company.

The guidelines provide that members and employees may rely on a company's most recent financial statement in determining whether the Canon's two-percent and ten-percent limitations are applicable. They also allow up to nine months for the disposition of any financial interest previously permitted but now prohibited by the amended Canon. Provision is made for a waiver of the Canon's prohibitions on the basis of serious financial hardship.

Canon 14: Amended version of former Canon 13. Subsection (a) substitutes the phrase "in which their impartiality might reasonably be questioned" for "interest which might affect or appear to affect their actions in this matter." The substitution is not intended to make any significant change in substance. The new phrase is taken from Canon 3 of the American Bar Association's Code of Judicial Conduct.

Subsection (b) is new. It provides that members and employees who are disqualified from participating in a matter may not engage in a discussion of the matter and may not be present during any action relating to the matter.

The guidelines provide that a member is the sole judge of his or her own qualification but that the Chairman may make a final determination of an employee's qualification if it is questioned. The guidelines also give some guidance in applying the phrases "substantial pecuniary interest" and "impartiality might reasonably be questioned."

Canon 15: Amended version of former Canon 14. The new Canon omits as superfluous two sentences in former subsection (a) that addressed reimbursement of travel expenses for attending industry meetings and conventions.

The guidelines define "gift, gratuity, entertainment, favor, loan, or any other thing of monetary value," and set forth the list of persons and associations from whom such things may not be accepted. They state a policy of favoring the Canon's prohibitions rather than stretching its exceptions.

The guidelines provide that members and employees may not accept reimbursement from certain prospective employers for travel costs associated with employment negotiations unless a waiver is obtained from the Ethics Counselor.

The guidelines give guidance in applying the Canon's three exceptions. Members and employees are advised, in applying the family or personal relationship exception, to consider whether the donor would have offered the gift or favor if he or she were in a different business and if the recipient were not a Commission employee. Employees may be authorized to attend events sponsored by persons subject to Commission regulation if attendance

will further the interests of the Commission. Among the relevant considerations are the identity of the sponsor, the size of the event, and the class of persons invited. In general, attendance is more likely to be authorized if the sponsor is a large, multi-industry group rather than a small, single-industry group, if the event is large rather than intimate, and if persons in addition to Commission employees are invited.

The guidelines provide that, when an employee is authorized to attend an out-of-town event and wishes for personal reasons to remain beyond the authorized time, the employee may do so only if the Chairman approves the request for leave. The purpose of this provision is to establish an effective review mechanism to ensure proper use by Commission employees of official travel.

The guidelines specify that candy, fruit, and alcoholic beverages are not the sort of inexpensive items that qualify as "advertising or promotional material" within the scope of exception (iii) in the Canon.

Canon 16: Former Canon 15. The guidelines provide that proprietary information submitted to the Commission in confidence and decisional orders that have not been served or otherwise officially released may not be disclosed either to non-employees or to employees who do not need to know the information. The Chairman may authorize disclosure of such information, either in individual cases or in classes of cases, if the public interest requires.

Canon 17: Former Canon 16. The guidelines specify that authorized outside employment may be engaged in only during non-working hours and only to the extent that it does not interfere with performance of official duties.

Canon 23: Revised version of former Canon 22. The previous version prohibited "criminal, infamous, dishonest, improper or disgraceful conduct which violates common decency or morality or subjects the Commission to adverse criticism or disrepute." The new provision eliminates the ambiguity and narrows the focus of the prohibition. It now proscribes criminal or dishonest conduct or conduct that clashes with an employee's official position or responsibilities. The guidelines emphasize that the Canon is not intended to reach legitimate private conduct unrelated to job performance or position.

Canon 24: Former Canon 23. The general reference lists of intermediaries that the Canon allows employees to make available refer to lists compiled by reputable professional associations. The Canon does not authorize the furnishing of lists compiled by an employee personally from his or her own knowledge.

Canon 27: Shortened version of former Canon 26. Subsections (a) and (b) are unchanged from former Canon 26. The material formerly contained in subsections (c), (d), (e) and (f) now is contained in the guidelines to the Canon. A new provision has been added to excuse reporting of the interest of a spouse or other relative when the employee certifies that he or she does not have access to the required information despite reasonable efforts to obtain it and neither derives not expects to derive any benefit from the financial interests involved.

Canon 28: This provision, together with the accompanying guidelines, establishes a simplified procedure for review of confidential statements of employment and financial interests. The procedure is similar to that provided for in former Canon 27.

Canon 29: this Canon is new. It is designed, on the model of Canons 27 and 28, to ensure that facts concerning the employment by a regulated carrier of an employee's close relatives are reported by the employee and reviewed by the Director of Personnel for possible conflict of interest or appearance of a conflict of interest.

Appendix I: The list of employees required to submit confidential statements of employment and financial interests has been expanded to include the confidential assistants and the professional staff in the Office of the Chairman and the Commissioners' Offices, and the officers in charge of all field offices. The purpose is to cover all employees whose positions are sufficiently sensitive, because of their ability to influence official action, to warrant application of the protective measure of requiring the submission of confidential financial statements.

Additional Canons of Conduct for Members: The additional Canons applicable to members supplement rather than replace the Canons applicable to both members and employees.

* * * * *

The Commission invites comment from employees and all interested persons. When a comment identifies a problem or raises a question concerning the proposed Canons and Guidelines, the Commission would particularly welcome suggestions of alternative provisions that would solve the problem or answer the question. The Commission also solicits suggestions for enhancing clarity and eliminating ambiguity.

* * * * *

The Commission proposes to adopt the following rules:

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

Subpart B—Canons of Conduct

Sec.
1000.735-11 General standard of conduct.
1000.735-12 Interpretation and Advisory Service.
1000.735-13 Prohibited financial interests.
1000.735-14 Disqualifying interests.
1000.735-15 Gifts, entertainment, and favors.
1000.735-16 Disclosure and misuse of information.
1000.735-17 Outside employment.
1000.735-18 Future employment.
1000.735-19 Ex parte communication.
1000.735-20 Use of Federal property.
1000.735-21 Use of intoxicants.
1000.735-22 Indebtedness.
1000.735-23 Prohibited Conduct.
1000.735-24 Intermediaries.
1000.735-25 Gambling, betting, and lotteries.
1000.735-26 Miscellaneous statutory provisions.
1000.735-27 Statements of employment and financial interests.
1000.735-28 Review of statements of employment and financial interests.
1000.735-29 Disclosure of employment of spouse or child.
1000.735-30 Specific provisions governing special Government employees.
1000.735-31 Disciplinary and other remedial action.
Appendix I—Employees Required to Submit Periodic Disclosure Statements
Appendix II—Miscellaneous Statutory Provisions

Subpart C—Additional Canons of Conduct for Members

1000.736-1 General policy.
1000.736-2 Maintaining Independence.
1000.736-3 Official Duties.
1000.736-4 Extra-Official Activities.
1000.736-5 Qualification to Participate.

Subpart B—Canons of Conduct

§ 1000.735-11 General standard of conduct.

Members and employees of the Commission shall perform their duties so as to insure that the Interstate Commerce Act and related statutes are administered fairly and expeditiously and with a view to carrying out the National Transportation Policy. They shall be courteous and prompt in serving the public.

§ 1000.735-12 Interpretation and Advisory Service.

(a) The Commission's General Counsel shall be the Ethics Counselor. The Director of Personnel shall be the principal Deputy Ethics Counselor. The Ethics Counselor, with the approval of the Chairman, shall designate additional Deputy Ethics Counselors as he or she deems necessary or appropriate to carry out his or her responsibilities under these Canons.

(b) Guidelines shall be issued for appropriate sections, including §§ 1000.735-14 and 1000.735-15, within 60 days of the adoption of the revised Canons. An ad hoc committee of Commissioners shall recommend the initial

guidelines for Commission consideration and action. After approval by the Commission the guidelines shall be published in the FEDERAL REGISTER. Thereafter, on January 1, and June 30 of each year, the Ethics Counselor shall report to the Commission on the operation of the Canons and guidelines with any recommendations the Counselor deems advisable.

(c) The Director of Personnel shall furnish copies of the Canons of Conduct and guidelines to each new member and new employee upon his or her entrance on duty. The Ethnics Counselor shall annually, or as circumstances may warrant, bring to the attention of each member or employee the Canons of Conduct, and their guidelines. The Ethics Counselor shall inform all members and employees of the names of the Deputy Ethics Counselors and of the procedures for seeking advise concerning the interpretation and application of these Canons.

§ 1000.735–13 Prohibited financial interests.

Members and employees shall not be employed by or hold any official relation to, or own any securities of, or be in any manner pecuniarily interested in carriers to the extent prohibited by the Interstate Commerce Act. This Canon prohibits (a) any direct interest in any for-hire transportation company whether or not subject to the Interstate Commerce Act, (b) any interest in any company that (1) owns or controls and (2) has more than two percent of its assets invested in or derives more than two percent of its income from a for-hire transportation company whether or not subject to the Interstate Commerce Act, and (c) any interest in any company, mutual fund, or other enterprise which in turn has an interest of more than ten percent of its assets invested in or derives more than ten percent of its income from any for-hire transportation company whether or not subject to the Interstate Commerce Act.

GUIDELINES

The two-percent and ten-percent limitations of (b) and (c) should be interpreted as applying only to direct holdings of a company, mutual fund, or other enterprise, and not to indirect holdings. In determining whether these limitations are applicable, members and employees may rely on the most recent financial statement issued by the enterprise.

Where a previously-proper holding of a member or employee becomes prohibited because of the enterprise's acquisition of an interest in a for-hire transportation company, the holding must be disposed of within nine months.

The financial interests prohibited by this section are absolute unless a waiver, based on serious financial hardships, is obtained from the Ethics Counselor.

§ 1000.735–14 Disqualifying interests.

(a) Members and employees shall not participate in any matter in which they have a substantial pecuniary interest or in which their impartiality might reasonably be questioned.

(b) Once members or employees have been disqualified from participating in any matter, they shall not engage in any discussion or be present during any action relating to the matter.

GUIDELINES

Members and employees should disqualify themselves whenever, in their own judgment, a disqualifying interest exists. If an employee's qualification to participate in a matter is questioned by someone else and the employee declines to disqualify himself or herself, the final determination as to whether the employee should be disqualified will be made by the Chairman. A member is the sole judge of his or her own qualification.

A "substantial pecuniary interest" should be interpreted to include any situation in which members or employees, or their parents, spouses, or children, have a direct or indirect financial interest that could be materially affected.

Matters in which members or employees' "impartiality might reasonably be questioned" should be interpreted to include, among other things, any matter in which they or their parents, spouses, or children have a past or present association with a party or a representative of a party affected by the matter which reasonably appears to affect their decision.

§ 1000.735–15 Gifts, entertainment, and favors.

(a) Members and employees of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, entertainment, favor, loan, or any other thing of monetary value, which might reasonably be interpreted as being of such a nature that it could affect their impartiality, from any person, association, or group, that (1) has, or is seeking to obtain, contractual or other business or financial relationships with the Commission; or (2) conducts operations or activities that are subject to regulation by the Commission; or (3) has interests which may be substantially affected by the member's or employee's performance or nonperformance of his or her official duty; or (4) is in any way attempting to affect the member's or employee's official actions. The requirements of this subparagraph do not apply to (i) obvious family or personal relationships when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors; (ii) acceptance of food or refreshments of nominal value on infrequent occasions in the course of a luncheon, dinner, or other meeting or an inspection tour where a member or employee may properly be in attendance; or (iii) acceptance of unsolicited advertising or promotional material of nominal intrinsic value, such as, pens, pencils, note pads, calendars, and other similar items.

(b) Members and employees shall avoid any action, whether or not specifically prohibited which might result in, or create the appearance of: (1) Using public office for private gain; (2) giving preferential treatment to any person; (3) impeding Commission efficiency or economy; (4) losing complete independence or impartiality; (5) making a Commission decision outside official channels; or (6) affecting adversely the confidence of the public in the integrity of the Commission.

(c) Members and employees shall not solicit a contribution from any other member or employee, or make a donation for a gift to a member or employee in a superior official position or accept gifts from members or employees receiving less salary than themselves. This paragraph does not prohibit a voluntary gift or donation of nominal value made on a special occasion such as marriage, illness, or retirement.

(d) Members and employees shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

GUIDELINES

SUBSECTION

(1) This canon is designed to prohibit conduct which gives the appearance of or creates on actual conflict of interest for members or employees.

The term "gift, gratuity, entertainment, favor, loan, or any other thing of monetary value" includes such things as invitations to lunches, dinners, parties, or other social events; tickets to cultural or sporting events; free use of facilities such as hotels or other accommodations; free transportation; free use of club privileges or similar facilities.

The persons, associations and groups from whom gifts and other things of value may not be accepted include, but are not limited to, regulated entities, associations of regulated entities, and firms whose work involves to a substantial extent the representation of regulated entities.

If none of the exceptions enumerated in this section applies, acceptance of a gift or other valuable consideration will in most cases by subject to a reasonable interpretation that it could affect the member's or employee's impartiality. A policy favoring the prohibitions rather than stretching the exceptions is intended.

(2) Members and employees considering possible proposals for future employment with persons, associations, or groups described in the canon and this guideline should pay their own travel and living costs in connection with employment negotiations unless a waiver, based on financial hardship, the position of the employee, and other factors deemed relevant by the Ethics Counselor, is obtained by an employee from the Ethics Counselor. When Members and employees leave the Commission and become employed elsewhere, they may accept reimbursement from their new employers for expenses incurred during the employment negotiations.

(3) The "obvious family or personal relationship" exception permits the exchange

of gifts and entertainment where it is reasonably clear that the offering is prompted by the personal or family relationship. If the donor's business interests might be the motivating factor behind the gift or entertainment, the member or employee should carefully consider the circumstances surrounding the offer before accepting. The purpose of this exception is to make it clear that this canon is not intended to affect a member's or employee's personal relationships or private interests which are unrelated to performing his or her job.

A gift or entertainment from a relative is normally permissible, unless it appears that it is motivated by the relative's business interests. In the case of personal friends, members and employees should carefully consider the circumstances surrounding an offer and should take reasonable steps to avoid the appearance of a conflict of interest. For example, members and employees are free to meet personal friends for lunch or dinner but to avoid the appearance of a conflict of interest should pay their own checks. Similarly, members and employees may accept gifts from personal friends on a special occasion, such as a birthday, wedding, or Christmas, if such gifts are normally exchanged by them. Members and employees should consider whether the donor would have offered the favor if he or she were in a different business and if the recipient were not a Commission employee. If there is doubt concerning the application of the exception, the offered item should not be accepted.

(4) Exception (ii) applies to those events at which members and employees may properly be in attendance.

Members may attend any event which in their own opinion will benefit the Commission and assist in performing their official duties, as long as attendance would not reflect adversely on their impartiality. In deciding whether to attend an event members should carefully consider (1) the identity of the sponsor, (2) the location, (3) the duration, (4) the purpose, and (5) the persons expected to attend.

Employees may properly attend events sponsored by a person or entity subject to Commission regulations where authorized by the Chairman or where their attendance is ruled to be proper by the Ethics Counselor. The Ethics Counselor may, upon request, issue an opinion concerning employee attendance at events which larger numbers of employees may be invited to attend. Attendance will be authorized only if it will further the interests of and provide benefits to the Commission, in light of the employee's job duties and level or responsibility.

Attendance at large events sponsored by a multi-industry group, such as the ICC Practitioners, and attended by large numbers of persons in addition to Commission members or employees, will normally be authorized, unless the circumstances are such as to create an appearance of impropriety. Attendance at events sponsored by a single industry or by one or a small group of companies, or events, to which only ICC Commissioners and employees are invited, will be closely scrutinized and attendance will be authorized only if there is a clear benefit to the Commission.

When authorizing an employee to attend an event of more than one day's duration, the Chairman will designate the period of time the employee may be in attendance, based on his or her judgment as to which segments of the event are relevant to the employee's responsibilities. If an employee authorized to attend an out-of-town event wishes to remain for a longer period for personal purposes, he or she may do so only if the request for annual leave is approved by the Chairman.

When attending a meeting or other event, members and employees may accept a plaque or similar memento in honor of their appearance, and any other item of nominal value given to all participants.

(5) The "advertising of promotional material" exception is intended to include only inexpensive items that businesses commonly distribute to large numbers of persons. Candy, fruit, alcoholic beverages, and similar items do not ordinarily qualify under this exception.

(6) Although the canon allows the accepting of certain items, it does not require acceptance. Members and employees may always decline gifts that the canon allows them to accept.

SUBSECTION C

This subsection does not prohibit the voluntary exchange of inexpensive gifts on occasions such as birthdays or holidays.

§ 1000.735–16 Disclosure and misuse of information.

Members and employees of the Commission shall not use for personal gain or disclose to unauthorized persons confidential information not available to the general public. They shall not disclose or release official information prior to the time authorized for its release.

GUIDELINES

"Confidential information not available to the general public" includes proprietary information submitted to the Commission with the reasonable expectation that it will be treated confidentially. "Official information" includes decisional orders and other agency action that have not yet been served or otherwise officially released to the public.

This canon prohibits disclosure or releases of information in either cateory to persons not employed by the Commission or employees whose official responsibilities do not require access to the information. The Chairman of the Commission may authorize disclosure or released of confidential information or official information prior to the official release date if he or she determines, in individual cases or in an appropriate class of cases, that such disclosure or release would further important interests of the Commission or the public and would neither significantly compromise the rights of any person nor allow any person improperly to use such information for private financial gain.

§1000.735–17 Outside employment and other activity.

(a) Members and employees shall not engage in any outside employment or other outside activity, including teaching, lecturing, writing, consultation, discussion, or appearance, with or without compensation, in circumstances which might (1) reasonably result in a conflict of interest or an apparent conflict of interest between their private interests and their official Government duties and responsibilities; or (2) interfere with the efficient performance of their official duties; or (3) bring discredit upon, or cause unfavorable criticism of, the Commission.

(b) Advance authorization for employees to engage in outside employment or other outside activity described in paragraph (a) of this section, in any event, shall be obtained from the Director of Personnel, via supervising channels. See Manual—Administration 22-781 and 24-311.

GUIDELINES

Employees will not be authorized to engage in any outside employment during working hours. If outside employment is authorized it must be confined strictly to nonworking hours and shall not interfere in any other way with employees' performance of their official duties. Employees will not be authorized to engage in any activity during working hours which interferes with the performance of their duties.

§1000.735–18 Future employment.

If a member or employee of the Commission entertains a proposal for future employment by any person subject to regulation by the Commission or by associations or representatives of these persons, the member or employee should refrain from participating in the decision or disposition of any matter in which the person, association, or representative is known to have a direct or substantial interest, both during such negotiation and, if employment is accepted, until he or she servers the connection with the Commission.

§1000.735–19 Ex parte communication.

Members and employees of the Commission must conform to the standards adopted by the Commission reprinted in Appendix C of the Rules of Practice of the Commission (Part 1100 of this chapter).

§1000.735–20 Use of Federal property.

Members and employees of the Commission shall not directly or indirectly use, or allow the use of, Federal property of any kind, including property leased to the Government, for other than officially approved activities. They also have a positive duty and responsibility to protect and conserve all Federal property, including equipment, supplies, and other property, which is entrusted or issued to them.

§1000.735–21 Use of intoxicants.

Members and employees of the Commission shall not consume intoxicants so as to impede the discharge of their official duties.

§1000.735–22 Indebtedness.

Members and employees shall pay each just financial obligation in a proper and timely manner, especially

one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as Federal, State, or local taxes, and "in a timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his or her employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§1000.735–23 Prohibited Conduct.

Members and employees shall not engage in criminal or dishonest conduct, conduct that significantly interfers with their effective performance of official responsibilities, or conduct that is materially incompatible with their official position.

GUIDELINES

This canon is intended to prohibit unlawful or dishonest conduct. It will not be construed to prohibit legitimate private conduct or to prevent members or employee exercise of rights guaranteed by the laws and Constitution of the United States.

§1000.735–24 Intermediaries.

Members and employees of the Commission shall not recommend or suggest the use of any nongovernment intermediary (individual, firm, corporation, or other entity) offering any service as consultant, agency representative, attorney, expeditor, or specialist for the purpose of assisting in any negotiations, transactions, or other business with or before this Commission: *Provided, however,* That making available general reference lists of nongovernmental intermediaries, the use of which is authorized by the Secretary of the Commission, shall not be deemed to be in violation of this section.

GUIDELINES

"General reference lists" refers only to such lists of licensed attorneys and registered practitioners as may be compiled and maintained by a state or local bar association, the ICC Practitioners Association, the Motor Carrier Lawyers Association, and similar organizations. Any lists compiled by employees on the basis of their own knowledge or experience are not "general reference lists" within the meaning of the Canon.

§1000.735–25 Gambling, betting, and lotteries.

Members and employees shall not participate, while on federally owned or leased property or while on duty for the Commission, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip, ticket, chance, voice, share, or any other similar device.

§1000.735–26 Miscellaneous statutory provisions.

Members and employees shall acquaint themselves with the statutory provisions in appendix II to this subpart which relate to ethical and other conduct as a member and employee of the Commission and the Government.

§1000.735–27 Statements of employment and financial interests.

(a) All employees in the positions specified in appendix I to this subpart shall submit to the Director of Personnel within 90 days from the effective date of the regulations to this subpart, or if appointed after the effective date, within 30 days after their entrance on duty, a confidential statement of employment and financial interests on ICC Form No. 1164. Pursuant to the grievance procedures enumerated in the Manual-Administration 22–725, employees so specified may file and have reviewed a complaint that the positions have been improperly designated as requiring the submission of a statement of employment and financial interests.

(b) Any changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. Where no changes or additions occur, a negative report is required.

GUIDELINES

The financial statements required by this section are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of financial statements by employees does not permit them or any other person to participate in matters in which participation is prohibited by law, order, or regulation. Notwithstanding the filing of these statements, employees shall at all times avoid acquiring a financial interest that could result, or taking an action that would result in a violation of the conflicts-of-interest provisions of 18 U.S.C. 208, or these Canons of Conduct.

In the event of any required information, including holdings placed in trust, is not known to the employee but is known to another person, the employee should request that other person to submit the information on his or her behalf and should report the request in Part IV of ICC Form 1164.

The interest, if any, of a spouse, minor child, or any blood relation who is a member of, and resident in an employee's immediate household shall be reported as his or her interest. If that information is to be supplied by others, it should be so indicated in Part IV of ICC Form 1164. This information will not be required if the reporting individuals certify that they have no knowledge of the required information, have made every reasonable effort to obtain it, and neither derive or expect to derive any benefit from the financial interests involved.

Employees are not required to submit any information relating to their connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from contracts with the Government are deemed "business enterprises" for purposes of this report and should be included.

§1000.735–28 Review of statements of employment and financial interests.

(a) The Director of Personnel shall review the annual statements and supplementary statements of employment and financial interests to ascertain conflicts of interest or appearance of conflicts of interest by employees.

(b) Financial statements shall be held confidential. The Director of Personnel is responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, these statements except as provided by law or regulation.

GUIDELINES

Whenever, in the opinion of the Director of Personnel following review of the annual and supplementary statements of employment and financial interests, a conflict of interest may exist or appear to exist, the Director of Personnel shall notify the employee concerned who shall promptly submit an explanation to the Director of Personnel regarding the existence or the appearance of a conflict of interest.

If, after reviewing the employee's submitted explanation and after consulting with the Ethics Counselor, the Director of Personnel concludes that the conflict or appearance of conflict of interest does exist, the Director of Personnel shall advise the employee of the steps necessary to remedy the situation.

§1000.735–29 Disclosure of employment of parent, spouse, or child.

Each employee whose parent, spouse or child is employed by a person subject to regulation by the Commission shall promptly notify the Director of Personnel of the parent's, spouse's, or child's employment and shall furnish a detailed statement of the parent's, spouse's, or child's job duties and responsibilities. The employee shall promptly notify the Director of Personnel of any change in the parent's, spouse's, or child's employment, including a change in job duties or responsibilities.

GUIDELINES

The term "employed by a person subject to regulation by the Commission" includes those who represent and perform a majority of their services for a person subject to Commission regulation, as well as those directly employed by such a person.

Each notification furnished under subparagraph (a) will be reviewed by the Director of Personnel to determine whether the situation presents a conflict of interest or appearance of a conflict of interest.

(i) Whenever, in the opinion of the Director of Personnel, the situation may present a conflict of interest or appearance of a conflict of interest, the director of Personnel shall notify the employee who shall promptly submit an explanation regarding the existence or the appearance of a conflict of interest together with any additional information requested by the Director of Personnel.

(ii) If, after reviewing the submitted explanation and information and after consulting with the Ethics Counselor, the Director of Personnel concludes that the situation does present a conflict of interest or an appearance of a conflict of interest, the Director of Personnel shall advise the employee of the necessary steps to remedy the situation. The Director of Personnel may, after consulting with the employee and employee's Bureau or Office Head, effect any personnel action that may be appropriate to eliminate the conflict of interest or appearance of a conflict of interest.

§ 1000.735-30 Specific provisions governing special Government employees.

(a) Special Government employees, as defined in 18 U.S.C. 202 shall not use (1) their Government employment for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or another person, particularly one with whom they have family, business, or financial ties; (2) any inside information obtained as a result of Government employment for private gain for themselves or another person either by direct action on their part or by counsel, recommendation, or suggestion to another person, particularly one with whom they have family, business, or financial ties; (3) the Government to coerce, or give the appearance of coercing, a person to provide financial benefit to themselves, or another person, particularly one with whom they have family, business, or financial ties.

(b) Special Government employees shall adher to all Canons of Conduct specified in this subpart except §§ 1000.735-17(b) and 1000.735-27. In lieu thereof, each special Government employee shall submit a statement of his or her employment and financial interest on ICC Form No. 1164, to the Director of Personnel at the time of his or her employment and shall keep the statement current throughout employment by submitting supplementary statements whenever any change in, or addition to, the information contained in the statement occurs.

§ 1000.735-31 Disciplinary and other remedial action.

Any violation of these Canons of Conduct by an employee shall be cause for appropriate disciplinary or other remedial action as provided in the Manual-Administration 22-751, which may be in addition to any penalty prescribed by the law.

APPENDIX I—EMPLOYEES REQUIRED TO SUBMIT PERIODIC DISCLOSURE STATEMENTS (49 CFR 1000.735-26)

OFFICE OF THE CHAIRMAN

1. Attorneys (or other professional staff).
2. Confidential Assistant to the Chariman.
3. Writer Editor (Assistant to the Chairman).
4. Public Information Officer.
5. Director, Policy Review Office.
6. Small Business Assistance Officer.
7. Congressional Relations Officer.
8. Deputy Congressional Relations Officer.
9. Chief, Clearance Unit.

COMMISSIONERS' OFFICE

1. Attorneys (or other professional staff).
2. Confidential Assistants to the Commissioners.

OFFICE OF THE MANAGING DIRECTOR

1. Managing Director.
2. Assistant Managing Director.
3. Assistant Managing Director (Operations and Assessment).
4. Assistant to the Managing Director (Field Operations).
5. Attorney-Adviser (General).
6. Director of Personnel.
7. Budget and Fiscal Officer.
8. Assistant Budget and Fiscal Officer.
9. Section Chiefs.
10. Chief, Procurement and Property Management Branch, Section of Administrative Services.

OFFICE OF THE REGIONAL MANAGING DIRECTORS (FIELD)

1. Regional Managing Directors.
2. Assistant Regional Managing Directors.
3. Regional Auditors.
4. Assistant Regional Auditors.
5. Regional Counsels.
6. Assistant Regional Counsels.
7. Regional Operations Directors.
8. Assistant Regional Operations Directors.
9. Chief Special Agents.
10. Officers in Charge, all offices.

OFFICE OF THE SECRETARY

1. Secretary.
2. Assistanty Secretary.
3. Chief, Section of Dockets and Service.

OFFICE OF THE GENERAL COUNSEL

1. General Counsel.
2. Deputy General Counsel.
3. Associate General Counsels.

RAIL SERVICES PLANNING OFFICE

1. Director.
2. Section Chiefs.
3. Branch Chiefs.

OFFICE OF HEARINGS

1. Chief Administrative Law Judge.
2. Assistant Chief Administrative Law Judges.
3. Administrative Law Judge.

OFFICE OF PROCEEDINGS

1. Director.
2. Associate Director.
3. Deputy Directors.
4. Assistant Deputy Directors.
5. Chief, Section of Case Control and Information.
6. Chief, Section of Energy and Environment.
7. Branch Chiefs, Section of Finance.
8. Branch Chiefs, Section of Rates.
9. Branch Chiefs, Section of Operating Rights.
10. Chairmen and Members of Employee Boards.

BUREAU OF ACCOUNTS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.
5. Assistant Section Chiefs.
6. Branch Chiefs.

BUREAU OF ECONOMICS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.

BUREAU OF INVESTIGATIONS AND ENFORCEMENT

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.

BUREAU OF OPERATIONS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.
5. Assistant Section Chiefs.
6. Branch Chiefs.
7. Chairmen and Members of Employee Boards.

BUREAU OF TRAFFIC

1. Director.
2. Assistant Director.
3. Section Chiefs.
4. Branch Chiefs.
5. Chairmen and Members of Employee Boards.

APPENDIX II—MISCELLANEOUS STATUTORY PROVISIONS

Members and employees have a positive duty to acquaint themselves with each statute that relates to their ethical and other conduct as a member or employee of the Interstate Commerce Commission and of the Government, therefore, they shall acquaint themselves with the following statutory and nonstatutory provisions:

1. The House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the Code of Ethics for Government Service;

2. The prohibition against bribery of public officials (18 U.S.C. 201) which imposes a maximum penalty of $20,000 fine or three times the money or thing received, whichever is greater; 15 years' imprisonment; or both; and removal;

3. The prohibition against receiving compensation for claims, contracts, etc. (18 U.S.C. 203), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both; and removal;

4. The prohibition against prosecuting claims against and other matters affecting the Government (18 U.S.C. 205), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both;

5. The prohibition against prosecuting claims involving matters connected with former duties (18 U.S.C. 207), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment or both; disqualification of partners from prosecuting claims involving another partner's former duties (18 U.S.C. 207) which imposes a maximum penalty of $5,000 fine; 1 year imprisonment or both;

6. The prohibition against an interested person acting as a Government agent (18 U.S.C. 208), which imposes a maximum penalty of $10,000 fine; 2 years' imprisonment; or both;

7. The prohibition against salaries or contributions from other than Government sources (18 U.S.C. 209), which imposes a maximum penalty of $5,000 fine; 1 year imprisonment; or both;

8. The prohibition against acceptance of solicitation to obtain public office (18 U.S.C. 211), which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both;

9. The prohibition against lobbying with appropriated funds (18 U.S.C. 1913), which imposes a maximum penalty of $500 fine; 1 year imprisonment; or both; and removal;

10. The prohibition against disloyalty and striking (5 U.S.C. 7311). The penalty imposed for such activities (18 U.S.C. 1918) is maximum of $1,000 fine; 1 year and a day's imprisonment; or both, and removal.

11. The prohibition against disclosing of classified information (18 U.S.C. 798), which imposes a maximum penalty of $10,000 fine; 10 years' imprisonment; or both;

12. The prohibition against disclosing of confidential information (18 U.S.C. 1905); which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both; and removal;

13. The prohibition against habitual use of intoxicants to excess (5 U.S.C. 7352), which imposes a maximum penalty of removal;

14. The prohibition against the misuse of Government vehicles (31 U.S.C. 638a(c)), which imposes a maximum penalty of removal;

15. The prohibition against the misuse of franking privilege (18 U.S.C. 1719), which imposes a maximum penalty of $300 fine;

16. The prohibition against the deceit in examination or personnel action (18 U.S.C. 1917), which imposes a maximum penalty of $1,000 fine; 1 year imprisonment; or both;

17. The prohibition against fraud and false statement (18 U.S.C. 1001), which imposes a maximum penalty of $10,000 fine; 5 years' imprisonment; or both;

18. The prohibition against mutilating or destroying public records (18 U.S.C. 2071), which imposes a maximum penalty of $2,000 fine, 3 years' imprisonment; or both; and removal;

19. The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508), which imposes a maximum penalty of $5,000 fine; 10 years' imprisonment; or both;

20. The prohibition against the embezzlement and theft of Government money, property, or records (18 U.S.C. 641), which imposes a maximum penalty of $10,000 fine; 10 years' imprisonment; or both;

21. The prohibition against failure to account for public money (18 U.S.C. 643), which imposes a maximum penalty of fine equal to amount embezzled; imprisonment not more than 10 years; or both;

22. The prohibition against wrongfully converting property of another (18 U.S.C. 6 which imposes a fine equal to amount embezzled; imprisonment not more than 10 years; or both;

23. The prohibition against unauthorized use of documents relating to duties (18 U.S.C. 285), which imposes a maximum penalty of $5,000 fine; 5 years, imprisonment; or both;

24. The prohibition against political activity (Subch. III of Ch. 73, of Title 5, U.S.C.), which imposes a maximum penalty of removal;

25. The prohibition against solicitation of political contributions (18 U.S.C. 602), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

26. The prohibition against solicitation of political contributions in Federal buildings (18 U.S.C. 603), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

27. The prohibition against making political contributions (18 U.S.C. 607), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

28. The prohibition limiting political contributions and purchases (18 U.S.C. 608), which imposes a maximum penalty of $5,000 fine; 3 years' imprisonment; or both;

29. The prohibition against making a donation as a gift to an employee in a superior official position (5 U.S.C. 7351);

30. The prohibition against holding stocks or having other pecuniary interest in any mode of transportation (49 U.S.C. 11 and 305(i));

31. The prohibition against participating in any hearing or proceedings in which there is pecuniary interest (49 U.S.C. 17(3)); and,

32. The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart C—Additional Canons of Conduct for Members

§ 1000.736–1 General policy.

Members of the Interstate Commerce Commission should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of the Commission may be preserved. The provisions of these canons should be construed and applied to further that objective. Members of the Commission shall observe the standards of personal conduct in the Canons of Conduct for Members and Employees as set forth in Subpart B of this Part 1000.

§ 1000.736–2 Maintaining independence.

Members should not allow their family, social, or other relationships to influence their official conduct or judgment. They should not lend the prestige of their office to advance the private interests of others; nor should members convey the impression that they are subject to influence by others. Members should not change or tailor their views to appease any particular interest or group.

§ 1000.736–3 Official duties.

(a) Official Duties, both administrative and adjudicative, should be carried ouit diligently and impartially. In performing adjudicative functions, members should avoid discussion of a matter with any person outside the Commission and its staff while that matter is pending. In performing their rule-making and administrative functions, members have a duty to solicit the views of interested persons. Insofar as it is consistent with the dignity of their official positions, members should maintain contact with the persons outside the agency who may be affected by their rulemaking and administrative functions, but they should not accept unreasonable hospitality in so doing.

(b) Members have the obligation to urge the Congress, whenever necessary, to amend, modify, or repeal particular parts of the statutes they administer.

(c) The members' decision to investigate should be based only on the facts known to them and the reasonable inferences from those facts. A member should never suggest, vote for, or participate in an investigation aimed at a person for reasons of animus, prejudice, vindictiveness.

(d) Members have the obligation to adopt rules necessary to carry out the National Transportation Policy. The rules should not be burdensome; on the other hand, necessary rules should be adopted, modified, or appealed as changing requirements demand.

§ 1000.736–4 Extra-official activities.

Members must not engage in any business, employment, or vocation while in office, nor may they use the power of their offices or the influence of their names to promote the business interests of others. Members may participate in nonbusiness endeavors, such as civic and charitable activities, that do not reflect adversely upon their impartiality or interfere with the performance of official duties.

§ 1000.736–5 Qualification to participate.

Members should disqualify themselves in any matter in which their impartiality might reasonably be questioned. They should weigh carefully the question of their qualification in any matter where they or their relatives or former business associates or clients are involved. If an interested person suggests that a member should disqualify himself or herself in a particular matter because of bias or prejudice, the member shall be the sole judge of his or her own qualification.

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