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Monday	Tuesday	Wednesday	Thursday	Friday
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	HEW/HSA			HEW/HSA
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	HEW/PHS			HEW/PHS

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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.

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Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary to reflect the establishment of the Office of Energy. The Department has determined that the utilization and conservation of energy and the development of new sources of energy require a single agency responsible for all USDA energy and energy-related matters. The Director of the Office of Energy will report to the Secretary.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Weldon Barton, Director, Office of Energy and Assistant to the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2455.

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.21 is amended by revoking and reserving paragraph (a)(32) as follows:

§ 2.21 Delegations of authority to the Assistant Secretary for International Affairs and Commodity Programs.

* * * * *

(a) *Related to agricultural stabilization and conservation.* * * *

(32) [Revoked and Reserved]

* * * * *

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

2. A new § 2.37 is added to read as follows:

§ 2.37 Delegations of authority to the Director, Office of Energy.

The following delegations of authority are made by the Secretary of Agriculture to the Director of the Office of Energy:

(a) Advise the Secretary and other policy-level officials of the Department on energy policies and programs.

(b) Develop and evaluate Departmental energy policies and strategies including those regarding the allocation of scarce resources and provide Departmental leadership in developing the agricultural and rural components of the National Energy Policy Plan.

(c) Review and evaluate Departmental energy and energy-related programs and progress.

(d) Coordinate Department programs to meet energy and energy-related goals.

(e) Represent the Department at conferences, meetings, and other contacts where energy matters are discussed, including liaison with the Department of Energy and other governmental agencies and departments.

(f) Work with the Office of Governmental and Public Affairs to maintain Congressional and public contacts in energy matters including development of legislative proposals, preparation of reports on legislation pending in Congress, appearances before Congressional Committees and related activities.

(g) Serve as Chairperson of the Energy Coordinating Committee of the Department.

(h) Work with appropriate Departmental officials and staff offices to incorporate into existing budgetary, procurement and other management systems and procedures the capabilities needed to meet requirements of the Office of Energy for carrying out its functions and responsibilities for USDA energy planning, policies, and strategies.

Subpart H—Delegations of Authority by the Assistant Secretary for International Affairs and Commodity Programs

3. Section 2.65 is amended by revoking and reserving paragraph (a)(32) as follows:

§ 2.65 Administrator, Agricultural Stabilization and Conservation Service.

(a) *Delegations.* * * *

(32) [Revoked and Reserved]

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

For subparts C and D:

Dated: May 26, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary of Agriculture.

For subpart H:

Dated: May 26, 1978.

G. EDWARD SCHUH,
Acting Assistant Secretary for International Affairs and Commodity Programs.

[FR Doc. 78-15405 Filed 6-1-78; 8:45 am]

[3410-30]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

[Amdt. No. 1]

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Miscellaneous Amendments and Corrections

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This document makes a few clarifying changes in the Women, Infants, and Children (WIC) Program regulations, adds a low calorie infant formula to the WIC food package, in response to requests and corrects some errors in the FEDERAL REGISTER copy of the regulations.

DATE: This amendment becomes effective June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

SUPPLEMENTAL INFORMATION: On August 26, 1977, regulations for the Special Supplemental Food Program for Women, Infants, and Children (WIC Program) were published in the FEDERAL REGISTER (42 FR 43205). In order to clarify particular requirements in those regulations and correct some errors which appeared in the FEDERAL REGISTER copy of the regulations, this amendment is being promulgated. Generally, it is the Department's policy to obtain public comments prior to making changes in the regulations. However, since the changes are primarily clarifications of requirements, the Department believes it would be in the public's interest to publish this amendment as soon as possible rather than going through the proposed rulemaking procedures. The major changes in this amendment are described below.

Responsibility for setting uniform standards for the administration of grants has been transferred to the Office of Management and Budget from the General Services Administration. Accordingly, Federal Management Circular 74-7 has been reissued as Office of Management and Budget A-102, and the regulations are amended to refer to the new Circular.

The Department believes that the term "participants" more closely reflects the role of persons taking part in the WIC Program than the term "recipients," as WIC Program participants are involved in health care and nutrition education in addition to the receipt of food. Therefore, the regulations are amended to change the word "recipient" to "participant," wherever it appears in the regulations.

There has been some confusion over the meaning of the term "Grant closeout procedure" (§ 246.17). In the past, grant closeout procedure has been used to describe the submission of final reports for a fiscal year grant. "Grant closeout procedure" would be better used to describe the actual termination of the relationship between the State agency and the Department. Therefore, the procedure for the end of the fiscal year is now referred to as the fiscal year closeout, and the actual termination of the grant is called the grant closeout. Section 246.17 is renamed "Closeout procedure" to encompass both of these areas.

In § 246.4(d), the State agency is currently required to list on the Affirmative Action Plan all areas or populations which do not have a WIC Program or those desiring to expand. The amendment to § 246.4(d) requires State agencies to consider opening additional WIC Programs in areas which have an existing WIC Program that cannot serve all of the potential participants who request Program benefits.

Section 246.4(d)(3) requires that the State agency provide written justification for not funding the area most in need according to the Affirmative Action Plan. However, the rule did not state to whom the report should be submitted. Therefore, the regulations are amended to require the State agency to submit the justification to FNS.

In § 246.4(e), the State is required to contact all potential agencies in an area to ensure that they are aware of the opportunity to apply for participation in the Program. Because of the use of the word "an" it is not clear that the sentence refers to the area next in line according to the Affirmative Action Plan, which is under consideration for a WIC Program or expansion of existing operations. To eliminate this ambiguity, the sentence is reworded to require the State agency to contact all potential local agencies in the area to ensure that they are aware.

In § 246.4(e) (3) and (4), the regulations will require that private physicians be licensed by the State if they are to be working in conjunction with a health or welfare agency to operate a WIC Program. This provision ensures that physicians involved in the WIC Program possess the appropriate credentials.

Section 246.7 states that a person who is determined eligible shall receive supplemental foods or food instruments within 10 days of notification of eligibility. In § 246.7, the regulations will be amended to state that a person receive supplemental food within 10 days if it is a direct distribution or home delivery system and immediately redeemable food instruments within 10 days if it is a retail purchase system. This is to ensure that participants receive supplemental foods within ten days regardless of whether they are receiving supplemental foods through a retail purchase, home delivery or direct distribution food delivery system.

Section 246.7(e)(7) requires that the administrative personnel collecting the residence and income data sign the certification form. It was not clear whether the person actually collecting the information had to personally sign the form, or whether the person responsible for collecting the information for Program purposes could sign. The regulations are amended to specify that the WIC administrative official does not need to actually collect the data in order to sign the certification form as the responsible official. Where the competent professional authority has the responsibility for all certification information, only one signature is required for economic, residential and nutritional need data.

In § 246.8, the nutritional specifications for authorized supplemental foods are listed. Since we have received a number of requests to authorize a low calorie infant formula for infants and children as a substitute for infant formula, we have decided that a lower calorie infant formula may be provided under certain conditions. Infants over six months of age may received this low calorie infant formula with the approval of a physician. Children over one year of age may receive the infant formula as a substitute in the package for children with special dietary needs, which also requires a physician's approval.

Section 246.10 requires that the State agency implement a uniform food delivery system within 10 months of the effective date of the regulations. This language was not entirely clear as to exactly which requirements of § 246.10 were effective in 10 months, and which were effective immediately. In order to clarify this confusion and allow the State and local agencies sufficient time implement the new food delivery requirements, the regulations are amended to clarify that all requirements of 247.10 must be implemented by July 26, 1978. However, the State agency should implement as many provisions as possible, as soon as possible, within the time frame.

In § 246.10(d)(3), the regulations require that the participant be given 30 days to use the food instrument, and the vendor be given 60 days to submit the food instrument for payment. This requirement has caused concern among a number of State agencies which interpreted the section to mean vendors must be given the full 60 days rather than up to 60 days. The purpose of the requirement was to set 60 days as the maximum time for redemption of food instruments so food vendors would be better able to submit food instruments in the allotted time. However, if a State agency wishes to require food instrument redemption in less than 60 days, this is permissible as long as this does not cause an undue burden on the food vendor. We have, therefore, amended the regulations to require State agencies to allow vendors "no more than 60 days" to submit food instruments for payment.

In addition, some States questioned whether participants may be given more than 30 days to use food instruments. As long as the appropriate amount of the food package is issued to the participant for the time period involved, we have no objection to participants being allowed more than 30 days. The total cycle for food instru-

ment issuance, use, and submission for payment, however, must be completed within the maximum 90-day time limit. The regulations have been amended to allow more than 30 days for participants to use food instruments.

In § 246.17, the regulations require that each State agency submit a final fiscal year closeout report within 90 days of the end of the fiscal year. However, the regulations also allow the food vendor 60 days from the day the participant must use the food instrument to submit the food instrument for payment.

As the participant is allowed at least 30 days to use the food instrument, the expiration date for the vendor may be as much as 90 days from issuance. If a food instrument is issued towards the end of the fiscal year, the vendor will not have to submit the food instrument until close to 90 days after the end of the fiscal year. In this case it would be difficult for the State agency to submit a final closeout report for all expenditures during that fiscal year within 90 days of the end of the fiscal year. Therefore, the regulations are amended to allow the State agency 120 days following the end of the fiscal year to submit the final fiscal year closeout report.

Accordingly, the regulations are amended as follows:

1. Wherever the word "recipient" appears, it is deleted and the word "participant" is inserted in lieu thereof.

2. The term "FMC 74-7" is deleted wherever it appears, and the term "A-102" is inserted in lieu thereof.

§ 246.2 [Amended]

3. In § 246.2, the definition of "FMC 74-7" is deleted.

4. In § 246.2, the following two definitions are inserted immediately following the opening paragraph:

"A-102" means Office of Management and Budget Circular No. A-102, which sets forth uniform standards for the administration of grants to State and local governments.

"A-110" means Office of Management and Budget Circular No. A-110 which sets forth uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other nonprofit organizations.

§ 246.4 [Amended]

5. In § 246.4(d), the first sentence is amended by adding at the end thereof: "or have a need for additional local agencies in the area to handle potential participants."

6. In § 246.4(d)(3), the words "to FNS" are inserted after the word "justification."

7. In § 246.4(e), in the sentence which begins "Additionally, the State agency shall contact * * *" the word "an" which appears between the words "in" and "area" is changed to "the." In the same sentence the word "local" is inserted between "potential" and "agencies."

8. In § 246.4(e)(3), the words "licensed by the State" are inserted after the word "physician."

9. In § 246.4(e)(4), the words "licensed by the State" are inserted after the word "physician."

10. In § 246.4(f), the following subtitle is added, *"Health or welfare agencies."*

11. In § 246.4(g), the following subtitle is added, *"Health or welfare agencies and private physicians."*

§ 246.7 [Amended]

12. In § 246.7(d), the last sentence is deleted and the following two sentences are inserted in lieu thereof: "A person who is certified in a local agency which has a home delivery or direct distribution system shall receive supplemental foods within ten days of notification of certification and a person who is certified in a local agency which has a retail purchase system shall receive food instruments within ten days of notification of certification. Such food instruments shall be redeemable immediately."

13. In § 246.7(e)(7), the sentence is deleted and the following sentence is inserted in lieu thereof: "The signature and title of the administrative personnel responsible for determining residential and economic eligibility under the Program, and the signature and title of the competent professional authority making the nutritional need determination."

14. In § 246.7(g), the reference to "§ 246.16(c)(2)," is deleted and "§ 246.16(a)(2)" is inserted in lieu thereof.

§ 246.8 [Amended]

15. In § 246.8(d)(1)(i), the following sentence is added to the end of the paragraph headed "Substitutes":

* * * "Additionally, if the physician determines and documents the need for a low calorie infant formula, infants over six months of age may receive an iron-fortified infant formula intended for use by infants which is a complete nutritional beverage not requiring the addition of any ingredients other than water prior to being served in a liquid state, which contains at least 10 milligrams of iron per liter of formula at standard dilution and which supplies 54 kilocalories per 100 milliliters, i.e., approximately 16 kilocalories per fluid ounce at standard dilution. Concentrated liquid or powdered formula shall be provided, except that ready-to-feed formula may be authorized when the competent professional authority determines and documents that there is an unsanitary or restricted water supply, that there is poor refrigeration or that the person who is caring for an infant may have difficulty in correctly diluting concentrated liquid or powdered formula."

16. In § 246.8(d)(1)(iv), under whole fluid milk on the chart, change "(.394 1)," to "(.384 1)" between the words "oz." and "of."

17. In § 246.8(d)(3)(i), "67 kilocalories" is changed to "54 kilocalories" between "supplies" and "per," and "20 kilocalories" is changed to "16 kilocalories" between "approximately" and "per."

18. The chart given under § 246.8(d)(3)(iv) is revised to read as follows:

(iv) The maximum quantity of supplemental foods authorized per month is as follows:

Food	*Quantity.*
* * * * *	
Juices	
Single strength juices—138 fluid ounces (4.082 1)	
Frozen concentrated juices—May be substituted as long as the reconstituted volume is not greater than the amount authorized for single strength juices.	

§ 246.9 [Amended]

19. In § 246.9, paragraph (d)(3) is amended by adding at the end thereof, the words "Operation and Administration."

§ 246.10 [Amended]

20. In § 246.10, paragraph (a) is amended by adding the following sentence: "By July 26, 1978, all requirements of this section shall be implemented".

21. In § 246.10(b) the phrase "Within ten months of the effective date of this part" is deleted.

22. In § 246.10(d)(3)(ii), the word "either" is deleted and the words "a minimum of" are inserted between the words "be" and "30 days". The words "for the participant's first month of issuance it can be" are inserted between "or" and "the" in the second sentence.

23. In § 246.10(d)(3)(iii), the words "no more than" are added in the second sentence after the word "be." The following sentence is added immediately after the second sentence, "If this date is less than 60 days, the State agency shall ensure that the food vendor is able to submit food instruments for redemption within the required time limit without undue burden".

§ 246.17 [Amended]

24. In § 246.17, the heading is amended to read "Closeout procedures."

25. In § 246.17, paragraph (a) is amended by deleting the word "grant," between the words "final" and "closeout".

26. In § 246.17(b), the heading is amended to read "*Fiscal year closeout reports.*"

27. In 246.17(b)(2), the word "90," is deleted and the word "120" is substituted in lieu thereof.

28. In § 246.17, a new paragraph (c) is added as follows:

* * * * *

(c) *Grant closeout procedures.* When grants to State agencies are terminated, the following procedures shall be performed in accordance with A-102 and A-110:

29. In § 246.17, paragraph (c) is changed to (1), and paragraph (d) is changed to (2).

§ 246.26 [Amended]

30. In § 246.26(e)(6), the following change is made to the address immediately following the word "Region," "2420 West 26th Avenue, Room 430-D, Denver, Colo. 80211".

(Catalog of Federal Domestic Assistance, Program No. 10.557.)

Dated: May 25, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-15265 Filed 6-1-78; 8:45 am]

[3410-02]

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

[Lemon Reg. 148]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 4, 1978 through June 10, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

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

The committee met on May 30, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good as warm weather prevailed in most markets.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until July 3, 1978 (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.448 Lemon Regulation 148.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 4, 1978, through June 10, 1978, is established at 330,000 cartons.

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

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

Dated: May 31, 1978.

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

[FR Doc. 78-15511 Filed 6-1-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 1800—ADMINISTRATIVE PROVISIONS

Subpart A—Organization and General Functions of the Farmers Home Administration

DELETION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations regarding State Advisory Committees. This action is taken because of administration action to remove obsolete regulations from the Code of Federal Regulation. The intended effect of this action is to simplify FmHA regulations by removing unnecessary verbiage.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph H. Linsley, Chief, Directives Management Branch. Phone: 202-447-4057.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends § 1800.3 of subpart A of part 1800, chapter XVIII, title 7 in the Code of Federal Regulations by deleting the last sentence. This action is a part of an overall effort of the Farmers Home Administration to remove extraneous material from its regulations thereby providing an eventual simplification. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to eliminate unecessary regulations and since the Farmers Home Administration no longer has State Advisory Committees, publication for comment is unnecessary.

§ 1800.3 [Amended]

Accordingly, § 1800.3 is amended to delete the last sentence which reads: "State Advisory Committees serve in an advisory capacity to the State Directors on all phases of the Farmers Home Administration programs."

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

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

Dated: May 25, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-15328 Filed 6-1-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

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

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

PART 78—BRUCELLOSIS

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

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

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

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Grant County in Arkansas.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come with the definition of a Certified Brucellosis-Free Area in § 78.1(l): Bingham and Caribou Counties in Idaho; Bourbon, Chautauqua, Cherokee, Coffey, Labette, and Mitchell Counties in Kansas; and Dodge, Douglas, and Perkins Counties in Nebraska.

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

§ 78.20 Certified brucellosis-free areas.

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

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

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

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

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

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

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

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

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

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

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

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

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

Nebraska. Banner, Box Butte, Cheyenne, Dakota, Deuel, Dodge, Douglas, Perkins, Thurston.

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

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison,

Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

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

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

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

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

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

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

§ 78.21 Modified certified brucellosis areas.

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

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

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

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

Colorado. Mesa.

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

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murry, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

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

Illinois. Adams, Appanoose, Guthrie, Ringgold, Wayne.

Kansas. Allen, Atchison, Barton, Butler, Cloud, Cowley, Crawford, Dickinson, Elk, Ellis, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Sumner, Wabaunsee, Wilson, Woodson.

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

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

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

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

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

South Dakota. Jones, Stanley.

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

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey,

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

Utah. Box Elder.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

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

§ 78.22 **Noncertified areas.**

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

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific counties within States.*

Florida. Okeechobee.
Missouri. Newton.
South Dakota. Harding.

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

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

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

Done at Washington, D.C., this 25th day of May 1978.

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

M. T. GOFF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-15255 Filed 6-1-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION*

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1978 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretation.

SUMMARY: Attached is an Interpretation issued by the Office of the General Counsel of the Federal Energy Administration (FEA) under 10 CFR Part 205, Subpart F, on June 9, 1976. This notice represents a continuing effort to make Department of Energy (DOE) Interpretations (or those issued by its predecessor agencies) available to the public through publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of the General Counsel, Department of Energy, 12th & Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461 (202) 566-9070.

SUPPLEMENTARY INFORMATION: In accordance with DOE's initial notice concerning the publication of 1976 Price and Allocation Interpretations, 42 FR 7923 (February 8, 1977), appended hereto is an additional Interpretation issued in 1976 by the FEA General Counsel which was inadvertently omitted from the 1976 Interpretations published in the above notice. This Interpretation has been designated 1976-26.

DOE has not attempted to review the Interpretation published today for continuing applicability and validity. Interested persons should therefore note with particular attention the limitations on the applicability of Interpretations as stated below.

Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). Although Interpretations are not subject to appeal, any person aggrieved by an Interpretation may submit a petition for reconsideration pursuant to § 205.85(f). The Interpretation appended hereto is published today only for general guidance in accordance with the reasons set forth in the notice first cited above.

Issued in Washington, D.C., May 25, 1978.

WILLIAM P. DAVIS,
Director of Administration.

INTERPRETATION 1976-26

To: Continental Oil Company
Date: June 9, 1976
Rule Interpreted: § 205.202(e)(2)(B)
Code: GCW—Notice of Noncompliance

ISSUE

This Interpretation is in response to your request of May 20, 1976 that FEA issue an "interpretative ruling" on whether an "issue letter" as described at Exhibit 5.100.00-E of the FEA Compliance Manual (at paragraph 55,252) is a "notice of noncompliance" as contemplated by FEA's penalty regulations at 10 CFR 205.202(c)(2)(B).

INTERPRETATION

For the reasons set forth below, FEA does not consider an "issue letter" as that form is described in Exhibit 5.100.00-B of the FEA Compliance Manual to be a "notice of noncompliance" as contemplated by FEA penalty regulations. (§ 205.202(e)(2)(B).)

FEA's penalty regulations as set forth at § 205.202 include a provision which deals with the imprisonment of corporate personnel for violations of FEA regulations. Section 205.202(e)(1) states, in part, that:

* * * no such individual director, officer or agent shall be subject to imprisonment under paragraph (c) [criminal penalties] unless he also has knowledge, or reasonably

*Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

should have known, of notice of noncompliance received by the corporation from the FEA.

A key element in determining criminal liability for imprisonment of corporate personnel, therefore, is the existence, in a given case, of a "notice of noncompliance." Hence, the determination of what constitutes such a notice is a crucial factor in the interpretation of FEA's regulations relating to criminal sanctions.

"Notice of Noncompliance" is defined in part at § 205.202(e)(2)(B) to include:

* * * any written notice that *the FEA believes* the corporation to be acting in violation of the provisions of this chapter issued under authority of the Energy Petroleum Allocation Act of 1973, as amended, or any order issued pursuant thereto, and shall include, but not be limited to, a notice of probable violation issued under § 205.191, a remedial order issued under §§ 205.192 or 205.193, or a consent order issued under § 205.197. (Emphasis added.)

In promulgating the definition of "notice of noncompliance," FEA intended that definition to be broad enough to act as a meaningful deterrent to corporate officials who are inclined knowingly and with impunity to violate FEA regulations. However, the commentary accompanying the promulgation of FEA's revised civil and criminal penalties makes clear that the written notices FEA intended to be considered as notices of noncompliance are limited to Notices of Probable Violation, Remedial Orders, and Consent Orders, and other written orders or notices *which contain an official agency pronouncement that it has reason to believe a corporation is acting in violation of an FEA regulation or order.* 41 FR 19929 (May 14, 1976).

An "issue letter," as described at Exhibit 5.100.00-B of the FEA Compliance Manual, is a letter from an FEA auditor or his supervisor to a firm at the completion of a significant stage of an FEA investigation which describes "the auditor/investigator's analysis of the significance of the facts." (FEA Compliance Manual, § 5.102.02.) The letter is intended to initiate a dialogue with a firm concerning the auditor's initial impressions of matters surfaced during the course of the audit. The firm is requested, in the issue letter, to analyze and respond to the points raised therein to determine areas of agreement, elucidate ambiguities, and clarify the breadth of contested regulatory interpretations prior to the institution of formal compliance proceedings by the agency itself.

An "issue letter," therefore, is neither a formal statement or interpretation of policy by the FEA nor a formal administrative action alleging a violation of FEA regulations. Rather it is simply a statement of an individual auditor's views, and perhaps those of his immediate supervisor, designed to sharpen the issues and give the company the opportunity to correct misunderstandings prior to the auditor's obtaining the clearances necessary to institute an official agency proceeding. Consequently, an "issue letter" as described in Exhibit 5.100.00-B of the Compliance Manual is not a "notice of noncompliance" as that term is used in § 205.202(e)(2)(B).

[FR Doc. 78-15155 Filed 6-1-78; 8:45 am]

[4810-33]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 9—FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Reporting Requirements

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This amendment rescinds certain trust department reporting requirements relating to national banks so as not to duplicate new reporting requirements to be issued by the Security and Exchange Commission (SEC) covering essentially the same subject matter. This action is intended to reduce unnecessary reporting burdens.

EFFECTIVE DATE: This amendment will be effective October 31, 1978. (Affected banks will be required to file the report for the quarter ending September 30, 1978, no later than October 30, 1978.)

FOR FURTHER INFORMATION CONTACT:

Dean E. Miller, Deputy Comptroller for Specialized Examinations, Office of the Comptroller of the Currency, 490 L'Enfant Plaza SW., Washington, D.C. 20219, telephone No. 202-447-1731.

SUPPLEMENTARY INFORMATION: On November 29, 1977, the Comptroller published for comment a proposed amendment (42 FR 65204) which would rescind two reporting requirements applicable to national banks so as not to duplicate new reporting requirements being issued by the SEC and covering essentially the same subject matter. These two reporting requirements have been required of all national banks which hold in their trust departments equity securities having an aggregate market value of $75,000,000 or more. The first report is an annual report of holdings, as of December 31 of the previous year, listing all issues of which the bank holds 10,000 shares or more. The second report is a quarterly report of transactions whereby each affected bank must file a report of all transactions in equity securities in excess of 10,000 shares or having a market value of $500,000 or more, which occurred during the preceding quarter.

In 1975, the SEC was given authority to require somewhat similar reports from all institutional investors, including national banks. (Section 13(f) of the Securities Exchange Act.) The law also required agencies having similar reporting requirements to take steps to ensure that unnecessary duplication and reporting burdens were not imposed. The SEC published a proposed reporting system for comment on March 30, 1977 (42 FR 16831) (Release No. 34-13396). Since publication of that proposal, the Commission has approved in principle a final rule. This rule will require the filing of annual reports of holdings by all institutional investors. It will have a moderate degree of compatibility with the annual report required by this Office. The SEC will not require quarterly reports of any kind at this time.

In response to the Comptroller's December 30, 1977 proposal, twenty-six comments were submitted. Seven were from banks, two were from bank trade associations, two were from companies that assemble information from the reports for commercial purposes; and the remainder were from users of the information.

All of the banks and the bank trade associations responding supported the proposal. It was noted by them that the reports are required of only a segment of banks, which in turn are only a segment of the institutional investment managers. They indicated that both reports are costly to prepare, and do not relate to a specific supervisory function. The quarterly reports also are regarded by the SEC as being of limited value, the commentators pointed out.

The opponents of the proposal noted that the SEC has not put its reporting system in place, and that uncertainty exists as to what that system will be. They urged that our reporting system not be discontinued until final action is taken by the SEC, in order that no gaps in information occur. Several emphasized the value of a quarterly report of holdings.

The Comptroller has determined that because of the similiarity between the annual reports required by this Office and the annual reports to be required by the SEC and in light of Presidential and Congressional directives to reduce unnecessary duplication and reporting burdens, the annual report requirement of 12 CFR 9.102(a) is being rescinded. The Comptroller also has determined that the quarterly reports which have been required have proven to be of limited value and have imposed an unfair burden on only one class of institutional investor, the national banks. Therefore, the Comptroller also is rescinding the quarterly report requirement of 12 CFR 9.102(b) with the final quarterly report due no later than October 30, 1978.

DRAFTING INFORMATION

The principal drafters of this document are Dean E. Miller, Deputy

Comptroller for Specialized Examinations, and Richard H. Neiman, Staff Attorney.

RESCISSION OF RULE

§§ 9.101-9.104 [Rescinded]

12 CFR Part 9 is amended by rescinding §§ 9.101, 9.102, 9.103, and 9.104.

Dated: May 30, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-15394 Filed 6-1-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 315—DETERMINATION OF BONA FIDE MOTOR-VEHICLE MANUFACTURER

Change in Nomenclature

AGENCY: Industry and Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule redesignates organizations and officials in accordance with the reorganization effective on December 4, 1977. The content of Part 315 will remain the same as before.

EFFECTIVE DATE: December 4, 1977.

FOR ADDITIONAL INFORMATION CONTACT:

Thomas C. Meehan, Office of Producer Goods, Industry and Trade Administration, Department of Commerce, Washington, D.C. 20230, 202-377-4816.

Accordingly, Part 315 is amended as follows:

1. All references to "Domestic Commerce" throughout Part 315 are modified to read "Domestic Business Development".

2. In § 315.3 reference to "Form DIB-964" is modified to read "Form ITA-964"; reference to "OBRA" is modified to read "OPG".

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-15395 Filed 6-1-78; 8:45 am]

[6820-27]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8855-o]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

The Coca-Cola Co., et al.

Correction

In FR Doc. 78-13289 appearing at page 20967 of the issue of Tuesday, May 16, 1978, on page 20968 in the second column under paragraph A. the word "product" in the eleventh line should be changed to "production".

[6820-27]

[Docket 8856-o]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

PepsiCo, Inc.

Correction

In FR Doc. 78-13290 appearing at page 20969 of the issue of Tuesday, May 16, 1978, at page 20969 in the third and fourth lines of paragraph C. At the bottom of the third column, the word "consented" should be inserted between "license" and "to".

[6750-01]

[Docket C-2922]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Performance Sailcraft, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts or practices and unfair methods of competition, this consent order, among other things, requires a Pointe-Claire, Quebec, Canada, manufacturer and distributor of fiberglass sailboats and accessories to cease entering into or enforcing any form of agreement with its dealers concerning the retail price of its products; restricting territories in which its dealers may advertise or sell its products; and terminating or threatening to terminate dealers who do not follow its pricing and territorial instructions. Further, any future price lists distributed by the firm must note that the prices are suggested or approximate.

DATE: Complaint and order issued May 2, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: On Friday, May 27, 1977, there was published in the FEDERAL REGISTER, 42 FR 27255, a proposed consent agreement with analysis in the matter of Performance Sailcraft, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments were received, and the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Coercing and Intimidating: § 13.358 Distributors. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain, or unify prices; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements: § 13.533-45 Maintain records. Subpart—Cutting Off Access to Customers or Market: § 13.560 Interfering with distributive outlets. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Maintaining Resale Prices: § 13.1145 Discrimination: § 13.1145-5 Against price cutters; § 13.1145-20 Distributive channels and outlets generally; § 13.1155 Price schedules and announcements; § 13.1165 Systems of espionage; § 13.1165-80 Requiring information of price cutting; § 13.1165-90 Spying on and reporting price cutters, in general.

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[1] Copies of the complaint and the decision and order filed with the original document.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-15370 Filed 6-1-78; 8:45 am]

[6750-01]

SUBCHAPTER D—TRADE REGULATION RULES

PART 456—ADVERTISING OF OPHTHALMIC GOODS AND SERVICES

AGENCY: Federal Trade Commission.

ACTION: Final Trade Regulation Rule.

SUMMARY: The Federal Trade Commission issues a final rule which preempts state laws which either prohibit or burden the advertising of prescription eyewear or eye examinations. The rule also prohibits restrictions on advertising of this type imposed by private groups such as trade associations. Finally, the rule requires that consumers be provided with copies of their prescriptions after they have their eyes examined. The Commission is taking this action because of a staff investigation which highlighted an inadequacy of consumer information disclosure in the retail ophthalmic market.

EFFECTIVE DATE: July 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Terry S. Latanich, Gary D. Hailey, Scott P. Klurfeld, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3426.

SUPPLEMENTARY INFORMATION:

STATEMENT OF BASIS AND PURPOSE

A. ANALYSIS OF THE RECORD EVIDENCE

1. *Introduction.* On September 16, 1975, the Federal Trade Commission directed its staff to examine the adequacy of information disclosure in the retail ophthalmic market.[1] The staff, in the course of this investigation, made comprehensive surveys of state occupational licensing laws, and of private associational codes of practice which govern those who dispense prescription eyeglasses. Numerous comments were received from various interested persons: industry members, state occupational licensing boards, other state officials, state and national professional associations, and consumer groups.[2]

Following this investigation, the Commission on January 16, 1976, proposed a trade regulation rule which would eliminate restraints placed by states and private associations on the dissemination of information concerning ophthalmic goods and services, thereby permitting sellers to advertise.[3] The Commission indicated in the proposed rule that it might require ophthalmologists and optometrists to release prescriptions to their patients so that consumers would be able to price shop. In addition, the FEDERAL REGISTER notice containing the proposed rule specifically questioned whether the scope of the rule should be expanded to include the advertising of eye examinations.[4]

The scope of the informal oral hearings in this matter was focused through the publication of a second FEDERAL REGISTER notice setting forth designated issues.[5] One of these designated issues was whether the coverage of the rule should include the advertising of examination services.[6]

Throughout the proceeding the staff attempted to maximize the awareness and participation of state officials because the proposed rule would preempt state law. Written comments were received from many officials, and 31 state and local government representatives gave testimony at the public hearings.[7] Consumer groups, economists, optometrists, opticians, and to a lesser degree ophthalmologists also participated. In addition over 1,000 written comments were received from consumers.[8]

At the conclusion of the rulemaking hearings the presiding officer published a report containing his findings and conclusions. In that report the presiding officer recommended that the Commission promulgate a final rule.[9]

Based on its analysis of the evidentiary record, the staff recommended that the Commission promulgate a trade regulation rule which would allow the advertising of ophthalmic goods and services.[10] After reviewing the record in this proceeding and hearing oral presentations from both industry and consumer representatives, the Commission has voted to promulgate a final rule which would allow advertising of eye examinations as well as advertising of ophthalmic goods and services.

2. *Background. Industry Importance:* Ophthalmic goods and services are used by over 50 percent of the United States population. In 1975 over 112,000,000 people used corrective lenses, and consumers spent approximately $4.1 billion in this industry that same year.[11] The frequency of use of ophthalmic goods, however, is not evenly distributed over all groups and classes of persons.

A 1974 survey determined that use of prescription lenses increases with age. While persons 45 and older made up only 31 percent of the population in 1974, they purchased 59 percent of all corrective lenses. Similarly, the proportion of people using eyeglasses varies in age: ages 24-45, 41.9 percent used eyeglasses; ages 45-64, 88 percent; over age 65, 93 percent.[12]

Other studies have indicated that the use of eyeglasses varies with income. The income level of a family group is positively correlated with eyeglass use; higher income families are able to purchase eyeglasses more frequently.[13] Among youths the need for glasses and the need for a change of existing prescriptions is substantially

[1] Federal Trade Commission (Bureau of Consumer Protection), *Staff Report on Advertising of Ophthalmic Goods and Services and Proposed Trade Regulation Rule* (1977), Exhibit XIII-2, at 1. (hereinafter cited as "Staff Report").

[2] Categories VIII, IX, and X of the Public Record (215-52).

[3] 41 FR 2399 (1976).

[4] Id. at 2401, question 7.

[5] 41 FR 14,194 (April 2, 1976).

[6] Id. at 14,196, question 7.

[7] See Staff Report at 2. Hearings were held in Washington, D.C., Cleveland, Ohio; New York, N.Y.; San Francisco, Calif.; Dallas, Tex. See publication notice in 41 FR 14,194 (1976).

[8] See Staff Report at 3.

[9] *Report of the Presiding Officer on Proposed Trade Regulation Rule Regarding Advertising of Ophthalmic Goods and Services* (1977), Exhibit XIII-1. (Hereinafter cited as "Presiding Officer's Report")

[10] See Staff Report at 3.

[11] Gordon R. Trapnell Consulting Actuaries, *The Impact of National Health Insurance on the Use and Spending for Sight Correction Services* (1976), Exhibit II-68, at Record 1968 (hereinafter the Record is cited as "R."). See Staff Report at 121.

[12] Public Health Service, National Center for Health Statistics, DHEW, *Characteristics of Persons with Corrective Lenses—United States*, 1971, Series 10, No. 93 at table 1, p. 10 and 16. See Trapnell Study, supra note 11 at table 9; Transcripts, *California Attorney General's Fight Inflation Committee Hearings* (1975), Exhibit IV-141, at R. 5963; Report and Recommendation of the California Attorney General's Inflation Committee, March 1975; "Advertising the Price of Eyeglasses—Majority Report" and "Minority Report on Advertising the Price of Eyeglasses," Exhibit IV-133, at R. 5762. See also Staff Report at 122.

[13] Gordon R. Trapnell, supra note 11 at R. 1971. See Comment Cyril C. Tulley, Exhibit VII-303, at R. 13011; *Expenditures for Personal Health Services—National Trends and Variations*, 1953-1970, DHEW Publication No. (HRA) 74-3105 (Oct. 1973), Exhibit III-5; Comment of Nancy C. Bilello, Exhibit VII-341, at R. 13053; Douglas Coate, *Studies in the Economics of the Profession of Optometry*, CCNY Univ. Microfilms, No. 74-20 (1974), Exhibit V-5, at R. 6300. See also testimony of John Collins, Chairman, Health Care Task Force, North Jersey Federation of Senior Citizens, Transcript 2430 at 2431-32 (hereinafter transcript cited as "Tr."); Staff Report at 123.

greater for those in lower income families.[14] Thus, the rule will affect a large number of consumers, especially those who are most vulnerable: the elderly and the poor.

Industry structure: The ophthalmic industry consists of three levels: (1) Manufacturers of frames and lenses; (2) wholesale laboratories which distribute manufactured goods and fabricate completed eyeglasses; and (3) retailers, including ophthalmologists, optometrists, and opticians, who dispense the finished product to consumers.[15] The Rule is basically concerned with unfair acts and practices occuring at this third stage.

Opthalmologists are licensed physicians who diagnose and treat all conditions relating to the eye, including visual problems. They also may perform surgery, and prescribe drugs and corrective lenses.[16] In 1975 they performed 43 percent of all eye examinations in the United States, and dispensed over 10 percent of all corrective lenses.[17]

Optometrists are licensed practitioners who specialize in problems of human vision. They perform eye examinations and are able to prescribe and adapt lenses or or other optical aids to preserve or restore maximum visual efficiency.[18] They are trained to detect eye diseases, but are not permitted to make definite diagnoses, perform surgery or prescribe drugs.[19]

Optometrists outnumber ophthalmologists almost two-to-one, with approximately 20,000 in active practice in 1975. They are the major retail providers of eye care goods and services, performing 57 percent of all eye exams in 1975. In that year they also dispensed 49 percent of the total corrective lenses sold at retail.[20] Most optometrists charge at cost for ophthalmic goods; they derive their income from examination and dispensing fees.[21] It should be noted though that although many optometrists dispense ophthalmic goods at "cost", the attendant "dispensing fee" for dispensing the ophthalmic goods makes the net effect on the consumer the same as if the goods had simply been "marked up."

Opticians, the third type of practitioner, supply consumers with eyeglasses on the written prescription of ophthalmologists and optometrists. They do not examine or treat the eyes, nor do they perform refractions or prescribe lenses; rather, they share the dispensing functions with the other two groups. Since most optometrists dispense eyeglasses to their patients, opticians' primary source of customers consist of patients of non-dispensing ophthalmologists.[22] There were an estimated 10,500 active opticians in 1975, many working in small retail establishments. Approximately 41 percent of corrective lenses were dispensed by opticians in 1975.[23]

The three groups of practitioners have historically fought over their proper roles because of this high degree of functional overlap. Ophthalmologists have opposed the expansion of optometrists into traditional medical functions such as examining for pathology or using drugs to diagnose diseases.[24] Optometrists counter that they can detect eye and other diseases and therefore provide a valuable public service by offering a "point of entry" into the health care system. They argue that they can diagnose patients with problems other than those affecting vision and refer them to appropriate medical practitioners.[25]

Optometrists and opticians, on the other hand, are in direct competition at the retail level of dispensing. The optometrists have a distinct advantage in this competition since they can offer one-stop service; and examination and the actual dispensing. Optometrists have consistently resisted attempts by opticians to expand their professional role into other areas, such as determining the proper form or design of a patient's eyeglass lenses, or the dispensing of contact lenses.[26] Opticians answer that they are qualified to perform such services, and that it is because of optometry's opposition that they have not been able to gain state licensing which would assure uniform qualifications.[27]

It might be assumed that this interprofessional rivalry would enhance competition among providers of eye care, and thereby benefit consumers. Widespread restrictions on advertising by these groups, however, has severely hampered their ability to inform consumers of their respective qualifications, services, and prices. The potentially beneficial effects of such interprofessional rivalry are substantially diminished by the fact that consumers lack the basic informational tools to discern the various marketplace alternatives.[28]

3. *Prevalence of Advertising Bans.* Restrictions on the advertising of ophthalmic goods and services emanate from a complex web of state and private regulation of the providers of eye care: ophthalmologists, optometrists, and opticians. Professional associations, through their codes of ethics, rules of practice, membership requirements, and informal pressures, reinforce existing legal restraints and often suppress advertising even where it is legally permitted.

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[14] "Eye Examination Findings Among Youths Ages 12-17 Years, United States," DHEW Publications No. (HRA) 76-1637, Hearing Exhibit 116 (hereinafter cited at "HX") at 16, 18. See Staff Report at 124-25.

[15] See Staff Report at 11-32

[16] National Center for Health Statistics, Health Resources Statistics, U.S. DHEW (1974), Exhibit II-18, at R. 636. In addition to eye diseases, ophthalmologists also examine the eye for symptoms of disease elsewhere in the body. American Association of Ophthalmology, "What Is An Ophthalmologist?" (1965), HX 281 Attachment 5. See Staff Report at 15-16

[17] Gordon R. Trapnell Consulting Actuaries, supra note 11 at R. 1967. See Staff Report at 17.

[18] *Health Resources Statistics*, supra note 16. See Staff Report at 17-18.

[19] Id.; *Synopsis of Education for the Health Professions*, Committee of Presidents of the Health Professions Educational Associations of the Association for Academic Health Centers (Washington, D.C.) at 26. One state, West Virginia, permits optometrists to use drugs for both therapeutic and diagnostic purposes. *American Optometric Association News*, Vol. 16, No. 7 (April 1977), at p. 7. See Staff Report at 18-19.

[20] Gordon R. Trapnell Consulting Actuaries, supra note 11 at R. 1964, 1967. See Staff Report at 19-20.

[21] See, e.g., "First Annual Practice Management Survey," *Optical Journal and Review of Optometry*, Vol. 113, No. 2 (February 15, 1976), Exhibit VI-44, at R. 12547; letter to FTC from J. Harold Bailey, Executive Director, American Optometric Association, (November 15, 1975), Exhibit IV-53 at R. 2553; testimony of James W. Clark, Jr., Executive Director, Kansas Optometric Association, Tr. 4272 at 4294. See also Staff Report at 20-21.

[22] See Better Vision Institute, Inc., "Facts You Should Know About Your Vision," *New York Times*, Jan. 9, 1971 (Advertising Supplement), at 2; Opticians Association of America, "A Task Analysis of the Dispensing Optician," HX 309; letter to FTC from J. A. Miller, Executive Director, Opticians Association of America (Oct. 17, 1975), Exhibit IV-55, at R. 2912. See also Staff Report at 22-25.

[23] Gordon R. Trapnell Consulting Actuaries, supra note 11 at R. 1962, 1966, 1967. See also Staff Report at 25-26.

[24] See, e.g., Robert W. Wolmoth, *A Statement on the Future of Ophthalmology* (1975), Exhibit II-28, at R. 792; David W. Shaver, "Opticianry, Optometry, and Ophthalmology: An Overview," *Medical Care*, Vol. XII, No. 9 (1974), Exhibit II-21, at R. 708, 711-713. Mosely H. Winkler, M.D., "We're Surrendering our Patients to Nonphysicians," *Medical Economics* (August 23, 1976), at 74-79. See also Staff Report at 26-28.

[25] See, e.g., testimony of Ron G. Fair, President, American Optometric Association, Tr. 4638 at 4669-73. See also Staff Report at 28-29.

[26] See, e.g., letter to FTC from J. A. Miller, Executive director, Opticians Association of America (Oct. 30, 1975), Exhibit IV-55, at R. 2913-14; testimony of Ron G. Fair, President, American Optometric Association, Tr. 4638 at 4747; Florida State Board of Optometry v. Miami-Dade Optical Dispensary, No. 74-24358 (Fla. Cir. St., Dade Co., June 3, 1976). See also Staff Report at 29-30.

[27] See, e.g., Statement of California Association of Dispensing Opticians, HX 286; rebuttal submission of Opticians Association of America, Exhibit IX-180, at R. 17366; 17368; comment of Al Schleuter, Warson Optics, Exhibit VIII-126, at R. 14536; testimony of Kenneth R. Davenport, President, South Carolina Association of Opticians, Tr. 6182 at 6192-93. See also Staff Report at 30-31.

[28] See Staff Report Section II. This lack of consumer knowledge is discussed further in Section 5 of this Statement of Basis and Purpose.

The net effect of the advertising restrictions pertaining to optometrists and opticians[29] as of May 1, 1977, is as follows:

(1) In 19 states,[30] No price advertising of eyeglasses is permitted, by virtue of the legal restraints pertaining to both optometrists and opticians;

(2) In 17 states,[31] price advertising by opticians is permitted, but is prohibited for optometrists;

(3) In 2 states,[32] price advertising by one practitioner group is prohibited, and by the other group is partially restricted;

(4) In 5 states,[33] price advertising by both groups is partially restricted;

(5) In 2 states,[34] price advertising by opticians is permitted, but by optometrists is partially restricted;

(6) In 6 states, unrestricted price advertising by both optometrists and opticians is legally permitted; however, optometrists who are members of the respective state associations in those states where price advertising is legally permitted are nevertheless prevented from disseminating price information by privately-imposed codes of ethics and other membership requirements.[35] In addition, private bans on advertising are frequently found in the by-laws of state and national associations of optometrists, ophthalmologists and opticians.[36]

The impetus for regulation has come from within the industry itself, in part as a response to perceived advertising abuses[37] but also as a means to eliminate the economic threat posed by free competition.[38] The presiding officer concluded: "that these restraints were enacted into state laws and regulations * * * at the insistence of optometrists cannot be challenged."[39]

Although the landmark Supreme Court decisions in *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council*[40] and *Bates* v. *State Bar of Arizona*[41] have established some measure of first amendment protection for commercial speech, they have not addressed many issues raised by this rule, such as the extent to which affirmative disclosure requirements may hinder or facilitate the flow of truthful information to consumers. In fact, the rule complements these decisions by helping to insure that their objectives are carried out.

4. *The Economic Effects of Advertising Restraints on Consumers.* The evidence available at the time this rule was proposed indicated that a wide range of prices existed within many jurisdictions for comparable prescription eyewear.[42]

The initiation of the rulemaking proceedings spurred several consumer groups and others to undertake an assortment of price surveys. A single theme predominates throughout all of the surveys performed: prices for lenses, frames, or complete eyeglasses vary as much as 100 percent to 300 percent from seller to seller.[43]

Critics of these studies charge that the studies failed to control for the variability of the frame or prescription, the quality of the goods provided, or variations in the associated professional services offered by the seller.

But none of these criticisms rebuts the finding that prices for relatively homogeneous ophthalmic goods and services do in fact vary widely. In those instances in which prices were quoted for a specific frame and prescription, the survey results conclusively demonstrated the wide range of available prices.[44] Survey data indicating that the lowest-priced sellers used the same sources of lenses as the high-priced sellers[45] refutes the critics' claim that price variations are the product of quality variations (as do those surveys finding a wide range of prices quoted for a particular eyeglass frame.)

Thus, the available evidence shows that prices for ophthalmic goods are highly variable. Moreover, it indicates that consumers are not aware of the range of price alternatives.[46] Accordingly, the Commission finds that significant consumer loss has occurred and continues to occur because of these factors.

A substantial body of economic theory and evidence indicates that wide price variations for relatively homogeneous goods are characteristic of a market in which there is inadequate information. The lack of adequate information can occur not only because the dissemination of information is prevented by restraints on advertising, but because rational consumer behavior suggests that for infrequent purchases of the kind involved here, consumers are less likely to seek out information from sources other than advertising than they would be for commodities more frequently purchased or for those involving larger expenditures.[47] The introduction of information by those who are able to do so most efficiently (i.e., sellers) tends to (1) decrease consumer search costs and (2) force sellers to become more price conscious and price competitive.

Even where the benefits of advertising are not always immediately measurable in terms of actual price reductions, the ability to economize on search costs is a genuine, independent consumer benefit.[48]

In a market in which the normal channels of commercial communica-

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[29]This ranking excludes ophthalmologists, since as a practical matter they do not advertise even in those states where they are not legally constrained from so doing.

[30]Alaska, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maine, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Wisconsin, and Wyoming.

The state statutes, board regulations, and association codes of ethics pertaining to optometrists and opticians are contained in Exhibits IV-1 through IV-51 of the record, except for recently enacted laws and rules which were promulgated after the written record was closed. Many of those new statutes and regulations were submitted as exhibits to witnesses' testimony, and may be found in the record under category XII.

[31]Alabama, Arkansas, Delaware, Florida, Georgia, Idaho, Kansas, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, South Dakota, Tennessee and Vermont.

[32]Connecticut and Washington.

[33]Massachusetts, New York, Ohio, Texas and Virginia.

[34]Utah and West Virginia.

[35]Arizona, California, Colorado, District of Columbia, Iowa and Maryland.

[36]See Staff Report at 68-77 for a full discussion of the scope and nature of private bans, which vary considerably for the three practitioner groups.

Ophthalmologists, as physicians, may belong to the American Medical Association (AMA), as well as their own specialty association, the American Association of Ophthalmology (AAO), and state affiliates of these organizations. The AAO has no codes or rules governing the conduct of members insofar as advertising is concerned. The AMA's Principles of Medical Ethics state that a physician should not solicit patients; what constitutes solicitation has been elaborated upon by the AMA. See Staff Report at 69-71.

The American Optometric Association is the major national association of optometrists. Until recently, it had a clear national policy against price advertising by its members. Its present stated policy, however, is to defer to its state affiliates to set standards with respect to advertising. Many state associations do explicitly condemn advertising, including the associations in five of the six states where it is legally permitted. See Staff Report at 71-76.

The major national association of opticians, the Opticians Association of America, has no stated policy against advertising by its members, and few state affiliates condemn it. Although there appears to be considerable debate among individual opticians about the propriety of advertising, organized opticianry as a whole has neither condemned nor condoned advertising. See Staff Report at 76-77.

[37]See Staff Report at 46-47.

[38]Id. at 48-52.

[39]*Presiding Officer's Report*, Exhibit XIII-1 at 59.

[40]425 U.S. 748 (1976).

[41]433 U.S. 350 (1977).

[42]See Staff Report at 79-88.

[43]See Staff Report at 79-81, n. 2.

[44]See, e.g., Terry Freeman, *Survey of Eyeglass Prices in Ohio*, Ohio Health and Retirement Committee, HX 139; Delia Schletter, *Optical Illusion: A Consumer View of Eye Care*, San Francisco Consumer Action (1976), Exhibit II-65, at R. 1526.

[45]Id. at 1613.

[46]See Staff Report, Section IV(B).

[47]See Staff Report at 35-51, and 90.

[48]Testimony of David G. Tuerck, Director, Center for Research on Advertising, American Enterprise Institute, Tr. 13 at 17.

tion have been closed, consumer search is difficult or impossible. Advertising facilitates consumer search.[49] By providing the consumer information concerning product, price and performance characteristics, advertising helps the consumer to assess product differences and make a rational purchase decision. And for some groups, such as the aged, the absence of advertising imposes virtually insurmountable obstacles to effective search in the ophthalmic market.[50]

Therefore, allowing advertising will provide consumers with at least some of the information necessary for comparison shopping, thereby reducing search costs.

Price advertising serves to reduce mean prices by informing the public of price alternatives (so that a greater percentage of the public will purchase from sellers who offer lower prices) and by inducing greater price competition among sellers (resulting either in reduced prices or deterrence of future price increases). A number of studies in other product fields lend support to these conclusions.[51] Most of the surveys of prescription eyeglass prices introduced into the record, while not purporting to demonstrate a causal relationship between advertising and prices, tend to show that prices are lower in states that permit advertising. In addition, the reported experiences of retail chains and numerous consumers bear witness to the fact that price differentials exist across state lines and correlate with advertising bans.[52]

Two surveys conducted by Professor Lee Benham of Washington University sought to analyze the impact of information restraints on eyeglass prices.

In his first study, Benham compared prices paid for eyeglasses, in those states which had complete advertising prohibitions with prices charged in states which had no restrictions.[53] Data on prices was obtained from a 1964 survey of 634 persons in 23 states. Benham found that the mean price for eyeglasses in states with restraints on advertising was 25 percent higher than in states where advertising was permitted.[54] Comparing the most restrictive states with the least restrictive states, he found that mean costs differed by more than 100 percent.[55] By the use of regression analysis, Benham demonstrated a positive correlation between the difference in prices and the presence or absence of advertising restraints.[56]

Benham's second study investigated the proposition that more stringent professional control of the types and quantity of information leads to restraints on the usual flow of commercial information, thereby decreasing competition and increasing prices.[57] Benham constructed three indices which reflected alternative but interrelated approaches for examining the impact of professional control on the market,[58] and also considered other associated factors and variables which affect eyeglass prices or consumption.[59] All three indices were found to be strongly associated with prices paid. Prices increase as membership in the American Optometric Association increases. The mean price increases as the proportion of eyeglasses purchased from "professional" sources rather than "commercial" sources increases. And since the proportion of individuals obtaining eyeglasses is directly related to the price of glasses, the indices of professional control are likewise strongly associated with the frequency with which eyeglasses are purchased.[60]

This second study also found that, where multiple purchases of eyeglasses are included, demand for eyeglasses is elastic.[61] That is, the percentage decrease in price is less than the percentage increase in demand, resulting in an increase in total expenditure. In addition, some economies of scale on material purchases may be realized by high-volume retail sellers. Therefore, the increased per-unit cost attributable to advertising expenses could be more than offset by increased sales volumes and by the economies of scale associated with such high sales volume.[62]

A study funded by the American Optometric Association critiqued the Benham studies.[63] Although this critique does raise some methodological questions, the Commission agrees with the Presiding Officer[64] that the Benham data is reliable and in conjunction with the other economic evidence provides a sound empirical base on which to promulgate this rule.

Another significant price comparison survey was conducted by San Francisco Consumer Action (SFCA), funded by the FTC's public participation program.[65] Price quotations for ophthalmic lenses, complete pairs of eyeglasses, and contact lenses were collected in California in the summer of 1975, at a time at which price advertising was not permitted in that state. Similar price quotations were obtained a year later in Arizona a state where price advertising is allowed.[66]

The data from this survey (adjusted to control for the time-lag variable) demonstrates that prices in Arizona are from 4.2% to 41.7% lower than those in California.[67]

Because SFCA concluded that there was very little price advertising occurring in Arizona at the time of their survey, the question arises as to whether the lower prices are attributable to price advertising. Other economists, however, have testified that the ability to price advertise, even in the absence of actual advertising, might serve to deter sellers from raising prices because of the threat of potential price advertising.[68] SFCA noted that as recently as five years ago price advertising was very prevalent in Arizona and that there were large "price wars" as recently as two or three years ago.[69]

Economic theory teaches that continued price advertising could be used to attract customers away from those who raise their prices.[70] The observed pattern in Arizona of a period of heavy price advertising and price wars followed by limited price advertising and a consequently lower-priced market is consistent with this economic model. This evidence leads to the conclusion that the lower prices in Arizona can be attributed, at least in part, to price advertising.

5. *Advertising bans and consumer knowledge.* This trade regulation rule is premised in part on the finding that adequate information is not present in the ophthalmic market to allow consumers to make intelligent and informed purchase decisions.

Professional associations challenged this premise, arguing that adequate information is available to consumers.[71]

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[49] See, e.g., George Stigler, "The Economics of Information," *The Organization of Industry* (1968) at 186-87.

[50] Testimony of Donald F. Reilly, Deputy Commissioner on Aging, DHEW, Tr. 111 at 114.

[51] See Staff Report at 93-95.

[52] Id. at 96-97, n. 58.

[53] Benham, *The Effect of Advertising on the Price of Eyeglasses*, 15 J. L. & ECON. 337 (1972), Exhibit V-1, R. 6216.

[54] *Id.* at R. 6222.

[55] *Id.*, tables 1 and 2 at R. 6220-22.

[56] *Id.* at R. 6227.

[57] Benham and Benham, *Regulating Through the Professions: A Perspective on Information Control*, 18 J. L. & ECON. 421 (1975), Exhibit V-2, R. 6232.

[58] *Id.* at 6235-38.

[59] *Id.* at 6241-46.

[60] *Id.* at 6241-51.

[61] *Id.*

[62] *See* Staff Report at 115-17.

[63] Testimony of John Burdeshaw, Southern Research Institute, Tr. 5712 at 5713; Southern Research Institute, *The Advertising of Ophthalmic Goods and Services: An Economic and Statistical Review of Selected FTC and Related Documents*, Report to the AOA, Project 3692 (1976), HX 356.

[64] *Report of the Presiding Officer*, Exhibit XIII-1 at 45.

[65] Delia Schletter, *There's More Than Meets the Eye*, San Francisco Consumer Action (1976), HX 397.

[66] Testimony of Delia Schletter, San Francisco Consumer Action, Tr. 6297 at 6440.

[67] See Staff Report, Table 3-1 at 98.

[68] *See, e.g.*, testimony of David G. Tureck, *supra* note 48 at 17.

[69] Testimony of Delia Schletter, *supra* note 65 at 6430.

[70] Testimony of David G. Tureck, *supra* note 48 at 17, 28.

[71] *See* materials cited in Staff Report at 126-27, n. 21.

But a survey of practicing AOA members conducted by the AOA itself found that over 55% of those optometrists expressing an opinion indicated their belief that consumers do not have enough information available to them to select the ophthalmic goods and services which best meet their budgets and needs.[72]

Measured from the perspective of the consumer, the lack of consumer knowledge becomes even more apparent. Pursuant to a grant in accordance with Section 1.17 of the FTC's Rules of Practice, California Citizen Action Group (CCAG) performed a survey of consumer knowledge and attitudes.[73]

The first portion of the CCAG study focused on the consumers' own assessments of their knowledge of the eye care field. Most consumers considered themselves relatively uninformed about the quality of materials used in eyeglasses, eyeglass and frame prices, and examination fees. The poor ranked themselves as "totally uninformed" almost twice as often as did the non-poor.

Another aspect of the CCAG study was the measurement of actual consumer awareness. Researchers questioned consumers as to the roles and functions of ophthalmologists, optometrists, and opticians. In the critical areas of which professionals could or could not diagnose eye disease, treat eye diseases, and prescribe medication, consumers frequently were confused. The most significant finding was the consumers' inability to distinguish among the types of "examination" or "service" performed by the three classes of practitioners. Again, the poor are less likely to be knowledgeable about such matters than are the non-poor.[74]

Therefore, the absence of information in the market has created a situation of high relative consumer misinformation. Advertising clearly holds the potential to educate the public in many of the above-noted areas. The CCAG study attempted to determine the impact of additional information in the market on consumer knowledge. After receiving information about methods and costs of eyeglass fabrication, consumers became more receptive to the concept of comparision shopping for eyeglasses and showed increased awareness of purchase alternatives.[75]

Although price information is an important factor in eyeglass purchasing decisions, it is by no means the only important factor. A study conducted by the California Optometric Association[76] found that consumers felt the reputation of the examining doctor and the services he or she provides are at least as important or even more important than the prices charged for an examination or for the eyeglasses themselves.[77] These findings rebut the contention that consumer decision-making will be solely motivated by price.

The economic losses being borne by consumers as the result of advertising bans do not represent the full extent of the consumer injury associated with these restraints. Advertising bans and the attendant higher prices have resulted in a significant decrease in consumption of vision care products and services among the less affluent.[78] The problem is perhaps greatest with respect to the elderly. Approximately 93% of those over age 65 use some form of corrective eyeware.[79] Since many elderly consumers have relatively low income levels but need corrective eyeware much more frequently than other groups, any decline in consumption attributable to high prices is especially serious for the elderly.[80]

6. *Economic impact on small businesses.* The rule's impact on small businesses is mixed. The requirement of release of prescriptions by ophthalmologists and optometrists will almost certainly aid small businesses, notably opticians who will be assured unfettered access to all potential eyeglass purchasers. "[T]he small business optician will thrive and eventually [the rule will] accomplish what the FTC seeks—lower prices to consumers while maintaining quality and service through competition."[81]

Advertising, however, might have a different impact on small businesses. The pressures generated by advertising could cause retail dispensers to either integrate vertically into manufacturing or expand horizontally at the retail level in order to take advantage of economies of scale. The result could be increased concentration in the industry as some inefficient businesses are driven out of the market.[82]

The overall impact of the Rule is therefore difficult to assess. The potential for increased concentration from the advertising aspect of the rule must be balanced against the probable gains small business opticians will receive from the release of prescription requirements. Additionally, the ability of firms to enhance their market position may be affected by other state laws which limit entry, access, or branch office locations.[83] Weighing all of these factors, the Commission is confident that "the rule will not result in driving the small businessman from the ophthalmic marketplace."[84] Even assuming that the rule were to cause a slight increase in concentration, consumers will not necessarily be injured. To the extent that the ophthalmic market has always exhibited oligopolistic tendencies—*e.g.*, absence of price competition, concerted withholding of relevant information, and high prices—it is due in part to the restraints the Commission is removing.[85] The rule will eliminate some of these present market characteristics; the overall effect will be a gain for consumers without causing any grave harm to small businesses.

7. *Major Industry Arguments in Support of Advertising Restraints.* Some opponents of ophthalmic advertising have argued that widespread deception will follow the lifting of advertising bans, either because price advertisements of highly variable products such as eyeglasses are inherently deceptive or because unscrupulous practitioners will be likely to use "bait-and-switch" or other deceptive advertising techniques.

The fact that there are different types of eyeglasses is not determinative of the issue of whether price advertising would be deceptive. Examination of the price lists for ophthalmic lenses indicates that the prices for lenses are less variable than the number of potential prescription formulas would lead one to believe. Wide ranges of prescriptive power lenses are grouped into a relatively small number of price categories.[86] Some wholesale

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[72] Testimony of Farrell Aron, American Optometric Association Statistician, Tr. 3877 at 3882.

[73] Outline of testimony of Paul A. Fine, California Citizens Action Group, HX 279.

[74] *Id.* For a more detailed discussion of the CCAG study, see Staff Report at 127-33 and 146-49.

[75] *Id.*

[76] Statement of Dr. Harvey Adelman, HX 245.

[77] Copy of computer results used by Dr. Adelman, HX 247; *see* Staff Report at 140-44.

[78] *See* Staff Report at 122-23.

[79] *See* materials cited in Staff Report at p. 122, n. 10.

[80] *See* Staff Report at 149-152.

[81] Testimony of Stephen L. Adams, President, Tennessee Dispensing Opticians Association, Tr. 6035 at 6038. *See also Dispensing of Eyeglasses by Physicians: Hearings before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary*, 89th Cong., 1st Sess. (1965), Exhibit II-26 at R. 770; Staff Report at 281-282.

[82] See, *e.g.*, Southern Research Institute, *The Advertising of Ophthalmic Goods and Services*, HX 356, at p. 21; testimony of J. Howard Sturman, Academy of California Optometrists, Tr. 3348 at 3364-65. See also Staff Report at 282-86.

[83] *See* Staff Report, Section II(B)(3). While these restrictions may have been imposed by some states for the purpose of limiting concentration, it is by no means clear that such a result will follow. Indeed, these restrictions may have adverse effects. Moreover, the Commission has publicly expressed concern that restrictions of this type may result in significant consumer injury. The Commission has authorized its staff to investigate the effects of restrictions of this type.

[84] *See* Report of the Presiding Officer at 126; Staff Report at 281. The staff and Presiding Officer agreed on this finding.

[85] *See* Staff Report at 286.

[86] *See, e.g.*, letter to FTC from Jerome Dienstag, Associate General Counsel,

Footnotes continued on next page

laboratories charge a single price for all single-vision lenses regardless of prescriptive power.[87]

Similarly, prices for the hundreds of different ophthalmic frames can be easily grouped into a small number of price categories.[88]

False or deceptive advertising, including "bait-and-switch" techniques, is already prohibited in every state.[89] To prohibit ophthalmic advertising totally because of the possibility that a few practitioners will engage in deceptive advertising constitutes a classic example of regulatory overkill. State and local consumer protection machinery is adequate to control ophthalmic advertising,[90] which is no more likely to be false or deceptive than advertising of any other goods or services.

It has been argued that if the Commission permits ophthalmic advertising, it should either require the affirmative disclosure of certain information, or alternatively permit the states to require such disclosures.[91] Where a state or local government has determined that all retail advertising should include certain disclosures, the rule will not prevent it from applying such requirements to ophthalmic advertising as well. Under Section 456.5 of the Rule, across-the-board regulations of this type (e.g., a requirement that all advertisements offering a special price disclose the price normally charged) would not be preempted.

The rule will also permit the states to require affirmative disclosures in any or all of the five limited areas unique to ophthalmic goods and services (see Section 456.5).[92] The Commission does not believe it is necessary to require such disclosures because most advertising does and probably will continue to include that information voluntarily,[93] but the Commission believes that it would not be unreasonable for the states to mandate these disclosures.

Some industry members have expressed the fear that advertising will lead to a loss of "professionalism."[94] The predicted effects of a lowered professional image are twofold: (1) consumers will lose confidence in practitioners and the doctor-patient relationship will deteriorate, and (2) fewer high-calibre people will wish to enter the profession in the future.

Perhaps the most compelling counter argument to the contention that advertising will impair the self-image of the professional and thus result in inferior eye care was made by optometrists who testified at the hearings. Virtually all these optometrists asserted that they would not lower their own standards of professional care if advertising were allowed.[95]

It is unlikely that consumers will perceive advertising as indicative of lowered professional standards. The CCAG study indicated that the current widespread withholding of information is viewed by many consumers as a calculated effort by professionals to obscure their economic motivations.[96] Advertising may serve to lower patients' suspicions and may actually enhance the professional's image.

The available evidence also fails to show that advertising will result in a reduction in the number of intelligent and committed persons who will choose to enter the profession.[97]

The major argument advanced by opponents of the rule was that the advertising of ophthalmic goods and services would lead to a deterioration in the quality of those commodities. The theory underlying this argument is that practitioners, by lowering their prices to survive in the more competitive market which advertising would engender, would be forced to provide inferior goods and reduce the quantity and quality of services offered.[98] A fundamental assumption on which this argument rests is that the prices of eye care goods and services are directly related to their quality.

The scant evidence presented in support of the notion that low cost is indicative of low quality in the current eye care market consisted primarily of anecdotal testimony alleging that certain discount optical establishments provide inferior goods and services.[99] The industry chose not to test empirically their assumption regarding the relationship between price and quality in those several regional ophthalmic markets where advertising and lower prices currently exist.

Other participants in this proceeding did attempt to measure the price-quality relationship.

Two separate studies were conducted on behalf of San Francisco Consumer Action (SFCA). The first study, conducted in California in 1975, compared prices with the quality of both eye examinations and eyeglasses.[100] This survey found that the quality of eye examinations—in terms of the accuracy of the prescriptions rendered and the numbers and kinds of tests conducted—was independent of the prices charged for those examinations ($12.50 to $35.00). The surveyors concluded that:

> Much of what goes on in an exam room depends, in the last analysis, on the conscientiousness and efficiency of the individual doctor. Little, if anything, is directly affected by the fees charged for such exams or whether the doctor advertises, is located in a professional building, or practices in a discount store.[101]

The SFCA study of lens quality produced similar results. The prices of the eyeglasses, which ranged from $20 to $37, were found to be unrelated to their quality, as measured by the lenses' adherence to the American National Standards Institute, (ANSI) Z-80 standards and conformance to the practitioners' prescriptions.[102]

The second SFCA study, conducted in Arizona, had a format similar to the California study and yielded similar results.[103] The surveyors obtained eye examinations which cost them from $14 to $35 and purchased eyeglasses priced from $24.15 to $43.90. Again, the findings showed that the quality of an eye examination or optical materials were not necessarily tied to price or manner of practice.[104]

The collective results of these studies and others[105] show that—contrary to the hypothetical assumptions of many of the rule's opponents—prices of eye care goods and services are not positively related to their quality. If low prices are not indicative of inferior

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Bausch and Lomb, Inc. (November 17, 1975), Exhibit V-20 at R. 7921.

[87] *See, e.g.*, Optical Brochure of the Heard Optical Co., Long Beach, Calif., HX 282.

[88] *See, e.g.*, advertisement by Opti-Cal, Exhibit II-32 at R. 849.

[89] Forty-nine states and the District of Columbia have enacted laws similar to the Federal Trade Commission Act to prevent deceptive and unfair trade practices. Alabama, which does not have such a law, has a statute which makes false advertising a misdemeanor, and a consumer complaint clearinghouse designed to facilitate enforcement of existing laws and recommend new legislation.

[90] *See* materials cited in Staff Report at 161, n. 30.

[91] *See, e.g.*, Comment of J. Harold Bailey, Executive Director, American Optometric Association, Exhibit VIII-160 at R. 14,726.

[92] *See* Staff Report, pp. 167-172, *and* memorandum of Albert H. Kramer, Director of Bureau of Consumer Protection, to FTC (December 9, 1977), Exhibit XIII-3.

[93] *See, e.g.*, advertisement by Opti-cal, Exhibit II-32 at R. 849; advertisement by 20/20 Contact Lens Service, Exhibit II-53 at R. 1449.

[94] The U.S. Supreme Court considered, and subsequently rejected, a similar argument in regard to pharmacists in Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, 425 U.S. 748 (1976).

[95] *See* materials cited in Staff Report at 177, n. 98.

[96] Paul A. Fine Associates, *Study on Eye Care and Eye Services*, HX 280 at Tables 14 and 15.

[97] *See* Staff Report at 181-82.

[98] *See, e.g.*, materials cited in Staff Report at 183, n. 119.

[99] *Id.* at 184, n. 121.

[100] Delia Schletter, *Optical Illusion: A Consumer View of Eye Care*, San Francisco Consumer Action (1976), Exhibit II-65.

[101] *Id.* at R. 1658.

[102] *Id.* at R. 1663-67.

[103] Delia Schletter, *There's More Than Meets the Eye*, San Francisco Consumer Action (1976), HX 397.

[104] *Id.* at 203-04.

[105] *See, e.g.*, Adam K. Levin, *A Survey on the Quality of Eye Care and Eye Wear in New Jersey as it Relates to Price*, HX 167; New York City Department of Consumer Affairs, *Survey of Optometric Establishments, January 1976-June 1976*, HX 173.

goods and services in the current eye care market, it may be inferred that the level of quality would not necessarily change as advertising and the lower prices which would follow it become more widespread.

Another implied assumption of those who have argued that the removal of advertising restraints would cause a deterioration in quality is that those restraints currently contribute to the maintenance of high quality levels in the eye care goods and services markets.

But the only empirical study on the record which attempted to compare the quality level of an advertising state with that of a nonadvertising state found no quality differences between the two jurisdictions. The SFCA study referred to above found that the level of quality between the sample groups of examiners and dispensers in California and Arizona was much the same.[106] The clear inference from that finding is that California's prohibition on price advertising did not have the effect of fostering higher quality eye care than that available in neighboring Arizona.

The results of a New Jersey study also called into question the notion that that state's advertising ban had ensured that its citizens would receive high quality ophthalmic goods and services.[107]

The available evidence refutes the prediction that the quality of ophthalmic goods and services will deteriorate if advertising bans are removed. Given the professed goal of industry members to ensure that the public receives high quality eye care goods and services—and the evidence which shows that advertising bans do not insure the accomplishment of that goal—more direct approaches to quality control would seem appropriate.[108]

8. *Consumer Access to Ophthalmic Prescriptions.* Considerable testimony was given at the public hearing in this matter which indicates that prescriptions are not readily available to all consumers. Consumers are discouraged by several types of conduct from taking their prescriptions elsewhere to be filled.

Numerous persons—primarily consumers, representatives of consumer groups, and opticians—have testified that many optometrists and ophthalmologists simply would not release prescriptions to consumers, even when requested to do so.[109] A related concern is the practice of some doctors who will not conduct an examination unless the patient agrees in advance to purchase his eyeglasses from the practitioner.[110] At least one state board of optometry has held that optometrists are free to condition the availability of their services upon agreement by the consumer that all goods will be purchased from the examining optometrist.[111]

By far the most frequent practice employed to discourage consumers from shopping elsewhere is the charging of a fee for the prescription in addition to that charged for the examination if the consumer requests his prescription so that he can shop elsewhere for his eyewear.[112] Even though the additional charge may be only $5 or $10, it is still sufficient to discourage many consumers from obtaining prescriptions to shop around for the best buy.

A practice which is occurring with increasing frequency involves the conditioning of the release of a prescription on the signing of a waiver of liability.[113] In the most extreme case, the waiver form purports to relieve the examining refractionist of responsibility not only for defects which are attributable to the practitioner who dispenses the eyeglasses, but also for the examination itself.[114] The enforceability of such a waiver is not at issue here. Such disclaimers, enforceable or not, may have a significant impact on the consumer's decision whether to take his prescription elsewhere. Even less extreme disclaimers may have the effect of making consumers erroneously believe that other dispensers are not qualified to dispense their eyeglasses and discouraging consumers from shopping around for less expensive eyeglasses.[115]

Although many optometrists and ophthalmologists have stated their belief that patients are unconditionally entitled to obtain their prescriptions,[116] the evidence reflects the fact that consumers are encountering considerable difficulty in obtaining their prescriptions. In virtually every instance in which practicing optometrists were surveyed, for example, it was found that in excess of 50% imposed some restriction on the availability of the patient's prescription.[117] Such evidence supports the conclusion that consumers are being deterred from selecting the eyeglass dispenser of their choice because of their inability to obtain their prescriptions. The rule provision adopted in Section 456.7 is intended to ensure consumers unconditional access to their ophthalmic prescriptions.

In addition to the preceding discussions of the general importance of promulgating a prescription delivery requirement, it is necessary to explain the basis for the particular provisions included in the rule.

The most basic issue involves the requirement that the prescription must be tendered to the patient regardless of whether or not the patient has requested it.[118] The major difficulty with adopting a provision which would require release only upon request is consumers' lack of awareness that the purchase of eyeglasses need not be a unitary process.[119] Also, the right of the consumer to this prescription should be immunized from an evidentiary squabble over whether the consumer actually did or did not request the prescription. In addition, there is no evidence in the record to suggest that any significant burden would attend the release of the prescription in every instance.

It has been argued that examiners should be able to condition release of the prescription on the patient's fulfillment of all financial obligations to the provider. The Rule accommodates this concern but requires that examiners not discriminate in their payment or billing policies against those who wish to take their prescriptions elsewhere to comparison shop.

The rule also allows a refractionist to charge an additional fee for verifying the accuracy of lenses dispensed by another seller, but only when the verification is actually performed. No other "surcharge" may be imposed for releasing the prescription.

Some participants in this proceeding argued that the rule should require a disclosure on the prescription form itself, informing the consumer of his right to take his prescription to any dispensing ophthalmologist, optometrist, or optician.[120] It may be true that consumers are generally unaware of their eyeglass purchasing alternatives, but a mandatory disclosure here is unnecessary because advertising should substantially remedy this lack of knowledge.[121]

9. *Advertising of Eye Examinations.* From the very inception of this proceeding, the issue of whether the rule should be expanded to include the ad-

[106] *There's More Than Meets the Eye, supra* note 103 at 204.

[107] Adam K. Levin, *supra* note 105, at 11.

[108] *See* materials cited in Staff Report at 210, n. 206.

[109] *See, e.g.,* materials cited in Staff Report at 241-42, n. 27.

[110] *See, e.g.,* materials cited in Staff Report at 243, n. 32.

[111] Position Statement of Michigan State Board of Examiners in Optometry, HX 315 at 1-2.

[112] *See* Staff Report at 245-47.

[113] *Id.* at 248-51.

[114] *See, e.g.,* Testimony of Donald Juhl, President, Jack Eckerd Corporation, Tr. 379 at 395.

[115] *See, e.g.,* Testimony of E. Craig Fritz, President, Connecticut Opticians Association, Tr. 2827 at 2832.

[116] *See, e.g.,* Staff Report at 252, n. 54-56.

[117] *See* Staff Report at 252-53.

[118] *Id.* at 267-69.

[119] *See, e.g.,* testimony of J. Howard Sturman, Academy of California Optometrists, Tr. 3348 at 3366.

[120] *See, e.g.,* testimony of Earl Hendrix, Hendrix and McGuire Dispensing Opticians, Tr. 3995 at 4002.

[121] *See,* Staff Report at 278.

vertising of information related to the eye examination has been squarely before the public.[122]

In his report, the Presiding Officer strongly recommended adoption of a provision that ophthalmologists and optometrists be permitted to advertise their eye examination fees.[123]

The staff also believed that the evidence supported the lifting of bans which prohibit the price advertising of eye examinations.[124] However, the staff recommended that the Commission delay taking action on the examination price advertising issue until a later date when related service advertising issues, such as whether the advertising of professional credentials or practice specialties should be allowed, could be fully explored.[125]

The Commission has concluded that the failure to include in the rule a provision which eliminates existing restrictions on the advertising of eye examinations would seriously reduce the effectiveness of the rule.

Public and private restraints on the advertising of cost and availability of eye examinations are widespread. More than 40 states prohibit the advertising of price information about eye examinations.[126]

The effects of such restraints on consumers are similar to the effects of restraints on the advertising of ophthalmic goods and services. For example, there are wide variations in the prices of eye examinations just as there are wide variations in the prices of eyeglasses. Three surveys found price variations of 200-300 percent.[127]

It is difficult to find data comparing the average prices for eye examinations in states that restrict advertising to those in states that permit it because restrictions are so widespread. The actual occurrence of advertising of eye examinations has apparently been so limited that it has not permitted a study, similar to the Benham studies previously discussed, to be conducted. An informal survey conducted by the Virginia Citizens Consumer council compared prices in Virginia with those in the District of Columbia, finding significantly lower prices in the District of Columbia, which has no restrictions on advertising of eye examinations.[128] Economic theory would lead one to expect that introduction of information tends to decrease consumer search costs as well as lead to greater price competition among sellers.[129] Such theory was confirmed by Benham's studies concerning prices of eyeglasses; there is no reason to expect it would not also be confirmed by more complete studies of examination prices.

Consumer ignorance is as prevalent with respect to eye examinations as it is with respect to eyeglasses.[130] Advertising would help to reduce this ignorance.

And just as many of the elderly and poor are doing without needed eyeglasses because of high prices and lack of information and affordable alternatives, they are also doing without eye examinations. Evidence in the record indicates that more people could get eye examinations more often if prices were lower.[131]

Those who oppose permitting the advertising of eye examinations offered two main objections. First, the cost of an examination varies widely from patient to patient because the nature and scope of an examination depends on the needs of the individual patient; therefore, price advertising of examinations is inherently deceptive. Secondly, advertising would not inform the consumer of the "quality" or the comprehensiveness of an advertised examination, and competition from advertising would force practitioners to engage in minimal, "quickie" examinations.[132]

Most of the optometrists and ophthalmologists who testified indicated that they charge a fairly standardized examination fee.[133] Therefore, it should not be difficult for practitioners to provide accurate, non-deceptive price information.

The "quality" argument concerning the advertising of examination fees does not differ substantially from the issue posed by the advertising of ophthalmic goods. If an optometrist or other examiner chooses to perform substandard examination, an advertising ban serves as no real deterrent. There are more direct means to control the problem of poor quality eye examinations, such as state laws which mandate minimum examination requirements.

As discussed earlier, virtually all the optometrists who testified asserted that they would not lower their own professional standards of care if advertising were allowed.[134] Most optometrists feel that they could handle a significantly larger number of patients than they currently do.[135] Therefore, fears that the increase in the number of eye examinations sought by the public which advertising will generate will force practitioners to take on more patients than they can handle seem unwarranted.

The Commission has declined, at this time, to impose any mandatory affirmative disclosure requirements upon the truthful advertising of eye examination. However, the Commission has chosen not to prevent the states from requiring that any specified affirmative disclosures be included in the dissemination of advertising concerning eye examinations if the states find such disclosures to be necessary.

10. *Discussion and Disposition of Suggested Additions to the Rule.* A number of consumers and consumer groups have advocated the imposition of a number of affirmative disclosure requirements on sellers.[136] The three major provisions advocated by these persons would require practitioners to provide consumers with price information over the telephone, to post prices in their places of business, and to itemize their bills so as to clearly differentiate the examination process from the dispensing process.

Each of these disclosures would greatly facilitate comparison shopping by consumers. But the proposed rule was designed to permit the dissemination of the information, not to require it. If it is found that consumers remain unable to obtain the necessary information on which to base their purchase decisions even after this rule becomes effective, the Commission can then consider whether to impose mandatory disclosure requirements on sellers.

Others believe that the rule should also remove related business restraints on providers of eye care goods and services.[137] Such restraints include: limits on the number of branch offices an eye care practitioner may operate, prohibitions on the employment of op-

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[122] *See* 41 Fed. Reg. 2,399 (1976); 41 Fed. Reg. 14,194 (1976).

[123] *Report of the Presiding Officer*, Exhibit XIII-1, at 168-71.

[124] Staff Report at 291.

[125] *Id.*

[126] *Staff Report to the Federal Trade Commission and Proposed Trade Regulation Rule Concerning Advertising of Ophthalmic Goods and Services* (January 1976), Exhibit II-1, at Appendix C.

[127] Adam K. Levin, *A Survey on the Quality of Eye Care and Eye Wear in New Jersey as it Relates to Price*, HX 167 ($10-$21); Delia Schletter, San Francisco Consumer Action; *Optical Illusion: A Consumer View of Eye Care* (1976), Exhibit II-65, at R. 1526 ($12.50-$35), and *There's More Than Meets the Eye* (1976), HX 397 ($14-$35).

[128] R. 7778.

[129] *See* Staff Report at 88-93.

[130] *See* outline of testimony of Paul A. Fine, California Citizens Action Group, Hearing Exhibit 276; *see also* Paul A. Fine Associates, *Study on Eye Care and Eye Services*, Hearing Exhibit 280.

[131] *See, e.g.*, Statement of Dr. Grady St. Clair, Chairman, American Association of Retired Persons and National Retired Teachers Association, Hearing Exhibit 296.

[132] *See, e.g.*, Comment of J. Harold Bailey, Executive Director, American Optometric Association, Exhibit VIII-160, at R. 14741.

[133] *See* Staff Report at 289, n. 6-9.

[134] *See* Staff Report at 177, n. 98.

[135] Alden N. Haffner, O.D., Ph.D., Project Director, *A National Study of Assisting Manpower in Optometry*, Department of Labor Contract No. 81-34-70-11 (1971), Exhibit II-17, at R. 618.

[136] *See* Staff Report at 292, n. 17-19.

[137] Post-Record Comment of Bruce J. Terris, Attorney, Americans for Democratic Action *et. al.*, August 12, 1977, at 42-59.

tometrists, ophthalmologists and opticians by lay corporations, and bans on the use of trade names. Such restraints are widespread.[138]

The evidence in the record on these restraints strongly suggests that they may increase prices to consumers. However, the record lacks the necessary evidence to evaluate the justifications offered in support of these restrictions. These and other restrictions in the ophthalmic market are the subject of an ongoing staff investigation.

B. LEGAL BASIS FOR THE RULE

1. *Unfair Acts or Practices Under Section 5 of the Federal Trade Commission Act.* This is the first Commission trade regulation rule proceeding conducted completely under the rulemaking authority granted by section 203 of the Federal Trade Commission Improvement Act:

> The Commission may prescribe rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce (within the meaning of * * * Section 5(a)(1)). Rules under this subparagraph may include requirements prescribed for the purpose of preventing such acts or practices.[139]

The term "unfair" cannot be narrowly defined. When the Federal Trade Commission was created, Congress made a deliberate policy choice to adopt a general standard, giving the Commission, subject to review by the courts, both the responsibility and the authority to develop more precise articulations of the meaning of "unfair" in the context of specific industries or situations. Nor did the Congress intend that the meaning of the term be static. Economic and social development creates new problems which require new answers, and time and thought bring new insights into the nature of trade regulation problems and the efficacy of possible remedies. The Commission is charged with the responsibility of combining the functions of a court of equity with those of an expert body to develop concepts of "unfair acts or practices" appropriate to the issues of the present time.

Instead of undertaking to define what practices should be deemed unfair, as had been done in earlier legislation, the act left the determination to the Commission. Experience with existing laws had taught that definition, being necessarily rigid, would prove embarrassing and, if rigorously applied, might involved great hardship * * * Furthermore, an enumeration, however comprehensive, of existing methods of unfair competition must necessarily soon prove incomplete, as with new conditions constantly arising novel unfair methods would be devised and developed.[140]

In 1964 the Commission reviewed its prior decisions on unfairness and concluded that:

> No enumeration of examples can define the outer limits of the Commission's authority to proscribe unfair acts or practices, but the examples should help to indicate the breadth and flexibility of the concept of unfair acts or practices and to suggest the factors that determine whether a particular act or practice should be forbidden on this ground. These factors are as follows: (1) whether the practice, without necessarily having been previously considered unlawful, offends public policy as it has been established by statutes, the common law, or otherwise—whether, in other words, it is within at least the penumbra of some common law, statutory, or other concept of unfairness; (2) whether it is immoral, unethical, oppressive, or unscrupulous; (3) whether it causes substantial injury to consumers (or competitors or other businessmen). If all three factors are present, the challenged conduct will surely violate Section 5 even if there is not specific precedent for proscribing it. The wide variety of decisions interpreting the elusive concept of unfairness at least makes clear that a method of selling violates Section 5 if it is exploitive or inequitable and if, in addition to being morally objectionable, it is seriously detrimental to consumers or others. Beyond this, it is difficult to generalize.
>
> In the last analysis, the Commission's responsibility in this area is to enforce a sense of basic fairness in business conduct. For while Section 5 "does not authorize regulation which has no purpose other than . . . censoring the morals of business men" (*FTC* v. *R.F. Keppel & Bro., Inc.*, 291 U.S. 304, 313 (1934)), the Commission cannot shirk the difficult task of defining and preventing those breaches of the principles of fair dealing that cause substantial and unjustifiable public injury.[141]

These pre-1964 cases emphasized the ethical dimensions inherent in "unfair acts or practices." These were cases in which consumer injury was caused by some act or practice which either offended society's moral sense as expressed in analogous case law or statutes or in other contexts. The Supreme Court recognized in *FTC* v. *Sperry & Hutchinson Co.*,[142] however, this is a minimum rather than a maximum statement of the nature of "unfair acts or practices." The Commission's authority is not limited only to practices which are subject to general public condemnation, it has a more general mandate to consider, in the Court's phrase, "public values."[143] In a complex economy, consumer injury can be caused by intricate chains of interaction among many participants, and the Commission is not prevented from acting simply because it is difficult to pinpoint the blame. Section 5, like other statutes administered by the Commission, is "unfinished law which the administrative body must complete before it is ready for application."[144] The intent of the Congress was to protect consumers from unwarranted injury in the marketplace. Thus, in carrying out its mandate to "finish" the law, since 1964 the Commission has increasingly concentrated on the examination of whether particular acts or practices are in fact causing injury, and on how and why they do so.[145] In addition, the Commission examines other public policies as articulated by other responsible bodies in the society that have weighed the acts or practices, to see if they have found some justification or compensatory benefit, and to determine whether the Commission's action does promote public policy as expressed in other contexts.[146]

These two inquiries are appropriate for this matter:

(1) Whether the acts or practices result in substantial harm to consumers. In making this determination both the economic and social benefits and losses flowing from the challenged conduct must be assessed, and

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[138] *See* Staff Report at 63-68.

[139] Federal Trade Commission Act Section 18(a)(1)(B), 15 U.S.C. 57a (1976). Section 5(a)(1) provides: Unfair methods of competition in or affecting commerce and unfair acts or practices in or affecting commerce are hereby declared unlawful. Federal Trade Commission Act Section 5(a)(1), 15 U.S.C. 45 (1976).

[140] FTC v. Gratz, 253 U.S. 421, 436-37 (1920) (dissenting opinion of Mr. Justice Brandeis), *dissent adopted*, FTC v. Brown Shoe Co., 384 U.S. 316, 320-21 (1966); *cited with approval in* FTC v. Sperry & Hutchinson Co., 405 U.S. 233 (1972). *See also* H.R. Rept. No. 1142, 63rd Cong., 2d Sess. 18-19 (1914); S. Rept. No. 597, 63rd Cong., 2d Sess. 13 (1914).

[141] Statement of Basis and Purpose of Trade Regulation Rule 408, Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to Health Hazards of Smoking, 29 Fed. Reg. 8324, 54-55 (1964).

[142] 405 U.S. 233 (1972).

[143] *Id.* at 244.

[144] *FTC* v. *Ruberoid Co.*, 343 U.S. 470, 485 (1952) (dissenting opinion of Mr. Justice Jackson) (footnote omitted).

[145] *See* Schwartz, *Regulating Unfair Practices Under the FTC Act: The Need for a Legal Standard of Fairness*, 11 Akron L. Rev. 1 (1977).

[146] This inquiry is not always an easy one. There are many possible sources from which a sense of prevailing public policy can be gleaned, and they are not always consistent with each other. The Commission must often balance conflicting policies and come to its own conclusions. And, of course, a practice may offend Section 5 even if it is specifically approved by state law. *See FTC* v. *Sperry & Hutchinson Co.*, 405 U.S. 233, 239 n. 4 (1972); *Spiegel, Inc.* v. *FTC*, 540 F. 2d 287 (7th Cir. 1976).

(2) Whether the challenged conduct offends public policy.

The second question—whether the failure to disseminate information occasioned by the body of state law at issue in this proceeding is offensive to public policy—is easily answered. In *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council*[147] and *Bates v. State Bar of Arizona*[148] the Supreme Court has held that the consumer's right to receive price information is protected by the first amendment. We regard this as an authoritative declaration of general public policy in this area.[149]

Even if the consumer's right to receive information were not so clearly protected by the Constitution, we think its importance is sufficiently established by other sources, including a number of Federal statutes.[150]

We turn then to the first issue—whether consumers are injured by the lack of information. As is discussed at length in Part A of this Statement, economic theory indicates that if price information is not available, or if it can be obtained only at high cost, consumers are deprived of the opportunity to satisfy their needs at the lowest available price.[151] This is particularly true for consumers such as the old or the poor who find extensive search not just expensive but physically impossible. In addition, the lack of price information means that in many places prices will be higher than they would be if consumers could readily compare potential sources of supply.

The theoretical support for the conclusion that the failure to provide price information injures consumers is so strong that the Commission believes it could promulgate a trade regulation rule on this issue without additional direct empirical support.[152] Nonetheless, in the course of this proceeding extensive research and survey analysis was undertaken by the Commission staff and by other interested parties. This research, which is also discussed in Part A, provides strong verification of the theoretical expectation. Higher prices, lower rates of consumption by the poor and the elderly, and lower frequency of eye examinations are the result of the failure of sellers and refractionists to disseminate information in the ophthalmic market. Moreover, the record established that the failure to provide necessary information concerning eye examinations and ophthalmic goods and services is the direct result of state laws and private codes which compel such an outcome.

The question arises as to whether the apparent consumer injury resulting from these restrictions represents the whole picture. Supporters of the advertising restrictions have claimed that the restrictions provide consumers with health and safety benefits that offset the economic injury. The issue of health and safety benefits has also been the subject of extensive empirical inquiry in the course of the proceeding, and is also analyzed in Part A.[153] There is no persuasive evidence in the record that the restrictions do in fact produce the claimed significant health and safety benefits, or that they are an efficient way to promote such benefits, or that the public health and safety would be jeopardized by their absence. Nor are they necessary to prevent deception.[154] This is not a matter in which the Commission must weigh complicated evidence concerning the relative merit of competing desirable objectives, or decide how much economic injury should be sustained for the sake of how much health and safety benefit. There is little support for the argument that the restrictions on price advertising are producing any benefits to offset the injury caused.

This consumer injury, coupled with the specific public policy in favor of providing information to consumers, is sufficient to support the rule. However, there is a more general policy on which we can also rely. That is, the public policy of this country favors the existence of free markets to the maximum extent possible. While the complexity of the modern economy often necessitates a departure from free market organization, as a general proposition a market-perfecting solution to a perceived problem is preferable. There should be a heavy burden of proof on those who would opt for a different form of economic organization; that burden has not been met here.[155]

For sixty years this assumption has been the foundation of the Commission's analysis of its responsibilities with respect to unfair methods of competition. A free market cannot function properly in the absence of effective competition and a primary duty of the government is to prevent collusion, undue concentration, or other practices that undermine this functioning.

What is sometimes overlooked, though, is that the existence of competition is only one requisite for a functioning free market. There are a number of other factors involved, such as availability of information, a lack of excessive transaction costs, a lack of costs incurred by or benefits accruing to persons external to the decision process and mobility of resources.[156] Thus, the Commission's responsibility to promote the efficient functioning of markets has relevance to its interpretation of its mandate to act against "unfair or deceptive acts or practices" as well as against "unfair methods of competition." Acts or practices which cause consumer injury by creating, exploiting, or failing to alleviate market imperfections other than a lack of or threat to competition can be unfair within the meaning of Section 5.

Such an economic rationale underlies the Commission's action on Preservation of Consumers' Claims and Defenses.[157] That rule concerns sellers' separation of the consumer's duty to pay from the seller's duty to perform, and the transfer of the risks of sellers non-performance to the consumer. The Commission determined that only if the risks and costs of non-performance remained with the seller would an efficient level of risk be achieved.[158]

This example is given only to establish that our views here are not without precedent. It is sufficient to say that an additional test of unfairness in the instant matter is whether the acts or practices at issue inhibit the functioning of the competitive market and whether consumers are harmed thereby. (Whether the inhibition is justified is of course part of the test of consumer injury.)

Since one of the absolute essentials of a competitive market is information, particularly information about prices, and since the net consumer injury has been clearly established, this test is also met.[159]

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[147] 425 U.S. 748 (1976).

[148] 433 U.S. 350 (1977).

[149] It does not necessarily follow that the right to receive information under Section 5 is co-extensive with the first amendment right. *Virginia Pharmacy* and *Bates* provide general, not specific, policy guidance.

[150] *See, e.g.*, Truth in Lending Act, 15 U.S.C.A. §§ 1601 *et seq.* (1977 Supp.); Fair Packaging and Labeling Act, 15 U.S.C. §§ 145 *et seq.* (1976); Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 *et seq.* (1976). There are other significant policy considerations which justify the Commission's action in this matter. See discussion at notes 155-159 and accompanying text.

[151] *See* Section A(4), *supra.*

[152] Theoretical studies, economic models and similar works are a vital part of a rulemaking record. Under appropriate circumstances they can themselves constitute substantial evidence within the meaning of that term. *See American Public Gas Ass'n* v. *FPC*, 567 F.2d 1016, 1036-43, 1080 (D.C. Cir. 1977).

[153] *See* Section A(7), *supra.*

[154] Id.

[155] *See, e.g.*, Charles Schultze, The Public Use of Private Interest *passim* (Brookings 1977).

[156] *See, e.g.*, Paul Samuelson, Economics 36-76, 371-616 (6th ed, 1964).

[157] 40 FR 53,506 (1975).

[158] *Id.* at 53,522-24.

[159] The Commission's analysis of the standard of "unfair practices" requires a balancing of the various components of that test. For example, the fact that a practice injures consumers by impeding the operation of a competitive market could be considered as either a "policy" consideration or an element of the equation to determine "consumer injury" (or both). The Commission believes that it is incumbent upon it to clearly

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2. *Specific Provisions.* The overall unfair result in this matter has been created by an interrelated web of private and public actions. The rule defines each of them with specificity.

The first section of the rule, §456.2, makes it an unfair act or practice for sellers *en masse* to fail to disseminate information. It then states that the failure of an individual acting alone shall not be regarded as unfair within the meaning of Section 5. This formulation is based upon the principles set forth above. The basic problem is that the people who usually disseminate information through advertising, the sellers, do not do so in this market. At the same time, in few industries does everyone advertise. Individuals' views and incentive structures differ and what is sensible for one may not be for another. Normally, the market provides sufficient incentives for enough people to advertise so that the information is supplied. In this context an individual failure to advertise is not an unfair act or practice because it produces no harm. Even in the context of a total failure to disseminate information by all sellers it is difficult to find an unfair act or practice in the failure of any individual seller to advertise. He might or might not have advertised anyway, and his share of the total harm caused is infinitesimal. Thus, the Commission has chosen to make explicit that an individual cannot be held liable under the rule for not advertising.

This, of course, creates a rule which the Commission cannot directly enforce because there is no one against whom it could bring an action. The normal regulatory solution would be to require affirmative disclosure of information, an action clearly within the Commission's power. In this case, however, there is a superior, less-intrusive remedy: the creation of an explicit right to advertise which provides a defense to any private or non-federal effort to inhibit an individual from advertising. The record in this proceeding demonstrates that where permitted to do so, sellers of ophthalmic goods and services and refractionists willingly provide the necessary material information to the public.

Section 456.3 prohibits non-federal governmental restraints on the dissemination of information by sellers and refractionists. However, by specifically eliminating the possibility of liability for civil penalties under section 5(m)(1)(A) and redress under Section 19(b) of the Act, the Commission has eliminated the spectre of the Commission holding a state official financially liable for enforcing the acts of his or her state's legislature. The Commission retains the authority to seek cease and desist relief under Section 5(b) of the FTC Act and injunctive relief under section 13 of the FTC Act and other applicable statutes to prevent state or local officials from interfering with the mandates of this rule.

Section 456.4 defines as unfair an individual seller's failure to advertise if the sole reason for the failure is his or her desire to comply with non-federal laws or private codes of conduct. As the Declaration of Intent (Section 456.9) makes clear, the seller's motivation is the sole criterion of the applicability of this provision. Again, the purpose is to provide a defense for the advertiser. It is not necessary to compel dissemination of information when simply permitting it is an adequate remedy.

Some industry members have contended that this section defines "compliance with state law," not the failure to provide information, as the unfair act or practice.[160] The Commission is not asserting that in the abstract compliance with state law is unfair. However, the Commission is finding that a seller or refractionist who would otherwise provide material information to the public, and fails to do so solely to comply with the mandates of state law, is acting unfairly. As discussed earlier, the unfair act or practice here is defined as the failure to provide information and the resultant consumer injury.

With respect to Section 456.2, 456.3 and 456.4, the Commission finds that the underlying conduct is substantively unfair within the meaning of Section 5(a)(1) of the FTC Act. Moreover, each of the aforementioned sections provides an appropriate remedy to rectify the failure of the ophthalmic market to generate the necessary information.

Section 456.5 of the Rule specifically permits states and local governmental entities to impose limited affirmative disclosure requirements upon advertising of ophthalmic goods and services. Various persons have argued either that the Commission should require the affirmative disclosure of certain information in such advertising, and that it should permit the states to require such disclosures.[161] Several states, including New York, Massachusetts and Virginia presently require certain disclosures.[162]

In weighing the desirability of affirmative disclosure requirements the Commission necessarily engaged in a balancing process. The Commission supports the goal of providing maximum useful information in advertisements. However, disclosure requirements can increase advertising costs and discourage advertising altogether.[163] Numerous parties to this proceeding contended that if permitted, states would circumvent the Commission's rule by indirectly prohibiting advertising through the imposition of burdensome disclosure requirements which were unnecessary to deter deceptive or unfair advertising.[164] Based on the available data, it appears that the imposition of unnecessary and potentially burdensome disclosure requirements is a strong possibility.[165]

To prevent the barring of advertising of ophthalmic goods and services by such indirect means, the Commission has limited the instances in which the states may require disclosures in such advertising. Section 465.5 of the rule delineates these exceptions. In addition, this section specifically recognizes the right of the state or local governmental entities to petition the Commission for additional disclosure requirements.

In fashioning its remedy, and to prevent future occurrences of the defined unfair acts, the Commission has employed a standard which permits the states to impose disclosure requirements which possess the potential for minimizing deception or unfairness. In the area of eye examination advertising the Commission declined, at this time, to circumscribe the ability of states or private parties to impose reasonable affirmative disclosure requirements.

Section 456.6 prohibits private restraints on the dissemination of information. In the light of the preceding analysis, the imposition of private bans on advertising as an unfair act or practice requires no special discussion. However, one aspect of this provision should be explained. Section 456.6(b) specifically permits organizations which are not primarily composed of ophthalmic industry members to impose across-the-board advertising standards which also apply to advertisements of ophthalmic goods and services. It is the Commission's intent that groups such as the National Association of Broadcasters be able to adopt guidelines which set standards for all advertising. Groups such as the Better Business Bureau which might incidentally include a seller or refractionist, but which are not composed *primarily* of such persons, may also adopt or enforce across-the-board advertising standards under this rule. However, groups such as the NAB or BBB are not permitted by the rule to establish specific guidelines for ophthalmic goods and services advertising.

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set forth the factors it evaluated in reaching its decision in this matter. In future matters other paths of analysis can and will be employed where appropriate.

[160] Comment of the American Optometric Association, Exhibit XIV-30 at 42.

[161] *See* Staff Report at V(A)(3) and IX(B).

[162] *Id.* at VI(B).

[163] *Id.* at VI(B), n. 63.

[164] *Id.* at n. 65.

[165] *Id.* at VI(B).

Groups which are primarily composed of sellers and refractionists cannot impose any disclosure requirements on the advertising of ophthalmic goods and services whatsoever.

Section 456.7 requires a refractionist to furnish a copy of the prescription to the buyer at the conclusion of the examination. The evidence in the record establishes that consumers are subject to substantial economic loss through the imposition of surcharges for obtaining the release of their ophthalmic prescriptions, and through the "lost opportunity" costs attributable to the lack of comparison shopping caused by the outright refusal to release prescriptions.[166] In addition, through the use of waiver notices and other forms of disclaimers, consumers are being deceived as to the capabilities of other practitioners and as a consequence are induced to restrict their purchase options.[167] In many instances, these tactics enable refractionists to retain patients who might otherwise have gone elsewhere for dispensing, or, in the case of surcharges, permit the refractionist to recoup lost revenue for services not performed.[168] Based on this evidence, it is the Commission's finding that the failure to release ophthalmic prescriptions and related practices are unfair acts or practices. The consumer injury associated with these practices is clear from the preceding discussion. The policy inquiry is essentially the same as that elaborated upon in our discussion of the advertising restrictions. The practices addressed in Section 456.7 offend public policy in that they deny consumers the ability to effectively use available information and inhibit the functioning of the competitive market model.

Moreover, this provision is necessary to make the price disclosure provision fully effective. Without the right to their prescriptions, the Commission's efforts to insure maximum useful information in the market will have little effect on consumers where these practices prevail. Thus, it is the Commission's finding that Section 456.7 is justified both as a specific delineation of an unfair act or practice as well as a remedy to implement the right to advertise.

3. *Unfair Acts or Practices v. Unfair Methods of Competition.* One comment filed in this proceeding challenged the Commission's authority to promulgate this trade regulation rule on the grounds that the practices covered by the rule are practices which affect the structure and workings of the market. This, it is argued, removes the practices from the coverage of the Section 18 of the FTC Act, which covers rules governing unfair or deceptive acts or practices, but does not specifically address the Commission's authority to promulgate rules governing unfair methods of competition.[169]

Leaving aside the fact the the Commission can prescribe rules governing unfair methods of competition,[170] this argument misconceives the meaning of "unfair or deceptive acts or practices."

The original FTC Act covered only "unfair methods of competition." In 1938 Congress adopted the Wheeler-Lea Amendments to the Federal Trade Commission Act[171] adding the provision which forbids "unfair acts or practices" as distinguished from unfair methods of competition. The impetus for the addition of the Wheeler-Lea Amendments came from the decision of the Supreme Court in *FTC* v. *Raladam Co.*,[172] in which the Supreme Court held that the Commission's power under "unfair methods of competition" was limited to those cases in which the Commission could prove an impact on present or potential competitors—injury to the general public was not enough.

The legislative history of the Wheeler-Lea Act establishes that the distinction between "unfair acts or practices" and "unfair methods of competition" rests on the victims of the injury, not upon any fundamental aspect of the action itself. If the action injures competitors or the competitive system, it is an unfair method of competition. If the same action causes injury to consumers it is an unfair or deceptive act or practice.[173]

Many unfair or deceptive trade practices with which the Commission is concerned would meet either test. False advertising, for example, is an unfair and deceptive practice because it misleads consumers and causes direct injury. It could also be categorized as an unfair method of competition because it diverts trade from honest to dishonest businesses. The Magnuson-Moss Act was intended to expand consumer protection remedies, not contract them, and as long as the requisite consumer injury is present, the Commission's authority to promulgate rules is clear. If such rules have the ancillary effect of improving the competitive system, this is a bonus, not a disablement.

4. *Preemption of State Laws by the Commission.* In section B(1), we noted that it is well settled that the Commission may proscribe conduct permitted by state law.[174] In this proceeding, ly permitting conduct, i.e., advertising, which has been specifically proscribed by the states. One of the frequently voiced arguments in this proceeding has been the contention that the Commission lacks the authority to preempt the "reasoned health regulation" of the states.[175] In this regard it has been contended that the doctrine set forth in *Parker* v. *Brown*[176] serves as a bar to Commission preemption.

The Commission does not believe that the *Parker* exception to the Sherman Act is determinative of the question of Commission preemption authority under the Federal Trade Commission Act. In *Parker* the Supreme Court hinged its state action exemption on its reading of the legislative history of the Sherman Act:

> The Sherman Act makes no mention of the state as such, and gives no hint that it was intended to restrain state action or official action directed by a state . . . . conclusions derived not from the literal meaning of the words "person" and "corporation" but from the purpose, the subject matter, the context and the legislative history of the statute.[177]

The proper test for measuring the ability of the Commission to preempt state law has, we believe, been correctly stated by the American Optometric Association as being not whether Congress could have preempted state advertising bans, but rather whether such authority was delegated by Congress to the Commission under the Federal Trade Commission Act, as amended.[178]

Generally, two propositions emerge from an analysis of the legislative history of the Congressional grant of rulemaking authority to the Commission under the Magnuson-Moss amendments: (1) the general grant of rulemaking power was not itself intended to foreclose states from all regulation of the consumer protection field;[179] and (2) it *was* intended that the Commission would have power to preempt state laws by promulgating rules.[180]

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[166] *See* Section A(7), *supra.*

[167] *Id.*

[168] Seymour L. Coblens, Optometry and the Law 66 (1976).

[169] 15 U.S.C. § 57(2).

[170] *See National Petroleum Refiners Ass'n* v. *FTC*, 482 F.2d 672, 686-89 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 951 (1974).

[171] 52 Stat. 111 (1938).

[172] 283 U.S. 643 (1931).

[173] H. Rep. No. 1613, 75th Cong., 1st Sess. 3 (1937).

[174] *See, e.g., Spiegel, Inc.* v. *FTC*, 540 F.2d 287 (7th Cir. 1976), aff'g 86 FTC 425 (1975).

[175] Comment of the International Association of Boards of Examiners in Optometry, Inc., Exhibit XIV-25 at 3; Comments of the Kansas Optometric Association, Exhibit XIV-40, at 2.

[176] *Parker* v. *Brown*, 317 U.S. 341 (1943).

[177] *Id.* at 351.

[178] Comment of the American Optometric Association, Exhibit XIV-30 at 40.

[179] *See* S. Rep. No. 91-1124, 91st Cong., 2d Sess. 9 (1970).

[180] For example, the Senate Commerce Committee's report on an earlier version of the final Magnuson-Moss legislation stated the following concerning the preemptive effect of Commission trade regulation rules: "In the course of the Committee's consideration of the Commission's rulemaking power the issue of preemption was discussed. At the present time a Trade Regulation Rule would preempt state legislation or regulation that conflicted." S. Rep. No. 92-269, 92d Cong., 1st Sess. 28 (1971). Relevant

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Thus, it is the Commission's position that Commission trade regulation rules are preemptive in nature.

5. *A State as a "Person".* Under § 456.3 of the Rule, the Commission has specifically defined the enforcement of state advertising bans to be an unfair practice. This necessarily raises the question of whether the state or its officials are "persons" for jurisdictional purposes under the Federal Trade Commission Act.

The issue of whether a state was a "person" under various federal statutes has come before the Supreme Court in a line of cases dating back to *Ohio* v. *Helvering*, 292 U.S. 360 (1934). That case involved a claim by a state that its state-owned liquor stores fell outside the scope of a federal tax on "every person who sells" liquor. Consequently, the Court had to determine whether states fell within the statutory definition of person. In its decision the Court refused to lay down an absolute rule, saying, "whether the word 'person' or 'corporation' includes a state . . . depends on the connection in which the word is found." *Id.* at 370.

The general approach of *Helvering* has been followed by later cases, in that the issue of whether states were "persons" was resolved separately for each statute by referring to "[t]he purpose, the subject matter, the context, the legislative history, and the executive interpretation of the statute . . . ." *United States* v. *Cooper Corp.*, 312 U.S. 600, 605 (1941).

In the Supreme Court's recent decision in *City of Lafayette, Louisiana* v. *Louisiana Power & Light Co.*, 46 U.S.L.W. 4265 (1978) the Court determined that state and local governmental entities are "persons" within the meaning of that term in the Sherman Act. Citing its earlier decisions in *Chattanooga Foundery & Pipe* v. *City of Atlanta*, 203 U.S. 390 (1906) and *Georgia* v. *Evans*, 316 U.S. 159 (1942) the Court held that there is nothing in the Sherman Act, "its history, or its policy" which would exclude states or cities from the definition of "persons."[181]

The Court has also looked to whether exclusion of states from the statutory class of "persons" would frustrate the purpose of the statute.[182] Permitting the states to commit unfair acts or practices, i.e. prohibiting the providing of material information to consumers by private parties, would frustrate the purpose of the Federal Trade Commission Act. The Commission recognizes that in the exercise of its jurisdiction over states, caution must be exercised. The Commission has sought to minimize the effects of the Rule on the states by eliminating Section 205 and 206 liability for civil penalties and redress. (See Section 456.3 of the Rule.)

Moreover, the Commission is cognizant of the fact that in at least one instance the Supreme Court has recognized a "state sovereignty" defense to the exercise of federal authority under the commerce clause. See *National League of Cities* v. *Usery*, 426 U.S. 833 (1976). In the *NLC* case, the Court prohibited the imposition of federal minimum wage standards on state employees, citing the potential interference with the internal functioning of the state. 426 U.S. at 840-41. While the scope of this decision is unclear the Commission in Section 456.8 has decided to exclude from the Rule's coverage state employees who are refractionists or sellers. The Commission has also decided to exclude from the rule's coverage federal employees such as military personnel and other Department of Defense employees. This exemption, contained in § 456.8, eliminates the potential for conflict between the regulations of different federal entities.

In the course of the Commission's analysis of the law of unfairness under Section 5 of the Federal Trade Commission Act, the Commission examined in great detail the intent, purposes, and goals underlying the state and local laws preempted by this rule. While the Commission has the legal authority to preempt the state laws at issue here, it has also considered whether as a matter of sound regulatory policy it should defer to the state judgments despite the overwhelming evidence that the restrictions on advertising cause consumer injury without producing offsetting benefits. Overruling the judgment of the states in a matter such as this is a serious step. No matter what the legal authority, it should be a step taken reluctantly. However, the Commission's primary obligation is directly to the people of the country to protect them against unfair acts or practices. We would be abandoning that obligation if we failed to take action against acts and practices which so clearly injure consumers. If theoretical analysis or empirical research created substantial doubt about the impact of these practices, we might choose to defer as a matter of comity. But we do not think such is the case in this matter.

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to the Commission's consideration of whether it has the authority to promulgate rules with preemptive effect is an excerpt from the legislative history of the Magnuson-Moss Federal Trade Commission Improvement Act set out in Appendix A to this Statement of Basis and Purpose.

[181] In its opinion the Court stated: "[T]he conclusion that the antitrust laws are not to be construed as meant by the Congress to subject cities to liability under the antitrust laws must rest on the impact of some overriding public policy which negates the construction of coverage, and not upon a reading of 'person' or 'persons' as not including them." [citation omitted] 46 U.S.L.W. at 4267.

[182] *See, e.g., United States* v. *California*, 297 U.S. 175 (1936); *Union Pacific R.R. Co.* v. *United States*, 313 U.S. 450 (1941); *Plumbers' Local 298* v. *County of Door*, 359 U.S. 354 (1959).

Appendix

The first Congressional activity on legislation which culminated in passage of the Magnuson-Moss Act came in a 1970 report of the Senate Commerce Committee.[1] The Committee had held hearings on a bill to expand the FTC's jurisdiction and enforcement powers[2] and the FTC had taken the opportunity to recommend inclusion of a grant of substantive rulemaking authority.[3] The Committee agreed, and recommended such a grant along with its recommendation for expanding FTC jurisdiction to practices "in or affecting" interstate commerce.[4]

At this point, preemption had not been discussed in connection with the grant of rulemaking authority. Instead the Committee's main concern was that the expansion of FTC jurisdiction itself not be construed as ousting states from the field of consumer protection.[5] The Committee report cautioned that the expansion of jurisdiction was "not intended to replace local enforcement of state or local laws against unfair trade practices,"[6] and recommended the addition to the bill of a section entitled "State Laws Not Affected":

"Sec. 106. The Amendments made by this title shall not affect the jurisdiction of any court or agency of any state or the application of the law of any state with respect to any matter over which the Federal Trade Commission has jurisdiction by reason of such amendment insofar as such jurisdic-

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[1] S. Rep. No. 91-1124, 91st Cong., 2d Sess. (1970).

[2] S. 3201, 91st Cong., 1st Sess. (Dec. 3, 1969).

[3] *Hearing on S. 3201 Before the Consumer Subcomm. of the Senate Comm. on Commerce*, 91st Cong., 1st and 2d Sess. 65 (1970).

[4] S. Rep. No. 91-1124, 91st Cong., 2d Sess. (1970).

[5] In some areas, the courts have read the mere delegation of authority to an agency as a congressional "occupation of the field" which showed an intent to exclude all state regulation of that subject. *E.g., Napier* v. *Atlantic Coast Line Ry. Co.*, 272 U.S. 605 (1926). This is not an inevitable result, for (as in all preemption cases) the issue is one of Congressional intent, and in other areas the courts have found that preemption had been intended only when state laws in some way conflicted with the way the federal agency used its power. *E.g., Rice* v. *Santa Fe Elevator Corp.*, 331 U.S. 218, 236-37 (1947); *see generally Bethlehem Steel Co.* v. *New York State Labor Relations Bd.*, 330 U.S. 767, 773-74 (1947). At the time the rulemaking legislation was being considered, the lower courts had already held that the FTC act itself had not been intended to exclude the states from the field of consumer protection; *e.g., Double-Eagle Lubricants, Inc.* v. *Texas*, 248 F. Supp. 515 (N.D. Tex. 1965), *appeal dismissed*, 384 U.S. 434 (1966). Congress apparently wanted to make sure that the expansion of the Commission's jurisdiction would not lead to a different construction.

[6] S. Rep. No. 91-1124, 91st Cong., 2d Sess. 9 (1970).

tion or the application of such law does not conflict with the provision of the Federal Trade Commission Act, *regulations thereunder*, or the exercise of any authority by the Commission under such Act. [Emphasis added.][7]"

This was added, in the Committee's words, to make clear that the bill's provisions "do not preempt or affect state laws not in conflict with * * * regulations [under the FTC Act] or the exercise of any authority by the Commission under such Act."[8]

While the purpose of this section was to show that states were not completely excluded from the field, it clearly implies that state laws *would* be preempted to the extent that they were "in conflict with" FTC rules or other Commission activity. This understanding is confirmed by the subsequent Judiciary Committee hearings on the bill.[9] Senator Ervin believed that such preemption was a natural incident to FTC substantive rules which conflicted with state law, and wanted to either delete the preemption section (Section 106) as superfluous or (his strong preference) change it to prevent any FTC Rule from overturning state laws.[10] Other witnesses shared this belief about the preemptive effect of the FTC rules, although not all of them opposed such a result, and Section 106 was viewed as merely confirming a power which would have been implicit anyway.[11] The significant point is that all parties agreed that the FTC would have preemptive powers under Section 106. The only differences concerned the question of whether or not this was a power that the FTC already possessed. And though no further action was taken on the bill during the 91st Congress,[12] the Committee deliberations set the framework for subsequent congressional consideration of these issues.

In the 92nd Congress, the Senate again considered a bill to expand the FTC's jurisdiction and confirm its substantive rulemaking authority.[13] The rulemaking provisions were identical to those considered a year earlier, except that Section 106 had been dropped from the bill.[14] However, the preemption issue still received extensive discussion, both in the Commerce Committee and on the Senate floor, and it appears that the omission of that section had not changed the congressional intent. It was still intended that the expansion of FTC authority not be read as automatically excluding the states from that field, although this issue was not as extensively discussed as it had been the previous year.[15] More importantly, it was also intended that specific FTC rules would be able to preempt state law.

Consideration of the latter preemption issue began during the Commerce subcommittee hearings on the bill. The subcommittee Chairman had requested the FTC to analyze the preemptive effect of its regulations, and the FTC memorandum submitted in response concluded that under existing law FTC rules would preempt conflicting state regulations.[16] The other witnesses that addressed the issue made the same assumption about the preemptive effect FTC rules would have, and used this to argue against the grant of rulemaking power.[17] However, the Commerce Committee was nearly unanimous[18] in recommending adoption of the rulemaking provision, and submitted the following views on its preemptive effect:

"In the course of the Committee's consideration of the Commission's rulemaking power the issue of a preemption was discussed. At the present time a Trade Regulation Rule would preempt state legislation or regulation that conflicted. But the 'conflict' test is a very difficult one to apply.

"It is the view of this Committee that the Federal Trade Commission would be empowered to prescribe with specificity, when promulgating legislative rules, the extent to which comparable State law is preempted and how it is preempted. For example, if the Commission were to prescribe a uniform national rule governing the practices of door-to-door salesmen it would prescribe the effect of that rule on the various state statutes. It might standardize the forms to be used and the procedures to be followed while specifically leaving state law intact as to enforcement procedures and penalty provisions.[19]"

The debates on the Senate floor make it clear that, even though no specific preemption section had been written into the bill, it was still intended that the FTC would be able to preempt inconsistent state laws with its rules. Senator Moss, the Chairman of the subcommittee that had considered the bill, explained that:

"S. 986 has no 'preemption' provision. As the preemption provision of S. 3201 [the bill considered the previous year] is simply a restatement of the Federal Supremacy Doctrine as set forth by the Supreme Court, the inclusion or omission of this section would have no legal consequence.[20]"

A subsequent exchange between Senator Hruska (who opposed the rulemaking provision) and Senator Magnuson (sponsor of the bill and Chairman of the Commerce Committee) shows the extent of the preemptive authority intended:

"Senator HRUSKA. I come from an agricultural part of the country, the big breadbasket and the meat locker of the Nation. We have a farm program that has been going on for many years now. Part of that farm program is based upon the idea that there should be a limitation of production so that there will not be such surpluses of agricultural products that the market will become so depressed that the agricultural industry, the raisers of wheat, feed, grains, hogs, and cattle, will not get into an economic structure which would make it impossible for those engaged in that industry to continue their activities. The program involves setting aside a certain number of acres which will not be tilled and which will not produce agricultural goods.

"Yet that program could well become grist in the mill for the Federal Trade Commission if it were armed with the authority which section 206 [rulemaking] seeks to give it. Certainly it could be said it is unfair and it is bad for the consumers to be deprived of those products which could be grown on those unused acres 'and we therefore make a rule that there shall be no laws that will forbid the use of acres.'

"So you see, Mr. President, it is not only in new fields that this power would enable the Federal Trade Commission to function; it could take existing laws and existing statutes and say, 'These laws and statutes are unfair.'"

Senator MAGNUSON. I listened to the statement by the Senator from Nebraska [Hruska] and I have no objection to the way he analyzes the rulemaking section. Legally, I think what he said is correct.[21]

The Senate passed the bill by a 76-2 vote, but the House took no action on it before Congress adjourned.[22] However, new bills

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[7] *Id.* at 23.

[8] *Id.* at 11.

[9] Although the bill was sent to the Judiciary Committee for study of a provision allowing class actions, much of the hearings focused on the preemptive effect of the new rulemaking section.

[10] *Hearing on S. 3201 before the Senate Committee on the Judiciary*, 91st Cong., 2d Sess. 130-31 (1970).

[11] *Id.* at 349 (Prof. Milton H. Handler); 238-39, (Gilbert H. Weil, General Counsel, Ass'n of Nat'l Advertisers). *But see Id.* at 137 (Richard D. Barger, Nat'l Ass'n of Ins. Commissioners); 320 (Edward Dunkelberger, General Counsel, Nat'l Canners Ass'n) for the view that Section 106 granted a preemptive power that would not otherwise exist. In fact, the courts generally have held that a delegation of substantive rulemaking authority does include the power to preempt conflicting state laws: *See, e.g., Free* v. *Bland*, 369 U.S. 663 (1962); *Florida Lime & Avocado Growers* v. *Paul*, 373 U.S. 132, 143 (1963); *Leslie Miller, Inc.* v. *Arkansas*, 352 U.S. 187 (1956); *Mahon* v. *Stowers*, 416 U.S. 100 (1974); and *Sperry* v. *Florida* ex rel. Florida State Bar, 373 U.S. 379, 387-98 (1963).

[12] The bill (with Section 106 intact) was reported back to the Senate by the Judiciary Committee on October 5, 1970, but with no written report or recommendations, and Congress adjourned without acting on it.

[13] S. 986, 92nd Cong., 1st Sess., Title II (1971).

[14] There was also a change which removed the requirement of cross-examination in hearings on proposed rules.

[15] The Commerce Committee simply reported that it was "[n]ot the Committee's intent in expanding the jurisdiction of the Commission" to make the FTC the sole consumer protection agency, and that "State and local consumer protection efforts are not to be supplanted by this expansion of jurisdiction." S. Rep. No. 92-269, 92nd Cong., 1st Sess. 23 (1971).

[16] "While the question as to whether Commission rules and orders supersede concurrent state action must be answered by a judgment upon the particular case a Federal Trade Commission Trade Regulation Rule under present law would be the controlling standard over any state regulation of the same subject matter to the extent of the Commission's jurisdiction and to the extent that there is an actual conflict between the two schemes of regulation." *Hearing on S. 986 before the Consumer Subcomm. of the Senate Comm. on Commerce*, 92nd Cong., 1st Sess. 65 (1971). The FTC memorandum also supported the position that the mere delegation of authority to the FTC had not excluded the states from the consumer protection field. *Id.* at 64.

[17] *Id.* at 76-78, 85 (Exchanges of Senator Cook and Gilbert H. Weil, General Counsel, Ass'n of Nat'l Advertisers).

[18] Senator Cook was the only objector. S. Rep. No. 92-269, 92nd Cong., 1st Sess. 62 (1971).

[19] *Id.* at 28.

[20] 117 Cong. Rec. 39,826 (1971).

[21] *Id.* at 39,835-36, 39,840. The Senate subsequently defeated Senator Hruska's proposal to delete the rulemaking section of the bill. *Id.* at 39,850.

[22] The House Commerce Committee had been considering a similar bill, H.R. 4809, but (perhaps because the Senate hearings and report had already been made availa-

Footnotes continued on next page

were introduced early in the 93rd Congress and these were the bills which eventually became the Magnuson-Moss Act. The process by which the final legislation was produced is somewhat complex, but all the available evidence suggests that the congressional intent concerning preemption was just what it had been in the previous two Congresses.

The rulemaking section of the Senate bill, S. 356, was identical to the reported version of the bill that had been considered in the 92nd Congress, except that a new section on preemption had been added to make explicit the intent expressed in the earlier debates and Committee reports. The new section provided:

(2)(vii) Whenever the Commission determines in a rulemaking proceeding pursuant to paragraph (g)(2) that uniformity in the engagement of any act or practice in compliance with a rule issued pursuant to paragraph (g)(2) is in the public interest and necessary to carry out the intent of this Act, the Commission shall include in such rule a description of the extent to which such rule preempts State and local requirements relating to the same acts or practices affected by the Commission's rule. The reasons for preemption, or lack thereof, including the extent of consideration given to the need for uniformity shall be set forth in the rule with specificity.[23]

No explanation was given for making this preemptive authority explicit rather than implicit (as had been done in the 92nd Congress).

However, while the bill was being considered by the Commerce Committee, the Commission was litigating the issue of its substantive rulemaking authority under Section 6(g) of the Federal Trade Commission Act.[24] The new FTC Chairman, Lewis A. Engman, was concerned that the rulemaking procedures being considered by Congress would be too burdensome and preferred to wait and try to establish the FTC's existing rulemaking authority in the pending litigation, so the Commission reversed its earlier position and opposed the congressional affirmation of its rulemaking powers.[25] Subsequently, the Commerce Committee reported the bill out with the entire rulemaking section (including the preemption provision) deleted.[26] However, the Committee reports pledged to reintroduce the legislation in the event the courts ruled against the FTC, and explicitly stated that "the deletion of rulemaking powers by the committee is not to be read in any way as a reversal of the Senate's position in the 92nd Congress. * * *"[27]

Meanwhile, the House had been considering a bill[28] patterned after the 92nd Congress proposals. Like those proposals, the bill gave the Commission rulemaking authority without any specific language on preemption, but (also like those proposals) the intent seems to have been that the rulemaking authority included the power to preempt conflicting state laws. The Committee hearings on the bill showed that this was assumed to be the case,[29] and the Committee's report confirms it. The report repeated the position that the expansion of the Commission's power to "in or affecting interstate commerce" was not intended to exclude states from the consumer protection field,[30] then went on to say:

Where cases of consumer fraud of a local nature which affect commerce are being effectively dealt with by State or local government agencies, it is the Committee's intent that the Federal Trade Commission should not intrude.[31]

Subchapter D of Chapter 1 of Title 16 of the Code of Federal Regulations is amended by adding Part 456 to read as follows:

Sec.
456.1 Definitions.
456.2 Private conduct.
456.3 Public restraints.
456.4 Conformance to State law.
456.5 Permissible State limitations.
456.6 Private restraints.
456.7 Separation of examination and dispensing.
456.8 Federal or State employees.
456.9 Declaration of Commission intent.

AUTHORITY: 38 Stat. 717, as amended (15 U.S.C. 41, *et seq.*).

§ 456.1 Definitions.

A *"buyer"* is any person who has had an eye examination.

The *"dissemination of information"* is the use of newspapers, telephone directories, window displays, signs, television, radio, or any other medium to communicate to the public any information, including information concerning the cost and availability of a product or service.

An *"eye examination"* is the process of determining the refractive condition of a person's eyes or the presence of any visual anomaly by the use of objective or subjective tests.

"Ophthalmic goods" consists of eyeglasses, or any component of eyeglasses and contact lenses.

"Ophthalmic services" are the measuring, fitting, and adjusting of ophthalmic goods to the face subsequent to an eye examination.

A *"person"* means any party over which the Federal Trade Commission has jurisdiction. This includes individuals, partnerships, corporations, and professional associations.

A *"prescription"* is the written specifications for ophthalmic lenses which are derived from an eye examination. The prescription shall contain all of the information necessary to permit the buyer to obtain the necessary ophthalmic goods from the seller of his choice. In the case of a prescription for contact lenses, the refractionist must include in the prescription only those measurements and directions which would be included in a prescription for spectacle lenses. All prescriptions shall include all the information specified by state law, if any.

Footnotes continued from last page
ble) there was little discussion of the preemptive effect of the FTC rules. The only reference to the issue is a statement by an opponent that the bill would allow the FTC to "promulgate national 'rules' which will have the effect of voiding the laws of the various states." *Hearings on H.R. 4809 before the Subcomm. on Commerce & Finance of the House Comm. on Interstate & Foreign Commerce*, 92nd Cong., 1st Sess. 456 (1971) (Statement of the American Advertising Federation).

[23] 119 Cong. Rec. 972 (1973). An additional provision allowed the Commission, on the petition of a state or local government, to exempt individual state or local laws from such preemption.

[24] The District Court had ruled that the FTC had no substantive rulemaking power. *National Petroleum Refiner's Ass'n* v. *FTC*, 340 F. Supp. 1343 (D.D.C. 1972). At the opening of the 93rd Congress, the FTC was appealing this decision to the Court of Appeals. The decision was subsequently reversed.

[25] 482 F.2d 672 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 951 (1974). Letter of March 26, 1973; S. Rep. No. 93-151, 93rd Cong., 1st Sess. 57-58 (1973).

[26] No hearings had been held on the bill, and comments had been solicited and received only from the FTC. S. Rep. No. 93-151, 93rd Cong., 1st Sess. 53 (1973).

[27] *Id.* at 32. The bill was subsequently passed by the Senate in this form.

[28] H.R. 20, 93rd Cong., 1st Sess. (1973).

[29] The following exchange is illustrative:

"Mr. Vaughan: The proposals would further allow the Federal Trade Commission to adopt rules 'defining with specificity acts or practices which are unfair or deceptive to consumers' which could and, in all certainty, would vitiate the laws of the States. Constitutional questions aside, we do not believe it desirable to vest any Federal administrative agency with such unbridled quasilegislative power as to upset the laws of the States without a congressionally approved specific statute establishing an overriding Federal interest in each restricted area of allowable agency activity."

"Subcommittee Chairman Moss: Would you not agree that the rulemaking to which you refer in your statement is now going forward under the existing authority of the Federal Trade Commission and would be unaffected if Congress takes no further action? * * *"

"Mr. Higginbotham: That is right, Mr. Chairman * * * *Hearings on H.R. 20 before the Subcomm. on Commerce & Finance of the House Comm. on Interstate & Foreign Commerce*, 93rd Cong., 1st Sess. 202, 217 (1973) (Walter W. Vaughan, Consumer Bankers Ass'n; Mr. Higginbotham, Legislative Counsel for the Ass'n answered for Mr. Vaughan.) *See also, Id.* at 235 (Robert B. Norris, Nat'l Consumer Finance Ass'n), 250-51 (James Smith, American Bankers Ass'n), 317 (American Advertising Federation), and 345 (Sears, Roebuck & Co.)."

[30] "The expansion of the FTC's jurisdiction * * * is not intended to occupy the field or in any way to preempt state of local agencies from carrying out consumer protection or other activities within their jurisdiction which are also within the expanded jurisdiction of the Commission." H.R. Rep. No. 93-1107, 93rd Cong., 2d Sess. 45 (1974).

[31] *Id.*

A *"refractionist"* is any Doctor of Medicine, Osteopathy or Optometry or any other person authorized by state law to perform eye examinations.

A *"seller"* is any person, or his employee or agent, who sells or provides ophthalmic goods and services directly to the public.

§ 456.2 Private conduct.

(a) (1) It is an unfair act or practice for sellers to fail to disseminate information concerning ophthalmic goods and services notwithstanding state or local law to the contrary. *Provided:* Violation of this subpart by any seller acting alone shall not be deemed to be a violation of section 5(a)(1) of the Federal Trade Commission Act.

(2) To prevent this unfair act or practice, any seller may engage in the dissemination of information concerning ophthalmic goods and services subject to the limitations expressed in § 456.5 below.

(b) (1) It is an unfair act or practice for refractionists to fail to disseminate information concerning eye examinations notwithstanding state or local law to the contrary. *Provided:* Violation of this subpart by any refractionist acting alone shall not be deemed to be a violation of section 5(a)(1) of the Federal Trade Commission Act.

(2) To prevent this unfair act or practice, any refractionist may engage in the dissemination of information concerning eye examinations. Nothing in this subpart shall excuse a refractionist from compliance with any state or local law which permits the dissemination of information concerning eye examinations, including information on the cost and availability of those examinations, but requires that specified affirmative disclosures also be included.

§ 456.3 Public restraints.

It is an unfair act or practice under section 5 of the Federal Trade Commission Act for any state of local governmental entity or any subdivision thereof, state instrumentality, or state or local governmental official to enforce any:

(a) Prohibition, limitation or burden on the dissemination of information concerning ophthalmic goods and services by any seller or group of sellers, or

(b) Prohibition, limitation or burden on the dissemination of information concerning eye examinations by any refractionist. *Provided:* Nothing in subparagraph (b) shall be construed to prohibit the enforcement of a state or local law which permits the dissemination of information concerning eye examinations, including information on the cost and availability of those examinations, but requires that specified affirmative disclosures also be included.

Violation of subparagraphs (a) and (b) shall not be deemed for purposes of section 5(m)(1)(A) or section 19 of the Federal Trade Commission Act to be a violation of section 5(a)(1) of the Act.

§ 456.4 Conformance to State law.

It is an unfair act or practice under section 5 of the Federal Trade Commission Act:

(a) For any seller to reduce, limit, or burden the dissemination of information concerning ophthalmic goods and services in order to comply with any law, rule, regulation or code of conduct of any nonfederal legislative, executive, regulatory or licensing entity or any other entity or person, which would have the effect of prohibiting, limiting, or burdening the dissemination of this information, or

(b) For any refractionist to reduce, limit, or burden the dissemination of information concerning eye examinations in order to comply with any law, rule, regulation or code of conduct of any nonfederal legislative, executive, regulatory or licensing entity or any other entity or person, which would have the effect of prohibiting, limiting, or burdening the dissemination of this information. *Provided:* To the extent that a state or local law, rule, or regulation permits the dissemination of information concerning eye examinations, including information on the cost and availability of those examinations, compliance with that law or regulation shall not be construed to reduce, limit or burden the dissemination of information concerning eye examinations.

§ 456.5 Permissible State limitations.

(a) To the extent that a state or local law, rule, or regulation requires that any or all of the following items be included within any dissemination of information concerning ophthalmic goods and services, such a law, rule, or regulation shall not be considered to prohibit, limit, or burden the dissemination of information:

(1) Whether an advertised price includes single vision and/or multifocal lenses;

(2) Whether an advertised price for contact lenses refers to soft and/or hard contact lenses;

(3) Whether an advertised price for ophthalmic goods includes an eye examination;

(4) Whether an advertised price for ophthalmic goods includes all dispensing fees; and

(5) Whether an advertised price for eyeglasses includes both frames and lenses.

(b) Where a state or local law, rule or regulation applies to all retail advertisements of consumer goods and services (including a law, rule, or regulation which requires the affirmative disclosure of information or imposes reasonable time, place and manner restrictions), such a law, rule, or regulation shall not be considered to prohibit, limit, or burden the dissemination of information.

(c) If, upon application of an appropriate state or local governmental agency, the Commission determines that any additional requirement of any such state or local governmental agency deemed by that agency to be necessary to prevent deception or unfairness is reasonable and does not unduly burden the dissemination of information, then that requirement shall be permitted to the extent specified by the Commission.

§ 456.6 Private restraints.

(a) It is an unfair act or practice for any person, other than a state or a political subdivision or agency thereof, to prohibit, limit or burden:

(1) The dissemination of information concerning ophthalmic goods and services by any seller;

(2) The dissemination of information concerning eye examinations by any refractionist. *Provided:* Nothing in this subpart shall be construed to prohibit any person from imposing reasonable affirmative disclosure requirements on the dissemination of information concerning eye examinations.

(b) Any organization or association which is not composed primarily of sellers and/or refractionists, which adopts or enforces self-regulatory guidelines for the dissemination of information which apply to all retail advertisements of consumer goods and services, shall not be deemed to be in violation of this subpart.

(c) The conditioning of membership in a professional or trade association of sellers or refractionists on a requirement that members or prospective members of that association not engage in the dissemination of information concerning ophthalmic goods and services and eye examinations or a requirement that ophthalmic goods and services be advertised only in a prescribed manner shall be deemed to prohibit, limit or burden the dissemination of that information.

§ 456.7 Separation of examination and dispensing.

In connection with the performance of eye examinations, it is an unfair act or practice for a refractionist to:

(a) Fail to give to the buyer a copy of the buyer's prescription immediately after the eye examination is completed. *Provided:* A refractionist may refuse to give the buyer a copy of the buyer's prescription until the buyer has paid for the eye examination but only if that refractionist would have required immediate payment from that buyer had the examination revealed that no ophthalmic goods were required;

(b) Condition the availability of an eye examination to any person on a requirement that that person agree to purchase any ophthalmic goods from the refractionist;

(c) Charge the buyer any fee in addition to the refractionist's examination fee as a condition to releasing the prescription to the buyer. *Provided:* A refractionist may charge an additional fee for verifying ophthalmic goods dispensed by another seller when the additional fee is imposed at the time the verification is performed; or

(d) Place on the prescription, or require the buyer to sign, or deliver to the buyer a form or notice waiving or disclaiming the liability or responsibility of the refractionist for the accuracy of the eye examination or the accuracy of the ophthalmic goods or services dispensed by another seller.

§ 456.8 Federal or State employees.

Nothing in this part shall be construed to prohibit any federal, state or local governmental entity from adopting and enforcing standards or requirements concerning the dissemination of information and release of prescriptions by sellers or refractionists employed by those governmental entities.

§ 456.9 Declaration of Commission intent.

(a) (1) It is the purpose of this part to allow retail sellers of ophthalmic goods and services to disseminate information concerning those goods and services in a fair and nondeceptive manner to prospective purchasers. This part is intended to eliminate certain restraints, burdens, and controls imposed by state and local governmental action as well as by private action on the dissemination of information, including advertising, concerning ophthalmic goods and services.

(2) It is the intent of the Commission that this part shall preempt all state and local laws, rules, or regulations that are repugnant to this part, and that would in any way prevent or burden the dissemination of information by retail sellers of ophthalmic goods and services to prospective purchasers, except to the extent specifically permitted by this part. All state or local laws, rules, or regulations which burden the dissemination of information by requiring affirmative disclosures specifically addressed to ophthalmic goods and services are preempted, except for those specifically permitted by this part. State and local laws, rules, or regulations which apply to advertising of all consumer goods and services, including those that require affirmative disclosure of information, are not preempted.

(b) It is the Commission's intent that state laws which do not permit refractionists to disseminate information concerning eye examinations, including information concerning the cost and availability of those examinations, be preempted. State and local laws, rules or regulations which require affirmative disclosure of information in all disseminations of information concerning eye examinations are not preempted.

(c) The Commission intends this part to be as self-enforcing as possible. To that end, it is the Commission's intent that this part may be used, among other ways, as a defense to any proceeding of any kind which may be brought against any retail seller of ophthalmic goods and services or refractionist who advertises in a nondeceptive and fair manner.

(d) It is not the Commission's intent to compel any seller or refractionist to disseminate information by virtue of this part. On the contrary, the provisions of this part are intended solely for the protection of those sellers and refractionists who want to disseminate information but have been restrained or prevented from advertising due to the prohibitions and restrictions of state and local laws and regulations, or be private action.

(e) In prohibiting the use of waivers and disclaimers of liability in § 456.7(d), it is not the Commission's intent to impose liability on a refractionist for the ophthalmic goods and services dispensed by another seller pursuant to that refractionist's prescription.

(f) In this part, the Rule, each subparagraph, and the Declaration of Commission Intent and their application are separate and severable.

By direction of the Commission dated May 24, 1978.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-15353 Filed 6-1-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 76P-0071]

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERICAL DISTRIBUTION

Notification of Registrant; Drug Establishment Registration Number and Drug Listing Number

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the drug regulations to permit reuse, after a specified time period, of the product code segment of a National Drug Code (NDC) number when a drug product is discontinued and to permit the omission of leading zeros from the numeric character code when an NDC number is used in the labeling of small containers. The amendment also indicates a change in the conditions that require the use of a new NDC number for a drug product. This action is based on a proposal that was issued in response to a petition by the Pharmaceutical Manufacturers Association. These revisions are intended to extend the usefulness of the present coding system, encourage voluntary use of the NDC number on labels of small containers, and clarify the changes in conditions requiring a new NDC number for a drug product.

EFFECTIVE DATE: July 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary Cooper, Bureau of Drugs (HFD-315), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Room 1316, Silver Spring, Md. 20910, 301-427-8170.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 28, 1976 (41 FR 17754), the Commissioner of Food and Drugs proposed to amend: § 207.35(b)(2)(ii) (21 CFR 207.35(b)(2)(ii)) to permit the reuse of the product code of a discontinued drug product; § 207.35(b)(3)(iv) (21 CFR 207.35(b)(3)(iv)) to permit the omission of leading zeros when the NDC number is imprinted directly on dosage forms or when a container is too small or otherwise unable to accommodate a label containing both required and optional labeling information; and § 207.35(b)(4) (21 CFR 207.35(b)(4)) to indicate a change in the conditions that require the use of a new NDC number for a drug product. The proposal was published in response to a petition submitted to the Food and Drug Administration (FDA) by the Pharmaceutical Manufacturers Association. Interested persons were invited to submit comments on the proposal on or before June 28, 1976.

After reexamining Part 207, the Commissioner has determined that the language providing for the reuse of a product code, originally proposed as a revision of § 207.35(b)(2)(ii), should be included in § 207.35(b)(4) instead. The Commissioner believes that paragraph (b)(4) of § 207.35, which pertains to the assignment of new NDC numbers by registrants to drug products, is the more appropriate paragraph. Also, the Commissioner advises that, for clarity, he is adding an-

other sentence to § 207.35(b)(4) to state that reuse of product codes, under the specified conditions, may occur regardless of the NDC number configuration used.

In response to the proposal, comments were received from a pharmacist, a professional organization, two trade associations, three manufacturers, and a health department of a State government. A summary of the substantive comments and the Commissioner's conclusions follow.

1. A comment in support of the proposed reuse of product codes suggested that a product code should not be reused until 5 years after expiration of the last manufactured batch, or 5 years after the last shipped batch, if there is no expiration date, whichever is longer.

The Commissioner agrees with the suggested waiting period of 5 years for reuse of the product code. This prohibition of use until 5 years after an expiration date, i.e., a date after which a product can no longer be sold, or 5 years after the last shipped batch if there is no expiration date, should provide ample assurance that the product is not available. The final rule is changed accordingly.

2. Another comment suggested that to help prevent the possibility of a patient being treated for either an overdose or an adverse drug reaction from a product within an entirely different therapeutic class, a product code should be reused only for drugs in the same general therapeutic class, e.g., a product code used for an antibiotic drug should be reassigned only to another antibiotic drug.

The Commissioner believes that adoption of the 5-year waiting period discussed in comment 1 obviates the need to restrict reuse of product codes to a certain type of drug product. Before allowing reuse of product codes, the 5-year period should assure that the product is out of commercial channels as well as out of the hands of consumers before any reused product code appears.

3. One comment stated that notice of each reused product code number should be sent to each interested party.

The Commissioner advises that the agency intends to publish a directory that will include a listing of new drug products, discontinued drug products, and changes in drug product code numbers. Although the first publication of the new directory does not include all these features, the agency intends to revise the directory annually and to include all this information. Each interested party then will have a single source for product code number information.

4. One comment objected to the reuse of product code numbers because permanent numbers assure accurate and reliable sources of drug identification whenever accidental ingestion occurs.

The Commissioner believes that accurate and reliable sources of drug information will continue under reuse of product code numbers for the reasons stated in response to comments 1, 2, and 3.

5. One comment suggested that FDA assign additional labeler codes to manufacturers as an alternative to the reuse of product code numbers.

The Commissioner advises that assigning additional labeler codes would still involve using the product code segment of the NDC number a second time. Under this alternative not only would a product code be reused but more than one labeler code per manufacturer would exist. The Commissioner believes that assigning additional "Labeler Codes" could result in confusion to users of the NDC number system, especially poison control centers. The regulations do not preclude the use of the labeler's distinguishing mark ("company logo") when imprinting directly on dosage forms in the place of the NDC "Labeler Code." Thus, under the suggested alternative, for example, dosage forms may appear which could bear the same product code, the same "company logo," and which may be two entirely different products without a ready means of distinguishing them. The Commissioner concludes, therefore, that the public health and safety would be better served by rejecting this alternative.

6. Each comment regarding proposed § 207.35(b)(3)(iv) favored the provision to omit leading zeros from the numeric character code when the NDC number is used in labeling small containers. However, one comment suggested that the omission of leading zeros be permitted only after prior FDA approval and not at the discretion of the manufacturer or distributor.

The Commissioner disagrees with this comment. The primary standard necessary in determining whether to omit leading zeros is whether a container is too small or otherwise unable to accommodate a label containing both required and optional labeling information. The Commissioner believes that the manufacturer or distributor is capable of making this determination without prior FDA approval in each circumstance.

7. Another comment stated that proposed § 207.35(b)(3)(iv) implies that all 10 characters of the NDC number should be used to imprint solid dosage forms for purposes of identification.

The Commissioner advises that no such implication was intended. The final regulation is reworded to remove any ambiguity and to state clearly that leading zeros may be omitted from any segment of the NDC number in the specified cases.

8. Another comment agreed to the amendment provided manufacturers still have the option of using the labeler's distinguishing mark ("company logo"), when imprinted directly on dosage forms, in place of the labeler code.

The Commissioner advises that although he prefers use of the NDC labeler code, the regulations do not preclude the use of the labeler's distinguishing mark ("company logo"), when imprinted directly on dosage forms, in place of the NDC labeler code.

9. Several comments regarding the proposed revisions to § 207.35(b)(4), stated that a change in the legal marketing status, i.e., from prescription (Rx) to over-the-counter (OTC), is not a significant enough change to warrant a new NDC number. These comments stated that the proposal would result in frequent NDC number changes that would hinder poison control centers in identifying drug products. Other comments stated that a change from Rx to OTC or from OTC to Rx often does not result in a change in the actual drug product, i.e., the drug product is identical; therefore, the NDC number should remain identical. Several other comments regarding proposed § 207.35(b)(4) objected to requiring a new NDC number for a change in either the color of a drug product or an inactive ingredient that has a physiological effect. These comments stated that many color changes are insignificant in distinguishing drug products and that a new NDC number is not warranted for such changes. Many of these comments stated that the proposal would cause the manufacturer undue economic hardships; it would have to change, e.g., tablet punches, printing rolls, and catalogue listings. Some of these comments stated that changes in inactive ingredients that have a physiological effect are not significant enough changes to warrant a new NDC number.

After considering the comments, the Commissioner concludes that the proposal did not adequately indicate the types of changes that the agency may consider significant in distinguishing one product version from another and that further clarification is necessary.

The Commissioner believes the integrity of the NDC system should be maintained. He realizes that frequent changes in code numbers create numerous problems for those utilizing the code, including FDA. He also realizes that frequent changes in code numbers detract from optimum usage of the code. However, the Commissioner believes that any change in those drug product characteristics that clearly distinguish one drug product version from another should result in the assignment of a new product code to the clearly distinguished version.

While it is the responsibility of each registrant to determine for itself when a change in drug product characteristics results in a clearly distinguished version and, thus, requires the assignment of a new product code to the clearly distinguished version, the Commissioner offers the following as guidance. The Commissioner concludes that in at least five circumstances, i.e., change in: active ingredient(s); strength or concentration of active ingredient(s); dosage form; route of administration, if it also includes a change in product formulation; and product name, a new product code shall be assigned. In these five circumstances, the Commissioner advises, the product versions are clearly distinguishable; and a new NDC number is necessary in each case.

The Commissioner also concludes that although most changes in drug product characteristics result from changes made voluntarily by a manufacturer, from time to time, FDA may require such changes. For example, if an ingredient is determined to be unsafe and its use in drug products not permitted, each manufacturer would be required to reformulate its drug products containing such an ingredient. Thus, except for the five circumstances described above which require a new NDC number in each case, when FDA requires a change in drug product characteristics and the Commissioner determines there is a need to assign a new product code to the reformulated product, the Commissioner will announce in a FEDERAL REGISTER publication his determination regarding the required action that a new product code is necessary for such product changes. This publication will include the reasoning and justification for the Commissioner's determination (see 41 FR 26842, June 29, 1976, regarding chloroform).

In view of the preceding discussion, the Commissioner is revising proposed § 207.35(b)(4) to delete the naming of changes in inactive ingredients and legal status as examples of changes requiring assignment of a new product code in each circumstance.

10. Other comments suggested that the economic hardships related to frequent NDC number changes were ignored in the economic impact assessment used to support the proposed amendment.

As discussed in the response to comment 9, the Commissioner did not intend to require frequent NDC number changes. The proposed rule has been revised to clarify this intent. Therefore, the Commissioner concludes that because frequent NDC number changes will not be necessary, a revised economic impact assessment is not needed.

NOTE.—The Food and Drug Administration has determined that this document does not contain an agency action that requires consideration of its environmental effects. Therefore, preparation of an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 502, 505, 507, 701, 52 Stat. 1041 as amended, 1050-1053 as amended, 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 321(n), 352, 355, 357, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 207 is amended in § 207.35 by revising paragraph (b)(2)(ii), (3)(iv), and (4) to read as follows:

§ 207.35 Notification of registrant; drug establishment registration number and drug listing number.

* * * * *

(b) * * *

(2) * * *

(ii) The last five numeric characters of the 10-character code identify the drug and the trade package size and type. The segment which identifies the drug formulation is known as the Product Code and the segment which identifies the trade package size and type is known as the Package Code. The Product Code and the Package Code shall be assigned by the manufacturer or distributor prior to drug listing and included in Form FD-2657 (Drug Product Listing). Either of two methods may be used by the manufacturer or distributor in assigning the Product and Package Codes: a 3-2 Product-Package Code configuration (e.g., 542-12) or a 4-1 Product-Package Code configuration (e.g., 5421-2). Only one such Product-Package Code configuration may be used by a manufacturer or distributor with a given Labeler Code and this same configuration shall be used in assigning the Product-Package Codes for all drugs included in the drug listing. The manufacturer or distributor shall report to the Food and Drug Administration the Product-Package Code configuration used in assigning these codes.

* * * * *

(3) * * *

(iv) All 10 characters shall appear and the leading zeros in any segment of the NDC number shall be shown: *Provided, however,* That when the NDC number is used for product identification by direct imprinting on dosage forms or in the case of containers too small or otherwise unable to accommodate a label with sufficient space to bear both required and optional labeling information, leading zeros may be omitted from any segment of the NDC number.

* * * * *

(4)(i) If any change occurs in those product characteristics that clearly distinguish one drug product version from another, a new NDC number shall be assigned by the registrant to the new product version and that information submitted to the Food and Drug Administration. Such a change shall include, but not be limited to, a change in: active ingredient(s); strength or concentration of active ingredient(s); dosage form; route of administration, if it also includes a change in product formulation; and product name. If, by FEDERAL REGISTER publication, the Food and Drug Administration requires a change in drug product characteristics and determines the change will require assignment of a new product code to the reformulated product, the Food and Drug Administration shall announce its determination in the FEDERAL REGISTER publication that requires the change and shall include its reasoning and justification for such determination. If a change in packaging only is involved, the trade package code may be revised without assigning a new product code segment, but the Food and Drug Administration shall be informed about the new trade package code and characteristics.

(ii) When a drug product has been discontinued, its product code may be reassigned to another drug product 5 years after the expiration date of the discontinued product, or, if there is no expiration date, 5 years after the last shipment of the discontinued product into commerical distribution. Reuse of product codes may occur, under the specified conditions, regardless of the NDC, Product Code, and Package Code configuration used.

* * * * *

Effective date. This regulation is effective July 3, 1978.

(Secs. 201(n), 502, 505, 507, 701, 52 Stat. 1041 as amended, 1050-1053 as amended, 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 321(n), 252, 355, 357, 371).)

Dated: May 22, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-15067 Filed 6-1-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Amoxicillin Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval

of a new animal drug application (NADA) submitted by Beecham Laboratories, providing for use of amoxicillin tablets to treat cats for infections of the upper respiratory tract, genitourinary tract, gastrointestinal tract, and skin and soft tissue.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Bristol, Tenn. 37620, submitted NADA 55-081V that provides for the use of amoxicillin trihydrate tablets in treating cats for those conditions mentioned above. Beecham currently holds an approval for use of this drug in dogs. This approval extends use of the drug to cats and imposes a further limitation on the length of time that the drug may be administered to both animals. In addition, the format of the existing conditions of use for this drug is editorially revised.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347 and 350 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 540.103a is amended by revising paragraph (c)(3) to read as follows:

§ 540.103a Amoxicillin trihydrate film-coated tablets.

* * * * *

(c) * * *

(3) *Conditions of use*—(i) *Dogs*—(*a*) *Amount:* 5 milligrams per pound of body weight, twice a day.

(*b*) *Indications for use.* It is used for the treatment of infections of the respiratory tract (tonsillitis, tracheobronchitis), genitourinary tract (cystitis), gastrointestinal tract (bacterial gastroenteritis), and soft tissues (abscesses, lacerations, wounds), caused by susceptible strains of *Staphylococcus aureus,* Streptococcus spp., *Escherichia coli, Proteus mirabilis,* and bacterial dermatitis caused by *Staphylococcus aureus,* Streptococcus spp., and *Proteus mirabilis.*

(*c*) *Limitations.* Administer for 5 to 7 days or 48 hours after all symptoms have subsided. If no improvement is seen in 5 days, review diagnosis and change therapy. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(ii) Cats—(*a*) *Amount:* 50 milligrams (5 to 10 milligrams per pound of body weight) once a day.

(*b*) *Indications for use.* It is used in the treatment of infections caused by susceptible organisms as follows: upper respiratory tract due to *Staphylococcus aureus,* Streptococcus spp., and *Escherichia coli;* genitourinary tract (cystitis) due to *Staphylococcus aureus,* Streptococcus spp., *Escherichia coli,* and *Proteus mirabilis;* gastrointestinal tract due to *Escherichia coli;* and skin and soft tissue (abscesses, lacerations, and wounds) due to *Staphylococcus aureus,* Streptococcus spp., *Escherichia coli,* and *Pasteurella multocida.*

(*c*) *Limitations.* Administer for 5 to 7 days or 48 hours after all symptoms have subsided. If no improvement is seen in 5 days, review diagnosis and change therapy. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: June 2, 1978.

(Sec. 512 (i) and (n), 82 Stat. 347 and 350 (21 U.S.C. 360b (i) and (n)).)

Dated: May 24, 1978.

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

[FR Doc. 78-15277 Filed 6-1-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4179]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made affordable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
New York	Clinton	Saranac, town of	May 9, 1978, emergency	Apr. 18, 1975	360171
Ohio	Putnam	Kalida, village of	do	Mar 1, 1974	390471-B
Oklahoma	Nowata	South Coffeyville, town of	do	June 25, 1976	400411
Oregon	Marion	Gates, city of	do	July 2, 1976	410159
Pennsylvania	Delaware	Bethel, township of	do	Jan. 24, 1975	421606
Ohio	Van Wert	Middle Point, village of	May 8, 1978, emergency		390841
Alabama	Lawrence	Courtland, town of	Apr. 17, 1978 suspension withdrawn.	Mar. 8, 1974 and July 2, 1976.	010141-B
Connecticut	Hartford	East Windsor, town of	do	Nov. 16, 1973 and Aug. 13, 1976.	090027-B
Do	Fairfield	Norwalk, city of	do	Oct. 25, 1974	090012-A
Florida	Broward	Hillsboro Beach, town of	do	Jan. 9, 1974 and Jan. 30, 1976.	120040-B
Georgia	Dougherty	Unincorporated, areas	do	Mar. 3, 1976	130074-A
Idaho	Blaine	Hailey, city of	do	Dec. 7, 1973 and Oct. 29, 1976; Aug. 23, 1977.	160022-C
Illinois	Cook	Harvey, city of	do	June 28, 1974 and Aug. 13, 1976.	170100-B
Do	Kankakee	Kankakee, city of	do	Jun 28, 1974 and Aug. 20, 1976.	170339-B
Maryland	Washington	Hagerstown, city of	do	May 10, 1974 and May 21, 1976.	270074-B
Minnesota	Goodhue	Unincorporated areas	do		270140-A
Do	Hennepin	Maple Grove, city of	do	Mar. 22, 1974 and Sept. 24, 1976.	270169-B
Do	Nicollet	St. Peter, city of	do	June 21, 1974 and June 11, 1976.	270317-B
Mississippi	Monroe	Amory, city of	do	Jan. 18, 1974 and Oct. 24, 1974.	280116-B
Do	Sunflower	Moorhead, city of	do	May 10, 1974	280166-B
New Jersey	Union	Elizabeth, city of	do	May 22, 1970 and May 8, 1971.	345523-C
Do	Essex	Fairfield, borough of	do	June 15, 1973	345295-A
Do	Bergen	North Arlington, borough of.	do	Mar. 29, 1974	340055-B
Do	Passaic	Prospect Park, borough of	do	May 3, 1974	340406-B
North Carolina	Durham, Orange, and Chatham.	Chapel Hill, town of	do	June 21, 1974 and June 18, 1976.	370180-C
Do	Halifax	Roanoke Rapids, city of	do	Mar. 8, 1974	370117-A
Do	New Hanover	Wilmington, city of	do	Mar. 1, 1974	370171-A
Pennsylvania	Butler	Butler, city of	do	May 24, 1974 and Apr. 9, 1976.	420212-B
Do	Lancaster	Elizabethtown, borough of	do	Jan. 23, 1974 and Apr. 16, 1976.	420550-B
Do	Mercer	Farrell, city of	do	June 28, 1974 and June 18, 1976.	420673-B
Do	Westmoreland	Jeannette, city of	do	June 14, 1974 and July 9, 1976.	420882-B
Do	Lehigh	Lower Milford, township of	do	Oct. 18, 1974	421039-A
Do	Jefferson	Reynoldsville, borough of	do	Jan. 9, 1974 and June 11, 1976.	420513-B
Do	Bucks	Riegelsville, borough of	do	Feb. 20, 1973 and May 14, 1976.	420201-B
Do	Snyder	Monroe, township of	do	Feb. 1, 1974 and Feb. 7, 1976	421020-B
Do	McKean	Smethport, borough of	do	Dec. 28, 1973 and May 28, 1976.	420672-B
Do	Chester	Tredyffrin, township of	do	Dec. 28, 1973	420291-A
Oregon	Tillamock	Garibaldi, city of	do	Apr. 17, 1978	410280-A
Do	Clatsop	Hammond, town of	do	June 28, 1974 and Nov. 28, 1975.	410031-B
Do	Lincoln	Lincoln City, city of	do	Nov. 8, 1974 and Mar. 4, 1977.	410130-A
Montana	Blaine and Phillips	Fort Belknap Indian Community.	Apr. 25, 1978, emergency		300180-new
North Dakota	Richland	Walcott, township of	Apr. 26, 1978, emergency		
Ohio	Williams	Unincorporated areas	do	Jan. 27, 1978	390785
Iowa	Fayette	Fayette, city of	Apr. 27, 1978, emergency	May 28, 1976	190376
Maine	Sagadahoc	Woolwich, town of	Apr. 19, 1978, emergency	Feb. 4, 1977	230210-A
Montana	Lake	Unincorporated areas	do	Mar 28, 1978	300155
North Dakota	Barnes	do	do		380339-new
New York	Warren	Hague, town of	do	Nov. 5, 1976 and Mar. 10, 1978.	360873-A
Oregon	Washington	Cornelius, city of	do	Nov. 5, 1976	410261
Pennsylvania	Berks	Tulpehocken, township of	do	Nov. 8, 1974	421115
Tennessee	Unicoi	Erwin, city of	Apr. 20, 1978, emergency	Dec. 17, 1976	470094-A
Wyoming	Teton	Unincorporated areas	Apr. 19, 1978, emergency		560094-new
Florida	Jefferson	do	Apr. 21, 1978, emergency	Dec. 2, 1977	120331
Delaware	Kent	Leipsic, town of	do	Aug. 9, 1974 and Jan. 9, 1976	100014-A
Oklahoma	Roger Mills	Hammon, town of	do	Aug. 13, 1976	400386
Do	LeFlore	Spiro, town of	do	Oct. 1, 1976	400413
South Carolina	Greenwood	Unincorporated areas	do	Jan. 20, 1978	450094
Michigan	Huron	Lake, township of	Jan. 30, 1974, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended; Apr. 19, 1978, reinstated.	Jan. 31, 1975	260254-B

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Ohio	Portage	Kent, city of	Mar. 2, 1973, emergency; Mar. 2, 1978, regular; Mar. 15, 1978, suspended; Apr. 17, 1978, reinstated.	Oct. 26, 1973 and July 30, 1976.	390456-B
Delaware	Kent	Unincorporated areas	Mar. 15, 1978, suspension withdrawn.	June 27, 1975	100001-A
Louisiana	East Baton Rouge Parish	Baker, city of	do	Sept. 9, 1970	225193-A
Do	Jefferson Parish	Unincorporated areas	do	Oct. 13, 1971 and July 9, 1976.	225199-B
Maryland		Baltimore, city of	do	June 28, 1976	240087-A
Michigan	Ottawa	Ferrysburg, city of	do	June 28, 1974 and Aug. 6, 1976.	260184-B
Do	Berrien	Lincoln, township of	do	July 26, 1974 and Dec. 5, 1975.	260037-B
Do	Oceans	Pentwater, township of	do	June 21, 1974 and July 2, 1976.	260183-B
Mississippi	Leflore	Sidon, town of	do	Aug. 2, 1974	280106-B
Do	Carroll	Vaiden, town of	do	June 7, 1974 and Feb. 20, 1976.	280029-B
Ohio	Lucas	Oregon, city of	do	Aug. 1, 1975 and Dec. 19, 1975.	390361-B
Oklahoma	Rogers	Claremore, city of	do	Aug. 28, 1971 and Oct. 3, 1975.	405375-C
Do	Stephens	Comanche, city of	do	Dec. 28, 1971 and Sept. 26, 1975.	405376-C
Do	Payne	Stillwater, city of	do	June 22, 1973 and Jan. 9, 1976.	405380-A
South Dakota	Brown	Groton, city of	do	July 11, 1975	460179-A
Texas	Jefferson	Beaumont, city of	do	Sept. 2, 1970 and Nov. 14, 1975.	485457-A
Do	Harris	El Lago, city of	do	July 2, 1971 and July 11, 1975.	485466-B
Do	Galveston	Unincorporated areas	do	Apr. 8, 1977	4854709-B
Do	Dallas	Grand Prairie, city of	do	July 6, 1973 and Sept. 10, 1976.	485472-A
Do	Cameron	Harlingen, city of	do	July 13, 1972 and Oct. 17, 1975.	485477-A
Do	Brazoria	Hillcrest Village, city of	do	Mar. 18, 1972 and Apr. 11, 1975.	485478-B
Do	Galveston	Hitchcock, city of	do	Nov. 17, 1970 and Oct. 31, 1975.	485479-C
Do	Kleberg	Kingsville, city of	do	Oct. 9, 1970 and Feb. 26, 1971 and Nov. 21, 1975.	480424-B
Do	Galveston	League City, city of	do	June 5, 1970 and June 17, 1977.	485488-B
Do	Harris	Nassau Bay, city of	do	Nov. 17, 1970 and Sept. 5, 1975.	485491-D
Do	Brazoria	Oyster Creek, village of	do	May 8, 1971 and Nov. 19, 1976.	481255-B
Do	Harris	Webster, city of	do	May 19, 1972 and July 1, 1974.	485516-A
Do	Wilson	Unincorporated areas	do	Mar. 15, 1978	480230-A
Virginia	Roanoke	Vinton, town of	do	July 19, 1974 and May 21, 1976.	410131-B
Wisconsin	Marinette	Marinette, city of	do	Mar. 15, 1978	550261-B
Do	Wood	Unincorporated areas	do	Mar. 15, 1978	550513
Oregon	Sherman	Wasco, city of	Apr. 24, 1978, emergency	Oct. 22, 1976	410195
South Dakota	Marshall	Veblen, city of	do	Apr. 25, 1975	460146

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: May 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-14246 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4176]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made affordable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood may has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
North Dakota	Cass	Warren, township of	Feb. 20, 1978, emergency		380265
Washington	Skamania	Stevenson, town of	do	Apr. 23, 1976	530161
Nebraska	Cedar	Hartington, city of	Feb. 22, 1978, emergency	Sept. 26, 1975	310376
Tennessee	Bedford	Bell Buckle, town of	do	June 14, 1974	470007-A
Kentucky	Bullitt	Lebanon Junction, city of	Feb. 23, 1978, emergency	Mar. 15, 1974 and June 18, 1976.	210304-B
North Carolina	Wilkes	Ronda, town of	do	Sept. 6, 1974 and May 14, 1976.	370258-A
Ohio	Henry	Unincorprated areas	Feb. 27, 1978, emergency	Nov. 25, 1977	390776
Oklahoma	Garvin	Maysville, town of	do	Dec. 17, 1976	400402
Texas	Cottle	Paducah, city of	do	June 27, 1978	480771
Tennessee	White	Sparta, city of	Mar. 14, 1974, emergency; Nov. 2, 1977, regular; Nov. 2, 1977, suspended; Feb. 20, 1978, reinstated.	June 28, 1974 and Apr. 2, 1976.	470203-A
Maine	Washington	Alexander, town of	Mar. 2, 1978, emergency	Dec. 6, 1974 and Nov. 12, 1976.	230303-A
South Dakota	Brule	Chamberlain, city of	do	June 25, 1976 and Mar. 4, 1977.	460164-A
California	Kern	California City, city of	Mar. 6, 1978, emergency	Apr. 15, 1977	060440-A
Michigan	Gogebic	Ironwood, township of	do	Mar. 11, 1977	260403
Ohio	Licking	Pataskala, village of	do	Oct. 8, 1976	390336
North Dakota	Pembina	Pembina, city of	June 18, 1971, emergency; Apr. 30, 1976, regular; Nov. 2, 1977, suspended; Feb. 23, 1978, reinstated.	June 20, 1970	385368-C
Do	Cass	Mapleton, township of	Mar. 8, 1978, emergency		380262
Texas	Midland	Unincorporated areas	do	Jan. 3, 1978	481239
Iowa	Crawford	Charter Oak, city of	Mar. 9, 1978, emergency	June 4, 1976	190094
Michigan	Eaton	Potterville, city of	do		260710-new
Colorado	Jefferson	Lakewood, city of	Feb. 23, 1978, suspension withdrawn.	July 21, 1972	08575-A
Michigan	Washtenaw	Ypsilanti, township of	Mar. 20, 1978, emergency	Apr. 8, 1977	260542-A
Missouri	St. Charles	Lake St. Louis, city of	do		290868-new
New Hampshire	Cheshire	Jaffrey, town of	do	Jan. 24, 1975	330215
North Dakota	Cass	Normanna, township of	do		380323-new
Ohio	Pickaway	Unincorporated areas	do		390445
Pennsylvania	Huntingdon	Logan, township of	do	Dec. 6, 1974	421694
Maryland	Worcester	Berlin, town of	Mar. 21, 1978, emergency	Jan. 21, 1977	240141-A
Ohio	Columbiana	Salineville, village of	do	Jan. 27, 1978	390628
North Dakota	Sioux	Unincorporated areas	do		380321-new
Montana	Wibaux	do	Mar. 22, 1978, emergency		300173
North Dakota	Cass	Reile's Acres, city of	do		380324-new
Iowa	Linn	Lisbon, city of	Mar. 23, 1978, emergency	Mar. 19, 1976	190607
Montana	Carbon	Unincorporated areas	do		300139
North Dakota	Cass	Durbin, township of	do		380325-new
Do	Golden Valley	Unincorporated areas	do		380326-new
Do	Cass	Harwood, township of	do		380259
Do	Oliver	Unincorporated areas	do		380077
Pennsylvania	Allegheny	North Fayette, township of	do	Sept. 20, 1974 and June 18, 1976.	421085-A
Do	Bucks	Hulmeville, borough of	Aug. 16, 1973, emergency; Sept. 30, 1977, regular; Oct. 1, 1977, suspended; Mar. 15, 1978, reinstated.	Feb. 1, 1974	420190-A
Florida	Union	Lake Butler, city of	Mar. 24, 1978, emergency		120595-new
Montana	Phillips	Unincorporated areas	do	Feb. 7, 1978	300162-A
North Dakota	Dunn	Dodge, city of	Mar. 20, 1978, emergency	Apr. 25, 1975	380027
Do	Golden Valley	Sentinel Butte, city of	do		380329-new
Do	Slope	Unincorporated areas	do		380330-new
Ohio	Madison	do	do	Jan. 27, 1978	390773
North Dakota	Morton	Almont, city of	Mar. 21, 1978, emergency		380331-new
Do	Ransom	Fort Ransom, city of	do		380332-new
Do	Cass	Pleasant, township of	do		380263
Ohio	Ottawa	Genoa, village of	do	July 18, 1975	390612
Oklahoma	Wagoner	Coweta, city of	do	June 4, 1976	400216
South Dakota	Brown	Westport, town of	do		460011
Ohio	Franklin	Obetz, village of	Mar. 23, 1978, emergency	Feb. 15, 1974	390176-A

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Michigan	Genesee	Fenton, township of	Mar. 24, 1978, emergency	Apr. 1, 1977	260394-A
Montana	Hill	Unincorporated areas	do	Feb. 21, 1978	300153
Do	Valley	do	do	do	300171
New Hampshire	Sullivan	Croydon, town of	do	Nov. 29, 1974	330156
New York	Livingston	Leicester, town of	do	Oct. 18, 1974 and Aug. 20, 1976.	361285-A
North Dakota	Adams	Unincorporated areas	do		380333-new
Do	Logan	Gackle, city of	do		380334-new
Do	Cass	Gardner, township of	do		380266
Do	do	Noble, township of	do		380268
Do	do	Raymond, township of	do		380261
Oklahoma	Garvin	Wynnewood, city of	do	Oct. 29, 1976	400251
New York	Suffolk	Shelter Island, town of	Aug. 31, 1973, emergency; May 3, 1974, regular; Feb. 21, 1978, suspended; Mar. 27, 1978, reinstated.	May 31, 1974 and July 30, 1976.	360809-B
Montana	Fallon	Unincorporated areas	Mar. 24, 1978, emergency		300149
Maine	Lincoln	Dresden, town of	Mar. 28, 1978; emergency	Sept. 20, 1974 and Dec. 3, 1976.	230084-A
Montana	Wheatland	Unincorporated areas	do		300172
North Dakota	Ward	Kenmare, township of	do	May 2, 1975	380234
Do	Walsh	Unincorporated areas	do		380135
Pennsylvania	Cambria	Portage, township of	do	Jan. 13, 1978	421444
South Dakota	Spink	Unincorporated areas	do	Jan. 10, 1978	460076-A
California	Los Angeles	Avalon, city of	Mar. 29, 1978, emergency	Oct. 8, 1976	060098
Florida	Holmes	Unincorporated areas	do	June 17, 1977	120420
Idaho	Boise	Idaho City, city of	do	Dec. 24, 1976	160222
New York	Fulton	Caroga, town of	do	Nov. 8, 1974 and June 25, 1976.	361129-A
North Carolina	Caldwell	Lenoir, city of	do	Dec. 3, 1976	370261
Do	Yancey	Unincorporated areas	do		370261
Pennsylvania	Cambria	Brownstown, borough of	do		422654-new
Massachusetts	Dukes	West Tisbury, town of	do	Feb. 14, 1975	250074
North Dakota	Traill	Viking, township of	Mar. 30, 1978, emergency		380322-new
Ohio	Trumbull	Lordstown, village of	Mar. 31, 1978, emergency	Jan. 13, 1978	390812
Do	Van Wert	Ohio City, village of	do		390869-new
Pennsylvania	Monroe	Hamilton, township of	do	Nov. 22, 1974	421888
Montana	Phillips	Saco, town of	do		300055
Do	Sweet Grass	Unincorporated areas	Apr. 4, 1978, emergency		300167
Colorado	Adams	Commerce City, city of	Apr. 11, 1974, emergency; Feb. 15, 1978, regular; Feb. 20, 1978, suspended; Apr. 3, 1978, reinstated.	June 28, 1974 and July 11, 1975.	080006-B
Minnesota	Brown	Unincorporated areas	Jan. 28, 1972, emergency; Aug. 15, 1977, regular; Aug. 15, 1977, suspended; Apr. 3, 1978, reinstated.	Aug. 15, 1977	270034
Virginia	Campbell	Brookneal, town of	Jan. 15, 1974, emergency; Mar. 1, 1978, regular; Mar. 1, 1978, suspended; Mar. 28, 1978, reinstated.	May 17, 1974	510030-B
Nebraska	Colfax	Unincorporated areas	Mar. 31, 1978, emergency	July 26, 1977	310426
Michigan	Houghton	Chassell, township of	Apr. 13, 1978, emergency	Feb. 4, 1977	260411-A
Ohio	Van Wert and Paudling	Scott, village of	Apr. 10, 1978, emergency		390857
California	Los Angeles	LaCanada Flintridge, city of	do		060669
Iowa	Emmet	Unincorporated areas	Apr. 11, 1978, emergency	May 17, 1977	190865-A
Maine	Sagadahoc	Georgetown, town of	do	Jan. 28, 1977	230209-A
Montana	Ravalli	Unincorporated areas	do		300061
Do	Teton	do	do	Nov. 22, 1977	300168-A
Do	do	Choteau, city of	do	May 13, 1977	300097-A
North Dakota	Cass	Berlin, township of	do		380620
Do	Foster	Carrington, city of	do	May 28, 1976 and Mar. 7, 1978.	380218
Do	Cass	Harwood, city of	do		380338-new
Do	Barnes	Litchville, city of	do	Jan. 17, 1975	380187
Do	McHenry	Willow Creek, township of	do		380337-new
Mississippi	Hinds	Terry, town of	Mar. 27, 1975, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended; Apr. 7, 1978, reinstated.	Feb. 1, 1974 and Feb. 20, 1976.	280073-B
Montana	Fergus	Unincorporated areas	Apr. 13, 1978, emergency		300019
Pennsylvania	Wyoming	Clinton, township of	do	Nov. 29, 1974 and Mar. 19, 1976.	422197
Do	York	York Haven, borough of	do	Jan. 23, 1974 and Mar. 19, 1976.	420946-A
Montana	Golden Valley	Unincorporated areas	Apr. 14, 1978, emergency		300152
New York	Clinton	Chazy, town of	do	Aug. 5, 1977	361310
Colorado	Alamosa	Unincorporated areas	Jan. 19, 1978, suspension withdrawn.	Aug. 2, 1974	080009
Georgia	Lowndes	Valdosta, city of	do	Mar. 29, 1974 and Mar. 26, 1976.	130200-A
Kansas	Leavenworth	Leavenworth, city of	do	Nov. 28, 1973	200190
Michigan	Berrien	Royalton, township of	do	June 21, 1974 and June 25, 1976.	260043-A
Missouri	St. Louis	Fenton, city of	do	May 17, 1974	290350
Do	do	Ferguson, city of	do	Sept. 14, 1973 and June 18, 1976.	290351-A
New Jersey	Somerset	Warren, township of	do	Jan. 16, 1974	340446
Pennsylvania	Schuylkill	Port Carbon, borough of	do	Mar. 23, 1973 and Oct. 1, 1976.	420783-A

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Washington	Pacific	Unincorporated areas	do	Oct. 25, 1974	530126
West Virginia	Logan	Mitchell Heights, town of	do	Aug. 17, 1971	540095-A
New Hampshire	Rockingham	Nottingham, town of	Feb. 13, 1978, emergency	June 28, 1974 and Nov. 19, 1976.	330137-A
Texas	Ellis	Ennis, city of	do	June 28, 1974 and Dec. 10, 1976.	480207-A
Florida	Okaloosa	Shalimar, town of	Feb. 15, 1978, emergency		120579
North Dakota	Grand Forks	Emerado, city of	Feb. 17, 1978, emergency	Sept. 10, 1976	380034
Do	Ransom	Unincorporated areas	do		380089
Colorado	Arapahoe	Greenwood Village, city of	Mar. 16, 1976, emergency; Jan. 5, 1978, regular; Jan. 19, 1978, suspended; Feb. 20, 1978, reinstated.	Dec. 27, 1974	080195-A
New Jersey	Hudson	East Newark, borough of	Apr. 21, 1975, emergency; Sept. 30, 1977, regular; Dec. 12, 1977, suspended; Feb. 7, 1978, reinstated.	June 28, 1974 and June 11, 1976.	340219-B
Ohio	Ottawa	Port Clinton, city of	Apr. 5, 1973, emergency; Sept. 30, 1977, regular; Dec. 19, 1977, suspended; Jan. 30, 1978, reinstated.	Feb. 8, 1974	390434-B
Colorado	Jefferson	Wheat Ridge, city of	Feb. 20, 1978, suspension withdrawn.	May 26, 1972	085079-A
Delaware	Sussex	Unincorporated areas	do	Dec. 13, 1974	100029-A
Florida	Broward	Tamarac, city of	do	June 21, 1974	120058-A
Georgia	Richmond	Augusta, city of	do	May 24, 1974 and Aug. 20, 1976.	130159-A
Illinois	Stephenson	Unincorporated areas	do	Dec. 27, 1974	170639
Michigan	Ottawa	Grand Haven, city of	do	June 28, 1974 and Aug. 1, 1975.	260269-A
Do	do	Spring Lake, township of	do	June 28, 1974 and May 21, 1976.	260281-A
Do	Iosco	Tawas, city of	do	May 31, 1974 and June 18, 1976.	260102-A
Minnesota	Hennepin and Wright	Dayton, city of	do	Jan. 4, 1974 and Oct. 15, 1976.	270157-A
Nebraska	Cass	Nehawka, city of	do	Sept. 6, 1974 and Nov. 28, 1975.	310032-A
Do	Sarpy	Springfield, city of	do	May 3, 1974 and Nov. 28, 1975.	310194-A
New Jersey	Atlantic	Absecon, city of	do	June 28, 1974	340001-B
Do	do	Atlantic City, city of	do	June 18, 1971	345278-B
Do	Cape May	Avalon, borough of	do	Apr. 17, 1970 and Oct. 31, 1975.	345279-A
Do	Ocean	Beach Haven, borough of	do	June 17, 1970	345282-B
Do	do	Bay Head, borough of	do	Aug. 17, 1971 and Mar. 19, 1976.	345281-C
Do	Atlantic	Brigantine, city of	do	May 15, 1970	345286-A
Do	Cape May	Cape May City, city of	do	Aug. 7, 1970	345288-A
Do	do	Cape May Point, borough of	do	July 1, 1970	345289-B
Do	Cumberland	Downe, township of	do	Apr. 20, 1973 and June 25, 1976.	340167-A
Do	Ocean	Dover, township of	do	Oct. 23, 1970	345293-B
Do	do	Lavallette, borough of	do	June 11, 1971	340379-C
Do	Monmouth	Little Silver, borough of	do	Aug. 31, 1973 and Aug. 27, 1976.	340305-A
Do	do	Long Branch, city of	do	May 31, 1974	340307-A
Do	Atlantic	Longport, borough of	do	Aug. 12, 1970	345302-A
Do	Somerset	Manville, borough of	do	Apr. 13, 1973 and Dec. 24, 1976.	340437-A
Do	Atlantic	Margate, city of	do	June 18, 1971	345304-B
Do	Union	Plainfield, city of	do	June 26, 1971	345312-B
New York	Suffolk	Asharoken, village of	do	Aug. 20, 1971	365333-B
Do	Westchester	Briarcliff Manor, village of	do	June 28, 1974 and Apr. 9, 1976.	360904-B
Do	Suffolk	Brookhaven, town of	do	Jan. 15, 1971	365334-B
Do	Erie	East Aurora, village of	do	July 20, 1973	365335-A
Do	Ontario	Geneva, town of	do	July 26, 1974 and July 16, 1976.	360600-A
Do	Monroe	Hamlin, town of	do	Jan. 23, 1974 and May 14, 1976.	360418-B
Do	Cattaraugus	Little Valley, village of	do	May 31, 1974 and Apr. 30, 1976.	360082-A
Do	Livingston	Livonia, town of	do	Mar. 8, 1974 and Apr. 30, 1976.	360386-B
Do	Nassau	Long Beach, city of	do	July 1, 1972 and Oct. 24, 1975.	365338-A
Do	Suffolk	Lloyd Harbor, village of	do	Apr. 12, 1974 and Sept. 24, 1976.	360799-A
Do	Oswego	Richland, town of	do	July 26, 1974 and June 4, 1976.	360660-A
Do	Nassau	Sea Cliff, village of	do	Feb. 1, 1974 and Apr. 30, 1976.	360493-A
Do	Wayne	Sodus, town of	do	Aug. 16, 1974 and Oct. 8, 1976.	360898-A
Do	Steuben	Urbana, town of	do	May 10, 1974	360783-A
Do	Oneida	Whitesboro, village of	do	Feb. 22, 1974 and May 21, 1976.	360566-A
Do	Niagara	Wilson, town of	do	May 17, 1974 and July 23, 1976.	360514-A

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North Carolina	Gaston	Castonia, city of	do	June 21, 1974 and Aug. 20, 1976.	370100-A
Do	do	do	do	Apr. 12, 1974 and Aug. 13, 1976.	370257-A
Oregon	Polk	Unincorporated areas	do	Feb. 7, 1975	410186
Pennsylvania	Erie	Corry, city of	do	Apr. 12, 1974 and Aug 27, 1976.	420447-A
Do	York	Fairview, township of	do	Feb. 22, 1974	420923
Do	Cumberland	Hampden, township of	do	May 3, 1974	420360
Do	Mifflin	Newton-Hamilton, borough of.	do	June 28, 1974 and Apr. 23, 1976.	420689-A
Do	Berks	Kenhorst, borough of	do	Nov. 5, 1976	420135-A
Do	Bucks	Sellersville, borough of	do	Mar. 8, 1974	420203
Do	Crawford	Titusville, city of	do	May 31, 1974 and Jan. 30, 1976.	420354-A
Do	Mercer	Wheatland, borough of	do	July 19, 1974 and July 30 1976.	420681-A
Do	Bradford	Wysox, township of	do	July 26, 1974 and July 9, 1976.	420977-A
Tennessee	Williamson	Brentwood, city of	do	Nov. 30, 1973	470205
Washington	Cowlitz & Clark	Woodland, city of	do	Nov. 2, 1973 and June 11, 1976.	530035-A
West Virginia	Harrison	Clarksburg, city of	do	Dec. 28, 1973 and Mar. 26, 1976.	540056-A
Connecticut	Hartford	Wethersfield, town of	Mar. 1, 1978, suspension withdrawn.	May 11, 1973	090040-A
Florida	Palm Beach	Palm Springs, village of	do	Mar. 15, 1974 and June 11, 1976.	120223-B
Georgia	Fulton	Alpharetta, city of	do	June 14, 1974 and Oct. 17, 1975.	130084-B
Illinois	Kankakee	Bradley, village of	do	Mar. 1, 1974 and Apr. 16, 1976.	170338-B
Iowa	Lee	Keokuk, city of	do	Jan. 23, 1974 and Apr. 23, 1976.	190185-B
Kansas	Montgomery	Coffeyville, city of	do	May 3, 1974 and Nov. 21, 1975.	200232-A
Do	Ewards	Kinsley, city of	do	May 17, 1974 and Oct. 3, 1975.	200092-B
Louisiana	Iberville	Grosse Tete, village of	do	Feb. 1, 1974 and Nov. 14, 1975.	220084-B
Maryland	Washington	Funkstown, town of	do	Mar. 8, 1974 and Jan. 23, 1976.	240073-B
Massachusetts	Bershire	Pittsfield, city of	do	May 10, 1974 and Jan. 7, 1977.	250037-B
Missouri	St. Francois	Flat River, city of	do	Apr. 20, 1973	295264-A
Do	Gasconade	Hermann, city of	do	May 3, 1974 and Nov. 7, 1975.	290141-B
Do	St. Louis	Ladue, city of	do	Mar. 15, 1974 and Sept. 12, 1975.	290363-B
Do	do	Maplewood, city of	do	Nov. 23, 1973	295266
Do	Monroe	Paris, city of	do	Apr. 5,1974	290241
Do	Cass	Pleasant Hill, city of	do	Sept. 15, 1972	295269-A
Do	Crawford	Steelville, city of	do	Sept. 13, 1974	290114-B
Do	St. Louis	Times Beach, city of	do	Jan. 9, 1974	290388
Mississippi	Monroe	Aberdeen, city of	do	Jan. 23, 1974 and June 18, 1976.	280115-B
Nebraska	Platte	Columbus, city of	do	June 29, 1973	315272-A
New Jersey	Union	Berkeley Heights, township of.	do	May 24, 1974 and July 30, 1976.	340459-B
Do	Somerset	Bernardsville, borough of	do	Dec. 28, 1973	340429-A
Do	Monmouth	Sea Bright, borough of	do	Oct. 14, 1971	345317-A
Do	Cape May	Sea Isle, city of	do	July 17, 1970	345318-B
Do	Ocean	Seaside Park, borough of	do	Aug. 17, 1971	345319-C
Do	do	Ship Bottom, borough of	do	May 26, 1970	345320-A
Do	Cape May	Stone Harbor, borough of	do	Jan. 8, 1971	345323-B
Do	Ocean	Surf City, borough of	do	May 26, 1970	345324-A
New Mexico	McKinley	Gallup, city of	do	Mar. 1, 1974 and Aug. 9, 1977.	350042-B
New York	Nassau	Glen Cove, city of	do	Aug. 16, 1974 and June 11, 1976.	360465-B
Do	Schenectady	Niskayuna, town of	do	Mar. 29, 1974 and July 23, 1976.	360739-B
Do	Jefferson	Orleans, town of	do	May 31, 1974 and July 16, 1976.	360345-B
Do	Wayne	Palmyra, town of	do	Apr. 5, 1974 and Dec. 5, 1975	360974-B
Do	Chautauqua	Panama, village of	do	Aug. 9, 1974 and June 11, 1976.	360143-B
Do	do	Sherman, village of	do	Jan. 3, 1975	361502-A
Do	Steuben	South Corning, village of	do	July 13, 1973 and Nov. 16, 1973.	360782-C
Do	Broome	Union, town of	do	Feb. 6, 1976	360056-A
Ohio	Lake	Mentor, city of	do	June 14, 1974 and June 18, 1976.	390317-B
Oregon	Clackamas	Unincorporated areas	do	Mar. 1, 1978	415588
Do	do	Gladstone, city of	do	Apr. 5, 1974 and June 25, 1976.	410017-B
Do	do	West Linn, city of	do	Dec. 17, 1973 and Aug. 20, 1976.	410024-B
Do	Douglas	Winston, city of	do	Sept. 14, 1973	415593-C

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Pennsylvania	Perry	Bloomfield, borough of	do	Apr. 12, 1974	420748-B
Do	Juniata	Fermanagh, township of	do	Oct. 12, 1973	420517-A
Do	Lancaster	Leacock, township of	do	June 7, 1974 and July 2, 1976.	420958-B
Do	Montgomery	Lower Moreland, township of.	do	Nov. 30, 1973 and July 23, 1976.	420702-B
Do	Juniata	Mifflin, borough of	do	Jan. 16, 1974 and Nov. 7, 1975.	420518-B
Do	do	Turbett, township of	do	Apr. 5, 1974	420522-A
Do	Delaware	Upper Darby, township of	do	Jan. 16, 1974 and June 18, 1976.	420440-B
Do	Montgomery	Upper Gwynedd, township of.	do	June 14, 1974 and July 30, 1976.	420956-B
Do	Bucks	Warminister, township of	do	Jan. 9, 1974	420990-A
Do	Lehigh	Whitehall, township of	do	Jan. 9, 1974 and Jan. 23, 1976.	420595-B
Do	Blair	Williamsburg, borough of	do	Nov. 30, 1973 and May 21, 1976.	420165-B
South Carolina	Sumter	Sumter, city of	do	June 21, 1974 and Apr. 16, 1976.	450184-A
Tennessee	Marion	Jasper, town of	do	Feb. 26, 1972	475429-B
Texas	Tarrant	Haltom City, city of	do	June 28, 1974	480599-A
Virginia	Smyth	Saltville, town of	do	May 10, 1974 and Oct. 15, 1976.	510191-B
Washington	Grays Harbor	Ocean Shores, city of	do	June 21, 1974 and June 4, 1976.	530065-B
West Virginia	Mason	Hartford, town of	do	Nov. 22, 1974	540247-A
California	San Joaquin	Lodi, city of	Apr. 3, 1978, suspension withdrawn.	Apr. 5, 1974 and Oct. 3, 1975	060300-B
Do	Contra Costa	Martinez, city of	do	June 28, 1974	065044-A
Georgia	Carroll	Carrollton, city of	do	May 24, 1974 and Jan. 23, 1976.	130208-B
Iowa	Clayton	Marquette, city of	do	Jan. 19, 1972	195182-C
Kentucky	Campbell	California, city of	do	Mar. 15, 1974	210036-A
Louisiana	Caldwell Parish	Unincorporated areas	do		220044-A
Do	Concordia Parish	do	do		220053-A
Do	do	Ridgecrest, town of	do	May 24, 1974 and Dec. 5, 1975.	220046-B
Do	Tensas Parish	Unincorporated areas	do	Sept. 6, 1974	220215-A
Do	West Baton Rouge Parish	do	do		220239-A
Michigan	Berrien	Benton, township of	do	June 28, 1974 and Mar. 5, 1976.	260031-B
Do	do	Grand Beach, village of	do	June 28, 1974	260268-A
Do	Mushegon	Laketon, township of	do	Aug. 2, 1974 and June 25, 1976.	260159-B
Minnesota	Scott	Unincorporated areas	do	Dec. 20, 1974	270428-A
Mississippi	Hinds	Bolton, town of	do	Apr. 22, 1977	280216-B
Do	Leflore	Itta Bena, city of	do	June 7, 1974	280103-B
Do	do	Morgan City, town of	do	Nov. 29, 1974 and Oct. 24, 1975.	280104-B
Do	Carroll	North Carrollton, town of	do	June 7, 1974 and July 16, 1976.	280028-B
Missouri	Jackson	Lee's Summit, city of	do	June 21, 1974 and Dec. 5, 1975.	290174-B
Do	Clay	North Kansas City, city of	do	Mar. 15, 1974 and Nov. 28, 1975.	290099-B
Nebraska	Thurston	Pender, village of	do	May 3, 1974 and July 23, 1976.	310221-B
North Carolina	Pasquotank	Elizabeth City, city of	do	Nov. 9, 1973 and Oct. 3, 1975	370185-B
Do	Cleveland	Shelby, city of	do	Jan. 9, 1974 and July 23, 1976.	370064-B
New Jersey	Passaic	Bloomingdale, borough of	do	Mar. 19, 1972 and July 9, 1976.	345284-B
Do	Ocean	Brick, township of	do	Aug. 4, 1972 and June 10, 1977.	345285-B
Do	Burlington	Burlington, city of	do	July 23, 1971; Feb. 20, 1976 and July 29, 1977.	345287-B
Do	Mercer	Ewing, township of	do	Aug. 25, 1972 and Jan. 30, 1976.	345294-A
Do	Monmouth	Highlands, borough of	do	Sept. 3, 1971 and June 30, 1976.	345297-A
Do	Atlantic	Ventnor, city of	do	June 18, 1971 and Dec. 26, 1975.	345326-A
Do	Cape May	West Wildwood, borough of.	do	Jan. 8, 1971 and Oct. 17, 1975.	345328-B
Do	do	Wildwood Crest, borough of	do	Feb. 26, 1971 and Dec. 26, 1975.	345330-A
New York	Jefferson	Alexandria Bay, village of	do	Feb. 22, 1974	390154-B
Ohio	Cuyahoga	Gates Mills, village of	do	Nov. 9, 1973 and May 28, 1976.	390593-B
Oregon	Curry	Unincorporated areas	do	Sept. 13, 1974	410052-B
Pennsylvania	Lycoming	Jersey Shores, borough of	do	Apr. 6, 1973 and Mar. 5, 1976.	420642-C
Do	Bucks	Upper Southampton, township of.	do	Jan. 16, 1974 and May 28, 1976.	420989-B
Tennessee	Loudon	Loudon, city of	do	Feb. 1, 1974 and Oct. 8, 1976	470110-B
Texas	Jackson	Edna, city of	do	Nov. 11, 1971 and Apr. 18, 1975.	485465-B
Do	Galveston	Unincorporated areas	do	Apr. 8, 1971 and May 15, 1973 and June 24, 1977.	485470-B

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Do	Matagorda	....do	....do	May 1, 1971 and Mar. 5, 1976.	485489-A
Do	....do	Palacios, city of	....do	Nov. 17, 1970 and July 11, 1975.	485495-B
Do	Victoria	Victoria, city of	....do	May 22, 1970 and July 23, 1971.	480638-B
Virginia	Wythe	Wytheville, town of	....do	June 28, 1974 and May 21, 1976.	510181-B
Washington	Snohomish	Everett, city of	....do	June 21, 1974	530164-A
Do	Manitowoc	Two Rivers, city of	....do	Jan. 9, 1974 and June 4, 1976.	550243-B

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: April 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-14251 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4178]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

Withdrawal of Flood Insurance Maps

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATE: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name and number for the effective map are shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

One year after the identification of the community as flood-prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FIA's) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "H" preceding the community number and a FIRM by the letter "I" preceding the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 24 CFR Part 1909 et seq.)

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. Present § 1915.6 is revised to read as follows:

§ 1915.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 5149, 40 FR 17015, 40 FR 20798, 40 FR 46102, 40 FR 53579, 40 FR 56672, 41 FR 1478, 41 FR 50990, 41 FR 13352, 41 FR 17726, 42 FR 8895, 42 FR 29433, 42 FR 46226, and 42 FR (enter page number of this notice in FEDERAL REGISTER).

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 17015, 41 FR 1478,

and 42 FR (enter page number of this notice in FEDERAL REGISTER).

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made Pursuant to § 1915.6:

State	County	Location	Map No. and "Federal Register" citation	Reason	Effective date of withdrawal	Effective map or proper authority
Arizona	Yuma	Parker, town of	I 040100; 42 FR 9110	1	July 10, 1977	
Arkansas	Ashley	Fountain Hill, town of	H 050414 01; 40 FR 8811	1	Mar. 31, 1977	
Do	Jefferson	Redfield, city of	H 050282 01; 40 FR 14754	1	July 20, 1977	
California	San Mateo	Atherton, town of	H 060312A 01-02; 41 FR 13340.	1A	Sept. 8, 1976	
Do	San Joaquin	Tracy, city of	H 060303 01-03; 39 FR 28250	1	July 20, 1977	
Colorado	Arapahoe and Jefferson	Bow Mar, town of	H 080232 01; 41 FR 11485	1	July 27, 1977	
Do	Kit Carson	Flagler, town of	H 080242 01; 40 FR 33675	1	Aug. 22, 1977	
Do	Weld	Platteville, town of	H 080190A 01; 41 FR 6728	1	July 26, 1977	
Florida	Okaloosa	Okaloosa Island Beaches	I 125135; 41 FR 1473	3	July 1, 1977	Okaloosa County, FIRM 120173B.
Do	do	Okaloosa Island Beaches (Holiday Isle).	I 12061 0000 03; 35 FR 12599	3	do	Do.
Do	Hillsborough	Temple Terrace, city of	I 120115B; 42 FR 33210		May 19, 1977	
Georgia	Meriweather	Alvaton, town of	H 130358 01; 40 FR 12643	3	July 26, 1977	Meriweather County
Do	do	Chalybeate Springs, town of	H 130435 01-02; 40 FR 14755	3	do	Do.
Do	Appling	Surrency, town of	H 130003 01; 40 FR 2426	1	July 19, 1977	
Idaho	Twin Falls	Buhl, city of	H 160160 01; 40 FR 20800	1	July, 20, 1977	
Illinois	St. Claire	Millstadt, village of	H 170838 01; 40 FR 11576	1	Feb. 17, 1977	
Indiana	Marion	Beech Grove, city of	H 180158 01-06; 41 FR 13347	3	July 26, 1977	City of Indianapolis, Ind., FHBM 180159A.
Do	Fulton	Rochester, city of	H 180071A 01; 41 FR 16648	1	July 21, 1977	
Do	Marion	Southport, city of	H 180161 01; 41 FR 13347	3	July 26, 1977	City of Indianapolis, Ind., FHBM 180159A.
Iowa	Des Moines	Mediapolis, city of	H 190615 01; 40 FR 33671	1	Aug. 8, 1977	
Do	Palo Alto	West Bend, city of	H 190475 01; 41 FR 29834	1	July 20, 1977	
Kansas	Smith	Athol, city of	H 200340 01; 40 FR 769	1	Aug. 22, 1977	
Do	Gray	Copeland, city of	H 200398A 01; 42 FR 24960	1	do	
Do	Rush	Otis, city of	H 200311 01; 39 FR 43081	1	July 20, 1977	
Do	Greeley	Tribune, city of	H 200535 01; 40 FR 33677	1	Aug. 8, 1977	
Do	Doniphan	Wathena, city of	H 200085A 01; 41 FR 45560	1A	Sept. 9, 1977	
Kentucky	Boone	Petersburg, town of	H 210244A 01; 42 FR 8883	3	Aug. 3, 1977	Boone County, FHBM 210013.
Louisiana	Vermillion Parish	Gueydan, town of	H 220225 01-02; 38 FR 29229	IA	Sept. 8, 1977	
Do	Iberville Parish	Plaquemine, city of	H 220086A 01-04; 40 FR 51049.	1	July 20, 1977	
Do	Tensas Parish	St. Joseph, town of	H 220217A 01-03; 41 FR 16649.	1	do	
Do	Iberville Parish	White Castle, town of	H 220088 01-02; 38 FR 24358	1A	Sept. 8, 1977	
Michigan	Branch	Kinderhook, township of	H 260361 01-06; 40 FR 24723	1	June 24, 1977	
Do	Mason	Ludington, city of	H 260581 01-03; 40 FR 33822	1	July 19, 1977	
Minnesota	Sterns	Avon, city of	H 270443A 01; 41 FR 35709	1	do	
Do	Carver	Norwood, city of	H 270593 01; 39 FR 40570	1	Mar. 30, 1977	
Do	Marshall	Aslo, city of	H 270272A 01; 40 FR 778	1	Aug. 8, 1977	
Missouri	Stoddard	Essex, city of	H 290425A 01; 41 FR 2244	1	July 19, 1977	
Do	Perry	Perryville, city of	H 290282A 01-02; 41 FR 6731.	1	June 28, 1977	
Montana	Sweetgrass	Big Timber, city of	H 300106 01; 41 FR 45561	1A	Aug. 30, 1977	
Do	Roosevelt	Froid, town of	H 300093 01; 40 FR 14757	1A	do	
Do	Big Horn	Hardin, city of	H 300115 01; 41 FR 8180	1A	do	
Do	Sheridan	Medicine Lake, town of	H 300098 01; 41 FR 20550	1A	do	
Do	Judith Basin	Stanford, town of	H 300037 01; 39 FR 28260	1A	do	
Do	Pondera	Valier, town of	H 300133 01; 40 FR 14757	1	Feb. 16, 1977	
Nebraska	Red Willow	Bartley, village of	H 310264 01; 40 FR 23985	1	July 20, 1977	
Do	Gage	Cortland, village of	H 310264 01; 40 FR 20312	1	do	
Do	Garden	Ashkosh, city of	H 310098A 01; 41 FR 4911	1	June 27, 1977	
New Mexico	Grant	Hurley, town of	H 350021A 01-02; 41 FR 18853.	1A	Sept. 8, 1977	
New York	Seneca	Lodi, village of	H 361530B 01; 42 FR 8862	1	June 24, 1977	
Do	Broome	Port Dickinson, village of	I 360053C; 42 FR 33225	4	May 2, 1977	I 360053B.
North Carolina	Harnett	Dunn, city of	H 370264 0001A-0004A; 42 FR 8868.	2	June 29, 1977	
North Dakota	Walsh	Adams, city of	H 380152 01; 40 FR 23985	1A	Aug. 30, 1977	
Do	Cavalier	Alsen, city of	H 380153A 01-02; 42 FR 8872.	1A	do	
Do	Griggs	Binford, city of	H 380158 01; 40 FR 6968	1A	do	
Do	Towner	Bisbee, city of	H 380128 01; 40 FR 8816	1A	do	
Do	Wells	Bowdon, city of	H 380159 01; 40 FR 20813	1	Aug. 22, 1977	
Do	Dickey	Ellendale, city of	H 380225A 01; 40 FR 42556	1	July 27, 1977	
Do	Steele	Finley, city of	H 380227 01; 40 FR 6968	1A	Aug. 30, 1977	
Do	Williams	Grenora, city of	H 380177 01; 40 FR 17990	1A	do	
Do	Sargent	Gwinner, city of	H 380229 01; 40 FR 4129	1A	do	
Do	Ramsey	Hampden, city of	H 380094 01; 39 FR 43396	1A	do	
Do	do	Lawton, city of	H 380095 01; 39 FR 44397	1A	do	
Do	Logan and McIntosh	Lehr, city of	H 380043 01; 39 FR 43083	1	July 27, 1977	
Do	McLean	Max, city of	H 380060 01; 39 FR 43083	1	Aug. 22, 1977	
Do	Nelson	McVille, city of	H 380238 01; 40 FR 6968	1A	Aug. 30, 1977	
Do	Grand Forks	Northwood, city of	H 380245 01; 40 FR 6968	1	June 28, 1977	
Do	Towner	Rock Lake, city of	H 380129 01; 39 FR 43083	1A	Aug. 30, 1977	

State	County	Location	Map No. and "Federal Register" citation	Reason	Effective date of withdrawal	Effective map or proper authority
Do	Steele	Sharon, city of	H 380203 01; 40 FR 6968	1A	do	
Do	Stutsman	Streeter, city of	H 380127 01; 39 FR 43083	1	Aug. 22, 1977	
Do	Ramsey	Starkweather, city of	H 380096 01; 39 FR 44397	1A	Aug. 30, 1977	
Do	Kidder	Tappen, city of	H 380040 01; 39 FR 44397 I331		July 27, 1977	
Do	McLean and Burleigh	Wilton, city of	H 380065A 01; 40 FR 55360	1	Aug. 22, 1977	
Do	McIntosh	Zeeland, city of	H 380214 01; 41 FR 20560	1	do	
Ohio	Allen and Van Wert	Delphos, city of	H 390551 01-02; 40 FR 24725	4	June 11, 1976	June 11, 1976, H 390005A.
Oklahoma	Jackson	Martha, town of	H 400307A 01; 42 FR 8868	1	July 21, 1977	
Oregon	Umatilla	Hermiston, city of	H 410209A 01; 40 FR 25470	1	Aug. 31, 1977	
Do	Clackamas	Molalla, city of	H 410020A 01; 40 FR 56913	1	July 20, 1977	
Pennsylvania	Montgomery	Telford, borough of	H 422339 01; 40 FR 4131	1	do	
Do	Bedford	Woodbury, borough of	H 421355A 01; 41 FR 21334	2	Mar. 14, 1977	
South Dakota	Kingsbury	De Smet, city of	H 460168 01; 40 FR 20814	1	July 21, 1977	
Do	Perkins	Lemmon, city of	H 460191 01; 41 FR 20569	1	July 20, 1977	
Do	Bon Homme	Tyndall, city of	H 460220 01; 41 FR 29839	1	do	
Do	Lawrence	Whitewood, city of	H 460228 01; 41 FR 28967	1	July 19, 1977	
Tennessee	Meigs	Decatur, city of	H 470134 01; 39 FR 21148	4	June 13, 1974	Mar. 11, 1977, H 470134A.
Do	Hawkins	Mount Carmel, city of	H 470311 01-05; 41 FR 20553	1A	July 26, 1977	
Texas	Bell and Williamson	Bartlett, city of	H 480707 01; 40 FR 31219	1	July 21, 1977	
Do	Panola	Beckville, town of	H 480967 01; 40 FR 27653	1	do	
Do	Upshur	Big Sandy, town of	H 481037 01; 40 FR 20815	1	do	
Do	Shelby	Center, city of	H 480566A 01; 41 FR 4906	1	do	
Do	Delta	Cooper, city of	H 480193A 01; 41 FR 38502	1	do	
Do	Smith	Lindale, city of	H 480569A 01-02; 41 FR 6739.	1	do	
Do	Gonzales	Nixon, city of	H 481114 01; 40 FR 20802	1	July 20, 1977	
Do	Fannin	Savoy, city of	H 480813 01; 40 FR 33673	1	do	
Do	Freestone	Teague, city of	H 480236A 01-02; 41 FR 8182.	1A	Sept. 8, 1977	
Do	Wilbarger	Vernon, city of	H 480663A 01-05; 41 FR 6733.	1	July 21, 1977	
Do	McLennan	West, city of	H 480931 01-02; 41 FR 20570	1	do	
Do	Grayson	Whitesboro, town of	H 480838 01-02; 40 FR 20815	1	do	
Utah	Box Elder	Garland, city of	H 490207 01; 41 FR 35711	1	July 20, 1977	
Do	Wasatch	Heber City, city of	H 490166A 01; 40 FR 56913	1	Aug. 12, 1977	
Vermont	Caledonia	Hardwick, village of	H 500187 01; 42 FR 46189	3	Dec. 23, 1977	H 500027B, town of Hardwick, Vt.
Washington	Grays Harbor	Elma, town of	H 530060A 01; 41 FR 29840	1	Mar. 11, 1977	
Do	Snohomish	Lake Stevens, city of	H 530291 01; 40 FR 31222	1	July 20, 1977	
Do	Spokane	Millwood, town of	H 530180A 01; 41 FR 4907	1	June 28, 1977	
Do	Chelan	Wenatchee, city of	H 530020 01; 39 FR 30124	1	Aug. 15, 1977	
Wisconsin	Sauk	Troy, village of	H 550406 01-12; 39 FR 44400	3	July 27, 1977	Sauk County.
Wyoming	Carbon	Sinclair, town of	H 560067 01; 40 FR 23987	1	Aug. 9, 1977	

REASON FOR RESCINDMENT

1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a 1-pct chance of occurrence in any given year.

1A. FIA determined the Community would not be inundated by a flood having a 1-pct chance of occurrence in any given year.

2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.

3. The Community lacked land-use authority over the special flood hazard area.

4. A more accurate FIA map is the effective map for this Community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: May 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-14247 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4181]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS

Communities with Minimal Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the Special Flood Hazard areas, that it is appropriate at this time to convert the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: In these areas, there is no reason not to make full limits of coverage available. The available limits of coverage for flood insurance in these communities is increased to $185,000 for 1 to 4 family residential structures, $250,000 for other residential and commercial structures, $60,000 for contents of residential structures, and $300,000 for contents of commercial structures. Flood insurance is available at Zone C rates throughout the entire community.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Association servicing company for the state.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the FEDERAL REGISTER.

The entry reads as follows:

§ 1915.7 List of communities with minimal hazard areas.

State, County, and Community Name
Alabama, Geneva County, town of Malvern.
Delaware, Sussex County, town of Greenwood.
Louisiana, St. James Parish, town of Gramercy.
Louisiana, West Baton Rouge Parish, city of Port Allen.
Louisiana, Avoyelles Parish, village of Moreauville.
Louisiana, Lafourche Parish, city of Thibodaux.
New Jersey, Camden County, township of Berlin.
New Jersey, Camden County, Borough of Pine Hill.
North Carolina, Pitt County, town of Winterville.
Pennsylvania, Beaver County, Borough of Georgetown.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14249 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4055]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities with Special Hazard Areas

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program (NFIP). The identification of such areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain management, or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this FEDERAL REGISTER publication, whichever is later.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction of buildings as defined in Part 1909 of Title 24 of the Code of Federal Regulations, and

(2) For buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

For communities participating in the NFIP (see the fifth column in the table for a community's program status), this requirement applies on the date listed in the eighth column. For communities not participating in the program, section 202 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area effective one year from the hazard identification date (the date in the eighth column of the table).

This 30-day period before the map action becomes effective does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of 6 months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The 6-months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the 1-year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CO	Uninc. Area	Custer County (03-06,08,11-16, 18-20,22,25-27,33-35,39-41,46-47)	080040 A	N-5,9	I	F	24 JAN 78	24 JAN 78	Mr. Leonard Ries - Chairman - Board of County Commissioners - County Courthouse - P.O. Box 122 Westcliffe, CO 81252 (303) 783-2441
CO	Uninc. Area	Dolores County (0001-0010, 0012)	080279 A	E-5	I	F	24 JAN 78	24 JAN 78	Mr. Wayne Twilley - Chairman - Board of County Commissioners - County Courthouse - Dove Creek, CO 81324 (303) 677-2381
LA	Uninc. Area	Sabine Parish (0001-0017)	220368 A	N-5	I	F	24 JAN 78	24 JAN 78	Mr. C. C. Nabours - President - Office of the Police Jury - Parish Courthouse - Many, LA 71449 (318) 256-2116
ME	Kennebec	Town of Oakland (0001-0002)	230242 A	E-11,12	I	F	24 JAN 75	24 JAN 78	Mr. Eric S. Maserve - Town Manager - P.O. Box 187 - Oakland, ME 04963 (207) 465-7357
MT	Uninc. Area	Jefferson County (0002,0004, 0008-0010,0012-0014,0016-0018,0021-0024)	300154 A	N-5	I	F	24 JAN 78	24 JAN 78	Mr. James Sanddal - Chairman - Board of County Commissioners - County Courthouse - Boulder, MT 59632 (406) 225-3332
OR	Uninc. Area	Marion County (01-25,27-32, 34-39,43-48,50-58,60-66)	410154 A	E N-10,11,12	I	F	24 JAN 75	24 JAN 78	Mr. Walter R. Heine - Chairman - Board of County Commissioners - County Courthouse - Salem, OR 97301 (503) 588-5212

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OR	Linn	City of Millersburg (0001)	410284 A	N-5	I	F	24 JAN 78	24 JAN 78	Honorable Clayton Wood - Mayor - City Council - 4310 N.E. Woods Road - Millersburg, OR 97321 (503) 928-6375
SD	Uninc. Area	Codington County (0001-0009)	460260 A	N-5	I	F	24 JAN 78	24 JAN 78	Mr. Ralph Mack - Chairman - Board of County Commissioners - County Courthouse - Watertown, SD 57201 (605) 886-5497
TX	Uninc. Area	Anderson County (0001-0018)	480001 A	N-5	I	F	24 JAN 78	24 JAN 78	Honorable N. R. Link - County Judge - Office of the County Judge - County Courthouse Palestine, TX 75801 (214) 729-5168
TX	Uninc. Area	Brown County (0001-0013)	480717 A	N-5	I	F	24 JAN 78	24 JAN 78	Honorable James G. Bunnell - County Judge - Office of the County Judge - County Courthouse Brownwood, TX 76801 (915) 646-0370
TX	Uninc. Area	Dimmit County (0001-0016)	480789 A	N-5	I	F	24 JAN 78	24 JAN 78	Honorable Larry Speer - County Judge - Office of the County Judge - County Courthouse Carrizo Springs, TX 78834 (512) 876-2323
TX	Ft. Bend, Harris & Waller	City of Katy (0001)	480301 B	E-8,11	I	F	28 JUN 74	24 JAN 78	Mrs. A. Murray - City Secretary - City Hall - 910 Avenue D - P.O. Box 617 - Katy, TX 77450 (713) 371-3131

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TX	Uninc. Area	Presidio County (0001-0005, 0007-0014,0016-0018,0021-0024,0026-0029,0031-0036)	480530 A	N-5	I	F	24 JAN 78	24 JAN 78	Honorable W. B. Johnson - County Judge - Office of the County Judge - County Courthouse Marfa, TX 79843 (915) 729-4452
TX	Uninc. Area	Starr County (0001-0016)	480575 A	E-8,9,10,11, 12	I	F	1 NOV 74	24 JAN 78	Honorable Dr. Mario E. Ramirez - County Judge - Office of the County Judge - County Courthouse Rio Grande City, TX 78582 (512) 487-2307
TX	Uninc. Area	Uvalde County (0001-0016)	480629 A	N-5	I	F	24 JAN 78	24 JAN 78	Honorable Leo Darley - County Judge - Office of the County Judge - County Courthouse Uvalde, TX 78801 (512) 278-3216
VT	Addison	Town of Hancock (0002,0004)	500005 A	E-8,10,11,12	I	F	20 SEP 74	24 JAN 78	Mr. Everett C. Bettis - Chairman-Board of Selectmen - Town Hall - Hancock, VT 05748 (802) 767-8660

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Choctaw	Choctaw County (Uninc. 0001A-0017A Areas)	010310	E-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Charles Ford, Probate Judge County Courthouse Butler, AL 36904 Phone: (205) 459-2417
AL	Crenshaw	Crenshaw County (Uninc. 0001A-0009A Areas)	010246	E-10, 11, 12, 14	I	F	Dec. 6, 1974	Jan. 27, 1978	Tom Hardin, Probate Judge Courthouse Luverne, AL 36049 Phone: (205) 335-5640
FL	Baker	Baker County (Uninc. 0001A-0010A Areas)	120419	N-5	I	F	Jan. 27, 1978	Jan. 27, 1978	R. H. Davis, Chrmn. Co. Bd. County Courthouse MacClenny, FL 32063 Phone: (904) 259-3613
GA	Hart	Hart County (Uninc. 0001A-0005A Areas)	130467	N-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Byron Whitmire, Ch. Co. Com. P. O. Box 279 Hartwell, GA 30643 Phone: (404) 376-2024
IL	Jersey	Jersey County (Uninc. 0001A-0005A Areas)	170312	E-10, 11, 12, 14	I	F	Dec. 27, 1974	Jan. 27, 1978	Clyde Cope, Ch. Co. Bd. County Courthouse Jerseyville, IL 62052 Phone: (618) 498-5571, ext. 21

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IL	Menard	Menard County (Uninc. 0001A-0004A Areas)	170505	E-10, 11, 12, 14	I	F	Jan. 10, 1975	Jan. 27, 1978	James Combs, County Clerk Box 456 Courthouse Petersburg, IL 62675 Phone: (217) 632-2415
IN	Floyd	Floyd County (Uninc. 0001A-0004A Areas)	180432	E-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Raymond Libs, President, County Commissioners Room 214 City County Building New Albany, IN 47150 Phone: (812) 944-3665
IN	Henry	Henry County (Uninc. 0001A-0006A Areas)	180437	N-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Homer Peckinpaugh, Ch. Co. Comm., Courthouse New Castle, IN 47363 Phone: (317) 529-4705
IN	Wabash	Wabash County (Uninc. 0001A-0006A Areas)	180266	E-10, 11, 12, 14	I	F	Dec. 27, 1974	Jan. 27, 1978	Glen Beery, Co. Comm. Wabash County Courthouse Wabash, IN 46992 Phone: (219) 563-5217
MS	Covington	Covington County, (Uninc. 0001A-0005A Areas)	280291	E-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Guy C. Hughs, Pres. Bd. of Suprs., Courthouse Collins, MS 39428 Phone: (601) 722-3395
NY	Allegany Cattaraugus Chautauga Erie	Seneca Nation of Indians 0001A-0005A	361591	E-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Calvin E. Lay, Pres. Saylor Community Building P. O. Box 268A Irving, NY 14081 Phone: (716) 532-5661
NC	Chowan	Chowan County (Uninc. 0001A-0004A Areas)	370301	E-5	I & C	F	Jan. 27, 1978	Jan. 27, 1978	Dallas L. Jethro, Jr., Co. Com P. O. Box 405 Edenton, NC 27932 Phone: (919) 482-8486
OH	Madison	Madison County (Uninc. 0001A-0009A Areas)	390773	N-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Louis Overturf, Ch. Co. Comm. County Courthouse London, OH 43140 Phone: (614) 852-2972

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OH	Paulding	Paulding County (Uninc. 0001A-0006A Areas)	390777	N-5	I	F	Jan. 27, 1978	Jan. 27, 1978	John Dietrich, Ch. Co. Comm County Courthouse Paulding, OH 45879 Phone: (419) 399-2051
OH	Columbiana	Village of Salineville 0001A	390628	N-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Stanley E. Fitch, Mayor Main Street Salineville, OH 43945 Phone: (216) 679-2307
OH	Williams	Williams County (Uninc. 0001A-0006A Areas)	390785	N-5	I	F	Jan. 27, 1978	Jan. 27, 1978	Donald Kaiser, Ch. Co. Comm. County Courthouse Bryan, OH 43506 Phone: (419) 636-2059
PA	Warren	Township of Deerfield 0001A	422118	N-8, 11, 12, 14	I	F	Nov. 15, 1974	Jan. 27, 1978	Joseph M. Pillar, Ch. Deerfield Township Suprs. Tidioute, PA 16351 Phone: (814) 484-3474
WI	Dodge	City of Beaver Dam 0001C	550095	E-12, 14	I	F	Dec. 17, 1973 Oct. 10, 1975 Sept. 24, 1976	Jan. 27, 1978	Bob Kachelski, Mayor City Hall Beaver Dam WI 53916 Phone: (414) 885-5541

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AK	Unorganized Borough	City of Akolmiut (01-30)	020116 A	N-5,9	I	F	31 JAN 78	31 JAN 78	Honorable Irvin Brink - Mayor - Bethel Division - City Hall - Nunapitchuk, AK 99641 (907) 543-2064
ID	Uninc. Area	Madison County (0001-0007)	160217 A	N-5	I	F	31 JAN 78	31 JAN 78	Mr. W. Keith Walker - Chairman - Board of County Commissioners - County Courthouse - Rexburg, ID 83440 (208) 356-3652
ID	Uninc. Area	Twin Falls County (0001-0023)	160231 A	N-5	I	F	31 JAN 78	31 JAN 78	Mr. Merl E. Leonard - Chairman - Board of County Commissioners - County Courthouse - Twin Falls, ID 83301 (208) 734-3300
IA	Uninc. Area	Clayton County (0001-0010)	190858 A	E-5	I	F	31 JAN 78	31 JAN 78	Mr. Virgil Wessel - Chairman - Board of Supervisors - County Courthouse - Elkader, IA 52043 (319) 245-1106
MT	Uninc. Area	Richland County (0005,0008-0012,0014-0016,0020-0021)	300165 A	N-5	I	F	31 JAN 78	31 JAN 78	Mr. Andrew Peterson - Chairman - Board of County Commissioners - County Courthouse - Sidney, MT 59270 (406) 482-1708
NV	Uninc. Area	Lyon County (0001-0008,0010-0012,0014-0015,0017-0018, 0020-0023,0025-0027)	320029 A	N-5	I	F	31 JAN 78	31 JAN 78	Mr. Robert H. Griffin - Chairman - Board of County Commissioners - County Courthouse - Yerington, NV 89447 (702) 463-2362

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ND	Barnes	City of Valley City (01-05)	380002 B	E M-8,9,11,12	I	F	8 FEB 74	31 JAN 78	Mr. Robert K. Barrow - City Engineer - City Hall - Valley City, ND 58072 (701) 845-0380
OR	Uninc. Area	Lake County (0003-0005,0008, 0010-0016,0029,0031,0034, 0036,0042-0045,0049-0050, 0052)	410115 A	E M-5	I	F	31 JAN 78	31 JAN 78	Mr. George Carion - Chairman - Board of County Commissioners - County Courthouse - Lakeview, OR 97630 (503) 947-2421
TX	Uninc. Area	Bexar County (01-28,31-36, 39-43,46-52,54-82)	480035 A	E-5	I	F	31 JAN 78	31 JAN 78	Honorable Blair Reeves - County Judge - Office of the County Judge - County Courthouse San Antonio, TX 78204 (512) 220-2626
TX	Uninc. Area	Fayette County (0001-0014)	480815 A	N-5	I	F	31 JAN 78	31 JAN 78	Honorable Fritz C. Lobpries - County Judge - Office of the County Judge - County Courthouse LaGrange, TX 78945 (713) 968-3459
UT	Uninc. Area	San Juan County 0002-0004, 0032	490109 A	E-5	I	F	31 JAN 78	31 JAN 78	Mr. Calvin Black - Chairman - Board of County Commissioners - County Courthouse - Monticello, UT 84535 (801) 587-2232

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AL	Houston	Houston County (Uninc. Areas) 01-43	010098A	E-10, 11, 12, 14	I	F	Feb. 14, 1975	Feb. 3, 1978	Nathan Mathis, Co. Chrmn. Courthouse Box 1672 Dorthan, AL 36301 Phone: (205) 793-1114
AL	Lowndes	Lowndes County (Uninc. ~~0001A-0011A~~ Areas) 0001A-0007A, 0009A-0011A	010272	E-10, 11, 12, 14	I	F	Nov. 29, 1974	Feb. 3, 1978	Lenard Nall, Jr., Co. Engr. County Courthouse Hayneville, AL 36040 Phone: (205) 548-2324
AL	Perry	City of Marion 0001B	010313	E-11, 12, 14	I	F	June 27, 1975 Nov. 14, 1975	Feb. 3, 1978	W. David Cobb, C. Admn. City Hall Marion, AL 36756 Phone: (205) 683-8069
AL	Russell	Russell County (Uninc. 0001A-0010A Areas)	010287	E-10, 11, 12, 14	I	F	Jan. 17, 1975	Feb. 3, 1978	Howard Light, Chrmn. Co. Comm., Courthouse Phenix City, AL 36867 Phone: (205) 298-6426
GA	Liberty	Municipality of Allenhurst 0001A	130350	E-5	I	F	Feb. 3, 1978	Feb. 3, 1978	William C. Cox, Mayor P. O. Box 123 Allenhurst, GA 31302 Phone: (912) 876-2694
GA	Brooks	Brooks County (Uninc. 0001A-0006A Areas)	130281	N-5	I	F	Feb. 3, 1978	Feb. 3, 1978	J. H. Cooper, Ch. Co. Comm. P. O. Box 272 Quitman, GA 31643 Phone: (912) 263-5561
GA	Jenkins	Jenkins County (Uninc. 0001A-0008A Areas)	130118	E-5	I	F	Feb. 3, 1978	Feb. 3, 1978	Charles Bragg, Chrmn. Co. Comm., P. O. Box 797 Millen, GA 30442 Phone: (912) 982-2563
GA	Gwinnett	Municipality of Rest Haven 01	130327A	N-5	I	F	Feb. 3, 1978	Feb. 3, 1978	Troy Adams, Mayor 869 Gainsville Highway Buford, GA 30518 Phone: (404) 945-5516
GA	Thomas	Thomas County (Uninc. 0001A-0006A Areas)	130401	N-5	I	F	Feb. 3, 1978	Feb. 3, 1978	Theron Davis, Chrmn. Co. Comm., P. O. Box 520 Thomasville, GA 31792 Phone: (912) 225-0516
IL	Grundy	Grundy County (Uninc. 0001A-0006A Areas)	170256	E-10, 11, 12, 14	I	F	Dec. 20, 1974	Feb. 3, 1978	Eugene Sorensen, Bldg. & Zoning Officer Zoning Office Courthouse Morris, IL 60450 Phone: (815) 942-4412
IL	Knox	Knox County (Uninc. 0001A-0008A Areas)	170914	E-5	I	F	Feb. 3, 1978	Feb. 3, 1978	Yvonne Tabb, Co. Clk. County Courthouse Galesburg, IL 61401 Phone: (209) 343-3121

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IN	Hancock	City of Greenfield 0001B-0002B	180084	E-8, 10, 11, 12, 14	I	F	Nov. 23, 1973 Sept. 24, 1976	Feb. 3, 1978	Won Blue, Mayor Town Hall Greenfield, IN 46140 Phone: (317) 462-4141
IN	Miami	Miami County (Uninc. 0001A-0005A Areas)	180409	E-5	I	F	Feb. 3, 1978	Feb. 3, 1978	Robert Ulery, Dir. Miami Co. Planning Comm., Rm. 103 Courthouse Peru, IN 46970 Phone: (317) 472-3220
NJ	Sussex	Township of Green 0001B	340529	E-11, 12, 14	I	F	Nov. 1, 1974 May 14, 1976	Feb. 3, 1978	Harold E. Pellow, Engr. R. D. # 1, Box 2D Augusta, NJ 07822 Phone: (201) 948-6463
NJ	Monmouth	Borough of Keansburg 01	340303A	E-10, 11, 12, 14	I & C	F	April 20, 1973	Feb. 3, 1978	Eugene Connelly, Mayor 43 Church Street Keansburg, NJ 07734 Phone: (201) 787-0215
NJ	Hunterdon	Township of Kingwood 0001A-0003A	340499	E-10, 11, 12, 14	I	F	March 15, 1974	Feb. 3, 1978	Walter Mironchik, Clerk R. D. # 1 Frenchtown, NJ 08825 Phone: (201) 996-4276

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NJ	Bergen	Township of Mahwah 0001B-0003B	340049	E-8, 11, 12, 14	I	F	April 5, 1974 June 11, 1976	Feb. 3, 1978	Vincent Soukup, P. E., Engr. 200 Rt. 17 South Mahwah, NJ 07430 Phone: (201) 529-5400
NC	Caswell	Caswell County (Uninc. 0001A-0006A Areas)	370300	N-5	I	F	Feb. 3, 1978	Feb. 3, 1978	Rick Honeycutt, C. Mgr. P. O. Box 98 Yanceyville, NC 27379 Phone: (919) 694-4193
OH	Franklin	City of Columbus ~~0001A-0017A~~ 0001A-0003A 0005A-0017A	390170	E-8, 10, 11, 12, 14	I	F	Aug. 9, 1974	Feb. 3, 1978	Lin Carver, Dev. Planner Le-Veque-Lincoln Tower 50 West Broad Street Suite 29 Columbus, OH 43215 Phone: (614) 461-5763
OH	Logan	Logan County (Uninc. 0001A-0009A Areas)	390772	E-5	I	F	Feb. 3, 1978	Feb. 3, 1978	Carmen Scott, Dir. of Plannin Box 141 East Liberty, OH 43319 Phone: (513) 666-3431
TN	Gibson	Gibson County (Uninc. 0001A-0010A Areas)	470359	N-5	I	F	Feb. 3, 1978	Feb. 3, 1978	Joe Boswel Soil Conservation Office Trenton, TN 38382 Phone: (901) 855-0024

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TN	Madison	Madison County (Uninc. ~~0001A-0011A~~ Areas) 0001A-0008A, 0010A-0011A	470112	E-10, 11, 12, 14	I	F	Jan. 17, 1975	Feb. 3, 1978	Walter B. Harris, County Judge County Courthouse Jackson, TN 38301 Phone (901) 427-9441

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AZ	Uninc. Area	Pinal County (0001-0007, 0009-0024, 0026-0033, 0035-0048)	040077 A	E-8,10,11, 12	I	F	10 JAN 75	7 FEB 78	Mr. James J. Karam - Chairman - Board of Supervisors - County Courthouse - Florence, AZ 85232 (602) 868-5801
IA	Uninc. Area	Warren County (0001-0006)	190912 A	N-5,9	I	F	7 FEB 78	7 FEB 78	Mr. Robert Dittmer - Chairman - Board of Supervisors - County Courthouse - Indianola, IA 50125 (515) 961-2224
MA	Barnstable	Town of Chatham (01-09,13-14)	250004 A	E-8,11,12	C	F	31 MAY 74	7 FEB 78	Mr. William Brennan - Chairman - Planning Board - Box 123 - Chatham, MA 02633 (617) 432-2780
MT	Uninc. Area	Big Horn County (0001-0002, 0007-0009)	300143 A	N-5	I	F	7 FEB 78	7 FEB 78	Mr. Ed Miller - Chairman - Board of County Commissioners - County Courthouse - Hardin, MT 59034 (406) 665-1506
MT	Uninc. Area	Blaine County (0002-0003, 0005-0008, 0012-0013, 0026-0028)	300144 A	N-5	I	F	7 FEB 78	7 FEB 78	Mr. George Green - Chairman - Board of County Commissioners - County Courthouse - Chinook, MT 59523 (406) 357-3240
MT	Uninc. Area	Phillips County (0004-0006, 0009-0010, 0012-0014, 0017)	300162 A	N-5	I	F	7 FEB 78	7 FEB 78	Mr. Duane W. Compton - Chairman Board of County Commissioners - County Courthouse - Malta, MT 59538 (406) 654-2423

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NB	Uninc. Area	Scotts Bluff County (0001-0010)	310473 A	N-5	I	F	7 FEB 78	7 FEB 78	Mr. Fred A. Lockwood - Chairman - Board of County Commissioners - County Courthouse - Gering, NB 69341 (308) 436-5031
NM	Uninc. Area	Curry County (0001-0017)	350127 A	N-5	I	F	7 FEB 78	7 FEB 78	Mr. James Williams - Chairman - Office of County Administrators - County Courthouse - Clovis, NM 88101 (505) 763-5591
NM	Uninc. Area	Eddy County (0001-0020,0022-0026,0028-0032,0034-0045)	350120 A	E-5	I	F	7 FEB 78	7 FEB 78	Mr. Arnold Crabb - Chairman - Board of County Administrators - County Courthouse - Carlsbad, NM 88220 (505) 887-2323
OK	Uninc. Area	Okmulgee County (0001-0009)	400492 A	N-5	I	F	7 FEB 78	7 FEB 78	Mr. A. H. Coleman - Chairman - Board of County Commissioners - County Courthouse - Okmulgee, OK 74447 (918) 756-3935
TX	Uninc. Area	Jeff Davis County (0001-0023)	481251 A	N-5	I	F	7 FEB 78	7 FEB 78	Honorable Wanda Adams - County Judge - Office of the County Judge - County Courthouse - Fort Davis, TX 79734 (915) 426-3968
TX	Uninc. Area	Young County (0001-0012)	480684 A	N-5,9	I	F	7 FEB 78	7 FEB 78	Honorable Raymond Thompson - County Judge - Office of the County Judge - County Courthouse - Graham, TX 76046 (817) 549-2030

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UT	Uninc. Area	Davis County (0001-0008)	490038 A	E-5	I	F	7 FEB 78	7 FEB 78	Mr. Glen W. Flint - Chairman - Board of County Commissioners - County Courthouse - Farmington, UT 84025 (801) 295-2394
UT	Uninc. Area	Sevier County (0002,0006,0011-0012,0014-0016,0018,0024)	490121 A	E-5	I	F	7 FEB 78	7 FEB 78	Mr. Ivan Mills - Chairman - Board of County Commissioners - County Courthouse - Richfield, UT 84701 (801) 896-4870
UT	Uninc. Area	Washington County (0007-0008,0014,0018-0019,0021-0022,0025,0028)	490224 A	E-5	I	F	7 FEB 78	7 FEB 78	Mr. G. Murray Webb - Chairman - Board of County Commissioners - County Courthouse - St. George, UT 84770 (801) 673-2463
VT	Chittenden	Town of Hinesburg (0001, 0003-0004)	500322 A	N-11,12,14	I	F	31 JAN 75	7 FEB 78	Mr. Andrew L. Gover - Town Clerk P.O. Box 133 - Hinesburg, VT 05461 (802) 482-2281

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FL	Calhoun	Calhoun County (Uninc. 0001A-0007A Areas)	120403	E-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Willie D. Wise, Circuit Clk. County Courthouse Room # 630 Blountstown, FL 32424 Phone: (904) 674-8312
GA	Quitman	Municipality of Georgetown 0001A	130379	N-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Robert Bennett, Mayor P. O. Box 297 Georgetown, GA 31754 Phone: (912) 334-3588
GA	Peach	Peach County (Uninc. 0001A-0003A Areas)	130373	E-5	I	F	Feb. 10, 1978	Feb. 10, 1978	William Terrell, Zoning Office Courthouse Fort Valley, GA 31030 Phone: (912) 825-5118
IN	Randolph	Randolph County (Uninc. 0001A-0006A Areas)	180429	E-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Joseph S. Cross, Jr., Ex. Dir Area Planning Comm. Courthouse, Room 202 Winchester, IN 47394 Phone: (317) 584-4865
IN	Ripley	Ripley County (Uninc. 0001A-0006A Areas)	180221	E-10, 11, 12, 14	I	F	Dec. 13, 1974	Feb. 10, 1978	William Abdon, Dir. Area Planning Commission P. O. Box 443 Versailles, IN 47042 Phone: (812) 689-6062
MI	Macomb	City of Sterling Heights 01-04	260128C	E-12, 14	I	F	June 29, 1973 April 12, 1974 Sept. 10, 1976	Feb. 10, 1978	Jerry H. Hammond, Engr. 40555 Utica Road Sterling Heights, MI 48078 Phone: (313) 268-8500
MI	Genesee	Township of Thetford 0001A-0002A	260783	N-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Sharon Norris, Clerk Twp. Hall, 4014 E. Vienna Road Clio, MI 48420 Phone: (313) 686-5200
MN	Hennepin	Township of Hassan 0001A-0004A	270678	E-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Richard Sherman, Ch. Plan. Comm., Hassan Twp. Rt. # 1, Box 42C Rogers, MN 55374 Phone: (612) 935-3381
MN	Lac Qui Parle	Lac Qui Parle County 0001A-0009A (Uninc. Areas)	270239	E-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Palmer Grinager, Ch. Bd., Co. Comm. Boyd, MN 56218 Phone: (612) 598-7444

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NY	Chautauqua	Town of Ellery 0001A-0005A	361072	E-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Jacquelyne Stowell, Clerk Box J Bemus Point, NY 14712 Phone: (716) 386-2185
NC	Person	Person County (Uninc. Areas) 0001A-0006A	370346	N-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Roy L. Lowe, Co. Mgr. P. O. Box 1214 Roxboro, NC 27573 Phone: (919) 599-9184
NC	Anson	Town of Polkton 0001A	370286	N-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Barbara Rackley, T. Clerk P. O. Box 66 Polkton, NC 28135 Phone: (704) 272-7463
NC	Jackson	Town of Webster 01	370281A	N-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Roy Baker, Mayor P. O. Box 6 Webster, NC 28788 Phone: (704) 586-2070
OH	Allen	Allen County (Uninc. Areas) 0001A-0007A	390758	E-5	I	F	Feb. 10, 1978	Feb. 10, 1978	George E. Woolley, Engr. Offi: P. O. Box 1138 1501 N. Sugar Street Lima, OH 45802 Phone: (419) 228-3700
OH	Ashland	Ashland County (Uninc. Areas) 0001A-0007A	390759	N-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Don Workman, Ch. Co. Comm. County Courthouse Ashland, OH 44805 Phone: (419) 289-0000
OH	Fairfield	Fairfield County (Uninc. Areas) 0001A-0008A	390158	E-5	I	F	Feb. 10, 1978	Feb. 10, 1978	Philip Boyle, Reg. Planning Director County Courthouse Lancaster, OH 43130 Phone: (614) 654-6530, ext. 256
OH	Monroe	Monroe County (Uninc. Areas) 0001A-0008A	390404	E-10, 11, 12, 14	I	F	Feb. 14, 1975	Feb. 10, 1978	Gerald Sims, Co. Engr. Courthouse P. O. Box 555 Woodsfield, OH 43793 Phone: (614) 472-0763
PA	Bucks	Township of Bristol 0001A-0002A	420984	E-10, 11, 12, 14	I	F	July 20, 1973	Feb. 10, 1978	William H. Carter, Mayor Pond & Mulberry Streets Bristol, PA 19007 Phone: (215) 788-3828
SC	Abbeville	Abbeville County (Uninc. Areas) 0001A-0011A	450227	N-5	I	F	Feb. 10, 1978	Feb. 10, 1978	W. D. Nixon, Ch. Co. Comm. Courthouse Abbeville, SC 29620 Phone: (803) 459-5312

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CA	Sonoma	City of Cotati (01)	060377 B	E-11,14	I	F	22 NOV 74	14 FEB 78	Mr. Mark Thysen - Planner - P.O. Box 428 - 201 W. Sierra Avenue - Cotati, CA 94928 (707) 795-5478
CA	Uninc. Area	Kings County (01-07,09-19, 21-22,24-25,27,30-31,33-39,41-57,59-61,64-66,68-69,72-79,81-87)	060086 A	E-8,10,11,12	I	F	23 AUG 74	14 FEB 78	Mr. John Maroot - Chairman - Board of Supervisors - County Courthouse - Hanford, CA 93230 (209) 582-3211
CA	Uninc. Area	Solano County (0001-0013)	060631 A	N-5	I	F	14 FEB 78	14 FEB 78	Mr. Richard Brann - Chairman - Board of County Supervisors - County Courthouse - Fairfield, CA 94533 (707) 422-2010
MT	Uninc. Area	Mineral County (0001-0002, 0005-0006,0009-0010,0013-0014)	300159 A	N-5	I	F	14 FEB 78	14 FEB 78	Mr. R.J. Hollenback - Chairman - Board of County Commissioners - County Courthouse - Superior, MT 59872 (406) 822-4841
NM	Bernalillo	City of Albuquerque (01-37)	350002 A	E-11,12,14	I	F	20 AUG 76	14 FEB 78	Mr. Bruno Conegliano - Asst. City Engineer-Hydrology - P.O. Box 1293 - Albuquerque, NM 87103 (505) 766-7441
OK	Major	Town of Cleo Springs (01)	400280 A	N-11,14	I	F	12 SEP 75	14 FEB 78	Ms. Mary Clinesmith - City Treasurer - P.O. Box 6 - Cleo Springs, OK 73729 (405) 438-2243

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OR	Washington	City of Tigard (0001)	410276 A	E-5	I	F	14 FEB 78	14 FEB 78	Mr. Larry Svart - Assistant Planner - P.O. Box 23397 - 12420 S.W. Main - Tigard, OR 97223 (503) 639-4171 Ext.30
SD	Edmunds	City of Ipswich (01)	460184 A	N-8,11,14	I	F	5 NOV 76	14 FEB 78	Mr. Ed Bachman - City Auditor - Office of the City Auditor - City Hall - Ipswich, SD 57451 (605) 426-5281
UT	Uninc. Area	Morgan County (14,16-18,20-24,26-27,31-33,37-38,41-42,44-45,48-49,51-52)	490092 A	E-8,10,11,12	I	F	18 OCT 74	14 FEB 78	Mr. Dale H. Thurston - Chairman - Board of County Commissioners - P.O. Box 886 - Morgan, UT 84050 (801)829-3311
WA	Uninc. Area	Stevens County (0001-0029)	530185 A	E-5	I	F	14 FEB 78	14 FEB 78	Mr. Lee L. Strand - Chairman - Board of County Commissioners - County Courthouse - Colville, WA 99114 (509) 684-4301

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AL	Etowah	Etowah County (Uninc. 0001A-0009A Areas)	010077	N-S	I	F	Feb. 17, 1978	Feb. 17, 1978	Harry Sizemore, Ch. Co. Bd. Courthouse Gadsden, AL 35901 Phone: (205) 546-2821
AL	Winston	Winston County (Uninc. 0001A-0009A Areas)	010304	N-S	I	F	Feb. 17, 1978	Feb. 17, 1978	Idas Neal, Ch. Co. Bd. Courthouse Double Springs, AL 35553 Phone: (205) 489-5026
GA	Wilcox Dodge	Municipality of Abbeville 0001A	130195	N-S	I	F	Feb. 17, 1978	Feb. 17, 1978	Walter Bruce, Mayor City Hall Abbeville, GA 31001 Phone: (912) 467-2666
GA	Laurens	Laurens County (Uninc. 0001A-0011A Areas)	130462	N-S	I	F	Feb. 17, 1978	Feb. 17, 1978	W. E. Lovett, Jr., Ch. Co. Bd. P. O. Box 2011 Dublin, GA 31021 Phone: (912) 272-4755
GA	Tift	Tift County (Uninc. 0001A-0004A Areas)	130404	N-S	I	F	Feb. 17, 1978	Feb. 17, 1978	Charles Kent, Ch. Co. Comm. P. O. Box 826 Tifton, GA 31794 Phone: (912) 382-5350
IL	Schuyler	Village of Browning 01	170606B	E-11, 12, 14	I	F	Aug. 23, 1974 Feb. 6, 1976	Feb. 17, 1978	Sidney Dewitt, Jr., Vil. Pres. Village Hall Browning, IL 62624 Phone: (217) 323-2771
IL	Montgomery	City of Hillsboro 01	170513B	E-11, 12, 14	I	F	May 17, 1974 Aug. 6, 1976	Feb. 17, 1978	James F. Lyerla, Mayor 114 East Wood Street Hillsboro, IL 62049 Phone: (217) 532-5566
IL	Pike	Village of Nebo 01	170554B	E-11	I	F	Dec. 28, 1973 Jan. 16, 1976	Feb. 17, 1978	Duane B. Killebrew, Vil. President Village Hall Nebo, IL 62355 Phone: (217) 734-2138
MI	Menominee	Township of Ingallston 0001A-0005A	260660	N-S	I & C	F	Feb. 17, 1978	Feb. 17, 1978	Roy Rasner, Twp. Supr. Route # 1 Wallace, MI 49893 Phone: (906) 863-9031
MI	Ingham	Township of Locke 0001A-0002A	260671	E-S	I	F	Feb. 17, 1978	Feb. 17, 1978	Dorothy Finger, Clk. Rowley Road Williamston, MI 48895 Phone: (517) 468-3472
MS	Lincoln	Lincoln County (Uninc. 0001A-0009A Areas)	280273	N-S	I	F	Feb. 17, 1978	Feb. 17, 1978	W. A. Rogers, Ch. Co. Bd. Box 555 Brookhaven, MS 39601 Phone: (601) 833-4911
MS	Oktibbeha	Oktibbeha County (Uninc. 0001A-0009A Areas)	280277	N-S	I	F	Feb. 17, 1978	Feb. 17, 1978	Willie Thompson, Pres. Bd. of Suprs. Courthouse Starkville, MS 39759 Phone: (601) 323-5834

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NY	Franklin	Town of Burke 0001A-0003A	361394	N-15	I	F	Feb. 17, 1978	Feb. 17, 1978	Mary Brockway Town Clerk Burke, NY 12917 Phone: (518) 483-5175
NC	Burke	Burke County (Uninc. Areas) 0001B-0008B	370034	E-9	I	F	Aug. 19, 1977	Feb. 17, 1978	Chester West, Dir. P. O. Box 219 Morgantown, NC 28655 Phone: (704) 437-5721
NC	Gates	Gates County (Uninc. Areas) 0001A-0008A	370103	E-10, 11, 12, 14	I	F	Feb. 14, 1975	Feb. 17, 1978	Edward McDuffie, Co. Mgr. P. O. Box 141 Gatesville, NC 27938 Phone: (919) 357-6071
OH	Clark	Village of Enon 0001A	390795	E-5	I	F	Feb. 17, 1978	Feb. 17, 1978	Charles E. Koons, Mayor East Main Street Enon, Ohio 45323 Phone: (513) 864-7936
OH	Union	Union County (Uninc. Areas) 0001A-0006A	390808	E-5	I	F	Feb. 17, 1978	Feb. 17, 1978	Maxwell Robinson, Ch. Co. Comm. Courthouse Marysville, OH 43040 Phone: (513) 642-2841
OH	Wood	Wood County (Uninc. Areas) 0001A-0011A	390809	E-5	I	F	Feb. 17, 1978	Feb. 17, 1978	Frank Radeloff, Ch. Co. Comm. Courthouse Square Bowling Green, OH 43402 Phone: (419) 352-6531
OH	Wyandot	Wyandot County (Uninc. Areas) 0001A-0006A	390787	N-5	I	F	Feb. 17, 1978	Feb. 17, 1978	John Hendricks, Pres. Bd. of Comm. Courthouse Upper Sandusky, OH 43351 Phone: (419) 294-3436
SC	York	York County (Uninc. Areas) 0001A-0009A	450193	E-5	I	F	Feb. 17, 1978	Feb. 17, 1978	James E. Klugh, Co. Mgr. P. O. Box 66 York, SC 29745 Phone: (803) 684-2969

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CA	Uninc. Area	Monterey County (0001-0022, 0024-0041)	060195 A	E-5	C	F	21 FEB 78	21 FEB 78	Mr. Ken Blum - Chairman - Board of Supervisors - County Courthouse - Salina, CA 93901 (408) 424-8611
CO	Uninc. Area	Morgan County (0003-0012)	080129 A	N-5	I	F	21 FEB 78	21 FEB 78	Mr. William Work - Chairman - Board of County Commissioners - County Courthouse - Fort Morgan, CO 80701 (303) 867-8202
KS	Uninc. Area	Butler County (01-84)	200037 A	E-5,9	I	F	21 FEB 78	21 FEB 78	Mr. Robert J. Patterson - Chairman - Board of County Commissioners - County Courthouse - El Dorado, KS 67042 (316) 321-1920
KS	Uninc. Area	Shawnee County (01-35)	200331 A	N-5	I	F	21 FEB 78	21 FEB 78	Ms. Mary Bogart - Chairman - Board of County Commissioners - County Courthouse - Topeka, KS 66777 (913) 295-4000
MT	Uninc. Area	Hill County (0006-0017,0019-0020,0023-0025,0028)	300153 A	N-5	I	F	21 FEB 78	21 FEB 78	Mr. Daniel Morse - Chairman - Board of County Commissioners - County Courthouse - Harre, MT 59501 (406) 265-5481
MT	Uninc. Area	Park County (0001-0009,0011-0012,0014-0018,0020-0024, 0026-0028,0030-0034)	300160 A	E-5	I	F	21 FEB 78	21 FEB 78	Mr. Don Blakelee - Chairman - Board of County Commissioners - County Courthouse - Livingston, MT 59047 (406) 222-0480
MT	Uninc. Area	Valley County (0011-0012, 0016-0017,0019-0021,0026)	300171 A	N-5	I	F	21 FEB 78	21 FEB 78	Mr. Earl Daly - Chairman - Board of County Commissioners - County Courthouse - Glasgow, MT 59230 (406) 228-4713
NV	Uninc. Area	Lander County (0001-0004, 0006-0007,0009-0013,0015-0023,0025-0045,0047-0051, 0053-0057)	320013 A	E-8,10,11, 12	I	F	26 JUL 74	21 FEB 78	Mr. Louis M. Lemaire - Chairman - Board of County Commissioners - County Courthouse - Austin, NV 89310 (702) 964-2439
TX	Uninc. Area	Zapata County (0001-0016)	480687 A	N-8, 11,12	I	F	2 AUG 74	21 FEB 78	Honorable Jacob B. Rathmell - County Judge - Office of the County Judge - County Courthouse Zapata, TX 78076 (512) 765-4342
VT	Windham	Town of Grafton (02-14)	500129 B	N-11,12,14	I	F	6 DEC 74	21 FEB 78	Mrs. Margery H. Heindel - Chairman - Office of the Board of Selectmen - Grafton, VT 05146 (802) 843-2419
WA	Uninc. Area	Grays Harbor County (0002-0014,0016-0020)	530057 A	E-8,10,11, 12	C	F	28 JUN 74	21 FEB 78	Mr. John Pearsall - Chairman - Board of County Commissioners - County Courthouse - Montesano, WA 98563 (206) 249-3731
WY	Uninc. Area	Converse County (0021-0023, 0027-0028)	560082 A	N-5	I	F	21 FEB 78	21 FEB 78	Mr. Brooks - Chairman - Board of County Commissioners - County Courthouse - Douglas, WY 82633 (307) 358-3415

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AL	Blount	Blount County (Uninc. 0001A-0009A Areas)	010230	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Frank J. Green, Probate Judge P. O. Box 668 Oneonta, AL 35121 Phone: (205) 274-2134
AL	Colbert	Colbert County (Uninc. 0001A-0008A Areas)	010318	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Bruce Gargis, Ch. Co. Comm. Courthouse Tuscumbia, AL 35674 Phone: (205) 383-4981
AL	Shelby	Shelby County (Uninc. 0001A-0011A Areas)	010191	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	James Ray, Co. Engr. 506 Highway 70 Columbia, AL 35051 Phone: (205) 669-6769
GA	Habersham	Habersham County (Uninc. 0001A-0006A Areas)	130458	E-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Clay Strange, Ch. Co. Comm. Clarkville, GA 30523 Phone: (404) 754-6264
IL	Bureau	Village of Cherry 01	170011A	E-11, 12, 14	I	F	July 11, 1975	Feb. 24, 1978	Edmund Flarty, Mayor Village Hall Cherry, IL 61317 Phone: (815) 894-2171
IL	McHenry	City of McHenry 0001B	170483	E-8, 11, 12, 14	I	F	March 29, 1974 Sept. 24, 1976	Feb. 24, 1978	Joseph B. Stanek 1111 N. Green Street McHenry, IL 60050 Phone: (815) 385-0953
IL	Shelby	Shelby County (Uninc. 0001A-0010A Areas)	170933	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Delores Bruns, Co. Clk. Courthouse Shelbyville, IL 62565 Phone: (217) 774-4421
IL	Fayette	City of Vandalia 0001B	170233	E-8, 11, 12, 14	I	F	March 22, 1974 March 19, 1976	Feb. 24, 1978	Rose Ann Mull, Clk. 219 South Fifth Vandalia, IL 62471 Phone: (618) 283-1196
IN	Clark	Clark County (Uninc. 0001A-0007A Areas)	180426	E-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Sharon Wilson, Dir. Clark Co. Reg. Plan. Comm. Courthouse Clark, IN 47130 Phone: (812) 283-4451, ext. 25
IN	Putnam	Putnam County (Uninc. 0001A-0006A Areas)	180213	N-10, 11, 12, 14	I	F	Jan. 3, 1975	Feb. 24, 1978	Johnny Masten, Co. Comm. Courthouse Greencastle, IN 46135 Phone: (317) 653-4603
MI	Menominee	Township of Harris 0001A-0003A	260456	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Bert Wieciech, Supr. R. D. # 2 Bark River, MI 49807 Phone: (906) 466-5508

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MI	Schoolcraft	Township of Inwood 0001A-0003A	260518	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Joe Carley, Supr. Cooks, MI 49817 Phone: (906) 644-2231
MI	Marquette	Township of Powell 0001A-0005A	260452	N-5	I & C	F	Feb. 24, 1978	Feb. 24, 1978	Peter French, Supr. Powell Township Bldg. Big Bay, MI 49808 Phone: (906) 345-9345
MI	Genesee	Township of Vienna 0001A-0002A	260665	E-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Howard Owens, Supr. 3370 W. Vienna Road Clio, MI 48420 Phone: (313) 688-7580
MS	Amite	Amite County (Uninc. 0001A-0009A Areas)	280268	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	G. McClendon, Pres. Bd. of Supervisors Courthouse Liberty, MS 39645 Phone: (601) 657-8288
MS	Hinds	Hinds County (Uninc. 0001A-0017A Areas)	280070	E-10, 11, 12, 14	I	F	OCT. 18, 1974	Feb. 24, 1978	Pal Jones, Pres. Bd. of Suprs. P. O. Box 686 Jackson, MS 39205 Phone: (601) 353-6603
MS	Issaquena	Issaquena County (Uninc. 0001A-0009A Areas)	280200	E-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Mary Vandevender, Clk. Courthouse Mayersville, MS 39113 Phone: (601) 873-2761

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MS	Jasper	Jasper County (Uninc. 0001A-0008A Areas)	280302	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Ruth Stockman, Clk. P. O. Box 406 Bay Springs, MS 39422 Phone: (601) 764-3368
MS	Walthall	Walthall County (Uninc. 0001A-0007A Areas)	280307	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Denver Kennedy, Clk. P. O. Box 351 Tylertown, MS 39667 Phone: (601) 876-3553
MS	Webster	Webster County (Uninc. 0001A-0012A Areas)	280284	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Dean Hall, Pres. Bd. of Supr. Courthouse Walthall, MS 39771 Phone: (601) 258-4801
NY	Broome	Town of Nanticoke 0001B-0003B	360052	E-11, 12, 14	I	F	April 12, 1974 Nov. 7, 1975	Feb. 24, 1978	Howard J. Gates, Supr. Glen Aubrey Rd. Box 64 Whitney Point, NY 13862 Phone: (607) 862-3232
NC	Duplin	Duplin County (Uninc. 0001A-0011A Areas)	370083	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	J. W. Hoffer, Ch. Co. Comm. P. O. Box 158 Kenansville, NC 28349 Phone: (919) 296-1591
OH	Richland	Richland County (Uninc. 0001A-0008A Areas)	390476	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	James Roberts, Co. Engr. 395 N. Main St. Mansfield, OH 44902 Phone: (419) 524-4004

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OH	Ross	Ross County (Uninc. 0001A-0009A Areas)	390480	E-10, 11, 12, 14	I	F	Feb. 7, 1975	Feb. 24, 1978	Robert Rittinger, Ch. Co. Comm Courthouse Chillicothe, OH 45601 Phone: (614) 774-2925
OH	Tuscarawas	Tuscarawas County (Uninc. 0001A-0008A Areas)	390782	E-5	I	F	Feb. 24, 1978	Feb. 24, 1978	William Haney, Ch. Co. Comm. 172 N. Broadway Street New Philadelphia, OH 44663 Phone: (216) 364-8811
SC	Hampton	Hampton County (Uninc. 0001A-0009A Areas)	450095	E-5	I	F	Feb. 24, 1978	Feb. 24, 1978	E. E. Johnson, Co. Admn. Box 103 Hampton, SC 29924 Phone: (803) 943-3014
SC	Marlboro	Marlboro County (Uninc. 0001A-0007A Areas)	450146	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	William P. Wallace, Ch. Co. Council Courthouse Bennettsville, SC 29512 Phone: (803) 479-4462
TN	Giles	Giles County (Uninc. 0001A-0008A Areas)	470063	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Earl Wrightfield, Judge Courthouse Pulaski, TN 38478 Phone: (615) 363-5300
TN	Montgomery	Montgomery County (Uninc. 0001A-0011A Areas)	470136	E-10, 11, 12, 14	I	F	Aug. 30, 1974	Feb. 24, 1978	William Beach, Judge Courthouse Clarksville, TN 37040 Phone: (615) 647-6787
TN	Stewart	Stewart County (Uninc. 0001A-0006A Areas)	470180	N-10, 11, 12, 14	I	F	Sept. 13, 1974	Feb. 24, 1978	Ira Atkins, Co. Judge Courthouse Dover, TN 37058 Phone: (615) 232-5371
VA	Madison	Madison County (Uninc. 0001A-0006A Areas)	510094	E-10, 11, 12, 14	I	F	Nov. 8, 1974	Feb. 24, 1978	Steve Utz, Co. Zoning Admn. P. O. Box 368 Madison, VA 22727 Phone: (703) 948-6102
MI	Baraga	Township of L'Anse 0001A-0004A	260353	N-5	I	F	Feb. 24, 1978	Feb. 24, 1978	Carlo L. Heikkinen, Supr. RFD - Pequamine Rd. L'Anse, MI 49946 Phone: (906) 524-6707
NJ	Mercer	Township of Hamilton 0001A-0007A	340246	E-10, 11, 12, 14	I	F	Feb. 22, 1974	Feb. 24, 1978	Thomas J. Warwick, Clk. 2090 Greenwood Ave. Trenton, NJ 08609 Phone: (609) 586-3500

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AK	Uninc. Area	Matanuska Susitna Borough (0001-0003)	020024 A	N-5	I	F	28 FEB 78	28 FEB 78	Mr. David B. Simpson - Planning Director - Box B - Palmer, AK 99645 (907) 745-3246
CA	Uninc. Area	Lassen County (0001-0003, 0005-0051)	060092 A	N-5	I	F	28 FEB 78	28 FEB 78	Mr. Robert K. Sorvaag - Associate Planner - Planning Department - Susanville, CA 96130 (916) 257-2625
CA	San Diego	City of San Diego (02-11,13-15,17-18,20-24,26-49,52-54,57,59-71,73-78,80-84,86-97,100-104,106-116,119-121,123-124)	060295 A	E-5	C	F	28 FEB 78	28 FEB 78	Mr. Robert Cain - Flood Plain Management - City Operations Building - 122 First Avenue - Mail Station 403 - San Diego, CA 92101 (714) 236-6090
KS	Uninc. Area	Finney County (0001-0013)	200099 A	N-5	I	F	28 FEB 78	28 FEB 78	Mr. Robert Buerkle - Chairman - Board of County Commissioners - County Courthouse - Garden City, KS 67846 (316) 276-3031
NB	Uninc. Area	Lancaster County (0001-0008)	310134 A	N-5	I	F	28 FEB 78	28 FEB 78	Mr. H. Bruce Hamilton - Chairman Board of County Commissioners - County Courthouse - Lincoln, NB 68508 (402) 475-5611

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NV	Uninc. Area	Washoe County (0001-0022, 0025-0026,0032,0035,0038, 0041-0042,0045-0046,0048-0058)	320019 A	E-15	I	F	28 FEB 78	28 FEB 78	Mr. George Oshima - Director - Department of Public Works - 1205 Mill Street - P.O. Box 11130 Reno, NV 89520 (702) 785-4101
NH	Strafford	Town of Rollinsford (0001)	330190 A	N-9,11,12 14	I	F	3 JAN 75	28 FEB 78	Mrs. Grace L. Joncas - Chairperson - Board of Selectmen - 18 Prospect Street - Rollinsford, NH 03869 (603) 742-2513
OR	Uninc. Area	Baker County (0001,0003-0009 0011-0020,0022-0039)	410001 A	E-5	I	F	28 FEB 78	28 FEB 78	Mr. Dennis L. Fuller - Chairman - Board of County Commissioners - County Courthouse - Baker, OR 97814 (503) 523-3503
UT	Uninc. Area	Box Elder County (0001-0003, 0005-0009,0011-0012,0014-0044,0047-0061)	490005 A	E-5	I	F	28 FEB 78	28 FEB 78	Mr. Don E. Chase - Chairman - Board of County Commissioners - County Courthouse - Brigham City, UT 84302 (801) 723-3277

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AL	Dallas	Dallas County (Uninc. 0001A-0012A Areas)	010063	E-10, 11 12, 14	I	F	Jan. 3, 1975	March 3, 1978	Weston Scarsbrook Dallas County Bldg. Dept. P. O. Box 806 Selma, AL 36701 Phone: (205) 872-3436
AL	Choctaw	Town of Pennington 0001A	010035	N-5	I	F	March 3, 1978	March 3, 1978	Marcelete Hurt, Clk. P. O. Box 40 Pennington, AL 36910 Phone: (205) 654-2336
GA	Walker	Walker County (Uninc. 0001A-0006A Areas)	130180	E-5	I	F	March 3, 1978	March 3, 1978	Roy Parrish, Pres. Co. Comm. Courthouse LaFayette, GA 20728 Phone: (404) 638-1443
IL	Fulton	City of Canton 01-03	170242B	E-8, 11, 12, 14	I	F	June 14, 1974 July 11, 1975	March 3, 1978	Harlan E. Crouch, Mayor 210 East Chestnut Canton, IL 61520 Phone: (309) 647-0065
IL	Massac	City of Metropolis 01-02	170469B	E-11, 12, 14	I	F	March 8, 1974 Jan. 23, 1976	March 3, 1978	Henry Taylor, Mayor 106 W. Fifth Street Metropolis, IL 62960 Phone: (618) 524-2711
IL	Ogle	City of Oregon 01	170530B	E-11, 12, 14	I	F	Nov. 23, 1973 Sept. 26, 1975	March 3, 1978	Chrissie Martin, Mayor 115 N. Third Oregon, IL 61061 Phone: (815) 732-6321
IN	Huntington	Huntington County (Uninc. 0001A-0006A Areas)	180438	N-5	I	F	March 3, 1978	March 3, 1978	Harford Crockett, Dir. Huntington Co. Plan. Comm. 4th Floor Courthouse Huntington, IN 46750 Phone: (219) 356-5900
IN	Tippecanoe	Tippecanoe County (Uninc. 0001A-0006A Areas)	180428	E-5	I	F	March 3, 1978	March 3, 1978	Jerry Overstreet Tippecanoe Co. Area Plan. Comm. Courthouse Lafayette, IN 47905
KY	Hickman	Hickman County (Uninc. 0001A-0004A Areas)	210338	N-5	I	F	March 3, 1978	March 3, 1978	Stanley Hopkins, Judge Courthouse Clinton, KY 42031 Phone: (502) 653-5221
MI	Barry	Township of Thornapple 0001A-0004A	260230	E-5	I	F	March 3, 1978	March 3, 1978	Marc Squier, Supr. 114 E. Main St. Middleville, MI 49333 Phone: (616) 795-7202

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MS	Yazoo	Yazoo County (Uninc. 0001A-0014A Areas)	280199	E-10, 11, 12, 14	I	F	Sept. 13, 1974	March 3, 1978	Sam S. Fisher, Pres. Bd. of Suprs. P. O. Box 68 Yazoo City, MS 39194 Phone: (601) 673-2232
NY	Chautauqua	Town of North Harmony 0001A-0004A	361076	E-5	I	F	March 3, 1978	March 3, 1978	Willis Graham, Town Supr. P. O. Box 167 Stow, NY 14785 Phone: (716) 789-3445
OH	Adams	Adams County (Uninc. 0001A-0008A Areas)	390001	N-5	I	F	March 3, 1978	March 3, 1978	Paul Hanover, Ch. Co. Ccr 110 W. Main St. West Union, OH 45693 Phone: (513) 544-3286
OH	Ashtabula	Ashtabula County (Uninc. 0001A-0012A Areas)	390010	E-5	C	F	March 3, 1978	March 3, 1978	Walter R. Krothe, Chief Ins. Ashtabula Co. Dept. of Bldg. Reg. Co. Office Bldg. Jefferson, OH 44047 Phone: (216) 576-2040
SC	Lee	Lee County (Uninc. 0001A-0006A Areas)	450126	N-5	I	F	March 3, 1978	March 3, 1978	Clyde Beasley, Ch. Co. Council Courthouse Bishopville, SC 29010 Phone: (803) 428-3408

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
SC	Mccormick	Mccormick County (Uninc. 0001A-0006A Areas)	450226	E-5	I	F	March 3, 1978	March 3, 1978	Curtis Baggett, Co. Comm. P. O. Box 426 Mccormick, SC 29835 Phone: (803) 465-2231
SC	Williamsburg	Williamsburg County (Uninc. 0001A-0014A Areas)	450187	E-10, 11, 12, 14	I	F	Nov. 29, 1974	March 3, 1978	Hugh McCutchen, Co. Supr. P. O. Boc 330 Kingstree, SC 29556 Phone: (803) 354-9321
TN	Henry	City of Paris 0001B	470090	E-8, 11, 12, 14	I	F	Feb. 1, 1974 Sept. 3, 1976	March 3, 1978	W. J. Neese, Mayor City Hall P. O. Box 970 Paris, TN 38242 Phone: (901) 642-1212

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CA	Uninc. Area	Tehama County (0001-0005, 0008-0011,0013-0017,0020-0023,0025-0028)	065064 A	E-5	I	F	7 MAR 78	7 MAR 78	Mr. Larry A. Coleman - County Director of Water Resources - Flood Control & Water Conservation District - Route #1 P.O. Box 4 - Gerber, CA 96035 (916) 385-1462
KS	Uninc. Area	Harvey County (0001-0006)	200585 A	N-5	I	F	7 MAR 78	7 MAR 78	Mr. Orville Schmidt - Chairman - Board of County Commissioners - County Courthouse - Newton, KS 67114 (316) 283-7232
LA	Uninc. Area	Caddo Parish (0001-0015)	220361 A	N-5	I	F	7 MAR 78	7 MAR 78	Mr. Wesley Browning - President - Office of the Police Jury - Parish Courthouse - Shreveport, LA 71101 (318) 222-3831
LA	Uninc. Area	Natchitoches Parish (0001-0017)	220129 A	E-5	I	F	7 MAR 78	7 MAR 78	Mr. J. L. Ackel - President - Office of the Police Jury - Parish Courthouse - Natchitoches, LA 71457 (318) 352-2714
MA	Bristol	City of Fall River (01-15)	250055 B	N-12,14	I	F	13 MAY 77	7 MAR 78	Mr. Richard St. Pierre - Assistar to Mayor - Mayor's Office - Cne Government Center - Fall River, MA 02720 (617) 676-8211
ND	Foster	City of Carrington (01-02)	380218 A	N-12,14	I	F	28 MAY 76	7 MAR 78	Mr. Wally Emerson - City Auditor Box 137 - Carrington, ND 58421 (701) 652-2102

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OK	Oklahoma	City of Midwest City (01-04, 06-08,10-12)	400405 B	E-11,12,14	I	F	3 JUN 77	7 MAR 78	Mr. John Bates - City Engineer - P.O. Box 10670 - Midwest City, OK 73110 (405) 732-2281
SD	Uninc. Area	Pennington County (01-18,21-22,27-41,46-62,67-84,86-104,106-107,109-124,126-135,138-154,156-167)	460064 A	E-8,10,11, 12	I	F	27 DEC 74	7 MAR 78	Mr. Dan Ferber - Director of Planning & Zoning - 220 Kansas City Street - Rapid City, SD 57701 (605) 394-2186
TX	Uninc. Area	Travis County (0001-0016)	481026 A	E-5,9	I	F	7 MAR 78	7 MAR 78	Honorable Mike Renfro - County Judge - Office of the County Judge - County Courthouse - Austin, TX 78767 (512) 476-7162
WY	Fremont	Town of Dubois (01)	560018 B	N-12,14	I	F	23 JAN 74 27 AUG 76	7 MAR 78	Honorable George M. Blevins - Mayor - P.O. Box 456 - Dubois, WY 02513 (307) 455-2345

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Lauderdale	Town of Rogersville 01-04	010339A	N-S	I	F	March 10, 1978	March 10, 1978	John Robertson, Mayor P. O. Box 178 Rogersville, AL 35652 Phone: (205) 247-5446
FL	Sumter	City of Wildwood 0001B	120299	E-8, 11, 12, 14	I	F	Jan. 23, 1974 May 28, 1976	March 10, 1978	John Phillips, Jr., City Mgr. P. O. Box 267 Wildwood, FL 37285
GA	Burke	Burke County (Uninc. 0001A-0012A Areas)	130022	E-5	I	F	March 10, 1978	March 10, 1978	Ray Delaigle, Ch. Co. Comm. P. O. Box 62 Waynesboro, GA 30830 Phone: (404) 554-2324
IL	Lee	City of Amboy 01	170414B	E-11, 12, 14	I	F	Nov. 23, 1973 April 11, 1975	March 10, 1978	Kenneth McCracken, Mayor P. O. Box 158 Amboy, IL 61310 Phone: (815) 857-3814
IL	Ogle	Ogle County (Uninc. 0001A-0011A Areas)	170525	E-5	I	F	March 10, 1978	March 10, 1978	Helvie Wooding, Co. Clk. Courthouse Oregon, IL 61061 Phone: (815) 732-2211
IL	Stark	City of Wyoming 01	170615A	N-S	I	F	March 10, 1978	March 10, 1978	Lucille Park, Mayor City Hall Wyoming, IL 61491 Phone: (309) 695-4831

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IN	Hamilton	City of Carmel 0001B	180081	E-8, 11, 12, 14	I	F	Aug. 9, 1974 March 5, 1976	March 10, 1978	Peggy Smith, C. Clk. 40 E. Main Carmel, IN 46032 Phone: (317) 844-1811
IN	Franklin	Franklin County (Uninc. 0001A-0006A Areas)	180068	E-10, 11, 12, 14	I	F	Dec. 13, 1974	March 10, 1978	Clarence L. Myer, Ex. Dir. Franklin Co. Plan. Comm. Courthouse Brookville, IN 47012 Phone: (317) 647-5731
IN	Knox	Knox County (Uninc. 0001A-0010A Areas)	180422	E-5	I	F	March 10, 1978	March 10, 1978	Glenn A. Koby, Dir. Knox Co. Area Plan. Comm. 7th & Busseron St. Courthouse Vincennes, IN 47591 Phone: (812) 886-4042
IN	Howard	Town of Russiaville 01	180427A	E-5	I	F	March 10, 1978	March 10, 1978	Dale Robertson, T. Bd. President Russiaville, IN 46979 Phone: (317) 883-7212
MI	Newaygo	Township of Croton 01-12	260468A	N-S	I	F	March 10, 1978	March 10, 1978	William R. Miller, Supr. Township Hall, Rt. # 2 Newaygo, MI 49337 Phone: (616) 652-1161

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MI	Antrim	Village of Elk Rapids 0001A	260699	E-5	I	F	March 10, 1978	March 10, 1978	Elaine Glowicki, Co. Clk. P. O. Box 398 Elk Rapids, MI 49629 Phone: (616) 264-9274 Robert C. Lake, Pres. 2100 Lake Angelius Shores Pontiac, MI 48055 Phone: (313) 335-8840
MN	Beltrami	Beltrami County (Uninc. 0001A-0032A Areas)	270684	E-5	I	F	March 10, 1978	March 10, 1978	Bill Patnaude, Co. Planner Box 248 Bemidji, MN 56601 Phone: (218) 751-4412
MN	Cass	Cass County (Uninc. 0001A-0027A Areas)	270631	E-5	I	F	March 10, 1978	March 10, 1978	Mahlon Swentkosske Cass Co. Zoning Office Courthouse Walker, MN 56484 Phone: (218) 547-3300
MN	Fillmore	Fillmore County (Uninc. 0001A-0009A Areas)	270124	E-10, 11, 12, 14	I	F	Dec. 27, 1974	March 10, 1978	Wesley Kasten, Zoning Admn. Courthouse Preston, MN 55965 Phone: (507) 765-3325
MS	Lee	Town of Saltillo 01-02	280261A	E-15	I	F	March 10, 1978	March 10, 1978	R. W. Webb, Mayor RO. Box K Saltillo, MS 36666 Phone: (601) 869-5431
NC	Wilson	Wilson County (Uninc. 0001A-0008A Areas)	370370	N-5	I	F	March 10, 1978	March 10, 1978	R. L. Shuford, Jr., Mgr. P. O. Box 1228 Wilson, NC 27893 Phone: (919) 237-3913
OH	Licking	Licking County (Uninc. 0001A-0009A Areas)	390328	E-5	I	F	March 10, 1978	March 10, 1978	Paul E. McNamee, P. E. 38 S. First Street Newark, OH 43055 Phone: (614) 349-8421
OH	Tuscarawas	Village of Roswell 01	390813A	E-5	I	F	March 10, 1978	March 10, 1978	Gino J. Martinelli, Mayor Roswell, OH 44663 Phone: (216) 364-2988

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
PA	Bucks	Township of Newtown 01-06	421084A	E-5	I	F	March 10, 1978	March 10, 1978	Carl Sedia, Twp. Chrm. Richboro Rd. Newtown, PA 18940 Phone: (215) 968-2996
TN	Haywood	Town of Stanton 01	470256A	N-S	I	F	March 10, 1978	March 10, 1978	G. Faulk, Mayor Town Hall P. O. Box 97 Stanton, TN 38069 Phone: (901) 548-6140
VA	Scott	Scott County (Uninc. 0001A-0008A Areas)	510142	E-S	I	F	March 10, 1978	March 10, 1978	Gene Dishner, Co. Admn. P. O. Box 67 Gate City, VA 24251 Phone: (703) 386-6521
WV	Marion	Town of Barrackville 01	540098A	E-15	I	F	March 10, 1978	March 10, 1978	Darroll C. Courtney, Mayor Town Hall Barrackville, WV 26559 Phone: (384) 266-2709

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
CA	San Diego	City of Chula Vista (01-06, 09,11)	065021 B	E-11,12,14	C	F	8 APR 77	14 MAR 78	Mr. William J. Robens - Director of Public Works - Public Works Department - P.O. Box 1087 - Chula Vista, CA 92012 (714) 427-3300 ext. 234
KS	Sedgwick	City of Haysville (0001)	200324 B	E-8,11,12,14	I	F	28 JUN 74	14 MAR 78	Mrs. V. Faye Mallory - City Clerk-City Hall - P.O. Box 404 - Haysville, KS 67060 (316) 524-3243
MO	Uninc. Area	Cass County (01-51)	290783 A	E-5,9	I	F	14 MAR 78	14 MAR 78	Honorable J. Weldon Jackson - Presiding Judge - Office of the County Judge - County Courthouse - Harrisonville, MO 64701 (816) 884-4511
NB	Uninc. Area	Custer County (0003-0005, 0007-0030)	310428 A	N-5	I	F	14 MAR 78	14 MAR 78	Ms. Marian J. Woodward - County Clerk - Office of the County Clerk - County Courthouse - Broker Bow, NB 68822 (308) 872-5701
NM	Uninc. Area	Luna County (0001-0034)	350139 A	E-5	I	F	14 MAR 78	14 MAR 78	Mr. John L. Gray - Chairman - Office of the County Administrator - County Courthouse - Deming, NM 88030 (505) 546-2734
ND	Logan	City of Napoleon (0001)	380044 A	N-5	I	F	14 MAR 78	14 MAR 78	Honorable Roger Martin - Mayor - Office of the Mayor - City Hall - Napoleon, ND 58561 (701) 754-2266

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OK	Uninc. Area	Muskogee County (0001-0014)	400491 A	N-5	I	F	14 MAR 78	14 MAR 78	Mr. Jesse V. Smith - Chairman - Board of County Commissioners - County Courthouse - Muskogee, OK 74401 (918) 682-7731
TX	Uninc. Area	Tom Green County (0001-0019)	480622 A	N-5	I	F	14 MAR 78	14 MAR 78	Honorable Edd B. Keyes - County Judge - Office of the County Judge - County Courthouse San Angelo, TX 76901 (915) 653-2385

FINAL LIST CODES

1. Conversion to Regular Program with FIRM (elevations determined)
2. Conversion to Regular Program with FIRM (no elevations determined)
3. Conversion to Regular Program with no Special Flood Hazard Areas- no FIRM
4. Conversion to Regular Program with no Special Flood Hazard Areas - no FIRM; recission of FHBM effective on same date as conversion
5. Initial FHBM
6. Revision - Change of elevation; revised FIRM
7. Revision - Change of zone designation; revised FIRM
8. Revision - Corporate limit changes
9. Revision - Drafting corrections; Printing errors
10. Revision - Curvilinear
11. Revision - Add Flood Hazard Area
12. Revision - Reduce Flood Hazard Area
13. Revision - Federal Register omission
14. Revision - Refunds possible
15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.

R - REGULAR PROGRAM E - EMERGENCY PROGRAM N- NOT IN PROGRAM

(24 CFR § 1915.3)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969) as amended, 39 FR 2787, January 24, 1974.)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14252 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4180]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed flood elevations for those communities is appropriate as a result of requests for changes in the interim rule.

DATES: These modified flood elevations are in effect as of the dates listed in the sixth column of the attached list and amend the Federal Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base (100-year) flood elevation determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator has published a notification of modification of the base (100-year) flood elevations in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Administrator has received no appeals from the communities requesting changes in the proposed flood elevation determinations.

The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the base (100-year) flood elevation changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified base (100-year) flood elevation determinations are available for inspection.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are basis for flood plain management measures that the community is required to either adopt of show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain managment requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The changes in the base (100-year) flood elevations listed below are in accordance with 24 CFR 1916.8:

State	County	Location	Name and date of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
New Jersey	Union	New Providence, borough of.	The Sommit Independent & Berkeley Heights-Press, Nov. 3 and 10, 1976.	Mr. J. D. Clark, Borough Administrator, 1243 Springfield Ave., New Providence, N.J. 07974.	Sept. 3, 1976	345306B
North Carolina.	Carteret	Beaufort, town of	The Carteret County News Times, Aug. 8 and 11, 1977.	Hon. Eugene B. Pond, Mayor, town of Beaufort, P.O. Box 390, Beaufort, N.C. 28516.	Aug. 12, 1977	375364B
Texas	Victoria	Victoria, city of	Victoria Advocate, Aug. 19 and 26, 1977.	Hon. C. C. Carsner, Jr., Mayor, city of Victoria, P.O. Box 2207, Victoria, Tex. 77901.	do	480638B
Wisconsin	Buffalo	Fountain City, city of	The Cochrane-Fountain City Recorder, July 27 and Aug. 3, 1977.	Hon. James Scholmeier, Mayor, city of Fountain City, 357 North St., Fountain City, Wis. 54629.	Aug. 5, 1977	555555B

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14248 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-4177]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATE: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination. From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may, at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 24 CFR 1916.8:

State	County	Location	Name and date of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Pennsylvania	Northampton	Palmer, township of	Easton Express, Mar. 17 and 24, 1978.	Mr. George Gable, Supervisor, Hibbs, Pa. 15443.	Mar. 10, 1978	420728B
New Jersey	Bergen	Upper Saddle River, borough of.	The Ridgewood News, Feb. 8 and 9, 1978.	Hon. Kenneth W. Sherwood, Mayor, borough of Upper Saddle River, 376 West, Saddle River, N.J. 07458.	Feb. 10, 1978	340077 0001B
Missouri	St. Charles	St. Charles, city of	The Banner News, Mar. 30 and 31, 1978.	Hon. Frank Brokgreitens, Mayor, city of St. Charles, 101 South Main St., St. Charles, Mo. 43301.	Mar. 31, 1978	290318 0001-0002B
Massachusetts	Norfolk	Walpole, town of	The Walpole Times, Mar. 16 and 23, 1978.	Mr. Edward T. O'Neill, Town Administrator, town of Walpole, Main St., Walpole, Mass. 02081.	Mar. 24, 1978	250254 0001-0002A
Rhode Island	Bristol	Barrington, town of	The Barrington Times, Jan. 25 and Feb. 1, 1978.	Mr. Robert J. Schiedler, Town Manager, Town Hall, 283 County Rd., Barrington, R.I. 02806.	Oct. 17, 1975	445392B
Ohio	Cuyahoga	Mayfield, village of	Sun Press, Feb. 10 and 17, 1978.	Hon. Robert G. Beebe, Mayor, village of Mayfield, 6621 Wilson Mills Rd., Mayfield, Ohio 44143.	Feb. 3, 1978	390116C

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14250 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3702]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Cannon Beach, Clatsop County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Cannon Beach, Clatsop County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Cannon Beach, Oreg.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Cannon Beach, are available for review at City Hall, 163 East Gower Street, Cannon Beach, Oreg.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Cannon Beach, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pacific Ocean	At coast near west end of Sitka St.	28
	At coast near north corporate limit (near 7th St.).	27
	At coast near west end of Umpqua St.	27
	At coast near west end of Washington St.	24
	At coast near west end of Jackson St.	24
	At coast near west end of Brallier St.	23
	At coast near west end of Tanana St.	20
	At coast near west end of Coolidge Ave.	19
	At coast near west end of Chisana St.	15
Elk Creek	At Hemlock St. and 2d St.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14049 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3158]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Rockaway, Tillamook County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Rockaway, Tillamook County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Rockaway, Oreg.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Rockaway, Oreg., are available for review at City Hall, 276 South Highway 101, Rockaway, Oreg.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Rockaway, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An

opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pacific Ocean	West of Oregon Coast Highway 101:	
	2d St	27
	North 5th Ave	27
	Nehalem Ave	23
	South 7th Ave	23
	Heitmiller St	24
Clear Lake	East of Oregon Coast Highway 101:	
	South 3d Ave	14
	South 6th Ave	14
Rock Creek	North of South 3d Avenue:	
	South "E" St	18
	South "D" St	16
	South "C" St	16
Lake Lytle	East of Highway 101:	
	North St	12
	North 6th Ave	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14050 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3743]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Norman, Cleveland County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Norman, Cleveland County, Okla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Norman, Cleveland County, Okla.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Norman, Cleveland County, Okla., are available for review at the Planning Department of the City of Norman, 111 North Peters, Norman, Okla 73070.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Norman, Cleveland County, Okla.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Canadian River	Just upstream of Interstate Highway 35.	1,105
	Just upstream of Rock Creek Rd.	1,132
	Just downstream of Franklin Rd.	1,142
Bishop Creek	Clearview Dr. (extended).	1,125
	Just upstream in Brooks St.	1,137
	Just upstream of Oklahoma Ave.	1,143
	Just upstream of Alameda St.	1,155
	Just downstream of Cockrel Ave.	1,171
Bishop Creek tributary A.	Approximately 500 ft upstream of U.S. Highway 77 (Classen Blvd.).	1,132
	Approximately 100 ft downstream of Lindsey St.	1,143
	Just upstream of Sinclair Dr.	1,166
Bishop Creek tributary B.	Just upstream of Alameda St.	1,157
	Apache St. (extended)	1,166
Bishop Creek tributary C.	Approximately 400 ft upstream of Brooks St.	1,145
Imhoff Creek	Just upstream of Imhoff Rd.	1,112
	Westbrooke Terr. (extended).	1,131
	Just upstream of Lindsey St.	1,141
	Just downstream of Boyd St.	1,147
	Just upstream of Main St.	1,159
	Just upstream of Webster Ave.	1,164
Merckle Creek	Just upstream of Lindsey St.	1,131
	Just upstream of 24th Ave. SW.	1,145
	Just downstream of Crestment St.	1,150
	Just downstream of Robinson St.	1,159
Merckle Creek overflow.	Just upstream of Stephanie Lane.	1,116
Brookhaven Creek	Just upstream of Main St.	1,126
	Just upstream of Robinson St.	1,153
Rock Creek	Leaning Elm Dr. (extended).	1,138
	Just upstream of Rock Creek Rd.	1,158
Lake Thunderbird	Entire shoreline	1,049

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14051 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3703]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Baldwin, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Baldwin, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Baldwin, Allegheny County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Borough of Baldwin, Allegheny County, Pa., are available for review at the Baldwin Municipal Building, 3344 Churchview Avenue, Pittsburgh, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Baldwin, Allegheny County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River.	Confluence of Becks Run.	734
	Upstream corporate limits.	734
Streets Run	Streets Run Rd. (upstream) (near Brentwood Rd.).	856
	Streets Run Rd. (near Prospect Rd.).	917
	Chessie System (downstream) (near Doyle Rd.).	980
Lick Run	Norfork & Western RR. (upstream).	1,015
	Curry Rd. (upstream)	1,016
	McAnnulty Rd. (upstream).	1,032
Becks Run	Carson St	734
	Becks Run Rd. (upstream).	745
	Bajo Rd. (upstream)	762
	Becks Run Rd. (upstream).	785

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14052 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3340]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Benton, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Benton, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Benton, Columbia County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Benton, Columbia County, Pa., are available for review at the home of Walter Gordon, Rural Delivery No. 3, Benton, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Benton, Columbia County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeal of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing Creek	Downstream corporate limits.	723
	Upstream side State Route 254.	732
	Confluence of West Creek.	739
	First corporate limit crossing.	748
	Second corporate limit crossing.	776
	Downstream crossing State Route 487.	811
	Upstream side upstream crossing State Route 487.	820
West Creek	Borough of Benton downstream corporate limits.	751
	First corporate limit crossing.	752

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Second corporate limit crossing.	754
	Upstream side Legislative Route 19076.	763
	Borough of Benton upstream corporate limits (extended).	777
	Upstream side Legislative Route 19077.	788
	Downstream side State Route 239.	807

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14053 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3338]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Bristol, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Bristol, Bucks County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Bristol, Bucks County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Bristol, Bucks County, Pa., are available for review at the second floor in the Borough Manager's Office, Municipal Building, Pond and Mulberry Streets, Bristol, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Adminstrator gives notice of his final determinations of flood elevations for the Borough of Bristol, Bucks County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River.....	Upstream and downstream corporate limits.	11
Otter Run (Mill Creek).	Maple Beach Rd.....	11
	Otter St.....	19
	Bristol Pike (U.S. Route 13).	22
Adams Hollow Creek.	Radcliffe St.....	11
	Wood St.....	15
	Pond St.....	18
	ConRail.....	22

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14054 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3513]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Derry, Mifflin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Derry, Mifflin County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Derry, Mifflin County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Derry, Mifflin County, Pa., are available for review at the Bulletin Board, Municipal Building, Mill Street, Yeagertown, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Derry, Mifflin County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kishacoquillas Creek.	Route 22	477
	Route 322	477
	Downstream Route 522	480
	Street No. 2 near Highland Park.	491
	Street No. 3 passes filtration plant.	512
	Street No. 4 from Yeagertown.	536
	North Derry St	556
Jacks Creek	Route 22	475
	Private road	475
	Goss Mill Rd	482
	Downstream of Gross Derry Bridge.	496
	Upstream of Gross Derry Bridge.	500
	Paintersville Bridge	524
Juniata River	Downstream corporate limits.	463
	Upstream corporate limits.	475

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14055 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3425]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Durham, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Durham, Bucks County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Durham, Bucks County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Durham, Bucks County, Pa., are available for review at the Post Office, Durham, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Durham, Bucks County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Cooks Creek	155
	Downstream corporate limit.	152
Cooks Creek	Coon Hollow Run	192
	Tributary No. 1	166
	Private road	155
	U.S. Route 61	155
	Pennsylvania Canal Aqueduct.	155
	Delaware River	155

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14056 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3746]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Etna, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Etna, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Etna, Allegheny County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Etna, Allegheny County, Pa. are available for review at the Etna Borough Building, 23 Locust Street, Pittsburgh, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Etna, Allegheny County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An

opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Allegheny River	Confluence of Pine Creek.	735
	62d Street Bridge	736
Pine Creek	Confluence with Allegheny River.	735
	At 4th Chessie System crossing.	736
	Butler St	743
	Crescent St. (downstream side).	744
	Crescent St. (upstream side).	749
	Grant Ave	750
	Corporate limits (upstream).	751
Little Pine Creek	Confluence with Pine Creek.	745
	Dewey St	752
	Greeley St	756
	Corporate limits (upstream).	761

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14057 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-2918]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Gaines, Tioga County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Gaines, Tioga County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Gaines, Tioga County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for township of Gaines, Tioga County, Pa., are available for review at the Gaines Post Office, Main Street, Gaines, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Gaines, Tioga County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine Creek	Downstream corporate limits.	1,188
	Pine Creek Rd	1,196
	Township 328	1,221
	Confluence with Long Run.	1,224
	Legislative Route 478 (extended).	1,235
	Confluence with Elk Run.	1,258
	W. A. & G. RR	1,260
	Confluence with Phoenix Run.	1,273
	Upstream corporate limits.	1,278
Phoenix Run	Confluence with Pine Creek.	1,273
	Legislative Route 102	1,275
	Confluence with unnamed tributary (approximately 5,000 ft above mouth of Phoenix Run).	1,319

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14058 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3704]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Hatfield, Montgomery County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Hatfield, Montgomery County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Hatfield, Montgomery County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Hatfield, Montgomery County, Pa., are available for review at the Hatfield Municipal Office, Main and Chestnut Streets, Hatfield, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 7th Street SW., Washington, D.C. 20410. 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Hatfield, Montgomery County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet national geodetic vertical datum
West Branch Neshaminy Creek.	East Vine St	303
	Upstream side of Chestnut St.	307
	East Broad St	314
	Corporate limits	317
Towamelicin Creek.	At confluence with West Branch Neshaminy Creek.	304
	Downstream side of South Main St.	313
	Butler Rd	318
	Columbia Ave. (extended).	325
North Hatfield tributary.	Corporate limits	304

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14059 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3859]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Harmony, Beaver County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Harmony, Beaver County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Harmony, Beaver County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Harmony, Beaver County, Pa., are available for review at The Harmony Municipal Building, Woodland Road, Ambridge, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Harmony, Beaver County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Upstream corporate limits.	709
	Downstream corporate limits.	708
Big Sewickley Creek.	Upstream corporate limits.	726
	Downstream corporate limits.	711
Legionville Run	Legionville Rd	745
	Duss Ave	740
	State Route 65	708
	Confluence with Ohio River.	708

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14060 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3781]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Jackson, Tioga County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Jackson, Tioga County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Jackson, Tioga County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood-prone areas and the final elevations for the township of Jackson, Tioga County, Pa., are available for review at the Jackson Township Building, Millerton, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Jackson, Tioga County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hammond Creek	Downstream corporate limits.	1,147
	Switchback Rd	1,175
	Confluence of North Run.	1,189
	Pa. Rte. 328 (4,000 ft. upstream of confluence of North Run).	1,213
	Pa. Rte. 328 (1,500 ft. downstream of Alder Run).	1,246
	Confluence of Alder Run.	1,263
	Pa. Rte. 328 (2,650 ft. upstream of confluence of Alder Run).	1,290
	Pa. Rte. 328 (near Trowbridge).	1,331
	Legislative Route 58070	1,349
North Run	Confluence with Hammond Creek.	1,189
	Pa. Rte. 328 (upstream)	1,208
	Township Road 791 (extended).	1,214
	Legislative Route 58075	1,301
Alder Run	Confluence with Hammond Creek.	1,263
	Pa. Rte. 328 (upstream)	1,273
	4,000 ft. above confluence with Hammond Creek.	1,346
	Cook Rd	1,398

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14061 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3705]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Lewistown, Mifflin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the borough of Lewistown, Mifflin County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the borough of Lewistown, Mifflin County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of Lewistown, Mifflin County, Pa., are available for review at the Municipal Building, Council Chambers, 2 East 3d Street, Lewistown, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the borough of Lewistown, Mifflin County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Juniata River	Downstream corporate limit.	475
	Fleming Ave. extended	476
	Hale St. extended	477
	Bell Ave	478
	Silversand Ave. extended.	479
	Upstream corporate limit.	479
Kishacoquillas Creek.	Confluence with Juniata River.	477
	U.S. Route 522	477
	South Pine Rd. extended.	477
	East Walnut St	482
	ConRail	484
	Banks Ave. extended	485
	ConRail	488
Jacks Creek	Confluence with Juniata River.	475
	U.S. Route 22	475
	Upstream corporate limit.	475

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14062 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3303]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Ligonier, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Ligonier, Westmoreland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Ligonier, Westmoreland County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Ligonier Westmoreland County, Pa., are available for review at the Ligonier Township Municipal Building, Old Route 30 West, Ligonier, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Ligonier, Westmoreland County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, above mean sea level
Loyalhanna Creek	Confluence with Laughlin Run.	1,180
	Township Route 605	1,164
	S.R. 711	1,152
	Confluence with Mill Creek.	1,143
	L.R. 64071	1,141
	Confluence with Four Mile Run.	1,130
	U.S. Route 30	1,109
Four Mile Run	L.R. 64075	1,173
	Township Route 944 (bridge deck collapsed).	1,158
	L.R. 64060	1,141
	Confluence with unnamed tributary.	1,130
Two Mile Run	Township Route 595	1,322
	L.R. 64060	1,312
	L.R. 64071	1,140
Mill Creek	Ann Roberts Rd.	1,384
	Pennsylvania Route 271.	1,322
	Confluence with Mack's Run.	1,308
	Pennsylvania Route 271.	1,287
	State Route 711	1,163
	Abandoned railroad	1,151
	Township Route 950	1,145
	U.S. Route 30 West	1,143
	U.S. Route 30 East	1,143
Hanna's Run	Robb Rd.	1,224
	White City Rd.	1,217
	Confluence of Mary Ann Run.	1,205
Tributary No. 2	Private drive	1,216
	L.R. 64058	1,215
Tributary No. 1	Township Route 595	1,282
	Confluence with Mill Creek.	1,273
Mack's Run	Township Route 954	1,316
	Confluence with Mill Creek.	1,308
Laughlintown Run.	Mill St.	1,299
	U.S. Route 30	1,271
	Private drive	1,263
	Confluence with Naugle Run.	1,228
	Private drive	1,209
	Laurel Glen Dr	1,196
	State Route 381	1,187
Naugle Run	Mill St.	1,286
	Private drive	1,277
	Confluence with Laughlintown Run.	1,228
Lynn Run	7,450 ft above confluence of Loyalhanna Creek.	1,368
	6,200 ft above confluence of Loyalhanna Creek.	1,342
	4,600 ft above confluence of Loyalhanna Creek.	1,311
	L.R. 64060	1,285

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14063 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3426]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of New Castle, Lawrence County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of New Castle, Lawrence County, Pa. These base (100-year) flood elevations are the basis for the flood plain mangement measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of New Castle, Lawrence County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of New Castle, Lawrence County, Pa., are available for review at the First Floor, New Castle City Hall, North Jefferson Street, New Castle, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of New Castle, Lawrence County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination

to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet above mean sea level
Mahoning River	Upstream corporate limit.	786
	ConRail bridge	782
	Confluence of Shenango River.	777
Shenango River	Upstream corporate limit.	805
	Confluence of Neshannock Creek.	800
	Mahoning Ave	793
	Route 422	784
	Confluence of Mahoning River.	777
Neshannock Creek	Upstream corporate limit.	860
	Paper Mill Rd	831
	Washington St	810
	Confluence of Shenango River.	800
Big Run	Upstream corporate limit.	822
	Moravia St	794

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14064 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3887]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Palmerton, Carbon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Palmerton, Carbon County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Palmerton, Carbon County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Palmerton, Carbon County, Pa., are available for review at the Borough of Palmerton, 443 Delaware Avenue, Palmerton, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Palmterton, Carbon County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lehigh River	Downstream corporate limits.	399
	Dam	406
	Upstream corporate limits.	418
Aquashicola Creek	Downstream corporate limits.	393
	ConRail (downstream)	396
	6th St	399
	Confluence of Mill Creek.	409
	ConRail (upstream)	417
	Upstream corporate limits.	417
Park Run	Downstream corporate limits.	393
	ConRail	397
	Lehigh Ave	400
	Delaware Ave	401
	Lafayette Ave	411
Mill Creek	Confluence with Aquashicola Creek.	409
	Delaware Ave	410

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14065 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-2774]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Township of Portage, Cameron County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Portage, Cameron County, Pa. These base (100-year) flood elevations are the basis for the flood plain mangement measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Portage, Cameron County, Pa.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Portage, Cameron County, Pa., are available for review at the home of Twila Aldin, Secretary-Treasurer of Portage, R.D. No. 1, Emporium, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the township of Portage, Cameron County, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, above mean sea level
Sinnemahoning Portage Creek.	Downstream corporate limits.	1,124
	Driveway bridge	1,128
	ConRail bridge	1,163

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14066 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. FI-3114]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Reading, Berks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Reading, Berks County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Reading, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Reading, are available for review at City Hall, Eighth and Washington Streets, Reading, Pa.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Reading, Pa.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schuylkill River	U.S. 422	200
	Bingaman St	207
	Penn St	209
	Schuylkill St	215
	Warren Street Bypass	229
Angelica Creek	Morgantown Rd	210
	Morgantown Rd. Dam	220
Wyomissing Creek	West Shore Bypass	208
Tylpehocken Creek.	Museum Rd	211
	Reading Belt RR	215
	Warren St (Route 422)	215

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14067 Filed 6-1-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPTMR Amdt. G-45]

MOTOR VEHICLE AND TRANSPORTATION MANAGEMENT

AGENCY: General Services Administration.

ACTION: Final Rule.

SUMMARY: This regulation contains various changes relating to motor vehicle and transportation management, including changes to the list of Government activities that are exempt from displaying U.S. Government tags and other identification on vehicles and the setting forth of GSA Policy governing responsiblity for damages to motor vehicles. This regulation is necessary to update the FPMR to reflect current policy, procedures, and related instructions pertaining to motor vehicle and transportation management.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

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

PART 101–38—MOTOR EQUIPMENT MANAGEMENT

Subpart 101–38.3—Official U.S. Government Tags

Section 101–38.304–1 is revised as follows:

§ 101–38.304–1 Code designations.

Official U.S. Government tags, except tags issued by the District of Columbia Department of Highways and Traffic pursuant to § 101–38.303–1, shall be numbered serially for each agency, beginning with 101, and shall be preceded by a letter code designating the agency having accountability for the motor vehicles as follows:

Action	ACT.
Agriculture, Department of	A.
Air Force, Department of the	AF.
Army, Department of the	W.
Civil Aeronautics Board	CA.
Civil Service Commission	CS.
Commerce, Department of	C.
Community Services Administration	CSA.
Consumer Product Safety Commission	CPSC.
Corps of Engineer, Civil Works	CE.
Defense Contract Audit Agency	DA.
Defense, Department of	D.
Defense Logistics Agency	DLA.
District of Columbia Redevelopment Land Agency	LA.
Energy, Department of	E.
Environmental Protection Agency	EPA.
Executive Office of the President	EO
Council of Economic Advisors, National Security Council, Office of Management and Budget.	
Executive Protective Service	EPS.
Export-Import Bank of the United States	EB.
Federal Aviation Administration	FA.
Federal Communications Commission	FC.
Federal Deposit Insurance Corporation	FD.
Federal Mediation and Conciliation Service	FM.
Federal Reserve System	FR.
Federal Trade Commission	FT.
General Accounting Office	GA.
General Services Adminstration	GS.
Government Printing Office	GP.
Health, Education, Welfare, Department of	HW.
Housing and Urban Development, Department of	H.
Interagency Motor Pool Systems	G.
Interior, Department of the	I.
Interstate Commerce Commission	IC.
Judicial Branch of the Government	JB.
Justice, Department of	J.
Labor, Department of	L.
Legislative Branch	LB.
National Aeronautics and Space Administration	NA.
National Capital Housing Authority	NH.
National Capital Planning Commission	NP.
National Guard Bureau	NG.
National Labor Relations Board	NL.
National Science Foundation	NS.
Navy, Department of the	N.
Nuclear Regulatory Commission	NRC.
Panama Canal Company	PC.
Railroad retirement Board	RR.
Renegotiation Board	RB
Securities and Exchange Commission	SE.
Selective Service System	SS
Small Business Adminstration	SB.
Smithsonian Institution	SI.
National Gallery of Art	
Soldiers' and Airmen's Home, U.S.	SH.
State, Department of	S.
Tennessee Valley Authority	TV.
Transportation, Department of	DOT.
Treasury, Department of the	T.
United States Information Agency	IA.
United States Postal Service	P.
Veterans Administration	VA.

Subpart 101–38.6—Exemptions From Use of Official U.S. Government Tags and other Identification

Section 101—38.602 is amended by revising paragraphs (a), (e), (f), and (n) and by adding paragraphs (o) and (p) as follows:

§ 101–38.602 Unlimited exemptions.

* * * * *

(a) *Agriculture, Department of.* Motor vehicles that the Animal and Plant Health Inspection Service, Agricultural Marketing Service, Food and Nutrition Service, Food Safety and Quality Service, Forest Service, and Office of the Inspector General use in the conduct of investigative or law enforcement activities.

* * * * *

(e) *Energy, Department of.* Motor vehicles that the Department of Energy designates for use in the conduct of security operations or in the enforcement of security regulations.

(f) *Health, Education, and Welfare, Department of.* Motor vehicles operated by the Office of Investigations and Office of the Inspector General that are used for law enforcement and investigative purposes.

* * * * *

(n) *Treasury, Department of the.* All motor vehicles operated by the U.S. Secret Service; Intelligence Division and Internal Security Division of the Internal Revenue Service; Bureau of Alcohol, Tobacco, and Firearms; and Office of Investigation of the U.S. Customs Service.

(o) *State, Department of.* All motor vehicles designated for the protection of both domestic and foreign dignitaries and motor vehicles used in the investigations of passport and visa fraud cases.

(p) *National Labor Relations Board.* Motor vehicles that the field offices use for investigative activities

Subpart 101–38.7—Transfer of Title to Government-Owned Motor Vehicles

Section 101–38.701(d) is revised as follows:

§ 101–38.701 Methods of transfer.

* * * * *

(d) Standard Form 97, The U.S. Government Certificate of Release of Motor Vehicle, and Standard Form 97–A, Agency Record Copy of the U.S. Government Certificate of Release of a Motor Vehicle, are issued together in a unit set as Standard Form 97. Upon completion of the set, Standard Form 97 shall be furnished the purchaser or donee; one copy of Standard Form 97–A shall be furnished the holding agency; and one copy of Standard Form 97–A shall be furnished the contracting officer of the agency effecting sale or transfer of the motor vehicle. (Also see § 101–45.303–3.)

* * * * *

Subpart 101–38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

Section 101–38.1202–1(b) is revised as follows:

§ 101–38.1202–1 Expiration date.

* * * * *

(b) All cards without expiration dates shall be replaced.

Subpart 101–38.49—Forms and Reports

Section 101–38.4903 is revised as follows:

§ 101–38.4903 Examples of agency identification.

Agency identification	Letter height (inch) Min.	Max.
For official use only	½	¾
U.S. Government	¾	1
Department of the Interior	1	1½
Bureau of Reclamation	½	¾
For official use only	½	¾
U.S. Government	¾	1
Internal Revenue Service	1	1½
For official use only	½	¾
U.S. Government	¾	1
Department of Energy	1	1½
For official use only	½	¾
U.S. Government	¾	1
Federal Aviation Administration	1	1½

PART 101–39—INTERAGENCY MOTOR VEHICLE POOLS

Subpart 101–39.8—Accidents and Claims

Section 101–39.807(b) is amended by revising the introductory paragraph to read as follows:

§ 101–39.807 Responsibility for damages.

* * * * *

(b) When an employee damages an interagency motor pool vehicle through misconduct or improper operation as defined in § 101–39.704, GSA will charge all costs to the agency employing the operator, including the fair market value of the vehicle less any salvage value, if the vehicle is damaged beyond economical repair. GSA will furnish the agency an acci-

dent report regarding the incident. Each agency shall be responsible for disciplining its employees who are guilty of damaging motor pool vehicles through misconduct or improper operation.

* * * * *

PART 101–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

Subpart 101–40.7—Reporting and Adjusting Discrepancies in Government Shipments

Section 101–40.702–3(d) is revised as follows:

§ 101–40.702.3 Preparation of a discrepancy report.

* * * * *

(d) Pilferage, theft, or loss, regardless of dollar value, occuring in a shipment of ammunition, explosives, or other hazardous articles (as identified in 49 CFR part 172) shall be reported by telephone within 24 hours after discovery to both the agency or activity responsible for the shipment and to the Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. In addition, a written discrepancy report shall be prepared and distributed immediately, and a copy shall be forwarded to the Materials Transportation Bureau.

* * * * *

Subpart 101–40.49—Forms, Formats, and Agreements

Section 101–40.4902 is revised as follows:

§ 101–40.4902 Standard forms.

The Standard forms illustrated in this subpart 101–40.49 may be obtained by submitting a requisition in FEDSTRIP format to the GSA regional office providing support to the requesting activity.

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

Dated: May 23, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-15276 Filed 6-1-78; 8:45 am]

[4310–84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5638; Idaho 13325]

IDAHO

Transfer of Jurisdiction: Withdrawal of Lands for Dworshak Dam Wildlife Mitigation Project

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This public land order transfers 4,027.56 acres of public lands to the Corps of Engineers and withdraws the lands from operation of the mining laws. The purpose of this rule is to provide lands for the Dworshak Dam Wildlife Mitigation Project. This action is taken under the Federal Land Policy and Management Act of 1976.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mathew Millenbach, 202–343–8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, it is ordered as follows:

1. The following described lands are hereby transferred from the Bureau of Land Management to the Corps of Engineers:

BOISE MERIDIAN

T. 40 N., R. 4 E.,
Sec. 2, lots 3, 4, 6, and W½ of lot 7, SW¼NE¼, S½NW¼, W½SW¼, NE¼SW¼, NE¼SE¼SW¼, W½SE¼SW¼, NW¼NW¼SE¼;
Sec. 3, lots 1 through 8, S½N½, E½SW¼, SE¼;
Sec. 10, N½, N½SW¼, W½SW¼SW¼, N½SE¼SW¼, SE¼SE¼SW¼, SE¼;
Sec. 11, W½NW¼, SE¼NW¼, W½NE¼SW¼, NW¼SW¼, N½SW¼SW¼, NW¼SE¼SW¼;
Sec. 12, E½SW¼SW¼, S½SE¼SW¼, S½SE¼;
Sec. 13, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 14, E½NE¼NE¼, SE¼SW¼NE¼, SE¼NE¼, SE¼NE¼SW¼, S½SW¼, SE¼;
Sec. 15, SE¼SE¼SE¼, N½NW¼NE¼, SE¼NW¼NE¼, W½NW¼NW¼, W½NW¼SW¼, SE¼NW¼SW¼.
T. 40 N., R. 5 E.,
Sec. 5, E½SW¼NE¼, SW¼SW¼NE¼, W½SE¼, SE¼SE¼;
Sec. 6, lots 3, 4, 5, W½SW¼NE¼, SE¼NW¼;
Sec. 7, E½ lot 5, lot 6, S½NE¼, SE¼NW¼, E½SW¼, SE¼;I24Sec. 8, NE¼, E½NE¼NW¼, S½NW¼.

The lands described aggregate approximately 4,027.56 acres in Clearwater County.

2. The lands described in paragraph 1 are hereby withdrawn from all forms of appropriation under the mining laws excepting the mineral leasing laws.

CECIL D. ANDRUS,
Secretary of the Interior.

MAY 17, 1978.

[Fr Doc. 78-15406 Filed 6-1-78; 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.

[3410-15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA Specification PE-23 for Direct Burial Telephone Cables (Air Core)

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 345-14 to announce the revision of REA Specification PE-23 for Direct Burial Telephone Cables (Air Core), This specification was revised to upgrade the electrical requirements and to include a section on Qualification Testing. The effect of this action will be to take advantage of state-of-the-art improvements in cable manufacturing and help assure the long-term performance characteristics of the cable under certain environmental conditions. On issuance of REA Bulletin 345-14, appendix A to part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than July 3, 1978.

ADDRESS: Persons interested in the revised specification may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular besiness hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (17 USC 901 et seq.), REA proposes to issue REA Bulletin 345-14. A copy of the proposed revision of REA Bulletin 345-14 and the proposed revision of REA Specification PE-23 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: May 24, 1978.

C. R. BALLARD,
Assistant Administrator, Telephone.

[FR Doc. 78-15254 Filed 6-1-78; 8:45 am]

[3410-34]

Animal and Plant Health Inspection Service

[9 CFR Part 11]

ANIMAL WELFARE

Horse Protection Regulations; Extension of Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of time for comments.

SUMMARY: This document would extend the comment period on the proposed rulemaking published in the FEDERAL REGISTER, April 28, 1978 (43 FR 18514-18531), which proposes new and revised regulations under the Horse Protection Act to prevent the showing, exhibiting, selling or auctioning of sore horses and certain transportation of sore horses in connection therewith at horse shows, horse exhibitions, horse sales, and horse auctions as required or authorized by the Horse Protection Act Amendments of 1976, enacted on July 13, 1976, and certain other purposes. Certain representatives of the horse industry have requested that the comment period be extended in order to give them adequate time to prepare relevant data and information and to develop sound views and comments. This document is to provide an extension of the comment period as requested.

DATE: Comments must be received on or before June 30, 1978.

ADDRESS: Send comments to Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8271.

SUPPLEMENTARY INFORMATION: Notice was given April 28, 1978 (43 FR 18514-18531), of proposed new and revised regulations under the Horse Protection Act to prevent the showing, exhibition, selling or auctioning of sore horses and certain transportation of sore horses in connection therewith at horse shows, horse exhibitions, horse sales, and horse auctions as required or authorized by the Horse Protection Act Amendments of 1976 (Pub. L. 94-360) enacted on July 13, 1976.

This proposal provided for receipt of comments on or before May 30, 1978.

In response to this proposal, requests were received from representatives of the horse industry for additional time in which to obtain relevant data and information and to develop sound views and comments. Since the Department is interested in receiving meaningful views and comments, these circumstances are considered justification for an extension of the time period originally allotted for submitting views and comments. Therefore, the period for the submission of comments concerning the proposal is hereby extended until June 30, 1978.

Done at Washington, D.C., this 31st day of May, 1978.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc. 78-15467 Filed 6-1-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

[9 CFR Part 381]

STANDARD FOR TURKEY HAM

Notice of Proposed Rulemaking

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes a standard for "Turkey Ham." This product which is fabricated from turkey thigh meat has been marketed for a number of years and has gained consumer acceptance for both its organoleptic characteristics and nutritional qualities. As a result, an increasing number of firms are now marketing the product. The provisions of the

proposal would preserve the characteristic qualities of turkey hams, and would also require that the product name be qualified by the term "Cured Turkey Thigh Meat" so that consumers would be fully informed that the content of the product was turkey.

DATE: Comments must be received on or before August 31, 1978.

ADDRESSES: Written Comments to: Hearing Clerk, Room 1077, South Agriculture Building, U.S. Department of Agriculture, Washington, D.C. 20250. Oral Comments to: Mr. Irwin Fried, 202-447-6042. See also "Comments" under Supplementary Information.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Labels and Standards Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6042.

SUPPLEMENTARY INFORMATION:

COMMENTS

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Hearing Clerk. Comments should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. Any person desiring an opportunity for oral presentation of views must make such request to Mr. Irwin Fried, so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business.

BACKGROUND

Since 1975, the Department has permitted certain cured poultry products fabricated from turkey thigh meat to be labeled as "Turkey Ham" without further qualification. The decision to permit this labeling was based on the view that the term "ham" when prefixed by the species name of an animal refers to the hind limb of that animal. Poultry products are subject to the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) and the poultry products inspection regulations (9 CFR Part 381). The Act and regulations do not define the term "ham"; however, this conclusion concerning the meaning of the term "ham" was based on section 317.8(b)(13) of the Federal meat inspection regulations (9 CFR 317.8(b)(13)) which provides:

The word "ham," without any prefix indicating the species of animal from which derived, shall be used in labeling only in connection with the hind legs of swine.

This provision implies that the term "ham" when prefixed by the species name of an animal refers to the hind limb of that animal.

Section 4(h) (1) and (3) of the Poultry Products Inspection Act (21 U.S.C. 451(h) (1) and (3)) provide that a poultry product is misbranded "if its labeling is false or misleading in any particular," or "if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word 'imitation' and immediately thereafter the name of the food imitiated." In this connection, the American Meat Institute (AMI) and the National Pork Producers Council (NPPC) petitioned the Department to amend the Federal meat inspection regulations and the poultry products inspection regulations to restrict the use of the term "ham" to the labeling of meat products prepared from the hind legs of swine. AMI and NPPC assert that the labeling of a turkey product merely as "Turkey Ham" would falsely indicate that the product contains pork, and that a "Turkey Ham" is an imitation of a pork ham.

In their petition, AMI and NPPC described a study of data obtained from a sample of 400 consumers in four major cities. The study was designed to determine whether the present labeling is likely to mislead consumers about the meaning of "Turkey Ham." Unfortunately, the methodology used in that survey does not permit a rational judgment to be made about consumers' interpretations.

The Department also had a market survey conducted to determine the consumers' understanding of "Turkey Ham." While the results of the survey indicated that the largest group of consumers (40 to 54 percent) understand correctly that the product contained only turkey meat, there is a substantial group of consumers (8 to 19 percent) that believe it to contain some or all pork meat. It appears that the labeling on a "Turkey Ham" would not cause consumers to believe that it contained pork and would not be an imitation of a pork ham if the product name "Turkey Ham" were qualified by the term "Cured Turkey Thigh Meat"; if the word "ham" were the same size, style, and color as the word "turkey"; and if a standard were developed for the product.

Accordingly, it is hereby proposed to require this labeling on the product and to establish a standard for it.

"turkey Ham" is finding increasing consumer acceptance and has been produced with certain characteristics that consumers have come to expect. Accordingly, in order to assure that these characteristics are present in "Turkey Ham," the Administrator proposes to require the product to be prepared only from boneless turkey thigh meat with the skin and surface fat removed; to require the product to be cured with approved curing agents; to require the finished product weight after cooking to be no more than the original weight of the turkey thigh meat used prior to curing; to permit the product to contain certain cure accelerators, phosphates, smoke flavorings, artificial smoke flavorings, and seasonings; and to permit the product to be smoked.

Since there is a textural difference among whole boneless thighs, chunked thigh meat, and ground thigh meat, it is also proposed to require a product to be labeled as "Chunked and Formed" or "Ground and Formed" if fabricated from chunks of thigh meat or ground thigh meat.

Also, in order to assure that all qualifying statements, i.e., "Cured Turkey Thigh Meat," "Chunked and Formed," and "Ground and Formed" are prominently placed on the labeling with such conspicuousness as to render it likely to be read and understood by consumers, it is proposed to require qualifying statements to be not less than one-half the size of the product name, but in no case less than one-eighth inch in height, and to require that the lettering be in the same style and color and with the same background as the product name.

This action does not address directly the use of nitrites in poultry products. That matter is under active review by the Food and Drug Administration. The provision in the proposed standard prescribing the use of nitrites may be affected by action undertaken in the future by the Food and Drug Administration.

Accordingly, it is proposed to amend the poultry products inspection regulations by adding a new section 381.171 to Subpart P to read as follows:

§ 381.171 Definition and standard for "Turkey Ham."

(a) "Turkey Ham" shall be fabricated from boneless turkey thigh meat with the skin and surface fat removed. The thighs shall be that cut of poultry described in §381.170(b)(5) of this part.

(b) The product may or may not be smoked, and shall be cured using approved curing agents as provided in §381.147(f) of this part. The product may also contain cure accelerators, phosphates, smoke flavorings, artificial smoke flavorings, and seasonings as provided in §381.147(f) of this part.

(c) The finished product weight after cooking shall be no more than the original weight of the turkey thigh meat used prior to curing.

(d) The product name on the label shall show the word "Turkey" in the same size, style, color, and with the same background as the word "Ham,"

and shall precede and be adjacent to it.

(e) The product name shall be qualified with the statement "Cured Turkey Thigh Meat." If the product is fabricated from chunks of turkey thigh meat, the product name shall be further qualified to indicate that it is "Chunked and Formed." If the product is fabricated from ground turkey thigh meat, the product name shall be further qualified to indicate that it is "Ground and Formed." The qualifying statements shall be not less than one-half the size of the product name, but the letters shall be not less than one-eighth inch in height. The lettering shall be in the same style and color and with the same background as the product name.

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

Done at Washington, D.C., on: May 31, 19768.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc. 78-15498 Filed 6-1-78; 8:45 am]

[6820-27]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 772 3051]

COOGA MOOGA, INC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 78-13284 appearing at page 21009 of the issue of Tuesday, May 16, 1978, at page 21012 in the thirty-seventh line in the first column, the word "casually" should be changed to "causally".

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Chapter I]

[Docket No. 78N-0074]

X-RAY INTENSIFYING SCREENS

Intent to Develop a Radiation Protection Recommendation

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commissioner of Food and Drugs announces that the Food and Drug Administration (FDA) is considering development of a radiation protection recommendation advocating the increased use of X-ray intensifying screens made from recently developed phosphor materials. The Commissioner believes that the increased use of these screens in appropriate examinations has the potential for a significant reduction in the radiation exposure experienced by persons undergoing medical radiological examination. Comments on the need for, usefulness, and content of such a recommendation are requested.

DATE: Comments by November 29, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Harvey Rudolph, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1960.

SUPPLEMENTARY INFORMATION: Through the Bureau of Radiological Health (BRH) and under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602, 42 U.S.C. 263b et seq.), FDA conducts and supports research, training, and operational activities to minimize unnecessary exposure of the public to electronic product radiation. In carrying out the purposes of the Radiation Control for Health and Safety Act, the Commissioner is authorized to make such recommendations for the control of electronic product radiation as he considers appropriate (42 U.S.C. 263d). In this capacity and under section 301 of the Public Health Service Act, the Commissioner is considering the development of a voluntary radiation protection recommendation and related information to encourage the use of X-ray intensifying screens made from recently developed phosphor materials which can result in reduced patient exposure. The recommendation would encourage radiographic facilities to use these new screens when appropriate and would provide guidance and suggestions to assist radiographic facilities in adopting these new screens.

This recommendation would be among several that have been or will be proposed by the Commissioner concerning the hazards and control of electronic product radiation or radiation from other sources. Some of these may be made for areas or activities inappropriate for mandatory control. These recommendations are developed in cooperation with national scientific and technical authorities and representatives of professional, public, and private groups that have an interest and knowledge in the field. Therefore, these recommendations will represent a consensus of expert opinion upon which individual practitioners and allied health personnel can rely. These recommendations, which will provide guidance on techniques for reducing unnecessary exposure to electronic product radiation or radiation from other sources, would be implemented through educational programs and cooperative activities with professional organizations and State health agencies. The issuance of this notice is part of the FDA policy of early public participation in recommendation development activities.

The Commissioner advises that the actions related to the development of this recommendation are separate from any actions concerning X-ray intensifying screens that may be taken under the authority of the Medical Device Amendments of 1976 (Pub. L. 94-295) to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.). Classification of X-ray intensifying screens according to section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) or any subsequent regulations or other actions will be separate actions which will proceed independently of the development of any radiation protection recommendations.

Through its Bureau of Radiological Health, FDA has had an active interest in the development and increased use of X-ray intensifying screens made from the newer phosphors because of the potential of such screens for significantly reducing exposure from medical radiographic examinations. Studies performed in BRH laboratories and elsewhere have demonstrated that exposure reductions of 50 to 90 percent compared to conventional systems are now possible using intensifying screens made from the new generation of phosphors. Images obtained with systems that provide a 50 percent exposure reduction are comparable to those obtained with conventional systems, whereas those systems providing the greatest exposure reduction may be useful only in certain circumstances or for special procedures. In general, an exposure reduction of about one-half of the conventional exposure results from the greater X-ray absorbing efficiency of the new phosphors. Additional exposure reduction is made possible by the increased brightness of the phosphors and their use with film emulsions whose spectral sensitivity has been optimized for the phosphor emissions. Although this additional exposure reduction may degrade image quality, the Commissioner believes there may be applications where this degradation does not result in a significant loss of diagnostic information.

The Commissioner is considering those actions which the agency should take to encourage the potential reduction in exposure to ionizing radiation that could result from widespread use of the new intensifying screens where they prove to be clinically acceptable. Among the actions being considered is the establishment of an FDA radiation protection recommendation encouraging the use of the new screens. The Commissioner is therefore seeking comment on the utility, need for, and content of such a recommendation as well as information that could be used to develop the recommendation or that could be included in educational programs to promote the use of such screens.

The Commissioner advises that BRH has evaluated prototype intensifying screens which offer more than a 50 percent reduction in patient exposure, compared to conventional calcium tungstate screens, while offering superior or comparable image quality. This evaluation is based on examination of the physical parameters of the images. Most of the commercially available newer film-screen systems appear to be designed to require even less exposure than the prototype screens described above, but unfortunately, result in a compromise of the image quality, such as lower contrast or increased quantum mottle (blotching of the image due to statistical fluctuations in spatial distribution of the image-forming X-rays). The current purchaser may be left in the position of having to compromise some image quality to obtain the exposure reduction afforded by the new systems. The Commissioner encourages manufacturers to offer improved intensifying screen and X-ray film combinations that do not compromise image quality and believes that this should be possible with current technology. The Commissioner sees the interaction of: (1) The electrochemical industry in developing new phosphors, (2) the screen manufacturers in applying these phosphors, and (3) the film manufacturers in developing new emulsions as an example of technology transfer and engineering that is well directed to the national interest in a vital area of public health. Although long term gains may be achieved by developing more efficient phosphors and higher packing densities, the Commissioner hopes that the present gains can be incorporated into general medical practice in the short term.

The Commissioner acknowledges that the adoption of the newer film-screen systems by facilities with established radiology programs may require the solution of certain clinical and technical problems associated with the different characteristics of the newer systems and the use of multiple imaging systems in a single facility. He invites comments defining the type and extent of these problems, as well as information on steps which have been or could be used to overcome these problems.

Clinical users of these systems are invited to submit information on their clinical experience and suggestions concerning the use of currently available systems, together with recommendations for future developments. Manufacturers and others are also invited to submit their current or anticipated solutions to these problems. Such information will be used in determining the need for and content of any recommendations and to support educational efforts designed to encourage the use of the new systems.

To assist in this study and in developing useful recommendations, the Commissioner requests detailed scientific and technical data, as well as comments or suggestions, supported by detailed rationale and justification on the following questions:

1. For what examinations have the newer screen-film combinations been used without loss of diagnostic information, and what are the magnitudes of the exposure reductions realized from their use?

2. For what examinations may image quality be traded for exposure reduction without compromising the diagnostic objectives of the examination, and with which imaging systems has this been satisfactorily accomplished?

3. Do technologists adapt readily to the particular energy (kVp) dependence of these systems? What adjustments of technique are necessary because of the new systems?

4. What procedures should be used by a facility when adopting imaging systems using the newer screens? Should single X-ray systems or entire departments be converted at once to use the new intensifying screens?

5. Can darkroom facilities and procedures be adjusted to effectively operate when different film and screen combinations are used in the same facility?

6. What is the effect of the use of the newer screens on overall system performance and reliability? Does the potential for reduced exposures result in extended X-ray tube lifetime? Can the reduced exposure times possible with the new screens be used to reduce problems due to patient motion?

7. What additional actions should FDA take, in addition to the possible development of an FDA formal recommendation, to foster the use of the newer imaging systems and thereby reduce exposure to radiation?

Individuals or organizations wishing to receive copies of draft recommendations or related documents distributed or made available for review during consideration of this action by the agency may have their names placed on the mailing list by writing to: Division of Compliance (HFX-460), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers lane, Rockville, Md. 20857.

Interested persons are invited to participate in developing the proposed recommendation by submitting written comments or data on the subject. Communications on the proposed recommendation should be sent to the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Comments received on or before November 29, 1978, will be considered by the Commissioner in formulating any recommendations on this subject. Recommendations that are developed will be published in the FEDERAL REGISTER as proposals and public comment will be invited.

This notice of intent is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 356, 82 Stat. 1174-1176 (42 U.S.C. 263d)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: May 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-15063 Filed 6-1-78; 8:45 am]

[4110-03]

[21 CFR Parts 182, 186]

[Docket No. 78N-0032]

TALL OIL

Affirmation of Gras Status as an Indirect Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposal.

SUMMARY: This proposal would affirm the generally recognized as safe (GRAS) status of tall oil as an indirect human food ingredient. The safety of this ingredient has been evaluated under a comprehensive safety review being conducted by the agency.

DATES: Written comments by August 1, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner issued several notices and proposed regulations (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)) initiating this review. Pursuant to this review, the safety of tall oil has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of this ingredient.

Tall oil is essentially the sap of the pine tree. The tall oil of commerce, however, is a byproduct derived from the waste liquors of the pinewood pulp mills in the kraft or sulfate process of paper manufacture. It consists mainly of a mixture of fatty and resin (or rosin) acids and, depending upon the source of the wood and the processing methods used, varies in composition and properties. The resin acids and fatty acids (tall oil) are removed from the wood and converted to soaps by the highly alkaline pulping chemicals. Crude tall oil, recovered when the skimmings are acidified, is separated through distillation into resin and fatty acid fractions.

Crude tall oil is composed of two major fractions, tall oil resin acids and tall oil fatty acids, and a minor fraction consisting of a mixture of unsaponifiable or "neutral" substances. The bulk of the resin acids, comprising about 42 percent of tall oil, consists of diterpenoid monocarboxylic derivatives of alkylated hydrophenanthrenes of the abietic and pimaric acid types.

The fatty acid fraction constitutes about 51 percent of the tall oil. Oleic and linoleic acids, in approximately equal percentages, comprise about 80 percent of this fraction, while the remaining 20 percent consists of a mixture of other fatty acids.

The unsaponifiable fraction accounts for about 7 percent of tall oil. It consists mainly of hydrocarbons, sterols and higher alcohols. Sitosterol, identified as largely β-sitosterol, makes up from 70 to 75 percent of this fraction.

Some constituents of tall oil are either GRAS themselves or are constituents of other GRAS substances. Tall oil fractions are commercially available under a number of trade names; their composition and properties vary depending on conditions of manufacture.

Tall oil is listed in §182.70 (21 CFR 182.70) as GRAS for cotton and cotton fabrics used in dry food packaging pursuant to regulations published in the FEDERAL REGISTER of June 10, 1961 (26 FR 5224). It is also listed in §181.26 as a drying oil in the manufacture of food-packaging materials which is the subject of a prior sanction.

Tall oil is authorized for indirect food use in the following regulations: §175.105, as a component of adhesives; §175.300, as a drying oil used in the formulation of resinous and polymeric coatings; §175.320, as an optional substance used in the formulation of resinous and polymeric coatings for polyolefin films; §176.210, as a substance used in the formulation of defoaming agents used in the manufacture of paper and paperboard; and §177.2600, as a component of rubber articles intended for repeated use.

Use of tall oil for all purposes in the United States rose from 86 million pounds in 1960 to 117 million pounds in 1965 and then dropped to 75 million pounds in 1970. No data are available on the actual consumption of tall oil due to its migration to food from packaging materials. However, the migration of resin components from sized paper to foods has been studied. it was concluded that foods stored up to several weeks in packaging papers containing up to 7 percent resin contain, on the average, no more than 9 parts per million of resin. It seems reasonable to assume that the level of consumer exposure to tall oil resins, fatty acids, and unsaponifiable components migrating to foods from food packaging materials would be the same.

Tall oil has been the subject of a search of the scientific literature from 1920 to the present. The standards used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavorial effects, (12) detection, and (13) processing. A total of 177 abstracts on tall oil was reviewed and 42 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

No feeding studies specifically designed to determine the safety of crude (whole) tall oil have been reported. However, Sunde observed a reduction in the growth of chicks fed 5 percent crude tall oil (about 6.3 g per ky per day) in the diet as compared to chicks fed oleic, linoleic, or linolenic acids at the same level. Chicks on the tall oil diet grew as well as those fed butyric acid at the same level.

In man, tall oil and the resin acids have been found to be slightly irritating to the skin and the mucous membranes. Abietic acid, a major constituent of tall oil, was moderately toxic when ingested (dose not indicated), and large does (up to 0.5 g per kg per day) of β-sitro-sterol, a major constituent of the unsaponifiable fraction of tall oil, apparently caused anorexia, gastrointestinal cramps, and diarrhea in some patients.

Acute toxicity tests of tall oil resin have been conducted on several species of animals. When "pale tall oil resin" was administered (route unspecified, but presumably oral) as a 30 percent solution in corn oil, the LD_{50} values were found to be 7.6 g per kg for rats, 4.6 g per kg for mice, and 4.6 g per kg for guinea pigs.

Longer term studies showed no differences between controls and young albino rats fed 0.01 percent, 0.05 percent, and 0.2 percent pale tall oil resin (about 10 to 200 mg per kg per day) for 90 days in their diets. Observations included appearance, growth, food intake, hematology, urinalysis, and gross pathologic examinations of the liver, kidneys, spleen, gonads, heart, and brain. Histopathologic examinations of these organ and the stomach, small intestine, colon, pancreas, urinary bladder, adrenals, thyroid, parathyroids, lymph nodes, lungs, bone marrow, muscle, prostate and uterus were also made. When 1 percent tall oil resin was fed (1 g per kg per day), growth and food consumption were depressed during the first two weeks, but normal growth rate returned after two weeks. Hematologic findings and urinalyses were normal. No significant differences were noted at autopsy and upon histologic examination of the viscera except for a slightly greater liver weight than in the controls. When 5 percent tall oil resin was fed (5 g per kg per day), rapid weight loss followed and all of the rats died within two weeks.

Tall oil resins were fed to young albino rats and young beagle dogs at dietary levels of 0.05 and 1.0 percent for two years. The 0.05 percent level amounted to about 50 mg per kg per day for the rats and about 40 mg per kg per day for the dogs. In addition, the resins were fed to rats as a level of 0.2 percent (200 mg per kg per day) for two years. Observations included gross signs, mortality, food intake, body weight, hematology, urinalysis, liver and kidney function tests, and tumor incidence. Observations at necropsy included organ weights for liver, kidneys, spleen, gonads, brain, heart, thyroid, and adrenals. Histopathologic examination of these organs and the aorta, gall bladder, peripheral nerves, and spinal cords of the dogs, revealed no significant differences between those animals fed tall oil resins at the

0.05 and 0.2 percent levels and their controls. However, at the 1.0 percent level, food consumption of the rats was 10 percent below that of the control animals and their growth rates were slightly depressed. Food consumption and growth rates for dogs receiving 1 percent tall oil resin in the diet were not significantly different from the controls. Likewise, no significant differences were found in the hematology, urinalyses, and liver and kidney function tests between the experimental and the control animals. there was liver enlargement but histologically, the organ was within normal limits; all other organs were comparable to those of the controls. Histopathologic findings and tumor incidence in test and control animals did not differ significantly.

When the glycerol esters of the fatty acid distillate of tall oil provided 30 percent of the calories in the diet of rats, Seppanen found that over 95 percent of the fatty acid glycerides was absorbed. In the same work, it was observed that at a level of 15 percent in the diet, tall oil fatty acid glyceride margarine supported a longer life span in female rats than butterfed controls. Further, at a level of 15 percent of the dietary calories, tall oil fatty acids and their ethyl and glyceryl esters produced the same growth rate in weanling male and female rats, as compared with controls on a soybean diet. Those receiving 60 percent of their calories as tall oil fatty acid distillate had diarrhea, skin and fur disorders, decreased growth rate, and increased mortality. Hydrogenation of the tall oil fatty acid glycerides (to iodine value 70) seemed to decrease the injurious effects when fed at this high level. When experiments on reproduction with rats were carried out over three generations with 30 percent of their calories from tall oil fatty acid glyceride margarine, as compared with an ordinary margarine control, no significant differences in reproduction or survival were observed. Histopathologic comparison of the lungs, heart, thyroid, adrenals, liver, kidney, stomach, and intestine in experimental animals and controls also showed no significant differences, except for hepatic parenchymal degeneration and "swollen renal tubule cells," which were also observed in rats fed tall oil fatty acid glyceride margarine at 30 percent and 60 percent levels in a fat-absorbability experiment.

Antila added the ethyl esters of the fatty acids of tall oil to the fodder of milk cows at a level of 3 percent (500 mg per kg). Milk yield was not adversely affected. Iodine value of the milk fat was increased as was the proportion of conjugated diethenoids. When the tall oil fatty acid distillate was added at a 10 percent level, the iodine value of the milk fat and the relative proportion of C_{18} acids were increased.

At a concentration of 2.3 to 2.6 percent (1 g per kg per day) in the dry feed mixture fed to hens, Antila et al. observed that ethyl esters of the fatty acids of tall oil appeared to increase the egg production. However, a concentration of 4.3 to 4.8 percent (about 1.8 g per kg per day) in the feed lowered egg production. The fertilizability and hatchability of the eggs were "normal."

In order to determine the role of *cis*-5, 9,12-octadecatrienoic acid as a possible growth-retarding factor, pine seed oil, which contains twice as much of this compound as tall oil fatty acid distillate, was fed by Seppanen to rats weighing about 50 g over a 16-day period. At a dietary fat level of 30 percent of the calories (amounting to about 4 g of the octadecatrienoic acid per kg of body weight), a statistically insignificant reduction in weight gain was observed, as compared to weight gain on a diet containing the same level of soybean oil.

Altschul reported that the feeding of 0.3 g (150 mg per kg per day) of stigmasterol daily to rabbits for 73 to 116 days did not produce cholesterol-like arteriosclerotic changes.

No studies concerning the teratogenicity, mutagenicity or carcinogenicity of tall oil have come to the attention of the Select Committee.

All of the available safety information on tall oil has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Because tall oil as a GRAS or prior sanctioned substance is currently restricted to use in dry food packaging materials or in their preparation, it can be assumed that the amount of tall oil consumed in food through migration from or abrasion of these materials is minute.

There have been no reports of significant harmful biological effects of tall oil when fed to animals even at levels that are considerably greater than could conceivably be consumed by man as tall oil is now used in packaging materials.

It is the conclusion of the Select Committee that there is no evidence in the available information on tall oil that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used in food-packaging materials as now practiced, or as it might be expected to be used for such purposes in the future. Based upon his own evaluation of all available information on tall oil, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of tall oil is justified.

Copies of the scientific literature review on tall oil and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22151, as follows:

Title	Order No.	Price code	Price [1]
Tall oil (scientific literature review)	PB-228-556/AS	A05	$6.00
Tall oil (Select Committee report)	PB-262-666/AS	A02	4.00

[1] Price subject to change.

This proposed action does not affect the present use of tall oil for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(d), 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348(d), 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 182 and 186 be amended as follows:

§ 182.70 [Amended]

1. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging*, by deleting "Tall oil" from the list of substances.

2. In Part 186 by adding a new § 186.1557 to read as follows:

§ 186.1557 Tall oil.

(a) Tall oil (CAS Reg. No. 008002-26-4) is essentially the sap of the pine tree. It is obtained commercially from the waste liquors of pinewood pulp mills and consists mainly of tall oil resin acids and tall oil fatty acids.

(b) The ingredient meets the following specifications:

(1) Resin acids: The vendor should specify an 8 percent range (inclusive) within the range of 30 to 65 percent.

(2) Fatty acids: The vendor should specify an 8 percent range (inclusive) within the range of 18 to 62 percent.

(3) Unsaponifiable content: The vendor should specify a 4 percent range (inclusive) within the range of 4 to 25 percent.

(4) Saponification value: The vandor should specify a range of 10 (inclusive) within the range of 160 to 185.

(5) Acid value: The vendor should specify a range of 10 (inclusive) within the range of 160 to 180.

(6) Iodine number: The vendor should specify a range of 20 (inclusive) within the range of 120 to 210.

(7) Refractive index (25° C): 1.49 to 1.51.

(8) Specific gravity (15.5° C): 0.95 to 1.00.

(9) Heavy metals (as lead): Not more than 20 parts per million.

(c) The ingredient is used or intended for use as a constituent of cotton and cotton frabrics used in dry food packaging.

(d) The ingredient is used at levels not to exceed good manufacturing practice.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of an applicable prior sanction in response to this proposal.

Interested persons may, on or before August 1, 1978, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fisher Lane, Rockville, Md. 20857, written comments (preferably four copies) regarding this proposal. Received comments may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: May 22, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-15068 Filed 6-1-78; 8:45 am]

[4110-03]

[21 CFR Part 740]

[Docket No. 77P-0353]

COAL TAR HAIR DYES CONTAINING 4-METHOXY-M-PHENYLENEDIAMINE (2,4-DIAMINOANISOLE) OR 4-METHOXY-M-PHENYLENEDIAMINE SULFATE (2,4-DIAMINOANISOLE SULFATE)

Proposed Warning Statement; Extension of Comment Period

Correction

In FR Doc. 78-12253 appearing on page 19423 in the issue of Friday, May 5, 1978, the 1st paragraph under Supplementary Information should read as follows:

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 6, 1978 (43 FR 1101), the Commissioner of Food and Drugs issued a proposal to require warning labels on coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine (also known as 2,4-diaminoanisole) or 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate) to warn consumers about the risk of cancer that may result from using hair dyes containing these ingredients. The proposal would also require that posters be displayed in beauty salons alerting patrons to ask to read the label on the hair dye preparations to be used on their hair. Interested persons were requested to submit their comments on the proposal on or before March 7, 1978. The comment period was extended to close of business, May 8, 1978 in a notice published in the FEDERAL REGISTER of March 10, 1978 (43 FR 9830).

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4182]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Spencer, Roane County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Spencer, Roane County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 207 Court Street, Spencer, W. Va. Send comments to: Hon. Terry A. Williams, Mayor, city of Spencer, City Hall, 207 Court Street, Spencer, W. Va. 25276.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Spencer, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will aslo be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spring Creek.....	At eastern corporate limit.	725
	Market St.....	725

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream of Main St	726
	2,320 ft upstream of Main St.	727
	At western corporate limit.	729
Goff Run	At confluence with Spring Creek.	726
	1,425 ft upstream of State Hospital Rd.	726
	2,530 ft upstream of State Hospital Rd.	735
	At southeastern corporate limit.	740
Tanner Run	At confluence with Spring Creek.	725
	275 ft upstream of Main St.	725
	845 ft upstream of Main St.	727
	1,560 ft upstream of Main St.	728
	At northwestern corporate limit.	733

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-14245 Filed 6-1-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 904-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Colorado Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 5, 1977, the Governor of Colorado submitted to the Regional Administrator, Region VIII, of the Environmental Protection Agency (EPA), an addition to the Colorado State Implementation Plan (SIP) for the attainment and maintenance of national ambient air quality standards. The addition consists of a new Colorado Air Pollution Control Commission Rule, "Procedural Rules for All Proceedings before the Air Pollution Control Commission and the Air Pollution Variance Board." The rule is a housekeeping measure for proceedings at the state level. The State submittal has been reviewed and found to be consistent with the substantive and procedural requirements of 40 CFR Part 51 and the Clean Air Act. There is no impediment to approval of this revision as an addition to the Colorado SIP, and inclusion will assist the State in disseminating the rule to persons who will have interst in its requirements.

DATE: Comments must be received on or before July 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Dale M. Wells, Technical Advisor, Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colo. 80295, 303-837-3711.

ADDRESSES: Copies of EPA's technical support document are available at: Environmental Protection Agency, Region VIII, Air and Hazardous Materials Division, 1860 Lincoln Street, Denver, Colo. 80295. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

Interested persons are encouraged to submit written comments on the proposed revision. Comments should be addressed to the Office of Regional Counsel, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colo. 80295. All comments will be available for public inspection during business hours at the Denver Office noted above.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 7401 et seq.).)

Dated: May 22, 1978.

ALAN MERSON,
Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations, as follows:

Subpart G—Colorado

In § 52.320, paragraph (c)(10) is added as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(10) Procedural Rules for all proceedings before the Air Pollution Control Commission, submitted May 5, 1977 by the Governor.

[FR Doc. 78-15335 Filed 6-1-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 901-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the San Bernardino and Riverside County Air Pollution Control Districts' and the South Coast Air Quality Management District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the San Bernardino and Riverside County Air Pollution Control Districts' (APCD) and the South Coast Air Quality Management District's (AQMD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up to August 1, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations: South Coast Air Quality Management District, District Headquarters, 9420 Telstar Avenue, El Monte, Calif. 91731; California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814; and Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wayne A. Blackard, EPA, Region IX, 415-556-7882.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following revisions on either October 13 or November 4, 1977 as indicated:

SAN BERNARDINO COUNTY DESERT APCD (SOUTHEAST DESERT PORTION)—NOV. 4, 1977

Rule	*Title*
101	Title.
102	Definition of terms.
103	Definition of geographical areas.

SAN BERNARDINO COUNTY DESERT APCD (SOUTHEAST DESERT PORTION)—NOV. 4, 1977—Continued

Rule	Title
105	Authority to arrest.
301	Permit fees.
42 (deleted)	Hearing board fees.
43 (deleted)	Analysis fees.
44 (deleted)	Technical reports—Charges for.
53.1 (deleted)	Scavenger plants.
73 (deleted)	Dry sandblasting.
404	Particulate matter—Concentration.
405	Solid particulate matter—Weight.
406	Specific contaminants.
444	Open fires.
461	Gasoline transfer and dispensing.
462	Organic liquid loading.
463	Storage of organic liquids.
471	Asphalt or coal tar equipment.
474	Fuel burning equipment.
501	General.
502	Filing petitions.
509	Place of hearing.

RIVERSIDE COUNTY APCD (SOUTHEAST DESERT PORTION)—NOV. 4, 1977

101	Title.
102	Definition of terms.
105	Authority to arrest.
461	Gasoline transfer and dispensing.
501	General.

SOUTH COAST AQMD

101	Title (Oct. 13, 1977).
102	Definition of terms (Oct. 13, 1977).
218	Stack monitoring (Nov. 4, 1977).
301	Permit fees (Oct. 13, 1977).
303	Hearing board fees (Nov. 4, 1977).
401	Visible emissions (Oct. 13, 1977).
463	Storage of organic liquids (Nov. 4, 1977).
466	Pumps and compressors (Nov. 14, 1977).
477 (new)	Coke ovens (Oct. 13, 1977).
477.1 (new)	Coke oven enforcement procedures (Oct. 13, 1977).

In addition, regulations were submitted concerning new source review and emergency episodes. These regulations will be considered in separate FEDERAL REGISTER actions.

Under section 110 of the Clean Air Act as amended, and 40 CFR part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice acknowledging receipt of these rules including rule deletions caused thereby. The Environmental Protection Agency has not completed its review of these rules pursuant to section 110 of the Clean Air Act, and therefore, this notice should not be construed to represent agency policies. The Administrator has not yet decided whether these proposed rules will be approved or disapproved. The public is advised that interested persons may participate by submitting written comments to the Region IX Office. Comments will be received on or before August 1, 1978. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

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

Dated: April 25, 1978.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc. 78-15337 Filed 6-1-78; 8:45 am]

[4110-83]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 122]

HEALTH SYSTEMS AGENCY REVIEWS OF CERTAIN PROPOSED USES OF FEDERAL HEALTH FUNDS

Extension of Comments Period

AGENCY: Public Health Service, HEW.

ACTION: Notice of extension of time for comments.

SUMMARY: This Notice extends the period of time permitted for the submission of comments in response to the proposed regulations governing review and approval or disapproval by health systems agencies of certain proposed uses of Federal funds in accordance with section 1513(e) of the Public Health Service Act. The Department has received a number of requests from the public asking for an extension of the 30-day comment period.

DATE: Comments must be received on or before June 23, 1978.

ADDRESS: Written comments and recommendations should be submitted to: Director, Office of Policy Coordination, Bureau of Health Planning and Resources Development, Center Building, Room 6-22, 3700 East-West Highway, Hyattsville, Md. 20782. All materials received in response to the proposed regulations will be available for public inspection and copying at the above location on weekdays (Federal holidays excepted) between the hours of 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Colin C. Rorrie, Jr., Ph.D., Acting Director, Bureau of Health Planning and Resources Development, Center Building, Room 6-22, 3700 East-West Highway, Hyattsville, Md. 20782, 301-436-6850.

SUPPLEMENTARY INFORMATION: On May 9, 1978, the Secretary issued proposed regulations concerning the conduct of reviews to approve or disapprove certain proposed uses of Federal funds for the development, expansion, or support of health resources ("review and approval").

Comments on the proposed regulations were to have been received by June 8, 1978. At the request of several members of the public, the comment period on the proposed regulations is extended to June 23, 1978.

Dated: May 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-15392 Filed 6-1-78; 8:45 am]

[4310-09]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[43 CFR Part 428]

SALE OF REPLACEMENT FARM UNITS TO TETON FLOOD VICTIMS

Proposed Reclamation Rules and Regulations Establishing Policies and Procedures

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Reclamation, Department of the Interior, proposes to issue rules and regulations establishing policies and procedures to meet the Secretary's responsibilities in administering the sale of replacement farm units to qualifying farmers whose farms were damaged or destroyed by the Teton flood of June 5, 1976. These proposed rules are issued in response to the Act of February 25, 1978, Pub. L. 95-238 (92 Stat. 76). The Department believes that these regulations will enable the Department to meet fully the mandates of the act.

DATES: Comment Period: June 30, 1978.

ADDRESS: Comments should be submitted to the Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, Attention: Code 420.

FOR FURTHER INFORMATION CONTACT:

Mr. L. David Williamson, Division of Water and Land, Bureau of Reclamation, 202-343-5204.

SUPPLEMENTARY INFORMATION: It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the Bureau of Reclamation. Comments must be received on or before June 30, 1978.

Reimbursement for losses and damages to property as a result of the failure of the Teton Dam on June 5, 1976, was provided for under the Teton Dam Disaster Assistance Act, Pub. L. 94-400 (90 Stat. 1211), and rules and regulations published relating thereto. The Teton flood caused substantal losses of

farm soils and productive capacity which it is not economical to reclaim. While payment was made for such actual monetary loss, it is probable that some individuals will not be able to maintain an economically productive farming enterprise to reestablish themselves in the farming business. The Act of February 25, 1978, Pub. L. 95-238, provides for the sale of lands formerly within the Idaho National Energy Laboratory Reserve to such individuals. The acres available for purchase will allow the qualifying farmers to reestablish themselves in a farming enterprise and will also help to restore the economic and agricultural base of the Flood damaged region.

There is a limited amount of land available for purchase together with a limit of 5 years in which purchases can be made. There is also a need to avoid checker-boarding of undisposed lands; therefore, the regulations provide for sales in sequence rather than by random selections.

The proposed regulations provide two separate filings by the qualifying farmers: First, a notice of prospective eligibility; and second, a notice of intent to purchase. The notice of prospective eligibility is to be filed by individuals who believe they are qualifying farmers as defined in those regulations. This notice must be given on or before September 30, 1978, in order to receive consideration for participation in the land-sale program. The regulations require that qualifying farmers file a notice of intent to purchase in sufficient time to allow for the administrative work to be done on surveys, appraisals, and drawings prior to the date of sale.

The 5-year limit on sales provided in the act makes it necessary that the final date for filing a notice of intent to purchase occur no later than July 1, 1982. Filings after that date will not be considered by the Secretary.

Sales will be conducted at approximately 6-month intervals until the expiration of the statutory period ending February 24, 1983, or until the disposal of all the available lands, whichever occurs first.

It is also provided in the proposed regulations that where a husband and wife are both eligible they can, to the extent deemed possible by the Secretary, select contiguous replacement farm units.

Because of the time restrictions for publication of regulations and for initial determinations of eligibility provided in the act, the Department intends to act promptly to promulgate final regulations.

The Bureau of Reclamation will prepare an environmental assessment of the proposed regulations and would appreciate any information on potential impacts of implementing the regulations. Prior to publication of the final regulations the environmental assessment will be reviewed with the staff of the Council on Environmental Quality for additional guidance.

The primary authors of this document are Lloyd Ericson, Chief, Lands Branch, Pacific Northwest Region, Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, Boise, Idaho, and Terence G. Cooper, Natural Resources Specialist, Recreation and Lands Branch, Bureau of Reclamation, 18th and C Streets NW., Washington, D.C.

Pursuant to the authority of the Secretary of the Interior contained in the Administrative Procedure Act, 60 Stat. 237, 5 U.S.C. 552, 553, and in the Act of February 25, 1978 (92 Stat. 76), U.S.C. et seq., it is hereby proposed to establish a new part 428 of title 43 to read as follows:

Dated: May 25, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

The rules for title 43, part 428, will read as follows:

Sec.
428.1 Purpose.
428.2 Policy.
428.3 Liability.
428.4 Definitions.
428.5 Eligibility.
428.6 Sale of replacement farm units.
428.7 Decisions and appeals.

AUTHORITY: 42 U.S.C. 2011, Pub. L. 95-238, sec. 210, February 25, 1978.

§ 428.1 Purpose.

To provide for the sale of economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood-damaged farm, and in order to restore the economic and agricultural base of the flood damaged region, as authorized by the Act of February 25, 1978 (92 Stat. 76).

§ 428.2 Policy.

(a) The policy of the Department shall be to provide for the expeditious and orderly sale of public lands under the provisions of the Act of February 25, 1978 (92 Stat. 76).

(b) The possibility exists that not all of the lands set aside by Congress will be required; therefore, it is the policy of the Department to dispose of the lands in adjacent blocks to the extent feasible. To accomplish this objective, replacement farm units will be made available for purchase by qualifying farmers on a sequential basis, rather than on a random selection basis.

§ 428.3 Liability.

Neither the promulgation of these regulations nor rights arising under them constitute any admission of liability by the United States. No provision of these regulations shall be construed as providing or creating a right of action against the United States, its agents, or employees, nor shall these regulations be construed as waiving or extending any applicable statute of limitations or any other requirement prerequisite to any such right of action in connection with the Teton flood of June 5, 1976.

§ 428.4 Definitions.

(a) "Secretary" means the Secretary of the Interior or his duly authorized representative.

(b) "Regional Director" means the Regional Director of the Pacific Northwest Region of the Bureau of Reclamation.

(c) "Teton flood" means the flood resulting from the collapse of the Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(d) "Damaged farm" means an agricultural enterprise which, in the opinion of the Secretary of the Interior, produced sufficient income immediately prior to June 5, 1976, to support a farmer and which is not economically feasible to reclaim so that it produces an income equal to that earned prior to the Teton flood because of damages resulting directly from the Teton flood.

(e) "Replacement farm unit" means a quarter section tract of land or the aproximate equivalent thereof containing approximately one hundred sixty (160) acres, of which at least 85 percent is certified as arable (capable of sustaining continous successful irrigation farming with the application of water to the land) by the Secretary of the Interior. The replacement farm units shall be established by the Secretary from lands made available for that purpose within sections 14, 23, 24, 25, and 36, Township 6 North, Range 33 East; Section 19, 30, and 31, Township 6 North, Range 34 East, and the Southeast Quarter (SE¼), the South Half of the Northeast Quarter (S½NE¼), the East Half of the Southwest Quarter (E½SW¼), and the Southeast Quarter of the Northwest Quarter (SE¼NW¼), all in Section 8, and the South Half of the North Half (S½N½) of Section 9, all in Township 5 North, Range 34 East; Boise Meridian, Jefferson County, Idaho.

(f) "Qualifying farmer" means an owner-operator of a damaged farm who, on June 5, 1976, resided on or in the immediate locality of the damaged farm, and whose livelihood was derived primarily from his farming operation of the damaged farm prior to the Teton flood, and who is otherwise qualified under the terms of these regulations to purchase a replacement farm unit.

(g) "Resident" means an individual whose principal place of residence

during the farming season for 1 year immediately prior to the Teton flood was within the counties of Fremont, Teton, Madison, Jefferson, Bonneville, Bingham, or Bannock in the State of Idaho.

(h) "Owner" means an individual, partnership, or corporation vested with title to a damaged farm on June 5, 1976, to the extent that all land parcels comprising the damaged farm share the same title and are all used as a single agricultural enterprise.

(i) "Operator" means an individual who makes the day-to-day decisions and directs day-to-day farming activities, including giving directions to any employee of the operator. Lessors of farms shall not be considered operators for the purposes of these regulations.

§ 428.5 Eligibility.

(a) In order to qualify for consideration for purchase of a replacement farm unit under these regulations, each prospective qualifying farmer must notify the Secretary of his prospective eligibility as a qualifying farmer as defined in these regulations on or before September 30, 1978. Failure to notify the Secretary on or before September 30, 1978, shall disqualify the applicant from any further consideration for purchase of a replacement farm unit. Notice must be delivered to the Regional Director, U.S. Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, 550 West Fort Street, Boise, Idaho 83274, or must be postmarked to this address, on or before September 30, 1978. Each notice of prospective eligibility must provide the following information:

(1) The full name of each individual seeking to be determined eligible as a qualifying farmer, or the name of each partnership together with the name of each partner, or the name of the corporation seeking eligibility.

(2) The legal description of the damaged farm.

(3) The owner of the damaged farm on the date of the Teton flood.

(4) The applicant's total net taxable income for the tax year prior to the Teton flood, together with a statement of the portion of such net taxable income derived from his operation of the damaged farm during that period.

(5) A statement describing the nature and extent of the land damage loss sustained on the damaged farm, including the number of acres completely lost which cannot be economically reclaimed for agricultural purposes.

(6) The date and amount of each determination of flood damage pertaining to the damaged farm made by the authorized officer of the Department of the Interior under the laws and regulations pertaining specifically to the Teton flood (43 CFR part 419 (1977)).

(7) A report on all farm lands purchased, or contracts, or options entered into for the purchase of farm land by the applicant since June 5, 1976.

(8) A statement of the operating procedures and responsibilities of the applicant in connection with a damaged farm during the 12 months preceding June 5, 1976, including a report on any leases or other agreements, oral or written, providing for use of the lands by others, in whole or in part, for rent or for sharing of crops or income from the production of the damaged farm.

(9) A statement of the applicant's residence for the 12 months immediately preceding June 5, 1976.

(b) In order to be determined eligible, the applicant's damaged farm must have suffered an economically nonreclaimable land loss to the extent that, if reclaimed, it could provide only forty percent (40%) or less of its potential income-producing capacity prior to the flood; or the damaged farm must have sustained a complete loss of at least sixty (60) acres of land.

(c) In order to be eligible as a qualifying farmer, the owner-operator must have derived more than fifty percent (50%) of his net taxable income from the operation of the damaged farm during the tax year preceding the Teton flood and must have been unable to purchase a farm of comparable productivity since the Teton flood. The applicant shall be deemed to have been able to replace the damaged farm and shall not be eligible to purchase a replacement farm unit under these regulations if he has purchased a farm of comparable productivity since June 5, 1976.

(d) The Secretary, acting through the Regional Director, shall make a preliminary determination of qualifying farmers based upon the notices of eligibility filed pursuant to § 428.5(a). Each applicant shall be given written notice by December 1, 1978, of the preliminary determination made concerning his eligibility status.

(e) A final determination of eligibility as a qualifying farmer shall be made by the Secretary, acting through the Regional Director, on the basis of documentary evidence submitted by the applicant. The accumulation of data to provide evidence or proof of eligibility shall be the sole responsibility of the applicant. Such evidence must be submitted to: Regional Director, U.S. Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, 550 West Fort Street, Boise, Idaho 83724.

(f) The evidence submitted by the applicant, together with any other evidence available, shall be examined to determine its sufficiency, authenticity, and reliability in determining the eligibility of the applicant. If the examination of the evidence indicates that the applicant is a qualifying farmer, the applicant shall be notified by certified mail that he is a qualifying farmer.

(g) If the applicant fails to supply any of the information required, or if the applicant's qualifications do not meet the requirements of these regulations, the applicant shall not be qualified to purchase a replacement farm unit. The applicant shall be notified by the Regional Director by certified mail of such disqualification, whether conditional or complete, and the reasons therefor and of the right of appeal.

§ 428.6 Sale of replacement farm units.

(a) Replacement farm units shall be made available for purchase by qualifying farmers approximately every 6 months starting in February 1979 and ending in July 1982: *Provided, however,* That sales will be limited to the land made available for this program pursuant to the Act of February 25, 1978 (92 Stat. 76) and described in § 428.4(e) above. The Secretary shall notify all qualifying farmers, in writing, of the date the first replacement farm units will be offered for sale and will also give notice of the closing date on which the qualifying farmer may file an intent to purchase a replacement farm unit from those offered for sale during the initial sale period. No subsequent notice will be provided; however, each qualifying farmer may file an intent to purchase at any time after the initial sale: *Provided,* That no filings may be made after July 1, 1982.

(b) To participate in the sale program for any period, the qualifying farmer must file a notice of intent to purchase with the Regional Director, at the address provided in § 428.5(a) hereof. All such notices of intent to purchase filed after the closing date of the initial sale shall be accumulated as of January 1 and July 1 of each year to determine the number of replacement farm units to be sold to qualifying farmers at the next sale: *Provided, however,* That the availability of land for replacement farm units will be limited to the area authorized for sale under this program as indicated in § 428.4(e) hereof. The available lands will be sold in quarter section units of approximately 160 acres to qualifying farmers according to their priority standing for purchase of replacement farm units as established in paragraphs (c) and (d) of this section.

(c) The Secretary, acting through the Regional Director, shall, on or about February 1 and August 1 of each year, starting in 1979 and ending in 1982, conduct public drawings of the names of those finally determined to be qualifying farmers who have filed a notice of intent to purchase.

(d) The names of the qualifying farmers shall be drawn and numbered in the order drawn for the purpose of establishing priority in the order in which the replacement farm units may be purchased by qualifying farmers.

(e) Each notice of intent to purchase filed by a qualifying farmer shall be accompanied by a certified check in the amount of $1,000 payable to the Bureau of Reclamation. The check shall constitute a performance guarantee by the qualifying farmer. If the qualifying farmer fails to enter into a purchase agreement with the United States for a replacement farm unit offered by the Regional Director or, having entered into a purchase agreement fails to complete the purchase, the performance guarantee will be forfeited to the United States as liquidated damages. If the qualifying farmer enters into a purchase agreement and completes the terms of the agreement, the performance guarantee fee will be applied to the purchase price of the replacement farm unit.

(f) Qualifying farmers need not be present at the drawings to participate.

(g) After the drawing, the Regional Director will notify in writing each qualifying farmer of his respective priority. The qualifying farmers may, to the extent that lands are available, successively exercise their rights to purchase a replacement farm unit in accordance with the purchase right priority established by the drawing.

(h) All available replacement farm units will be assigned numbers by the United States and must be purchased in sequence by qualifying farmers in accordance with the purchase right priority established by the drawings. The lower numbered units will be sold first, and no replacement unit will be sold until all units having a lower number have been purchased.

(i) If a qualifying farmer fails within 10 calendar days to enter into a purchase contract for the unit offered to him at the time of his eligibility, the replacement farm unit will be offered to the next qualifying farmer who has not made a purchase at the time the unit is available. A qualifying farmer who fails to purchase an offered unit shall forfeit his opportunity to participate in the sale for that period and shall also forfeit his performance guarantee required under § 428.6(e). Qualifying farmers who forfeit their rights to purchase may file a subsequent notice of intent to purchase for later sales, but must meet all the requirements of the new filing, including the payment of another performance guarantee.

(j) The consideration to be paid by the qualifying farmer for a replacement farm unit shall be the current fair market value of the unit on the basis of an appraisal approved by the Regional Director on behalf of the Secretary. An appraisal approved not more than 6 months prior to the offering of the farm units for sale shall be considered adequate to determine the current fair market value of the unit.

(k) The fair market value of replacement farm units shall be determined by a board of three appraisers composed of one appraiser designated by the Secretary, one designated by the State of Idaho, and one selected from the Teton flood disaster area by the designated State and Federal appraisers.

(l) The Secretary, acting through the Regional Director, shall sell and convey by quitclaim deed fee title to replacement farm units to qualifying farmers, subject to the normal reservations included in patents issued for other public lands disposed of in the area, including, but not limited to, the reservations of easements for public roads along exterior boundaries of such replacement farm units as determined to be desirable by the Secretary.

§ 428.7 Decisions and appeals.

The Regional Director, acting as designee of the Secretary, shall make the determinations required under these rules and regulations. A party directly affected by such determination may appeal in writing to the Commissioner of the Bureau of Reclamation within 30 days of receipt of the Regional Director's determination. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief or memorandum to the Commissioner. The Regional Director's determination will be held in abeyance until the Commissioner has reviewed the matter and rendered a decision. Pertinent addresses are shown below:

Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Regional Director, Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, 550 West Fort Street, Boise, Idaho 83724.

Dated: May 25, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-15320 Filed 6-1-78; 8:45 am]

[3510-03]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 308]

WAR RISK INSURANCE

Eligibility of a Vessel and its Owner for Insurance

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed regulation.

SUMMARY: The Maritime Administration proposes to amend its regulations to clarify the eligibility of United States-flag vessels and to establish eligibility criteria for foreign-flag vessels which conform to the revised legislative authority of the Secretary of Commerce under a recent amendment to the Merchant Marine Act of 1936. The amendment also would make certain other changes in titles, addresses, binder fees, application and binder forms, definitions, supporting documents, warranties and in the voluntary Contract of Commitment forms.

COMMENT DATE: Written comments by interested persons must be received by close of business July 31, 1978.

ADDRESS: Send comments to the Secretary, Maritime Administration, Washington, D.C. 20230. All comments will be made available for inspection during normal business hours in Room 3099-A, Department of Commerce Building.

FOR FURTHER INFORMATION CONTACT:

K. H. Green, Director, Office of Marine Insurance, Room 3622, Maritime Administration, Department of Commerce, Washington, D.C. 20230, 202-377-4820 or 4091.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pub. L. 94-523 (90 Stat. 2474) became law on October 17, 1976. It revised and extended the entire war risk insurance program under Title XII, Merchant Marine Act, 1936, as amended, conducted by the Secretary of Commerce through the Maritime Administration.

Section 1 of Pub. L. 94-523 inserted new criteria for considering the eligibility of foreign-flag vessels for war risk insurance interim binders, including characteristics, employment and general management of the vessel. Section 1 also provided that United States-flag and foreign-flag vessels shall be subject to such vessel reporting requirements as the Secretary may establish by regulation. Section 2 defined loaded or empty containers located aboard vessels as part of cargo. Section 3 corrected a typographical error in the statute. Section 4 inserted new authority to charge an annual fee to recover costs of processing applications, employment of underwriting agents and appointment of experts. Section 5 extended the program to September 30, 1979.

On March 8, 1977, the Maritime Administration published an amendment to 46 CFR Part 308 (Amendment 35 to General Order 75, 2nd Revision) in the FEDERAL REGISTER (42 FR 13023, FR Doc. 77-6816). It prescribed terms and

conditions upon which war risk insurance interim binders on United States-flag vessels would be reinstated and issued through September 30, 1979.

The subject amendment (Amendment 36 to General Order 75, 2nd Revision) primarily prescribes terms and conditions upon which war risk insurance interim binders on foreign-flag vessels will be issued. It also implements the inclusion of containers in the definition of cargo in Pub. L. 94-523.

SPECIAL RULES FOR FOREIGN-FLAG VESSELS

1. Interim insurance for United States-owned foreign-flag vessels is provided to assure availability of selected ships to meet requirements for augmentation of United States-flag shipping at the beginning of a national emergency. In determining the ships needed to meet those requirements, the Assistant secretary for Maritime Affairs will consider the characteristics, employment and general management of each vessel. Preference will be given to the following vessel types and sizes:

(a) Vessels substantially engaged in the foreign commerce of the United States; a vessel will be considered to be substantially engaged in the foreign commerce of the United States if, on a semiannual basis, in excess of thirty percent (30%) of the net tons of cargo carried by the vessel is carried between a foreign port or ports and a port or ports in the United States (including Alaska, Hawaii, Puerto Rico and any territory or insular possession of the United States), but only if such cargo is transported to such port or ports for consumption therein or for transshipment (in its raw state or subsequent to refining) for consumption elsewhere in the United States;

(b) Product tankers up to 60,000 deadweight tons, with particular emphasis on so-called handy-sized tankers having relatively high speed and refueling at sea capability;

(c) Dry bulk cargo vessels;

(d) Heavy lift vessels;

(e) Refrigerated vessels and other classes of ships in short supply in the United States-flag fleet; and

(f) Other vessels with special capabilities.

2. Ships on which interim insurance is provided must be not more than 25 years old.

3. Interim binder fees for foreign-flag vessels are increased to cover expenses permitted by statute.

4. All vessels for which war risk insurance interim binders have been issued must file reports under the United States Merchant Vessel Locator Filing System (USMER). The purpose of USMER is to keep national agencies informed concerning arrivals, departures and at-sea locations of insured merchant vessels throughout the world. Failure to make regular reports as required will result in a one-time notice of default after which, if the failure to report continues, all war risk insurance interim binders and any insurance attaching thereunder will be cancelled. Instruction pamphlets and message format forms for the filing of USMER messages will be furnished by the Maritime Administration with the binders when issued.

5. War risk insurance interim binders will not be issued for vessels described in § 308.1(c) (General Order 75, 2nd Revision), and no applications for such vessels will be accepted.

6. A copy of Amendment 36 to General order 75, 2nd Revision, signed by an official of the applicant signifying knowledge of all new requirements, criteria of eligibility, terms, conditions and warranties, must be attached to the war risk insurance applications, along with the other required documents. Failure to comply with this requirement will result in rejection of an application. A copy of Amendment 36 will be attached to all binders issued.

The Maritime Administration has determined that the adoption of this proposed amendment to 46 CFR Part 308 will not have a major economic effect on the general economy or any significant segment of industry, levels of government or geographical areas that would require the preparation of a regulatory analysis under EO 12044 (43 FR 126661). Provisions of this revision of part 308 are required to implement Pub. L. 94-523 (90 Stat. 2474) to determine standards of eligibility for and the mechanics of providing war risk insurance for the protection of vessels determined to be essential to the foreign commerce and security of the United States. No alternative to these proposed regulations has been found to be suitable to accomplish this objective.

Accordinglying, in consideration of the foregoing and pursuant to Title XII, Merchant Marine Act, 1936 (46 U.S.C. 1281-1294), as amended through Pub. L. 94-523, 46 CFR Part 308 is hereby amended as follows:

1. Delete the term "Maritime Administrator" wherever it appears in Part 308 and substitute therefor the term "Assistant Secretary."

2. Delete the term "American War Risk Agency, 99 John Street, New York, N.Y. 10038" wherever it appears in Part 308 and substitute therefor the term "American War Risk Agency, 14 Wall Street, New York, N.Y. 10005."

3. Delete the term "Division of Insurance, Maritime Administration, Washington, D.C. 20235" wherever it appears in Part 308 and substitute therefor the term "Maritime Administration, Attention: Director, Office of Marine Insurance, Washington, D.C. 20230."

4. Section 308.1 is amended in its entirety to read as follows:

§ 308.1 Eligibility of a vessel and its owner for insurance.

Any vessel within one of the following categories shall be eligible for insurance, but shall remain eligible only while meeting the qualifications criteria in one of said categories. An eligible vessel is not insured unless and until an application is submitted as required in subpart B, C, or D of this part 308 and the Assistant Secretary for Maritime Affairs (Assistant Secretary) approves said application.

(a) A vessel registered, enrolled or licensed under the laws of the United States of America (United States); any undocumented vessel owned or chartered by or made available to the United States or any department or agency thereof; any tug or barge or other watercraft (documented under the laws of the United States, or undocumented) owned by a citizen of the United States and used in essential water transportation; and United States citizen-owned watercraft used in the fishing trade or industry, except when used exclusively in or for sport fishing.

(b) Any vessel, other than a vessel described in paragraph (a) of this section determined by the Assistant Secretary to be engaged in the national defense or the national economy of the United States and subject to an unqualified Contract of Commitment with the United States in a form required by the Assistant Secretary, and which is:

(1) Owned by a United States corporation, or a foreign corporation in which a majority of the stock is owned and controlled by a citizen or citizens of the United States, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended (46 U.S.C. 1281(d)); or

(2) Owned by a foreign corporation which is not directly or beneficially owned by a citizen or citizens of the United States, but which vessel is under a long-term charter or other long-term contract covering the use of the vessel on terms deemed by the Assistant Secretary to subject the vessel to United States control in the event of an emergency. The charterer of such vessel must be either a citizen or citizens of the United States or a foreign corporation in which a majority of the stock is owned and controlled by a citizen or citizens of the United States, whether direct or indirect through intervening corporations, for-

eign or domestic. Where such intervening corporations are foreign, ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States, as defined in section 1201(d), Merchant Marine Act, 1936, as amended (46 U.S.C. 1281(d)).

(c) Any other vessel, at the sole discretion of the Assistant Secretary, but only while engaged in a service which has been determined by the Assistant Secretary to be in the interest of the national defense or the national economy of the United States. Vessels in this category are not eligible for war risk insurance interim binders.

5. Section 308.2 is deleted in its entirety and the following §§ 308.2-1, 308.2-2, 308.2-3, 308.2-4, and 308.2-5 are substituted:

§ 308.2-1 Interim insurance; availability.

(a) Interim insurance is available on any vessel described in § 308.1 (a) and (b) above, provided application for interim insurance is submitted as required in subparts B, C, or D of this part 308, and the Assistant Secretary approves said application.

§ 308.2-2 Interim insurance; special rules for foreign-flag vessels.

(a) Interim insurance on vessels described in § 308.1(b) shall be subject to an unqualified Contract of Commitment with the United States, in form as required by the Assistant Secretary and set forth in § 308.5 below.

(b)(1) For the purpose of providing interim insurance on vessels described in § 308.1(b), the Assistant Secretary shall consider the characteristics, employment and general management of the vessel.

(2) The Assistant Secretary formally determines that the following vessels are engaged in a service in the interest of the national defense or the national economy of the United States and qualify for interim insurance:

(i) Vessels substantially engaged in the foreign commerce of the United States;

(ii) Product tankers up to 60,000 deadweight tons and with particular emphasis on so-called handy-sized tankers having relatively high speed and refueling at sea capability;

(iii) Dry bulk cargo vessels;

(iv) Heavy lift vessels;

(v) Refrigerated vessels and other classes of ships in short supply in the United States-flag fleet; and

(vi) Other vessels with special capabilities; Provided, that a vessel will be considered to be substantially engaged in the foreign commerce of the United States if, on a semi-annual basis, in excess of thirty percent (30%) of the net tons of cargo carried by the vessel is carried between a foreign port or ports and a port or ports in the United States (including Alaska, Hawaii, Puerto Rico and any territory or insular possession of the United States), but only if such cargo is transported to such port or ports for consumption therein or for transshipment (in its raw state or subsequent to refining) for consumption elsewhere in the United States.

§ 308.2-3 Vessel location reports.

(a) All vessels for which war risk insurance interim binders have been issued must file reports under the United States Merchant Vessel Locator Filing System (USMER). The purpose of USMER is to keep national agencies informed concerning arrivals, departures and at-sea locations of insured merchant vessels throughout the world. Failure to make regular reports as required will result in a one-time notice of default after which, if the failure to report continues, all war risk insurance interim binders and any insurance attaching thereunder will be cancelled. Instruction pamphlets and message format forms for the filing of USMER messages will be furnished by the Maritime Administration with the binders when issued.

§308.2-4 Change in status of vessel described in § 308.1 (a) and (b) after binder issued: Notice.

(a) It is the intention of the parties that any breach of the warranty prescribed hereunder as to vessels in all categories with respect to Department of Commerce Transportation Orders T-1 and T-2 (32A CFR Parts 701 and 502), as well as the additional warranties as to vessels in categories (b)(1) and (b)(2), with respect to maintenance of eligibility for insurance and availability of the insured vessels to the United States Government in time of emergency, shall terminate the binders and any insurance attaching thereunder.

(b) In the event of the sale, demise charter, requisition, confiscation, change of flag, total loss, or any other change in status which, by the terms of the binder causes the binder to terminate, prompt notice shall be given in writing to the American War Risk Agency, 14 Wall Street, New York, N.Y. 10005.

§ 308.2-5 Change in status of other vessels: Notice.

(a) It is the intention of the parties that any breach of the warranty as to operation in the approved service of vessels described in § 308.1(c) shall terminate the insurance.

(b) In the event of the sale, demise charter, requisition, confiscation, change of flag, total loss, any other change in status or change in operation of the vessel in the approved service, prompt notice shall be given to the American War Risk Agency, 14 Wall Street, New York, N.Y. 10005.

6. Section 308.3 is amended in its entirety to read as follows:

§ 308.3 Applications for insurance; warranties; supporting documents; payment of binder fees.

(a) *In general.* Separate applications shall be filed for war risk hull insurance, war risk protection and indemnity insurance, and Second Seamen's war risk insurance for each vessel to be covered by such insurance, except for LASH or similar type barges, in which case one set of applications may be filed for a group of such barges if accompanied by a schedule of the individual vessels to be insured containing the required information for each vessel. Disbursements insurance, limited to consumable and subsistence stores, slop chests, bar stock, and bunker fuel, is available as added coverage upon application for war risk hull insurance. All applications for war risk hull insurance shall be accompanied by information relating to the vessel in required form, in triplicate, for use by the Assistant Secretary in determining the value thereof, pursuant to part 309 of this subchapter G, as amended from time to time and published in the FEDERAL REGISTER. An applicant submitting more than one application at the same time is required to submit only a single citizenship certificate or single set of citizenship certificates, as the case may be.

(b) *Warranties.*—(1) *In general.* Applications for war risk hull and protection and indemnity insurance in any eligible category of this part 308 shall include a warranty that, at all times during the effective period of the binder and any insurance attaching thereunder, the insured vessel, regardless of its nation of registry, will comply with Department of Commerce Transportation Orders T-1 and T-2 (32A CFR parts 701 and 502), or any modifications thereof so long as they remain in force and that the vessel will not be chartered, except with the prior approval of the Maritime Administration, unless in accordance with the provisions of § 221.7 of this chapter. The requirement for "prior approval" of the Maritime Administration of charters to non-citizens is applicable to any charter in existence at the time the applicant applies for insurance. Existing charters which are subject to this requirement include charters or contracts of affreightment to non-citizens which will extend for a period of more than six (6) months subsequent to the date of application for insurance or under which the vessel is committed to make a voyage or voyages of which the total period of time will extend for more than six (6) months subsequent to the date of application for insurance.

(2) *Vessels described in § 308.1(a).* Applications for war risk insurance on

a vessel described in § 308.1(a) shall contain the warranty that at and from the date of issuance of the interim binder and for and during the term of any insurance attaching thereunder, such vessel will remain eligible within its category.

(3) *Vessels described in § 308.1(b).* Applications for war risk insurance on a vessel described in § 308.1(b) shall contain the warranties that at all times the vessel will remain eligible within its applicable category; that the vessel will be made available for use by the United States pursuant to the signed Contract of Commitment submitted with the insurance applications, as required by the Maritime Administration; that the vessel will remain in the approved service; and that no controlling interest in the vessel shall be transferred by a subsequent sale or long-term charter, except on the condition that the successor in interest agrees to be bound by the terms of the applicant's Contract of Commitment. All instruments transferring any controlling interest in the vessel, including long-term charter or merger agreements, shall be submitted to the Maritime Administration for prior approval.

(4) *Vessels described in § 308.1(c).* Applications for war risk insurance on a vessel described in § 308.1(c) shall contain warranties that the vessel will remain in the approved service and that any change in flag or service will be reported in advance to the Maritime Administration for a new determination as to whether the vessel's service is in the interest of the national defense or the national economy of the United States. Vessels in this category are not eligible for war risk insurance interim binders.

(5) *Vessel locator filing requirements for vessels in all categories.* Applications for insurance on vessels in all categories, except tugs and barges and vessesl used exclusively in the fishing trade or industry, described in § 308.1(a), shall contain a warranty that at all times the vessel will file reports as required under the U.S. Merchant Vessel Locator Filing System (USMER) as prescribed in § 308.2-3 above.

(c) *Filing applications for insurance.* An application for insurance on a vessel described in § 308.1(a) shall be made in triplicate to the American War Risk Agency, 14 Wall Street, New York, N.Y. 10005, underwriting agent for the Maritime Administration, as prescribed in §§ 308.101, 308.201, and 308.301. All other insurance applications shall be made in triplicate to the Maritime Administration, Attention: Director, Office of Marine Insurance, Washington, D.C. 20230.

(d) *Materials in support of application on vessel described in § 308.1(b).*— (1) *In general.* An application for insurance on a vessel described in § 308.1(b) shall be accompanied by: (i) A Contract of Commitment, executed in triplicate originals, in the form prescribed in § 308.5 of this part 308; (ii) An executed agreement contained in the application for insurance that any charter or other contract covering the use of the vessel during the period of the binder or any insurance attaching thereunder shall be subject to termination or suspension without notice in the event the United States requires the use of the vessel under the Voluntary Contract of Commitment submitted by the applicant; (iii) A copy of Amendment 36 to Maritime Administration General Order 75, 2d Revision, signed by an offical of the applicant and signifying knowledge of all new requirements, criteria of eligibility, terms, conditions, and warranties. A copy of this Amendment 36 will be attached to all binders issued. In the event the vessel is determined to be ineligible under the terms of this part 308, the applicant will be so advised and the executed Contract of Commitment and any official foreign government action or approval will be returned to the applicant by the Maritime Administration.

(2) *Certificate of citizenship.* An application for insurance on such a vessel shall be supported by citizenship certificate(s), executed in triplicate originals, in form prescribed in § 308.4 of this part 308, establishing the U.S. citizenship of the majority ownership and control of the vessel-owning corporation, whether direct or through intervening corporations.

(3) *Existing long-term charters.* An application for a vessel in this category which is at the time of application under long-term charter or other long-term contract, either to the applicant or from the applicant to a third party, shall be jointly submitted by the owner and the charterer, and in addition to the other materials required under this paragraph, shall be accompanied by a copy of the long-term contract covering the use of the vessel and all adenda thereto, certified to be full and complete copies (except as to rate of hire or freight) and citizenship certificate(s) in triplicate in the form prescribed in § 308.4 of this part 308 establishing the U.S. citizenship of the majority of the shareholders and control of the charterer. The charterer shall also furnish to the Maritime Administration a certified copy of any amendment to such charter which may be issued subsequent to the issuance of any binder of insurance under this part 308.

(4) *Foreign government action or approval.* An application for a vessel in this category also shall be accompanied by a certified copy of the evidence of any official action or approval required by the government of the country of registry as a prerequisite to the execution of a Contract of Commitment with the United States.

(5) *Additional materials.* With respect to a vessel in this category, the applicant shall submit the following additional materials:

(i) A statement describing the service in which the vessel is engaged, including a listing of the vessel's voyages and ports of call during the immediately preceding six (6) month period, indicating the tonnage and type of cargo carried on such voyages and the reasons why such service should be deemed to be in the interest of the national defense or the national economy of the United States;

(ii) Material demonstrating the management and financial capabilities of the applicant, and,

(iii) In the case of a new vessel or a vessel which has not for the six (6) months immediately prior to the date of the application been engaged in the foreign commerce of the United States, a statement, signed by a responsible company official, certifying the extent to which the vessel will be engaged in the foreign commerce of the United States for the six (6) months immediately following the issuance of any interim binder of insurance under this part 308.

(e) *Requests for changes in binders.* All requests for changes in binders and inquiries relative to the insurance after the interim binders have been issued shall be directed to the American War Risk Agency, 14 Wall Street, New York, N.Y. 10005.

(f) *Fees.* A check payable in U.S. funds to the "Maritime Adm.—Commerce" for the total amount of all binder fees payable by such applicant shall accompany each application. Binder fees are not returnable.

(g) *Copies of applications.* Copies of insurance applications, vessel data forms, certificates of citizenship, and the Contract of Commitment may be obtained from the American War Risk Agency at the address listed above or from the Maritime Administration, Attention: Director, Office of Marine Insurance, Washington, D.C. 20230.

7. § 308.4 is amended in its entirety to read:

§ 308.4 Form of citizenship and control.

Certificates of citizenship in the following form shall be submitted in triplicate with the application filed for vessels described in § 308.1(b) of this Part 308. Form MA-183A (4-78).

UNITED STATES OF AMERICA, DEPARTMENT OF COMMERCE, MARITIME ADMINISTRATION, CERTIFICATE OF OWNERSHIP AND CONTROL BY UNITED STATES CITIZENS

APPLICANT FOR WAR RISK INSURANCE

I, _____ (Name), _____ (Title) _____ of _____ (Name of Corporation),

am duly authorized to execute this certificate of citizenship to comply with the requirements for obtaining War Risk Insurance to cover the ———— (Country)-flag ———— (Type of Vessel), ———— (Name of Vessel), ———— (Gross Tonnage), ———— (Year Built).

That ———— (Name of Corporation) is a ———— (Country) corporation owned and controlled by ———— (Give sequence of majority ownership and control of all owning or controlling corporations or other owners, if any, and furnish the full information as to each; if above space is not adequate, continue on back of this form.), a corporation organized and existing under the laws of ———— (Country), the majority (51 percent or more) of the stock of which corporation is owned and controlled by citizens of ———— (Country).

That of the stock interests shown above to be owned and controlled by ———— (Country) citizens, none is held beneficially for a citizen of another country.

Company Seal.

Dated: ————.

————.
(Signature.)

————.
(Typed or printed name of signer.)

NOTE.—The United States Criminal Code makes it a criminal offense for any person knowingly to make a false statement or representation to, or to conceal a material fact from, any department or agency of the United States as to any matter within its jurisdiction (18 U.S.C. 1001), or to file a false, ficticious or fraudulent claim against the United States (18 U.S.C. 287). (Certificate of Citizenship to be submitted in triplicate with insurance application.)

§ 308.5 [Amended]

8. Section 308.5 is amended by deleting the introductory paragraph of the section and the first four paragraphs of the Owner's Contract of Commitment and substituting therefor the following:

* * * Applications for insurance on vessels described in § 308.1(b) of this Part 308 shall be accompanied by a Contract of Commitment, in triplicate originals, executed by the owner (or by the owner and the charterer where required by § 308.3 of this Part 308). Contracts of Commitment shall be submitted on standard contract form which may be obtained from the American War Risk Agency or the Maritime Administration at the addresses given above. (Note: The effective date of the Contract of Commitment will be the effective date of the binder and will be inserted in the Contract of Commitment by the Maritime Administration.)

Contract MA- ————

OWNER'S CONTRACT OF COMMITMENT

This agreement, made as of ————, 19——, by and between the United States of America, acting by and through the Department of Commerce, Maritime Administration or its successor (herein called the "United States"), and ————, a corporation organized and existing under the laws of ———— (herein called the "Owner"), and having its principal place of business at ————;

WITNESSETH

Whereas, on ————, 19——, the assistant Secretary of Commerce for Maritime Affairs (herein called the "Assistant Secretary") found and determined that the ———— (herein described as the "Vessel"), Official No. ————, documented under the laws of ————, of ———— Gross Tons, which was built ————, 19——, is eligible for interim war risk insurance under Title XII, Merchant Marine Act, 1936, as amended, and General Order 75, as revised, 46 CFR Part 308, § 308.1(b): *Provided*, That the Vessel shall at all time be in compliance with requirements of General Order 75 (46 CFR Part 308), and that the Vessel shall be made available to the United States upon request in event of a national emergency, as described in Article (1) hereinbelow, pursuant to this Contract of Commitment: *And, provided further*, That the Owner or the Master of the Vessel shall periodically notify the United States of the Vessel's position in accordance with § 308.2-3 of this Part 308 (General Order 75), and

Whereas, the parties hereto desire to enter into such a voluntary Contract of Commitment covering the Vessel:

Now, therefore, in consideration of the premises and other good and valuable considerations hereinafter set forth, the parties hereto mutually agree as follows:

§ 308.6 [Amended]

9. Section 308.6 is amended by changing the paragraph "(d)" designation to "(e)" and inserting the following new paragraph "(d)":

* * * * *

(d) New applications for interim binders on foreign-flag vessels, with necessary attachments as specified in § 308.3 of this Part 308 and check for binder fees prescribed, should be filed with the Maritime Administration, Attention: Director, Office of Marine Insurance, Washington, D.C. 20230. All interim binders for foreign-flag vessels will become effective on the date the Owner's Contract of Commitment is executed by the Maritime Administration.

* * * * *

§ 308.10 [Amended]

10. Section 308.101 is amended as follows:

(a) In application format Paragraphs (b)(1) and (b)(2), by inserting a comma after the word "vessel" first appearing in each, and by deleting the phrase "under Panamanian, Honduran or Liberian registry," immediately after said comma.

(b) By inserting, after the paragraph on warranty of compliance with Department of Commerce Transportation Orders T-1 and T-2, the following new paragraph:

Warranted, as to a vessel in any eligible category of the application, that at all times during the binder period or any period of insurance attaching thereunder, the vessel, by action of its owner or master, will comply with the requirements of the United States Merchant Vessel Locator Filing System (USMER) as defined in § 308.2-3 of this Part 308.

(c) By eliminating the paragraph beginning with "Binding fee" and substituting therefor the following:

BINDER FEE (NOT RETURNABLE): UNITED STATES-FLAG VESSELS

$25 per vessel, under 500 gross tons;
$100 per vessel, 500 gross tons and over;
$5 each LASH or similar type barge.

FOREIGN-FLAG VESSELS

$50 per vessel, under 500 gross tons;
$200 per vessel, 500 gross tons and over;
$10 each LASH or similar type barge in United States funds.

(d) By deleting the paragraph beginning with the words "Check payable" and substituting the following new paragraph:

Check payable in United States funds to the order of "Maritime Adm.—Commerce" is enclosed herewith.

11. Section 308.102 is amended by:

(a) Changing the section heading to read:

§ 308.102 Issuance of interim binder; its terms and conditions; fees.

(b) By deleting the last sentence and substituting therefor the following three sentences:

* * * The binder fee (not returnable) for United States-flag vessels shall be $25 per vessel under 500 gross tons; $100 per vessel of 500 gross tons or over; and $5 per LASH or similar type barge. The binder fee (not returnable) for foreign-flag vessels shall be $50 per vessel under 500 gross tons; $200 per vessel 500 gross tons or over; and $10 per LASH or similar type barge. All fees are payable in United States funds by check to order of the "Maritime Adm.—Commerce."

§ 308.103 [Amended]

12. Section 308.103(a) is amended by changing the last sentence to read as follows:

(a) * * * The "stated valuation" of the vessel insured refers to the vessel as described in § 309.5 of this Chapter (Maritime Administration General Order 82, 30th Revision, as amended).

§ 308.106 [Amended]

13. Section 308.106 is amended by inserting, after the paragraph on warranty of compliance with Department of Commerce Transportation Orders T-1 and T-2, the following new paragraph:

Warranted, as to a vessel in any eligible category of the application, that at all times during the binder period or any period of insurance attaching thereunder, the vessel, by action of its owner or master, will comply with the requirements of the United States

Merchant Vessel Locator Filing System (USMER) as defined in § 308.2-3 of this Part 308.

14. Section 308.201 is amended as follows:

(a) In application format paragraphs—(b)(1) and—(b)(2), by inserting a comma, after the word "vessel" first appearing in each, and by deleting the phrase "Panamanian, Honduran or Liberian registry," immediately after said comma.

(b) By inserting after the warranty of compliance with Department of Commerce Transportation Orders T-1 and T-2, the following new paragraph:

Warranted, as to a vessel in any eligible category of the application, that at all times during the binder period and any period of insurance attaching thereunder, the vessel, by action of its owner or master, will comply with the requirements of the United States Merchant Vessel Locator Filing System (USMER) as defined in § 308.2-3 of this Part 308.

(c) By deleting the two paragraphs beginning with the words "Binding fee" and "Check payable," respectively, and substituting therefor two new paragraphs as follows:

Binder fee (not returnable), $5 for each United States-flag LASH or similar type barge; $25 for all other United States-flag vessels; $10 for each foreign-flag LASH or similar type barge; and $50 for all other foreign-flag vessels.

Check payable in United States funds to order of "Maritime Adm.—Commerce" is enclosed herewith.

§ 308.202 [Amended]

15. Section 308.202 is amended by deleting the last sentence and substituting the following two sentences:

The binder fee (not returnable) shall be $5 for a United States-flag LASH or similar type barge; $25 for all other United States-flag vessels; $10 for a foreign-flag LASH or similar type barge; and $50 for all other foreign-flag vessels. All fees are payable in United States funds by check to the order of "Maritime Adm.—Commerce."

§ 308.206 [Amended]

16. Section 308.206 is amended by inserting, after the paragraph on warranty of compliance with Department of Commerce Transportation Orders T-1 and T-2, the following new paragraph:

Warranted, as to a vessel in any eligible category of the application, that at all times during the binder period or any period of insurance attaching thereunder, the vessel, by action of its owner or master, will comply with the requirements of the United States Merchant Vessel Locator Filing System (USMER) as defined in § 308.2-3 of this Part 308.

§ 308.301 [Amended]

17. Section 308.301 is amended as follows:

(a) In application format paragraphs—(b)(1) and—(b)(2), by inserting a comma after the word "vessel" first appearing in each, and by deleting the phrase "Panamanian, Honduran or Liberian registry," immediately after said comma.

(b) By deleting the two paragraphs beginning with the words "Binding fee" and "Check Payable," respectively, and substituting therefor two new paragraphs as follows:

Binder fee (not returnable) $75 for a United States-flag vessel and $150 for a foreign-flag vessel.

Check payable in United States funds to the order of "Maritime Adm.—Commerce" is enclosed herewith.

§ 308.302 [Amended]

18. Section 308.302 is amended by deleting the last sentence and substituting therefor the following two sentences:

* * * The binder fee (not returnable) shall be $75 for a United States-flag vessel and $150 for a foreign-flag vessel. All fees are payable in United States funds by check to the order of "Maritime Adm.—Commerce."

§ 308.501 [Amended]

19. Section 308.501 is amended by adding a new penultimate paragraph as follows:

* * * For the purposes of this Subpart F—War Risk Cargo Insurance, the terms "cargo" and "cargoes" as used herein shall include loaded or empty containers located aboard United States-flag and foreign-flag vessels insured under Title XII, Merchant Marine Act, 1936, as amended.
* * *

20. The index to Part 308 is amended in part as follows:

308.2-1 Interim insurance: Availability.
308.2-2 Interim insurance: Special rules for foreign-flag vessels.
308.2-3 Vessel location reports.
308.2-4 Change in status of vessels described in § 308.1 (a) and (b) after binder issued: Notice.
308.2-5 Change in status of other vessels: Notice.
308.3 Applications for insurance; warranties; supporting documents; payment of binder fees.
308.4 Form of citizenship and control.
308.102 Issuance of interim binder; its terms and conditions; fees.

(Secs. 204(b), 1201-1214, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b) and 1281-1294); Reorganization Plans No. 21 of 1950 (64 Stat. 1273), and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036) and Department of Commerce Organization Order 10-8 (36 FR 19707, July 23, 1973).)

(Catalog of Federal Domestic Assistance Program No. 11,503, Maritime War Risk Insurance.)

By order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated: May 26, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-15237 Filed 6-1-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 78-12]

RULES OF PRACTICE AND PROCEDURE

Simplification of the Rules Governing Special Docket Applications for Permission To Refund or Waive Portions of Freight Charges in the Foreign Commerce

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to file comments.

SUMMARY: Department of Agriculture has demonstrated a need for a limited enlargement of time to file comments on the proposed amendment of the rules of practice and procedure to simplify the process by which common carriers by water in the foreign commerce of the United States or conferences of these carriers seek permission to refund or waive a portion of freight charges because of tariff errors (43 FR 18572; May 1, 1978). Their request for additional time is granted in part.

DATE: Comments on or before June 2, 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.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-15421 Filed 6-1-78; 8:45 am]

notices

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

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A612]

FLORIDA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Florida Counties as a result of tornadoes, high winds, hail, and rain April 19, 1978:

Alachua and Union.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Reubin O'D. Askew that such designation be made.

Applications for emergency loans must be received by this Department no later than November 16, 1978, for physical losses and May 21, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 25th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-15329 Filed 6-1-78; 8:45 am]

[3410-07]

[Designation Number A613]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought January 1 through March 24, 1978, and hail and high winds August 30, 1977, in Hansford County; and drought March 1, 1977, through April 10, 1978, in Starr County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph VB, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than November 16, 1978, for physical losses and May 21, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 25th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-15331 Filed 6-1-78; 8:45 am]

[3410-07]

[Designation No. A614]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought June 1, 1977, through March 22, 1978, in Hardeman County; drought July 1, 1977, through April 18, 1978, in Kimble County; and drought May 1, 1977, through April 5, 1978, as well as a hailstorm September 15, 1977, in Mason County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than November 20, 1978, for physical losses and May 23, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 25th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-15330 Filed 6-1-78; 8:45 am]

[3410-11]

Forest Service

CASCADE HEAD SCENIC-RESEARCH AREA ADVISORY COUNCIL

Meeting

The Cascade Head Scenic-Research Area Advisory Council will meet on Friday, June 30, 1978, at the Elks Lodge No. 1886, 2020 NE. 22nd, Lincoln City, Oreg. The meeting will begin at 1:30 p.m.

The purpose for the meeting is for the Advisory Council to formulate their recommendations on the breaching of the dikes and other research plans in the Area.

The meeting will be open to the public. Persons who wish additional information concerning the meeting should contact Pam McCawley, Hebo Ranger Station, Hebo, Oreg., 97122, phone 392-3161, or Dale Dufour, Siuslaw National Forest, at 545 SW. Second Street, Corvallis, Oreg. 97330, phone 757-4492.

Dated: May 24, 1978.

LARRY A. FELLOWS,
Forest Supervisor.

[FR Doc. 78-15359 Filed 6-1-78; 8:45 am]

[3410-16]

Soil Conservation Service

EASTERN CONNECTICUT R.C. & D. AREA, CRITICAL AREA TREATMENT R.C. & D. MEASURES, CONNECTICUT

Intent Not To Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Critical Area Treatment R.C. & D. Measures in the Easetern Connecticut R.C. & D. Area.

The environmental assessment of these Federally assisted actions indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. John W. Tippie, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project.

The measures concern plans for critical area treatment to reduce damage caused by gully and rill erosion and the resulting sediment. The planned works of improvement include about 200 acres to be shaped and vegetatively treated, the installation of approximately 210,000 feet of pipe with associated structures, and the placement of about 44,000 cubic yards of rock riprap.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. John W. Tippie, State Conservationist, Soil Conservation Service, Mansfield Professional Park, Storrs, Conn. 06268, 203-429-9361. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until July 3, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: May 26, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources Soil Conservation Service.

[FR Doc. 78-15358 Filed 6-1-78; 8:45 am]

[3410-16]

BIGELOW PARK LAND DRAINAGE R.C. & D. MEASURE, MAINE

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bigelow Park Land Drainage R.C. & D. Measure, Washington County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Warwick M. Tinsley, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for providing both surface and subsurface water control for the town of Harrington's community park. The planned works of improvement include a grassed waterway, two tile systems and outlet structures, and vegetative stabilization of disturbed areas.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Warwick M. Tinsley, Jr., State Conservationist, Soil Conservation Service, USDA Building, Orono, Maine 04473, 207-866-2132. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until July 3, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: May 26, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources Soil Conservation Service.

[FR Doc. 78-15356 Filed 6-1-78; 8:45 am]

[3410-16]

GOULDSBORO ELEMENTARY SCHOOL CRITICAL AREA TREATMENT R.C. & D. MEASURE, MAINE

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Gouldsboro Elementary School Critical Area Treatment R.C. & D. Measure, Hancock County, Maine.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Warwick M. Tinsley, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for erosion control on the community school site. The planned works of improvement include three diversions, two grassed waterways, subsurface drainage, a walkway, protective fence, and establishment of vegetation.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Warwick M. Tinsley, Jr., State Conservationist, Soil Conservation Service, USDA Building, Orono, Maine 04473, 207-866-2132. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until July 3, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: May 26, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources Soil Conservation Service.

[FR Doc. 78-15355 Filed 6-1-78; 8:45 am]

[3410-16]

EAST WHARTON OUTFALL EROSION CONTROL R.C. & D. MEASURE, TEXAS

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500) and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the East Wharton Outfall Erosion Control R.C. & D. Measure, Wharton County, Tex.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for stabilizing an area of critical gully erosion in the southeast part of the city of Wharton. The planned works of improvement include installation of a concrete chute spillway near the outlet end of the gully. Rock riprap will be used to stabilize the outlet of the chute spillway and the upper end of the gully. All areas denuded during construction will be established to permanent vegetation. The treatment area will involve about 3 acres of land. The installation is planned over a 1-year period.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Tex. 76501, 817-774-1214. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until July 3, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: May 26, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources Soil Conservation Service.

[FR Doc. 78-15357 Filed 6-1-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 30699, etc.]

OAKLAND SERVICE CASE

Order

Adopted by the Civil Aeronautics board at its office in Washington, D.C., on the 19th day of April 1978.

Petition of Oakland Chamber of Commerce and Port of Oakland for a service investigation. Applications of Allegheny Airlines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., Hughes Air Corp., doing business as Hughes Airwest, Northwest Airlines, Inc., Texas International Airlines, Inc. for authority between Oakland, Calif., and various points. Docket Nos. 30739,30819, 30862, 30863, 31583, 30981, 30866.

I. SUMMARY OF PLEADINGS

On April 6, 1977, the Oakland Chamber of Commerce and the Port of Oakland filed a petition in Docket 30699 asking the Board to investigate whether the following 22 Oakland markets need service by an additional or replacement carrier: Albuquerque, Atlanta, Boston, Chicago, Dallas/Fort Worth, Denver, Detroit, Houston, Kansas City, Las Vegas, Los Angeles, Miami/Fort Lauderdale, Minneapolis/St. Paul, New York, Philadelphia, Phoenix, Portland, Reno, St. Louis, Salt Lake City, Seattle, and Washington/Baltimore.

Oakland requests that any new routes awarded in this case be designated as separate segments on carriers' certificates so that new service in these 22 Oakland markets will be mandatory rather than permissive. It also proposes that suspension, deletion, or other modification of the incumbent carriers' existing authority in these markets be put in issue under section 401(g) of the Act. It suggests two alternatives: (1) deletion of Oakland from all existing certificates and award of new mandatory Oakland routes to incumbents and others, or (2) elimination of dormant authority only. Attachment A to this order summaries Oakland's petition and the pleadings filed in support of it.

United and TWA filed answers opposing the Oakland petition. Both state that the case Oakland proposes would be unmanageably large and an unwise use of the Board's limited resources. They also argue that the East Bay is already well served by flights at San Francisco. United further argues that the wholesale suspension or deletion of existing Oakland authority and substitution of separate segments would be inconsistent with a rational route program. TWA calculates that one additional daily nonstop round trip in each of the 22 Oakland markets would require a total of 70 million gallons of fuel annually, and argues that this alone would reqire an investigation of the effects on fuels cost and availability before the Board could even hear the route case.

II. SCOPE OF PROCEEDING AND OUTLINE OF PROCEDURE

For the reasons set forth below, we are instituting a proceeding for the purpose of determining the need for new Oakland authority (see section III). This case, however, will not include all 22 markets in Oakland's petition. To avoid duplication, we will exclude six Oakland markets already at issue in pending cases.[1] We also will exclude the Oakland-Los Angeles market. It already receives extensive nonstop low-fare service from an intrastate carrier which, under recently enacted legislation, may enter into agreements with interstate carriers to interline traffic. With the intrastate carrier no longer limited to serving local traffic we see no need to consider new Oakland-Los Angeles authority at this time. Thus, the *Oakland Service Case* we are setting down in Docket 30699 will include the issue of new and improved authority in the following 15 Oakland markets: Albuquerque, Atlanta, Boston, Chicago, Dallas/Fort Worth, Denver, Detroit, Houston, Kansas City, Minneapolis/St. Paul, Philadelphia, Phoenix, Portland, Salt Lake City, and Seattle. We have decided, however, not to put in issue the suspension, deletion, or (except to the extent a holder may apply for it) modification of any of the incumbent carriers' existing authority at Oakland (see p. 56 below).

We are proposing a novel and experimental procedure for the conduct of the *Oakland Service Case*. First, we will conduct two separate hearings before administrative law judges: the first to adjudicate the issues of public convenience and necessity for new authority in the Oakland markets at issue (see section V-B), and the second

[1] New York and Washington/Baltimore are at issue in the *Transcontinental Low-Fare Route Proceeding*, Docket 30356; Las Vegas and Reno in the *California-Nevada Low-Fare Route Proceeding*, Docket 31574; Miami/Fort Lauderdale in the *Miami-Los Angeles Low-Fare Case*, Docket 31976; and St. Louis in the *St. Louis-Louisville and San Francisco Bay Area Nonstop Case*, Docket 31491.

to determine the fitness of applicants (see section V-C). We propose, however, to withdraw from the former hearing the one major issue which, in our traditional route proceedings, has been most prolific of complication, expense, and delay: the issue of comparative carrier selection. Instead, we have tentatively decided to adopt, for the purposes of this case, a policy of awarding permissive, subsidy-ineligible authority in each market where a need for new authority is shown, to every fit, willing, and able applicant for such authority whose illustrative service proposal indicates that it is prepared to satisfy any part of that need (see section IV).

Interested parties will have an opportunity to comment on the foregoing proposed policy from the standpoint of law, fact, and economics, and an oral argument will be scheduled (see section V-A). The two hearings will then proceed under the ground rules described in the final section of this order. While the initial pleadings and facts of which we may take official notice have led us to arrive at certain tentative findings and conclusions as to the need for additional route authority in most of the Oakland markets we are placing in issue (see section III), the hearing on public convenience and necessity issues will be open to any additional evidence relevant to the issue of need which the parties may wish to submit, consistent with the policies discussed elsewhere in this order. Similarly, although we have arrived at the tentative conclusion that there is no significant likelihood that the ability of any incumbent carrier now holding authority at Oakland or San Francisco to fulfill its certificate obligations will be impaired or threatened by any awards which we may make in this proceeding, the hearing on public convenience and necessity issues will be open to any relevant evidence of such impairment. Finally, if the responses to our proposed policy determination convince us that in some or all of the markets at issue we should not follow the proposed policy of awarding permissive authority to all qualified applicants, then by a subsequent order we will add carrier selection in those markets to the issues to be heard in the public convenience and necessity hearing.

III. Need for Additional Authority at Oakland

Introduction. As explained in the succeeding discussion, we tentatively find and conclude that Oakland International Airport (OAK) is significantly more convenient than San Francisco International Airport (SFO), in terms of ground access, for a large number of Bay Area residents and travelers. We further find and conclude that for the most part the interstate carriers authorized to serve Oakland have not met the need for service at OAK, resulting in severe underutilization of a fine airport facility. Consequently, we tentatively conclude that additional and different authority to serve Oakland is required by the public convenience and necessity, and we are instituting this investigation to ascertain more definitely the extent of this public need and to grant the needed authority in a form and manner we believe will most promptly and effectively remedy the existing deficiencies in Oakland's service. The policies and procedures we propose, as detailed elsewhere in this order, are novel and experimental, but we believe that they will result both in significant new service and in a wider range of price and service options for Oakland passengers. We cannot say with absolute certainty that our solution will have the results we predict—only actual experience can show that—but we believe it will create the opportunity for the most rapid possible improvements in Oakland service. We will observe the interaction of market forces at Oakland, and if the improvements we foresee do not occur, we will consider taking further steps.

Demand potential at Oakland. Available economic data support both Oakland's request for improved service and our finding that the current pattern of service in the San Francisco area is causing inconvenience to millions of air travelers. The East Bay area contains 40.6 percent of the total Bay area population, and considered as a separate economic unit, the East Bay area would rank 16th, 15th, 16th and 18th nationally in terms of population, effective buying income, buying power index, and retail sales, respectively.[3] Moreover, the results of the Bay Area Metropolitan Transportation Commission's 1975 survey of departing passengers at the three Bay area airports show that the East Bay area generates 25 percent of the total Bay area traffic using scheduled services, and that 17 percent of the traffic at SFO originates or terminates in the East Bay area.[3] This last figure translates into 2.7 million East Bay passengers who are using an airport less convenient than OAK.[4] Moreover, the experience of the Oakland-Los Angeles market—the one Oakland market now receiving frequent, convenient low-fare service (see below, p. 11)—tends to confirm that with good service the Oakland airport can attract at least 25 percent of the total Bay area air traffic.

Oakland has extensive, high-quality airport facilities. In 1962 Oakland completed a major expansion of its airport at a cost of $20 million, providing a new passenger terminal and a 10,000-foot runway, with over-water approaches at each end and a practical annual capacity of 179,000 landings and takeoffs. The runway is fully instrumented with ILS, approach lighting, in-runway lighting, including touchdown and centerline lights, and high-speed turnoffs. Access roads, automobile parking, gate positions, ticketing, baggage claim, public waiting areas, and passenger-hold rooms can handle 4 million passengers annually. Oakland passengers also have access to the Bay Area Rapid Transit system (BART) by means of a shuttle between the passenger terminal and the nearest BART station. The Oakland airport has an international arrivals building which provides customs and immigration facilities and is designed to accommodate multiple wide-bodied passenger loads. There is a jet maintenance complex, now leased to World Airways, capable of simultaneously accommodating four 747 or six DC-10/L-1011 aircraft. The airport is physically divided into two separate aviation facilities, one for commercial airlines and one for general aviation. Each facility has an FAA control tower.[5]

In spite of the strong potential demand for service at Oakland and in spite of its fine facilities, the Oakland airport's share of the total San Francisco Bay area true C. & D. traffic for the markets in issue in the year ended June 30, 1977, was only as follows:

Share of total Bay Area traffic using Oakland airport

Oakland markets	Percent
Albuquerque	1.0
Atlanta	2.6
Boston	1.7
Chicago	7.7
Dallas/Fort Worth	9.5
Denver	10.0
Detroit	3.0
Houston	1.5
Kansas City	2.3
Minneapolis/St. Paul	1.1
Philadelphia	2.6
Phoenix	7.5
Portland	17.9
Salt Lake City	11.2
Seattle	13.2

The Oakland airport's low share of the total Bay area O. & D. traffic correlates closely with the quantity and quality of the Service it receives from the nine incumbent carriers—service which makes far less than optimum

[3] In the nine-county San Francisco Bay area, the East Bay area consists of Alameda, Contra Costa, Napa, and Solano counties; the West Bay area of Sonoma, Marin, San Francisco, and San Mateo counties; and the South Bay area of Santa Clara County. See attachment H to this order.

[3] These results are summarized in OAK-30 through 37, attached to Oakland's petition.

[4] See page 15 of Oakland's petition.

[5] See OAK-820 through 824, Docket 30356.

use of its facilities and does very little to tap the East Bay area's potential traffic demand. The following table sets forth the service presently being provided at the Oakland and San Francisco airports by the incumbent carriers having authority in the 15 Oakland Markets we are placing in issue (except where otherwise indicated, these carriers also have comparable authority in the corresponding San Francisco markets):

		Daily Round Trips Provided a/							
		To/From Oakland				To/From San Francisco			
		No. of Stops				No. of Stops			
Market	Carrier	0	1	2	3+	0	1	2	3+
Philadelphia	American	NA	None			NA	1	0	0
	TWA		None			1	1	1/0	0
	United		None			1	2/1	1/0	0
Phoenix	American		None			3	0	0	0
	Hughes Airwest b/	1	1	2/0	0	NA	2/3	0	3/0
	TWA		None			3	1/0	0	0
	Western		None			0	2/1	1	0
Portland	Continental		None			No Authority			
	Hughes Airwest	NA	None			NA	1/2	1/2	2
	United	3	0	0	0	5	5/4	1	0
	Western		None			3/4	0	0	0
Salt Lake City	United		None			3	1	0	0/1
	Western	1	0	0	0	4/5	1	0	0
Seattle/Tacoma	Continental		None			No Authority			
	Hughes Airwest	NA	NA	None		NA	NA	1	1/3
	United	1	2	0	0	7	1/0	2/1	0
	Western		None			8/7	0	0	0

NOTES: NA = No authority
Single figures indicate daily round trips. Where service is directionally unbalanced, "x/y" indicates x flights to Oakland and y flights from Oakland.

a/ Table shows round trips operated four or more times per week. In the San Francisco-Atlanta market, National operates two round trips per week.

b/ One or more of this carrier's Oakland flights makes an intermediate stop at San Francisco or San Jose.

SOURCE: March 1, 1978 Official Airline Guide

Market	Carrier	Daily Round Trips Provided a/ To/From Oakland No. of Stops 0	1	2	3+	To/From San Francisco No. of Stops 0	1	2	3+
Albuquerque	Continental	None				3	0	0	0
	TWA	None				0	1	0	0
Atlanta	Delta b/	0	0	0	2/0	2	1/3	1/0	1/0
	National	None				None a/			
Boston	American	NA	None			NA	1	0/1	2
	TWA	None				1	1	0/2	0
	United	None				1	1	3/1	1
Chicago	American	None				5	0	2	0
	TWA	1/2	0	0	0	5/4	0	0/2	1/0
	United	2	0	0/1	0	5	2	0	0
Dallas/Ft. Worth	American b/	0/1	1/0	0	0	6	0/1	0	0
	Continental	NA	None			NA	0	2/0	0
	Delta b/	0/1	3/2	0	0	4	1/0	0	0
Denver	TWA	None				1	0	0	0
	United	1	1	0	0	5	1	0	0
	Western	0	1	0	0	1	1/3	1/0	0
Detroit	American	None				1	1	1	0
	TWA	None				0	1/0	0	1/0
	United	None				1	1	0	0
Houston	American	None				2	1	0	0
	Continental	NA	NA	None		NA	NA	1/2	0
	National	None				4/2	2	0	0
Kansas City	TWA	None				2	1	1/0	0
	United	None				1	0	0/1	0
Minneapolis/ St. Paul	Northwest	None				2	0	0	0
	Western	None				3	1/0	1	0

As will be seen from the table, 7 of the 15 Oakland markets currently receive no service at all, while an eighth has multistop service in one direction only and a ninth has nonstop service in one direction only. The remaining 6 markets have nonstop service in one direction only. The remaining 6 markets have nonstop service in both directions, but frequencies are limited. Only two markets, Chicago and Portland, receive more than one nonstop round trip per day. (In contrast, as we point out elsewhere, the Oakland-Los Angeles market receives 11 daily round trips from an intrastate carrier.) Although competitive service is authorized in all of the Oakland markets at issue, it is actually provided in only three of them, and only one market (Chicago) has two carriers offering round/trip nonstop service. Moreover, in a few instances Oakland flights make an intermediate stop at San Francisco or San Jose—a flight pattern which we believe is psychologically discouraging to the Oakland passenger and does little to stimulate use of the Oakland airport. In some other markets, Oakland service is provided in one direction only, and is thus unusable by the East Bay traveler who wishes to leave his car at the airport and pick it up on his return flight.

The current low level of service at Oakland is not new. For over thirty years San Francisco International Airport has been the dominant terminal for interstate traffic. Although Oakland was the Bay Area's first major commercial air facility (opening in 1927), it was used during World War II as a military airfield, and commercial traffic was shunted to San Francisco, where for the most part it has remained. As far back as 1947, Oakland filed a formal adequacy-of-service complaint with the Board concerning the service it was receiving.[6] Oakland voluntarily withdrew that complaint, hoping to negotiate improved service for the carriers involved, but in 1961 it filed a second petition for an adequacy-of-service investigation.[7] Since the Board had recently awarded new authority in a number of Oakland markets and several others were at issue in a case pending at that time, it deferred action on the petition, with the hope that its newly-created Office of Community Relations could work out an informal solution of Oakland's problems.[8] Several carriers instituted new and improved service in 1963,[9] and, port still better service, it withdrew its formal complaint.[10]

There have been few improvements, however, in Oakland service in the fifteen years since 1963.[11] Nonstop frequencies to Denver and Phoenix have remained the same as in 1963. Oakland has never received any single-plane service to Albuquerque, Kansas City, or Minneapolis/St. Paul, and single-plane service to Atlanta, Boston, Detroit, Houston, and Philadelphia has been infrequent and intermittent. Dallas/Ft. Worth service is better than in 1963, when there was no round-trip single-plane service, but as of December 15, 1977, Delta dropped its westbound nonstop flight, so that the market no longer receives round/trip nonstop service. There have been some improvements in nonstop service by certificated carriers in the Chicago, Portland, Salt Lake City, and Seattle markets, but these are not very significant, considering the fact that fifteen years have gone by.[12]

A comparison of Oakland's current nonstop frequencies with those of twenty years ago shows that, while nonstop service to Chicago, Denver, Phoenix, and Seattle is somewhat more frequent now than in 1958, the Dallas/Ft. Worth, Portland, and Salt Lake City markets have fewer nonstop operations.[13] In contrast, while nonstop service between the San Francisco International Airport and Chicago and Portland has increased only slightly during the past 20 years (the 1958 nonstop frequencies in these markets were already quite numerous,[14] nonstop flights to and from the San Francisco airport in the Dallas/Ft. Worth, Denver, Phoenix, Salt lake City, and Seattle markets have more than doubled over that period.

We recognize that because of increases in aircraft size since 1958, fewer flights may in fact provide the same or a greater number of seats. Twenty years of traffic growth, however, have more than compensated for the increase in aircraft size in most markets, particularly those involving hub-to-hub service. In this connection it is noteworthy that the load-factor data in Oakland's petition show healthy loads (at the DPFI fare levels) on nonstop flights to and from Chicago, Dallas/Ft. Worth, Denver, Portland, Salt Lake City, and Seattle during 1975 and the first half of 1976, the lowest being Salt Lake City at 55 percent (exhibits OAK-56 through 62).

Over the years, the Board has taken a variety of regulatory approaches to satisfying Oakland's needs. The earliest certificates named Oakland as a separate point, but the holders also had San Francisco authority and for the most part undertook to serve Oakland through the San Francisco Airport by use of the Board's airport notice procedure. Later, when the Board was considering new long-haul authority to the Bay area, at a time when traffic would support fewer frequencies than today, the Board took the view that compelling carriers to divide between San Francisco and Oakland the limited number of long-haul frequencies then feasible would unreasonably restrict their ability to provide effective service to either community.[15] As a result, the certificates issued at that time and later usually designated Oakland as a single hyphenated point with San Francisco.

By 1970, however, the intrastate carriers in California had demonstrated "that there is a sizable public demand for aggressively promoted, competitively scheduled, convenient, low-cost direct air service between the satellite airport and distant destinations."[16] To meet this demand, we awarded Continental Air Lines new authority to Portland and Seattle, restricted to satellite airports in the Los Angeles and San Francisco areas. Continental, however, has elected to serve only one satellite airport in the San Francisco area (San Jose), so it has not developed Oakland traffic as we hoped it would.

The Causes of the Low Level of Service at Oakland. It has been suggested that the paucity of service at Oakland can be explained either by the proximity of service at the San Francisco international Airport or by the existence of extensive unused authority at Oakland itself, which supposedly would enable the incumbent carriers to smother the efforts of any new carrier to establish itself at Oakland. Experience, however, suggests that neither of

[6] Docket 3215.

[7] Docket 12385.

[8] See Order E-17318, August 14, 1961. Order E-19126, December 21, 1962, permitted informal discussions between Oakland and the air carriers authorized to serve it.

[9] The most important service improvements were in the Chicago, Denver, Los Angeles, and Portland markets and, in 1964, between Oakland and Las Vegas.

[10] Order E-20643, April 2, 1964, dismissed Oakland's petition and complaint at the City's request.

[11] The 1963 and 1958 services we refer to in this order are from the August 1 editions of the respective Official Airline Guides.

[12] Of course, Los Angeles-Oakland service has improved dramatically, but that was a result of intrastate carrier entry into the market in 1965. Interstate carriers no longer provide any Los Angeles-Oakland service.

[13] We also note that the Oakland-Dallas/Ft. Worth market was without nonstop service from June 1, 1961, to June 15, 1974, as was true of the Oakland-Denver market from November 1, 1969, to May 1, 1972, the Oakland-Phoenix market from June 14, 1974, to January 15, 1977, and the Oakland-Salt Lake City market from November 1, 1970, to April 27, 1975. (There were other periods before 1970 when the incumbent carriers discontinued all nonstop service in the Oakland-Denver/Salt Lake City markets.)

[14] 14½ daily nonstop round trips in the SFO-Chicago market, and 8 in the SFO-Portland market.

[15] *Southern Transcontinental Service Case*, 34 C.A.B. 487 (1961).

[16] *Pacific Northwest-California Investigation*, 54 C.A.B. 38, 42 (1970).

these explanations is adequate. For example, Hughes Airwest, which had theretofore been subject to stop restrictions in the San Francisco/Oakland-Las Vegas/Phoenix markets, applied in early 1975 for nonstop authority in the two Oakland markets, where the incumbent carriers were providing little or no service. Western, which had previously dropped its nonstop service in the Oakland-Las Vegas market on March 1, 1970, reinstituted such service on April 27, 1975, after Airwest filed its application but before it could be processed. Notwithstanding this apparent attempt by Western to preempt the market, Airwest prosecuted its application to a successful conclusion and inaugurated Oakland-Las Vegas nonstop service on November 1, 1976—whereupon Western terminated its nonstop service on January 15, 1977, leaving Airwest as the sole roundtrip nonstop carrier in the market.[17] In addition to Western, Delta, National, and TWA all have unused nonstop authority in the Oakland-Las Vegas market, while American and TWA hold such authority in the Oakland-Phoenix market. These carriers between them currently provide 9½ daily nonstop round trips in the San Francisco-Las Vegas market and 6 daily nonstop round trips in the San Francisco-Phoenix market, which nevertheless have not deterred Airwest's Oakland service.

The Oakland-Los Angeles service history provides another instructive example. For years, the certificated interstate carriers provided minimal levels of nonstop service between Oakland and Los Angeles,[18] while offering substantial SFO-Los Angeles service. One month prior to the entry of Pacific Southwest Airlines (PSA) in February 1965, however, the interstate carriers (United and Western) doubled their nonstop service from 5 to 10 roundtrips per day. Since PSA's entry both UA and WA have left the market (United in April 1970, Western in January 1976), so that now the intrastate carriers provide the only service.[19] Although PSA operated for more than ten years in the face of active Oakland-Los Angeles competition, and has always operated in the face of very extensive San Francisco-Los Angeles competition plus multiple Oakland-Los Angeles dormant authority, it has maintained its high level of nonstop service. As a result, Oakland now generates 25 percent of Bay area-Los Angeles traffic.[20]

These two examples demonstrate, we think, that although the existence of dormant authority at Oakland may indeed allow the holders of such authority to attempt to smother or preempt a prospective new carrier, such attempts are not particularly effective and do not deter a new carrier whose motivation is otherwise adequate from entering and effectively serving an Oakland market; and that a fortiori neither the mere existence of such dormant authority nor the proximity of extensive service in the corresponding San Francisco market is a major obstacle to the entry of such a new carrier at Oakland. By the same token, these factors do not explain the propensity of the incumbent carriers at Oakland and San Francisco in most cases to provide very limited service at the Oakland airport which falls far short of realizing the East Bay area's traffic potential. Rather, in our view, the failure of the incumbent carriers to provide better service to Oakland results from the self-reinforcing incentives that dual or hyphenated certification has created to concentrate service at San Francisco. Given the post-World War II pattern (which has persisted to this day) of minimal Oakland service alongside the major hub activity of SFO, carriers have chosen SFO as a marketing and operational base because (a) the concentration of scheduled service at SFO offers them maximum opportunities to gain connecting traffic, and (b) once established at SFO, the carriers find little incentive to open another station at Oakland, or to promote existing Oakland services, since by doing so they would be diverting passengers from their own SFO services. It is no coincidence that Airwest, having more restrictions on its SFO authority than any other Oakland carrier, recently has been the interstate carrier most active in seeking new Oakland authority and instituting new Oakland service. We expect that other carriers to be certificated in this proceeding, which will not be under the sway of the self-reinforcing incentives to concentrate their services at San Francisco, will be induced by Oakland's unrealized traffic potential to offer the kind of frequent, low-cost air service Oakland needs.

Market Analysis. As explained above, 7 of the 22 markets that Oakland wishes us to investigate have been excluded on procedural and other grounds. We tentatively find that at least 12 of the remaining 15 markets are now and will continue to be large enough to support some nonstop service. This finding rests on assumptions relating to Oakland's traffic potential, realistic price reductions that carriers could offer, and cost adjustments flowing from the price reductions. Our forecasts for the 15 markets are explained in Attachment B and set forth in detail in Attachments C through F.

All the assumptions used are conservative. For example, we have relied exclusively on forecasts of local O&D traffic as support for nonstop service. Obviously, most applicants with existing systems will be able to flow other traffic over new Oakland segments if they choose. Moreover, all applicants will have access to interline connecting traffic. Thus, an attractive Oakland-Chicago service will undoubtedly be used by thousands of travelers in smaller Oakland-Midwest markets, just as is presently the case with San Francisco-Chicago service; and the same will be true in the Atlanta, Dallas/Ft. Worth, Denver, and many other markets. The present ratio of interline connecting to local O&D traffic[21] in all Oakland markets is 23 percent; at San Francisco the ratio is 27 percent, reflecting the greater availability of interline connections at that airport. As Oakland's total service increases, a significant volume of connecting traffic will become available to support more service and permit Oakland to begin to compete with SFO as a connecting complex. Thus, by basing our traffic forecasts solely on local O&D traffic we have in fact understated the true traffic potential for all applicants by something like 25 percent, and for applicants with existing systems and access to on-line flow traffic by even more. Interested parties will have an opportunity to show the full traffic potential of the Oakland markets in issue at the hearing.

Our other assumptions are as follows:

1. Historic traffic at the Oakland airport does not accurately represent the Oakland traffic potential. Since poor or non-existent Oakland service causes East Bay travelers to use other Bay area airports, our traffic forecasts for the Oakland markets assume that with good service, Oakland will attract a larger percentage of the total three-airport Bay area traffic. The results of the Metropolitan Transportation Commission survey and PSA's service in the Oakland-Los Angeles market (see pp. 4-5 and 11-12) indicate that Oakland's share should average approximately 25 percent.

2. It seems likely that price reductions will be a prominent feature of the marketing strategies adopted by new Oakland carriers and by incumbents. Our analysis forecasts 1979 traffic using the existing price level[22] and three levels of discounts from it. To be conservative, we have based our revenue/cost projections on the highest level of discounted fares, which also

[17] Delta operates a single nonstop flight eastbound only.

[18] An intrastate carrier entered the market in November 1960, but remained for only six months.

[19] Air California operates one-stop service only.

[20] OAK-38.

[21] O&D Traffic Survey, Table 10, year ended June 30, 1977. The combined connecting ratio for all three Bay Area airports is 26 percent (2.26 million interline connecting to 8.66 million local O&D passengers).

[22] See attachment E for data on price level.

means that we assume the lowest level of price-stimulated traffic.

3. In our view the most conservative figure for the price elasticity of demand in these markets would be −0.7, the figure used in the *Domestic Passenger-Fare Investigation.*[23] There is reason to believe that, for fare reductions of the magnitude we would anticipate in these Oakland markets, the true price elasticity of demand is actually considerably greater.[24] In our forecasts (see Attachment C), we have calculated traffic and revenues under various fare reductions, assuming elasticity coefficients of −0.7, −1.0, −1.5, and −2.5. For 9 of the 15 markets at issue, a coefficient of −0.7 is found sufficient to produce enough local O&D traffic to support one daily round trip with suitable aircraft in each market (see Attachment D). For 3 of the remaining markets (Boston, Philadelphia, and Detroit), the respective coefficients required to produce this level of local O&D traffic are −.78, −.81, and −.9, all of which would appear to be readily attainable. For the remaining 3 markets (Albuquerque, Atlanta, and Kansas City), our analysis shows an unprofitable operation at probably attainable elasticity coefficients based on local O&D traffic alone. However, as previously pointed out, no carrier will in fact be limited to local O&D traffic; all will have access to interline connecting traffic, particularly in Oakland markets to such major connecting hubs as Atlanta, and many will be able to flow additional on-line traffic over new Oakland segments. Thus, while our very conservative analysis rather clearly shows that most of the Oakland markets will support some nonstop service, it by no means shows that the remaining Oakland markets will not support such service. We consider that there is a sufficient likelihood that they will do so to warrant putting all 15 markets in issue, so that their full traffic potential can be further explored at the hearing.

4. The majority of the service will eventually be operated with aircraft suitable to the density and stage length of each market, and most operations will reflect cost-cutting strategies designed to generate profits at reduced fares. In our analysis, we used recent historical costs of carriers serving the Bay Area markets in question (not necessarily at Oakland). These experienced costs were adjusted in three ways: (a) by assuming all-coach seating at DPFI-standard density, (b) by assuming an average passenger load factor of 65 percent, and (c) by eliminating passenger food expense (carriers could escape this expense by serving no food or by offering on-board food service for a cash charge which would cover costs).

The last three assumptions do not indicate a preference by the Board for uniform low-fare, no-frills service; on the contrary, we hope to see a wide variety of price/quality options offered in the Oakland markets. However, we believe there is a significant demand for this particular type of service and that Oakland carriers could profitably tap it.

Diversion from Existing Carriers. The Board has recently had occasion to discuss its current policies as to the weight to be given to diversion from an incumbent carrier as a factor in the public convenience and necessity.[25] As a rule, diversion will not be of decisional significance unless it threatens an affected carrier's ability to perform its certificate obligations, or will necessarily result in termination of essential services which will not be replaced by an applicant or by other carriers. These policies will apply to the present proceeding. Because relatively little service is now being provided in the 15 Oakland markets at issue, the incumbent carriers at Oakland have relatively little at stake and can claim correspondingly little diversion. Those few incumbents who are actively promoting service at Oakland ought to be in an excellent position to maintain or even increase their stake in the face of efforts by newcomers to break into the markets in question. Any incumbent that contends that this is not the case should be prepared to show why it is under some special disability which will hamper it in maintaining its stake in the oakland markets it is serving. Otherwise, as we said in the *Greenville/Spartanburg* case, we would be inclined to regard the replacement of an incumbent carrier in a market by a more efficient and enterprising newcommer as representing a net gain to the public interest.

Improved service at Oakland will of course tend to divert East Bay travelers who today have little choice but to use service at the San Francisco airport despite its lesser convenience and accessability by surface travel. But the Board has never been disposed to regard the shift of traffic from a less convenient to a more convenient service as a negative factor in the public convenience and necessity. Thus, the fact that East Bay-originating traffic may shift from the San Francisco to the Oakland airport, and that this shift may induce a proportionate reduction in services now being provided at San Francisco, will not be considered a valid argument for withholding the award of additional authority to serve Oakland. It might, of course, be a matter of concern to the Board if it were shown that greatly improved service at Oakland would result in complete termination of service in a corresponding San Francisco market. But such a result would appear on its face to be highly unlikely, given the fact that the West Bay traffic pool, for which service at the San Francisco airport is markedly more convenient, is considerably larger than the East Bay traffic pool. The incumbent carriers at San Francisco, even if they do not choose to maintain their historic stake in the East Bay traffic by entering into or maintaining competition at the Oakland airport, should have no difficulty in maintaining their stake in the West Bay traffic, since nothing prevents them from matching at San Francisco either the services or the fares which may be offered at Oakland as a result of this proceeding. Again, any incumbent that contends that some special disability will require it to terminate service in its San Francisco markets in the face of improved service at Oakland should be prepared to show what this special disability is.

In short, consideration of the preliminary pleadings and facts of which the Board can take official notice leads us tentatively to conclude that diversion from incumbent carriers at Oakland and San Francisco as the result of any new services at Oakland which may be authorized in this proceeding will not be so extensive, under the Board's established decisional criteria, as to warrant or require the denial of new authority to serve Oakland. All interested parties will, however, have a full opportunity to address the diversion question at the hearing on economic issues, within the framework of the Board's established diversion policies.[26]

Similar considerations govern the possible contention that an award of additional authority in the Oakland markets at issue will have an adverse effect on subsidy. This is a matter which could only affect Hughes Airwest. That carrier has usable authority in only three of the Oakland mar-

[23] See C.A.B. (DPFI Vol.) 550-59 (1971).

[24] In Order 78-3-106, March 23, 1978, we employed an implicit elasticity coefficient of approximately −1.0 in calculating the probable effects of Western's proposed fare reductions in the Miami-Los Angeles market.

[25] *Greenville / Spartanburg-Washington / New York Subpart M Case,* Order 77-10-1, October 3, 1977; *Ohio/Indiana Points Nonstop Service Investigation,* Order 78-2-71, February 14, 1978, at pp. 7-10; *Piedmont Boston Entry Application,* Order 78-4-69, April 14, 1978, at pp. 5-6. See also *Transpacific Route Investigation,* 51 C.A.B. 161, 168-69 (1969); *Reopened Service to Omaha and Des Moines Case,* Order 75-9-19, September 8, 1975, at pp. 15-16.

[26] We do not expect the hearing to spend time arguing over the details of diversion forecasts where it is evident that diversion will not be extensive enough to meet the Board's established criteria; see *Piedmont Boston Entry Application,* preceding footnote.

kets at issue (Phoenix, Portland, and Seattle/Tacoma), and actually serves only the Phoenix market, where its recently acquired nonstop authority (see p. 11) is subsidy-ineligible. We see no reason to suppose that Airwest will be at a disadvantage in the Oakland-Phoenix market; it has already survived an apparent preemption attempt by a trunkline carrier in the related Oakland-Las Vegas market. Our tentative conclusion is therefore that an award of additional authority at Oakland will not have an adverse effect on subsidy.

Summary: Tentative Findings of Public Convenience and Necessity. All issues of the public convenience and necessity for awards of additional certificated route authority in the Oakland markets at issue will be adjudicated in the economic hearing. We have nevertheless arrived at tentative findings on many of these issues, based on certain guidelines plus facts shown of record or of which we can take official notice, which facts we do not anticipate will be controverted. We set forth these tentative findings and guideline here so that the parties may address them in their evidentiary presentations.

1. It is our tentative view that the public convenience and necessity require the grant of nonstop authority in every Oakland market not now receiving nonstop service in which the forecast traffic in 1979 will be capable of sustaining at least one nonstop round trip per day with suitable aircraft on a profitable basis, and in which there is a fit, willing, and able applicant prepared to provide nonstop service. The ability to sustain one nonstop round trip per day is our tentative minimum criterion for an award in any market. We tentatively find that at least 12 of the 15 markets at issue will be capable of supporting this level of nonstop service; the remaining three markets may or may not be.

2. It is also our tentative view that the public convenience and necessity require the grant of additional nonstop authority in Oakland markets already receiving nonstop service where such service is not realizing Oakland's full traffic potential. Based on the Oakland parties' studies plus the results actually realized in the Oakland-Los Angeles market, we have tentatively assessed that potential as being at least 25 percent of the total traffic using the three Bay area airports. Since this potential is not being realized today in any of the 15 Oakland markets in issue, we are led to the tentative conclusion that new nonstop authority should be awarded in all of them in which the minimum traffic criterion is met.

3. Finally, we would not be disposed to deny applications for additional nonstop authority in any of the Oakland markets at issue meeting the minimum traffic criterion even if it were shown (which we do not anticipate it will be) that the award of such authority would not result in any immediate increase in the amount of nonstop service now being provided. Our review of the history of service at Oakland shows how easy it is for the incumbent carriers who also have comparable authority at San Francisco to drop their Oakland operations in favor of their parallel San Francisco operations, and shows also the economic motivations these incumbent carriers have for continuing to concentrate their Bay area operations at a single airport, San Francisco. In view of this history and these motivations, we cannot be confident that even those Oakland markets now receiving nonstop service from the incumbents will continue to do so reliably and without interruption. There appears to us to be a need in all markets for additional carriers whose motivations will impel them to focus their attention and efforts on Oakland rather than San Francisco service. Even if it were to appear that such new carriers might not immediately inaugurate service in any particular market, we believe it would nevertheless serve the public interest to have such carriers authorized and waiting in the wings in the event the incumbent carrier or carriers now providing service should subsequently falter or yield to the temptation to transfer their present Oakland service to San Francisco.

It will not be enough to wait until such a contingency actually arises and then have to order a new Oakland service investigation to deal with it; as a practical matter, the Board cannot review the service needs of individual city-pair markets at sufficiently frequent intervals to make this a satisfactory solution.[27] Oakland has suffered from inadequate and unreliable service for such a long time that we believe we have a particular responsibility to see that its future service is both more adequate and more reliable, and that any deficiencies which appear in the future will be promptly and flexibly remedied. Moreover, our analysis indicates that the more service Oakland receives in one market, the more it will tend to receive in others, since each new flight tends to increase the pool of connecting traffic which supports still other new flights. For all these reasons, we tentatively find that the public convenience and necessity require awards of new nonstop authority in all markets at issue meeting the minimum traffic criterion, regardless of the level of service they are now receiving.

[27] See discussion at pp. 38-39 below. Similarly, we do not think it will be enough to award standby authority in those Oakland markets (if any) which might arguably now be receiving an optimum level of service—quite apart from the question of additional price/service options—since this would provide no adequate remedy in the event the incumbent carrier or carriers in the markets reduced their service to token levels but did not eliminate it altogether.

IV. The Award of Permissive Authority to All Qualified Applicants

We have tentatively decided to adopt, for the purposes of this proceeding, a policy of awarding permissive, subsidy-ineligible authority in every market at issue in which a need for additional authority is shown (see the discussion above), to every fit, willing, and able applicant whose illustrative service proposal (see section V-B) indicates that it is prepared to satisfy a part of the demonstrated need. This represents a fundamental departure from the policies the Board has followed in the great majority of route proceedings during its nearly 40 years of existence. In this section of the order we discuss and give our reasons for tentatively adopting this policy in the present proceeding.

At the outset, a word should be said about why we are proposing to adopt this policy at the beginning of the present proceeding, rather than waiting until its conclusion. In several other route cases which have been through the hearing process and are now awaiting final decision, we have already indicated our interest in exploring the possibility of awarding the authority at issue to all or most applicants on a permissive basis, and have announced that we will hear oral argument on the advisability of multiple permissive awards in those cases in the near future.[27a] In still other pending cases, the possibility of multiple permissive awards has been expressly placed in issue in the instituting order. In the present case, however, we are interested in demonstrating, among other things, that the elimination of the issue of comparative carrier selection, through the adoption of a policy of permissive awards to all qualified applicants, will enormously simplify, shorten, and reduce the cost of route proceedings. To do this, we must at least tentatively adopt the policy before the evidence is prepared, and shape the entire procedural course of the case to accord with the policy. How we propose to do this is detailed in section V of this order.

[27a] *Improved Authority to Wichita Case*, Order 78-3-78, March 16, 1978; *Las Vegas-Dallas/Ft. Worth Nonstop Service Investigation*, Order 78-3-121, March 24, 1978; *Memphis-Twin Cities/Milwaukee Case*, Order 78-3-35, March 9, 1978; *Midwest-Atlanta Competitive Service Case*, Order 78-4-13, April 6, 1978; *Ohio/Indiana Points Nonstop Service Investigation*, Order 78-2-71, February 14, 1978; *Phoenix-Des Moines/Milwaukee Route Proceeding*, Orders 78-1-116, January 26, 1976, and 78-3-130, March 27, 1978.

Simplifying and speeding up the proceeding is particularly important here, because a conventional route proceeding covering all 15 Oakland markets would take an inordinate length of time to complete, and would overtax our hearing and analytical resources. In setting down the *Chicago-Midway Low-Fare Proceeding*, in a somewhat similar situation, we found it necessary to reduce the number of markets in issue to six in order to assure a reasonably speedy conclusion to the case.[28] A conventional hearing on Oakland's service needs would probably have to be similarly limited. We believe it is much more desirable, however, to keep all 15 Oakland markets in issue, and to speed up the case by eliminating the issue of carrier selection. In part, this is because Oakland has already had to wait so long to have its service needs heard. But more important, our analysis (see p. 12) indicates that a major deterrent today to better service in any particular Oakland market is the relatively small pool of connecting traffic arriving or departing at Oakland in other markets. This suggests the desirability of putting as much new service as possible into Oakland all at one time so that the new services will be mutually supportive. It in turn points up the need for placing in issue as many Oakland markets as can practically be handled—a much greater number under the new procedure we propose than under conventional procedures—and of structuring the case with a view to authorizing as much new service in these markets as they can sustain.

There is no doubt that the policy we propose to adopt here represents a far-reaching departure from the Board's customary practice in most route certification cases during the nearly 40 years of its history.[29] But we have no mandate to adhere blindly to policies and practices which, however suitable they may have been for a heavily subsidized infant industry in the Depression era of the 1930's, have arguably become unsuited for the almost unrecognizably transformed mature industry of the late 1970's. When Congress set up an independent regulatory agency and charged it with overseeing the destinies of a rapidly developing transportation industry, guided only by the broadly worded standards of section 102 of the Act, it clearly expected the Board to adapt the form and substance of its regulatory policies not only to the facts of each case but also to the economic realities of the present day as the Board finds them. The regulatory policies of the past have proven inadequate to meet Oakland's service needs, and we thus have a clear obligation to seek out new means, consistent with the Act, to satisfy the public convenience and necessity for more and better service at Oakland. But the importance of our obligation to probe past policies to their fundamentals far transcends the service needs of any particular community; it goes to the basic health and future of the great industry entrusted to our care. We would be faithless to our trust if, through timidity or an unthinking adherence to precedents based on facts which no longer exist, we set a vital and burgeoning industry on the same path to obsolescence and decline which has been trodden by some other industries whose regulators did not dare to innovate as conditions changed.

"[T]his kind of flexibility and adaptability to changing needs and patterns of transportation is an essential part of the office of a regulatory agency. Regulatory agencies do not establish rules of conduct to last forever; they are supposed, within the limits of the law and of fair and prudent administration, to adapt their rules and practices to the Nation's needs in a volatile, changing economy. They are neither required nor supposed to regulate the present and the future within the inflexible limits of yesterday." *American Trucking Associations* v. *Atchison, T. & S. F. Ry. Co., 387 U.S. 397, 416 (1967).*

It would extend this order unduly even to outline the extent of the changes in air transportation that have taken place between 1938 and 1978. A suggestive glimpse can be had by reading the first Board decision in which two air carrier applicants contended for a new route—one which both applicants agreed could be operated by only one of them.[30] The winning applicant was Continental, a "grandfather" carrier by virtue of its prior air mail contract for service over a single route between Denver and El Paso via six intermediate points in Colorado and New Mexico.

"It conducts its present operations with 3 Lockheed 12-A airplanes powered with Wasp S-B Jr. engines. This equipment will accommodate six passengers under normal operating conditions. In addition, it owns a Stearman 4-E plane, which it uses for auxiliary mail service and for pilot training. Flying personnel consists of five first pilots and four copilots. Two of the latter have first pilot ratings. All pilots are certificated and qualified to fly Continental's entire route. * * * Continental's chief maintenance shops are located at Denver, where a staff of 12 properly certificated mechanics perform most of the maintenance work. * * * The revenue passenger load factor . . . was about 35 percent [i.e., about 2 passengers per flight]. During 1938, Continental received revenues in the amount of $280,429.21. * * * Net income . . . amounted to $14,710.63. The passenger revenue was about 8.7 cents per airplane mile and the total revenue 42.4 cents per airplane mile. The total operating expenses per airplane mile were 38.61 cents, of which 24.73 cents were classified as direct flying expense." (1 C.A.A. at 90–91).

The last data given are particularly significant, since they show that passenger revenues amounted to only about 20 percent of total revenues, and fell far short of covering either direct or indirect operating costs. The remaining revenues, 80 percent of the total, consisted almost entirely of mail pay based not on the actual cost of carrying the mail but on the "need" of the carrier. With the equipment it used in 1938, Continental today would be classed as a rather small commuter carrier (the most popular current commuter aircraft has three times the passenger capacity of Continental's 1938 Lockheeds); it would be exempted from virtually all economic regulation by Part 298 of the Board's regulations, and would not be receieving subsidy.[31]

In the utterly different air transportation industry of 1978, we inquire how our proposed policy of permissive awards in the Oakland markets at issue to all qualified applicants comports with section 102 of the Act—whether it is likely to foster the goals which Congress sought to achieve without bringing on the evils Congress sought to avert. We believe our proposed policy passes this test, for reasons we now explain.

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[28] Order 77-5-81, May 17, 1977. While Midway and Oakland are both in a sense "satellite airports" where inadequate service is alleged, there are also significant differences between the two situations which help explain why we are not treating them identically at this time. Among these differences are: (1) That Midway serves the same community as O'Hare, namely Chicago, whereas the Oakland Airport serves a physically and politically distinct group of communities; (2) the differences in runway length, facilities, and maximum flight range at the Oakland and Midway airports; (3) their different service histories; (4) the differences in geography and surface transportation between the two areas; and (5) the fact that *Midway* was specifically set down to consider low-fare commuter service tailored to applicants' proposals, whereas this case is being set down in response to a civic petition for a service investigation and structured by us to provide maximum service benefits to the community at its own airport. Finally, as to the different structure of the two cases, the major change is, of course, that our thinking is much further advanced than it was a year ago.

[29] This practice has not been invariable; a number of significant exceptions are described later in this section (see p. 46).

[30] *Continental A.L., et al., Mandatory Route*, 1 C.A.A. 80, 100 (1939). The route involved, Wichita-Pueblo via several intermediates in Kansas and Colorado, was one of the so-called "mandatory" routes which Congress in the 1938 Act instructed the Board to grant without the necessity for findings of public convenience and necessity. Interestingly enough, this is virtually the same route (long since abandoned by Continental) that was recently certificated to Air Midwest.

[31] Or perhaps it might be subsidized, if Air Midwest is viewed as its lineal descendant.

The legislative history of the 1938 Act leaves little doubt that one of the principal evils Congress feared was "destructive competitive practices" (to quote the language of section 102(c)).[32] Destructive competition was an evil much on the mind of businessmen and economists during the 1930's, and testimony in support of the 1938 Act stressed over and over the prevailing industry view that such competition had been and was actually occuring in the airline industry.[33] Destructive competition was not all competition, however, for Congress in section 102(d) instructed the Board to foster "competition to the extent necessary to assure the sound development of an air transportation system. * * *", and the Act's sponsors repeatedly assured questioners that its purpose was to encourage, not suppress, healthy competition.[34]

The first problem, then, is to define the differences between healthy and destructive competition. To begin with, destructive competition is not simply competition which hurts or surprises a competitor. All competition exerts downward pressure on the profits of the individual firms subject to it, and there is an inevitable tendency for businessmen, while praising competition both in the abstract and in the familiar forms to which they have grown accustomed, to attack as "excessive" and "destructive" actual or potential new and unaccustomed forms of competition that threaten their traditional methods of business conduct and, unless the latter are changed in response, their profits and viability. Yet without such new forms of competition, innovation is checked and incentives for cost efficiency are reduced. It goes without saying, also, that we cannot accept the thesis which has sometimes been suggested in the past, that service competition in air transportation is healthy but price competition tends to be destructive. An alternative thesis, that in certain markets service competition (specifically scheduling competition) becomes destructive and must be suppressed by agreements among competitors, was decisively rejected by the Board in the *Capacity Reduction Agreements Case*, Order 75-7-98, July 21, 1975.

Finally, we cannot agree to define healthy competition as that state where the fortunes of the competitors fluctuate but no competitor ever goes to the wall.[35] On the contrary, we do not believe that either "sound economic conditions" in air transportation (section 102(b)) or the "sound development of an air transportation system" (section 102(d)) are bound up with the financial well-being of any one firm in the industry. In healthy competition, producers who are inefficient or make bad decisions may fail, but efficient and well-managed producers can operate profitably, while the wants of consumers are satisfied at the lowest feasible price. The occasional failure can serve a useful purpose, not only by eliminating the inefficient or imprudent operator, but also by flashing a yellow light to others.

In destructive or cutthroat competition, on the other hand, either a powerful producer seeks to drive competitors out of the market by predatory tactics in order to achieve monopoly profits thereafter, or else all producers operate at a price which persistently fails to cover the costs of even the most efficient. It is the latter picture which is most frequently invoked by those who warn of the likelihood of destructive competition in air transportation if regulatory controls on entry are lifted. Without entry controls, it is contended, more carriers will enter markets than the markets can sustain, capacity will be offered for which there is no demand at a price which covers the cost of offering it, and all competitors will suffer losses in these markets. This will depress profits in the industry at large, discourage further capital investment and the introduction of more advanced aircraft, and cause a deterioration in the quality of service. Ultimately, either the public will be deprived of essential services through the failure of all carriers, or only one or a few carriers will remain, who will then be in a position to behave as monopolists.

Putting aside the possibility of predatory behavior by a single powerful carrier—a threat which our own statute gives us ample weapons to combat—the occurrence of destructive competition of the type described above requires us to assume one of several possible causative circumstances. Since such destructive competition is not commonly observed in those numerous sectors of the economy where there are no regulatory controls on market entry, we may safely assume that these causative circumstances are unusual. First, if capital is long-lived and immobile, and through miscalculation competitors irretrievably commit too much capital to a particular market, they may have no choice but to remain in a depressed market, even though earning subnormal returns for long periods of time. In air transportation, however, the principal form of capital investment, flight equipment, is only moderately long-lived and is exceptionally mobile. Apart from regulatory constraints, it can very easily be transferred from market to market or disposed of, since there is a very active and efficient used-aircraft market. Thus no carrier is constrained by capital immobility to remain in a saturated market.[36]

A second possible cause of destructive competition would occur if, in the absence of regulatory controls on entry, the market would be invaded by

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[32] Congress also feared unsafe operations and inability to attract capital—both of which were strongly associated in its mind with destructive competitive practices—and the unjustly discriminatory, unjust, and unreasonable fares which might be a product of either destructive competition or unchecked monopoly power. For present purposes it is sufficient to focus on destructive competition, since if our proposed policy will not engender this evil we see no reason to suppose it will engender any of the others.

[33] See *Civil Aeronautics Board Practices and Procedures*, Report of the Subcommittee on Administrative Practice and Procedure, Senate Judiciary Committee, 94th Congress, 1st Session (1976) (Committee Print) [Cited hereafter as *CAB Practices and Procedures*], pp. 208-13. Actually there was very little competition, destructive or otherwise, in 1938 for commercial air traffic (passengers, express, and cargo). Neither aircraft technology nor demand were yet to the point where commercial traffic alone could be carried at a profit; it was practically impossible to operate a scheduled airline service without an airmail contract, and a 1935 amendment to the 1934 Air-Mail Act prohibited the holders of airmail contracts from competing "in any way." Industry witnesses insisted, however, that destructive competition was to be expected in the near future unless regulatory controls on entry were imposed. The only evidence cited of already existent destructive competition was the extremely low bids—obviously far below cost—submitted in competitive bidding on airmail contracts under the 1934 Act. But these below-cost bids, while they certainly suggested something wrong with the 1934 Act, did not suggest that an open competitive market would be characterized by destructive competition. (The bidders' behavior was in fact quite rational, although speculative; an airmail contract carried with it an implied promise of a valuable long-term exclusive franchise, while the winning low bidder was not bound by its bid for the life of the contract, but could have its compensation raised by petitioning the ICC). (See ibid. pp. 206, 210.)

[34] See the legislative history cited in *Continental Air Lines v. C.A.B.*, 519 F.2d 944 (1975), *cert. denied*, 424 U.S. 928 (1976); *CAB Practices and Procedures* (preceding footnote), pp. 214-215.

[35] The historical record shows, incidentally, that the Board's past brand of regulation has not served to protect a considerable number of carriers from being forced into "failing business" mergers or acquisitions, although it has spared most of them from the ultimate trauma of bankruptcy.

[36] If a nationwide or worldwide excess of capacity develops, it may in the extreme case become necessary to take some flight equipment out of service, thus saving fuel, labor, and other out-of-pocket operating costs; but ordinarily it will be more efficient to employ this capital equipment as fully as possible to serve the public at prices that will maximize revenues, until such time as the excess of capacity is worked off, rather than to promote underusage of equipment by adopting regulatory policies which keep prices high and restrict carriers' opportunities to put their capital to the best possible use in serving the public.

carriers whose managements were either so unsophisticated as to be unable to calculate their own costs of operation, or else so influenced by essentially non-economic motives as to be indifferent to considerations of profit and loss, or at least willing to operate at a subnormal rate of return.[36a] The requirement is not merely that one or a few such operators appear in the marketplace—the normal forces of competition are quite capable of adjusting to the usually rather transitory presence of such operators—but that they be so numerous and persistent that their economically irrational behavior dominates the marketplace and makes it impossible for even an efficient, rational firm to operate at a profit and thus ultimately deprives the public of service. Without stopping to ascertain if this hypothetical situation ever prevails for any length of time anywhere in the economy, we observe merely that there is no evidence of it in air transportation.

The remaining possibility is that carrier managements, although economically sophisticated and motivated by a desire to maximize profits, will nevertheless behave irrationally, rushing en masse into markets without regard to how many carriers they will sustain or how many other carriers are serving or trying to enter them at the same time. For this behavior to be pathological, moreover, these managements must go further and refuse to withdraw even if unsuccessful after a reasonable period of trial, regardless of the ease of shifting their capital to other markets, but must prefer to go down with the ship rather than give up a point of "market share."[37] However, producers seeking to maximize profits simply do not behave this way in other parts of the economy, absent the peculiar circumstances of capital immobility or noneconomic motivations discussed earlier, and no one has offered any convincing explanation of why they should be expected to do so in today's mature air transportation industry. Over the years we have seen carrier managements again and again withdraw from markets where their operations have proved to be persistently unprofitable, and we see no reason whatever to suppose that they would not do so even more promptly in conditions of entry and pricing freedom. Our experience with the managements of the presently certificated carriers preclude us from assuming on any significant scale the kind of economically irrational behavior which would be a prerequisite to destructive competition under this third possibility, and there is no indication whatever that new entrants into air transportation, even if less experienced, would not for the most part prove equally rational in their competitive behavior.

Looking specifically at the major area of the industry, the domestic scheduled route system: since pervasive regulation has been in effect since 1938, we cannot of course say with complete confidence what the effects of competition with freer entry and fewer competitive and pricing restrictions would be today; but there are certain very suggestive signs. First, it should be noted that once the Board establishes competition in a market—and today more than 70 percent of domestic air travel takes place in competitive markets—it has little further control over the service side of that competition, since it is prohibited from regulating equipment, facilities, and schedules.[38] Yet although service competition has often been sharp, we cannot find that it has ever been significantly destructive.[39] Similarly, the Board during the past year or 2 had indicated that it intends to adopt an extremely permissive attitude toward price competition; and although the returns are not yet all in, we see no sign to date of destructive price competition appearing.

Moreover, we do not find destructive competition in markets where the Board has certificated a considerable number of carriers, including those where the market has not proven big enough to allow all of the carriers to operate. Thus, although the Board over the years has authorized no fewer than 12 carriers to serve the New York-Washington market (1.9 million passengers in the year ended June 30, 1977),[40] the competitive balance in the market has remained quite stable for a number of years, with Eastern dominating the market ever since it introduced its shuttle service. In the most recent year Eastern carried 67 percent of the traffic, while American carried 16 percent, National (which specializes in serving Kennedy Airport) 6 percent, Braniff 5 percent, TWA 2 percent, and the remaining carriers (Delta, Northwest, Ozark, Piedmont, Southern, and United) 1 percent or less.[41]

Other markets with a large number of authorizations are Boston-New York (6),[42] Miami-Tampa (9), Atlanta-Miami (5), Portland-Seattle (8), Houston-New Orleans (7), New York-Philadelphia (8), Los Angeles-San Diego (5), Chicago-Los Angeles (4), Los Angeles-Phoenix (5), and Los Angeles-Honolu-

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[36a] Examples of the latter might be the wealthy businessmen who subsidizes a journal of opinion or a major sports team as a vehicle for keeping his views or his personality before the public or (at the other end of the scale) the individual who is willing to accept a subnormal return on his labor and investment in return for the psychic satisfaction of being his own boss. As to the former, however, there is no indication that being the proprietor of an airline is so prestigious as to bring non-economic motives into play; and as to the latter, the capital investment and technically skilled organization required is much too great to allow a "mom and pop" airline to start or stay in business for any significant length of time. In any case, there would appear to be no reason for a regulatory body to deprive the public of the benefits of service provided at exceptionally low prices by those few who derive special gratification from providing it, unless the ultimate effect of their presence in the market is to deprive the public of needed services.

[37] Obviously we are not referring to the entirely rational behavior of a carrier that is prepared to operate at a sustainable loss during the early stages of developing a new market with a view to later profits, or of a carrier that believes it has a valid competitive strategy in a market and is prepared to give its strategy a fair test and to wait out other carriers whose strategies it believes will prove unsuccessful. The difference between this and the irrational behavior discussed in the text above lies in the length of time a carrier will persist in trying to make an unsuccessful strategy work and the amount of evidence it is prepared to disregrd in its persistence. While individual carriers of this kind may well appear occasionally and thereafter be weeded out by competitive pressures, injury to the public and serious waste of resources will only occur when all or most airline managements exhibit this irrational behavior.

[38] Section 401(e)(4) of the Act. See *Continental Air Lines* v. *C.A.B.*, 522 F. 2d 107 (C.A.D.C. 1974), where the court of appeals set aside one aspect of the Board's decision in the *Seating Configuration Phase* of the *Dometic Passenger-Fare Investigation* as an unwarranted interference with the carriers' freedom to egage in service competition.

[39] In the earlier part of this decade, a then majority of the Board was persuaded that scheduling competition in certain major long-haul markets had become destructively uneconomic, and accordingly approved a series of capacity reduction agreements among the carriers involved designed to abate such competition, over the repeated dissents of Members Minetti and West. When the issue was fully aired at a hearing, however, a subsequent Board determined that the capacity reduction agreements were contrary to the policy of the antitrust laws, not required to meet any important transportation need, and adverse to the public interest. *Capacity Reduction Agreements Case*, Order 75-7-98, July 21, 1975. See also *United States* v. *C.A.B.*, 511 F. 2d 1315 (C.A.D.C. 1975). It should be noted that many certificated carriers consistently opposed the capacity agreements as unnecessary and potentially predatory.

[40] In this and the other markets cited in this paragraph, some of the carriers referred to are subject to long-haul restrictions. Carriers with intermediate-stop restrictions are ignored.

[41] The most recently authorized carrier, Pan American (for fill-up traffic on international flights, see Order 77-11-10), carried no recorded traffic in this market in the cited period. Its future participation will probably be in the under-1-percent bracket.

[42] The Board is currently considering adding another carrier to the Boston-New York market, and has forecast that the addition will have no material impact on the competitive balance in the market. *Piedmont Boston Entry Application*, Order 78-4-69, April 14, 1978, at pp. 4, 14.

lu (6).[43] A considerable number of markets, some of them quite modest in size, have three authorized carriers. Most of the major cities of the Northeast, for example, have three carriers authorized to Los Angeles; and except for the New York and Washington markets, only one or two carriers generally provide service in these markets at any one time, with the identity of the serving carrier or carriers varying at irregular intervals. Yet none of these markets is or has been characterized by destructive competition.

Also, the Board has sometimes markedly increased the amount of competition in a market in a very short time. Within the space of a few years in the 1950's, for example, the Board increased the number of carriers in the Atlanta-Tampa/Miami markets from 2 to 5, and in the Tampa-Miami market from 3 to 6. In the *Transpacific* case in 1969,[44] the Board at one stroke increased the Mainland carriers serving Hawaii from 3 to 8. The number of Mainland cities authorized for direct service to Hawaii went from 4 to 25; Mainland-Hawaii markets of quite modest size were authorized to 2 carriers, larger ones to 3, and the largest (Los Angeles-Honolulu) to 6. This occurred, moreover, at what subsequent events proved to be a singularly unfavorable moment, just as the air traffic turndown of the early 1970's was beginning, and at a time when the carriers, anticipating continued rapid traffic growth, had a record number of aircraft on hand and on order, thus leading to substantial overcapacity. Yet notwithstanding these unfavorable circumstances the competition which ensued benefited the public through reduced fares and more convenient service; traffic was so stimulated that despite the recession the Board's very optimistic traffic forecast for 1970 was surpassed within two or three years; and although some of the carriers suffered losses on their Mainland-Hawaii services for a few years, none of them suffered any long-term impairment. Two of the new carriers whose authority was tied to long-haul international routes have left the market (one of them presumably only temporarily), while the remaining six have all found their competitive niche and are operating profitably.

The *Transpacific* experience illustrates how the competitive marketplace deals with overoptimistic carrier marketing strategies based on overoptimistic carrier and Board traffic forecasts—of which there were more than a few in the late 1960's. During this period the Board and the industry both anticipated a continuation of the decade's rapid traffic growth trend, which approached (and in many markets exceeded) 15 percent annually. In some markets, all of the carriers persevered through a period of losses, until renewed growth made profitable operations possible. In others, the least favorably situated or least efficient carrier (sometimes an incumbent, more often a new entrant) dropped out of the market after an unprofitable test period, either seeking suspension or deletion by the Board, or reducing its service (and its losses) to a token level. Some of these competitive dropouts have returned to the markets in question, others have not. On the whole, the managements involved reacted promptly, rationally, and prudently; there has been no outbreak of ruinous competition; and the public has frequently benefited and never, so far as we are aware, suffered any significant inconvenience or loss of service.

It might be argued that the foregoing historical examples from the certificated route system do not disprove the possibility of destructive competition in conditions of open entry and pricing freedom. Where there are a small and fixed number of operators in an essentially closed system who face each other in many markets under the supervision of a Board which (so it is argued) has historically acted as a cartel pricing agent, it might be pointless to expect really sharp competition, particularly in price. But the same absence of destructive competition has been the rule in those situations where the Board has not had control over either entry or pricing. Thus, in markets within a single State where intrastate carriers unblessed by the Board have challenged Board-certificated interstate carriers, competition has often been keen, but not to our way of thinking destructive. In California, Pacific Southwest and Air California have driven fares sharply downward and have established dominance in a number of the intrastate markets (including the largest, Los Angeles-San Francisco), but the interstate carriers have remained in many markets, and the competition has not impaired their financial health—not even that of Hughes Airwest, a subsidized local service carrier with many small-community responsibilities which might have been thought particularly susceptible to such injury. More recently, in Texas, the onslaught of Southwest Airlines has led to major fare reductions and a tense and prolonged competitive battle, but again the competition has not impaired the financial health of the Board-certificated carriers operating in Texas, and one of them, Texas International (like Hughes Airwest a subsidized local service carrier with small-community responsibilities) has not only prospered but has itself become a convinced low-fare advocate and practitioner.

Similarly, we do not observe destructive competition in the unregulated or lightly regulated portions of the industry: air taxis, commuter carriers, freight forwarders, tour operators, and supplemental carriers. There is, of course, considerable attrition among the smaller operators, as there is in most other parts of the economy where a small operator can get a foothold at all. But we do not see in these unregulated areas of the industry any evidence of the kind of wholesale failure and loss of service to the public that the framers of the 1938 Act feared.

This historical experience, together with our analysis of the circumstances under which destructive competition might be expected to occur, leads us to believe that destructive competition of the type Congress feared in 1938 is unlikely to result if the Board allows freer entry into air transportation markets, and specifically if we adopt here a policy of permissive awards to all qualified applicants in the Oakland markets at issue. Our belief is further strengthened by our observation of the current state of the industry. First, although traffic growth rates of 6 to 10 percent in recent years have remained well below the long-term 1946-68 average, the industry is prosperous and quite stable. No significant carriers appear to be in financial jeopardy, while some are reaping all-time record profits. The overcapacity which plagued the industry during the early 1970's has substantially disappeared; all carriers are now net buyers of aircraft, and the overall fleet appears to be in approximate equilibrium with current demand. The carriers and their lenders, with the lessons of the early 1970's still fresh in their minds, appear to be exercising a prudent caution in their equipment purchase plans. This is simply not the type of economic environment in which, in this or any other industry of which we are aware, destructive competitive wars are likely to erupt.

[43] Several of the markets cited are "entry-mileage" markets, relatively short-haul markets in which some or all of the incumbent carriers focus their efforts not on the local traffic but on longer-haul traffic flows to and from distant points, which flows they combine by serving both points on the same flight. It might be expected that these markets would be peculiarly susceptible to destructive price-cutting, if such behavior were ever to be characteristic of the air transportation industry, since the operations of the long-haul carriers are supported primarily by their long-haul traffic flows, and they are therefore in an excellent position to price at the margin in the short-haul local market. But in reality there has been little or no evidence of any tendency toward destructive price-cutting in these "entry-mileage" markets, and indeed they are frequently found to be dominated by one or two turnaround carriers (such as Eastern in the shuttle markets) who specialize in frequent, reliable service to the local traffic.

[44] *Transpacific Route Investigation*, 51 C.A.B. 161 (1969); see particularly the table at p. 163-4.

There is one point about our proposed policy of multiple permissive entry which it is very important to have completely understood: precisely because there is no likelihood of destructive competition if entry restrictions are eased, we do not expect the number of carriers actually serving a market in which the policy is applied to be significantly greater than if we proceeded to select a carrier or carriers in the traditional manner. The number of carriers that can profitably operate in any particular market at any one time is limited by such underlying factors as the local traffic demand, its price elasticity, the extent to which it can be stimulated by better service or new price/service options, the availability of connecting traffic and beyond-market traffic flows to support service, available aircraft and their unit costs, and so forth. An open-entry policy will not repeal the economic force of these factors.

The Board in its route decisions has traditionally attempted to ascertain as accurately as it could the maximum number of carriers each market in issue will be able to sustain in the immediate future, and during most periods of its history its policy has been to certificate this maximum feasible number of carriers. Its calculations have undoubtedly been wide of the mark in a good many cases—obviously so in those cases where carriers it has certificated have found it impossible to operate profitably and have withdrawn from the market; less obviously so in those cases where it has underestimated the market's capacity and has thus deprived the public of competitive services which could have been operated at a profit. But probably in the majority of cases the Board's estimate of the number of competitive services a market could sustain has been accurate.

If, therefore, the Board now resolves to make permissive awards to all qualified applicants, and the number of such applicants exceeds (as is typical) the number the market is capable of supporting, then it is obvious that not all the carriers receiving awards will be able to operate, nor will we expect them to do so. Some may initiate service but later drop out when their efforts to establish themselves prove unsuccessful; others, appraising hard-headedly the competitive situation at the time their authority becomes effective and deeming it unfavorable, may initiate service later or not at all. After a possible shakedown period when new entrants struggle with incumbents and each other for a place in the market, it is quite likely that the number of carriers actually operating will be no greater than if we had conducted our service investigation on traditional lines.

Focusing on the case at hand, most of the Oakland markets in issue, even assuming a much fuller realization of Oakland's traffic potential, are relatively modest in size, and will sustain at most only one or two carriers. At one end of the scale are the Albuquerque, Atlanta, and Kansas City markets, where our analysis does not demonstrate beyond question that any nonstop service can be profitably operated at this time (see p. 14 and Attachments C and D). At the other extreme are considerably larger markets such as Chicago and Seattle/Tacoma where it seems reasonably clear that competitive nonstop service is feasible (and, indeed, the Chicago market already has it). But certainly it does not appear at all likely that any of the Oakland markets will in the near future be large enough to support the services of four, six, or a dozen carriers, regardless of what competitive strategies they choose to pursue.

The distinguishing feature of our proposed policy of permissive awards to all qualified applicants, therefore, is not that a greater number of carriers will wind up serving some or all of the markets, but that it will be the competitive forces of the marketplace, and not the Board, which ultimately will select the carriers that will so serve. Moreover—and this is of the greatest importance—not only will the marketplace initially select the carrier or carriers who will serve each market, but it will go on doing so on a continuous, real-time basis, because at all times there will be additional carriers holding permissive authority who will be waiting in the wings, on the lookout for any sign of faltering or complacency on the part of the carrier or carriers first selected.

It is our tentative judgment that in the Oakland markets here at issue the forces of the marketplace will in terms of section 102 of the Act do as good a job as we could do, and very likely better, in selecting the carrier or carriers that will actually serve the markets. Because the marketplace is a more finely tuned mechanism, and responds sensitively to current circumstances whereas the Board can only respond to past facts embalmed in an evidentiary record, the market's initial selection is likely to be better than the Board's even where the Board strives to recreate in its decisional process the very factors that are determinative in the marketplace. To the extent the Board relies on factors that have no direct analogues in the marketplace, and tend to result in the selection of carriers the market would not select, we are no longer convinced that the employment of these factors results in a net gain to the objectives of section 102. Tilting the balance even more in favor of selection by the marketplace is the fact that it acts continuously, on the basis of new facts and circumstances as they arise, in contrast to the Board's episodic mode of action which allows it to appraise the needs of the public in any particular market only at intervals of many years and on the basis of the facts existing at a particular frozen moment of time. The Board's selection process, in short, lacks both the flexibility of the market's and its ongoing ability to correct and adjust for constantly changing circumstances.

Although the Board over the years has employed many factors in selecting carriers to serve particular markets, it can fairly be said, we think, that the Board's predominant concern has been to select the carrier that will most fully satisfy the needs and desires of the traveling and shipping public. Ordinarily this will be the carrier most capable and most strongly motivated to satisfy these needs and desires, which in turn will almost inevitably, given conditions of competition, be the carrier that can operate the most profitably.[44] Unprofitable services are rarely, if ever, provided at levels above a bare minimum for any length of time. This is particularly the case where the services are not eligible for subsidy, as has been true of substantially all new route authority awarded during the past decade and a half, and will be true of any authority awarded in the present proceeding.

Of the factors which the Board has traditionally employed in selecting carriers, many, probably the majority, are factors which will tend to help the applicant achieve success in the competitive marketplace. Among these are strength of identity at one or both terminals in the market; strong promotional efforts; willingness and ability to offer low fares; [44a] previous participation in carrying the traffic; ability

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[44] It occasionally happens, however, that the Board is misled by the representations of an applicant that claims to be interested in providing the best possible service to the public, but whose true motivation is to prevent any other applicant from being awarded the authority at issue. Such an applicant may promise excellent service in its route case exhibits, but then provide only minimal service after receiving the award, or even allow the authority to become dormant. Unfortunately the Board has never developed means of binding successful applicants to the service promises by which they achieve their awards. In egregious cases, the conduct described above may lead (usually after a number of years' delay) to a new route case; in less obvious cases, nothing may ever happpen. (The carrier involved will usually claim that the service it originally proposed was or would have been unprofitable, although it convinced the Board other wise in gaining the award.) Under a policy of multiple permissive entry, of course, this situation either would not arise in the first place or would be self-remedying through the continuous action of the marketplace.

[44a] This, it should be noted, has been a relatively secondary factor in carrier selection until quite recently.

to flow traffic from beyond-segment markets over the new segment (which correlates with such beyond-segment service benefits as first single-plane and first single-carrier service); operating efficiency; possession of aircraft suitable to the market; and (the sum and consequence of all) a credible forecast of profitable operations. To the extent that these factors are determinative of the Board's choice, the competitive marketplace should concur—except that the marketplace tends on the whole to be a more subtle and finely tuned mechanism for weighing these factors than the Board, and operates on more complete and up-to-date facts.[45]

Another carrier selection factor which likewise pulls in the same direction as the mechanism of the marketplace is the Board's reluctance (sometimes express, always implicit) to award all new routes to the same carrier or small group of carriers, and its desire to give every carrier a fair share of the competitive opportunities. In the real world, of course, an entrepreneur typically cannot pursue all profit opportunities simultaneously, but must select those which appear most promising; and no entrepreneur is shut out of all profit opportunities, even if he has to make his own. But the complexity of the task of making such fine discrimination a priori—of deciding not just that a single carrier is unlikely to be the best provider of services in all markets, but which carrier is likely to be the best provider in each individual market—further suggests the probable superiority of leaving the determination to the competitive process of initiation by carrier management and decision by consumers, in the reasonable certainty that no one carrier is likely to capture all of the prizes.

Another traditional factor sometimes employed by the Board—the calculation of which applicant would divert the least traffic and revenue from the incumbent or incumbents in the market—is rather clearly not one which the forces of competition would honor. In this respect, we believe, the forces of competition are right. It is our judgment that, unless diversion from an incumbent rises to the level where it threatens the incumbent's ability to perform its certificate obligations or will necessarily result in termination of essential services which will not be replaced by an applicant or another carrier (see pp. 15-16), it should not be a factor either in determining whether additional service should be authorized in a market or in determining which carrier or carriers should provide the needed service.

Employment of comparative diversion as a selection factor is subject to certain perversities. Applicants have an incentive to formulate their service proposals in a route case so as to forecast less diversion from an incumbent than other applicants. However, such service proposals are in no way binding on a successful applicant, who once certificated may institute a service pattern that results in greater diversion than was forecast. On the other hand, if an applicant will divert less from an incumbent because of factors which make the applicant a weak competitor, then there is a distinct danger that the public will not receive the service it needs—if not in the immediate future, than in the longer run. All in all, we find that elimination of comparative diversion as a carrier selection factor is consistent with our view of the overall public interest, as it clearly is consistent with our previously announced deemphasis on diversion as a factor in determining public need for additional service.

As for a third group of factors, those involving the desire to strengthen the finances or route structures of applicants perceived as being among the smaller or weaker carriers in the industry, it is more difficult to say to what extent the competitive marketplace will mirror the Board's traditional concerns. In a mature industry where virtually any complete new entry or significant expansion of a carrier's system will involve competition with someone, the probable answer is that a carrier in need of route strengthening will be able to strengthen itself only if it is able to compete successfully. Certainly there have been conspicuous awards made for strengthening purposes—such as the 1969 award to Northeast in the Miami-Los Angeles market—which would not be duplicated by the competitive marketplace. But theses are the awards, on the whole, that tend to be unsuccessful in achieving their purpose in the long run, as the cited award to Northeast clearly was.

On the other hand, we think there is every reason to believe that well-managed small carriers will find plenty of opportunities for successful and profitable expansion and route development in the competitive marketplace under the policy we propose to adopt here. Contrary to what has been said of some fields of sports, this is not a business where a good big man—or woman—always beats a good little one. The available evidence strongly indicates that there are few if any economies of scale in air transportation beyond a rather low initial threshold.[46] Once a carrier has a certain minimum fleet, a certain minimum utilization of its stations, a certain minimum schedule pattern in a particular market, its costs do not automatically or reliably decrease to any great extent as the scale of its operations grows. The lowest unit costs are frequently those of the middle-sized carriers, not the largest or the smallest. Moreover, there is plenty of evidence that a large carrier can sometimes be too big to serve a particular market successfully. Finally, it has been amply demonstrated that well-managed small and medium-sized carriers can obtain capital on reasonable terms.

There are hundreds of instances where a small carrier is to be found competing successfully with a much larger one.[47] Moreover, our docket is overflowing with applications by smaller carriers for the right to take on larger entrenched incumbents in all manner of markets. If these applicants expect to be able to make headway against a long-time incumbent, with all the advantages of that status, who is always free to try to preempt a new entrant by increasing service or cutting fares, why should they have reason to fear other applicants who lack those advantages? Thus, we fully expect that the industry will continue to have many healthy members, nor do we fear for a disappearance of profitable expansion opportunities for small and medium-sized carriers.

From the foregoing discussion we conclude that there is nothing funda-

[45] It would obviously be futile to expect that the market will in each instance choose the same carriers as the Board would. For one thing, the Board's judgment, like all human judgments, is fallible. Moreover, many carrier-selection decisions are extremely close; the Board members who take part in them would not be shocked to learn that the marketplace had drawn the balance differently. Looking back at the experience of the California intrastate markets, it seems quite unlikely that the Board (or anyone else) would at the outset have selected Pacific Southwest as the carrier most likely to succeed in the competitive struggle, from among the considerable number of new entrants who came into the intra-California markets in the immediate post-World War II era. PSA was among the very smallest of the intrastate operators; its credentials on paper were in no way exceptional, and it took some years to demonstrate its competitive prowess. Here is a case, therefore, where the marketplace in the long run selected a carrier whose selection certainly promoted the objectives of section 102 but which probably would not have been selected by the Board in a conventional route proceeding.

[46] See R. Caves, *Air Transport and its Regulators* (1962); Crane, "The Economics of Air Transportation" 22 Harv. Bus. Rev. 495 (1945); Koontz, "Domestic Air Line Self-Sufficiency: A Problem of Route Structure," 42 Am. Econ. Rev. 103 (1952); *Report of the CAB Special Staff on Regulatory Reform* 102-07 (1975); *CAB Practices and Procedures* (note 33 above), pp. 62-63.

[47] "Competing successfully" does not necessarily mean carrying a majority of the traffic in the market, although this occurs in many cases; it may also mean carrying a minority share of the traffic on a profitable basis, frequently in conjunction with beyond-segment operations which the larger carrier cannot and would not wish to duplicate.

mentally incompatible with the objectives of section 102 of the Act about the manner in which the forces of the competitive marketplace will operate to select the carrier or carriers that will actually render service from time to time in the Oakland markets here at issue, once the Board has (as proposed) granted permissive authority to all qualified applicants. Indeed, not only may the forces of the market dictate the same number of operating carriers as the Board would have certificated, but they may very well select more or less the same carriers that the Board would have selected, given the fact that many of the decisional factors the Board would have employed are counterparts of ecomomic factors which tend to produce success in the marketplace. Moreover, we see no convincing evidence that, to the extent the market's choice of carriers may prove to differ from what the Board's choice would have been, the market's choice will further the objectives of section 102 any less than the Board's choice would have. Since the market is a more subtle and finely tuned mechanism than the Board's decisional process can ever hope to be, and operates on more comprehensive and up-to-the-minute data, we in fact feel justified in concluding that the market's choice is quite likely in the long run to prove more consistent than the Board's with the objectives of section 102.

This conclusion is further strengthened by the fact that, as already noted, the market acts continuously whereas the Board can only act episodically and infrequently. Even if the Board's decisional process results in the best possible choice of a carrier or carriers to serve a market today, this may not be the best possible choice six months or a year or two years from now. Carrier managements, motivations, and capabilities change; the carrier that provides just the service the traveling public wants today may not be willing or able to do so tomorrow, while a different carrier may become better qualified or more motivated to provide that service—or the new service the public will have come to desire.[47a] If there are numbers of carriers waiting in the wings, all authorized but not all operating at the same time, the market can adjust continuously to changes in facts and circumstances, since any of the authorized but nonoperaring carriers can rapidly enter the market at any time if it perceives that the incumbent carrier or carriers are failing to meet the market's needs in terms of either service or price. In contrast, once the Board has focused on a particular market in a route proceeding, it rarely does so again for eight to ten years at a minimum, and often much longer.[48] There is no guarantee, indeed, that the Board will ever come back to a market whose needs have once been adjudicated, particularly if certain minimum standards of service (which may be considerably short of what the consuming public desires and would be prepared to support) are maintained by the carrier or carriers already authorized to serve the market. The Board's processes and its sense of priorities based on limited resources have tended to keep its attention focused on certain major benchmarks in service: first single-plane service, first nonstop service, first competitive service, and (very recently) first low-fare service. An applicant that was not prepared or in a position to promise one of these "firsts" has had but a poor chance to have its application set for hearing.

Thus, although there are today a substantial number of markets with three or more authorized carriers (many of these authorizations being either the product of historical accidents, route realignments, or entry-mileage situations), it has remained true (at least until very recently) that the Board has usually considered two actually serving carriers in a market to be enough, and hence has been generally unwilling to set for hearing applications to serve markets already actively served by two carriers. Even where two carriers are in fact the most the market will support, this aspect of the Board's policy has tended to freeze the competitive situation in such markets by excluding the possibility that a new entrant could displace one of the two carriers already in the market by better serving the needs and desires of the public. By the same token, although there are a considerable number of markets (including most of the Oakland markets here at issue) where more carriers are authorized to serve than are actually serving, the dormant carriers are not necessarily or even usually the best prospects to keep the serving incumbents on their toes as would be the case under a regime of freer entry.

The net-result is that, in most markets most of the time, there is no realistic threat that the carrier or carriers now serving the market will have to face an immediate competitive challenge from an outside carrier. A carrier with monopoly rights in a market large enough to support two can be fairly sure that sooner or later the Board will authorize an additional carrier; otherwise, the threat of additional competitive entry is greatly diluted by the regulatory barrier compounded of the Board's priority standards, the limited number of applications it has heretofore found it possible to set for hearing, and the expense and duration of its proceedings.

Over the long term, there is considerable evidence that this rigid and protected route system, the product of carrier selection by the Board in elaborate, slow-moving, and (as to any individual market) infrequent route proceedings rather than continuously by the marketplace, has promoted competition primarily in the service rather than the price dimension, and even in the service dimension has frequently resulted in competition that is "soft" or even nonexistent as in the case of markets such as Oakland's. Such soft or nonexistent competition occurs, we believe, because of the absence of a realistic and immediate threat of new entry—a threat that, under the Act's system of certification, can only come from "excess" carriers authorized to serve but not currently serving the market. It is one of the major costs to the public of the Board's traditional regulatory policies, characterized heretofore by relatively rigid price controls

[47a] As previously noted (see footnote 44 above), the continuous action of the marketplace can be expected to remedy a type of situation which the Board's traditional procedures have found very difficult to deal with, that in which a successful applicant for a route award fails to provide the service which it promised in its route-case presentation and on the basis of which it was selected for the award, not because the service in question is truly uneconomic but because its motive for seeking the award was preemption rather than a desire to provide the service.

[48] Thus, 8 of the 15 Oakland markets that will be investigated in this proceeding were last in issue in 1969–70, based on evidentiary records of about two years earlier: Albuquerque in the *Service to Albuquerque Case*, 52 CAB 363 (1969); Atlanta, Dallas/Ft. Worth, and Houston in the *Southern Tier Competitive Nonstop Investigation*, Order 69-7-135 (1969); Minneapolis/St. Paul in the *Twin Cities-California Service Investigation*, 52 CAB 1 (1969); Portland and Seattle/Tacoma in the *Pacific Northwest-California Investigation*, 54 CAB 38 (1970) (see p. 10 above); and Salt Lake City in the *Service to Salt Lake City Investigation*, 55, CAB 222 (1970). The Detroit market was last in issue in the *Detroit-California Nonstop Service Investigation*, 43 CAB 557 (1966); the Phoenix market in Airwest's *Oakland-Las Vegas/Phoenix Subpart M Case* in 1975 (see p. 11 above), and before that in the *Southern Transcontinental Service Case*, 33 CAB 701 (1961), in which the Atlanta, Dallas/Ft. Worth, and Houston markets also figured; and the Chicago, Denver, and Kansas City markets in the *Denver Service Case*, 22 CAB 1178 (1955). The Boston and Philadelphia markets do not appear ever to have been specifically put in issue before this; both TWA and United had Oakland-Philadelphia authority in their grandfather certificates, and Boston was added to their routes not long thereafter. Except for Airwest's Subpart M application in the Phoenix market, which focused entirely on Oakland service, and the *Pacific Northwest-California Investigation*, where special attention was focused on sevice through the Oakland and San Jose airports although San Francisco was also in issue, all of the cited cases treated Oakland service as merely an adjunct to San Francisco service, and gave little or no separate attention to Oakland's specific service needs.

and limitations on entry, and therefore by the absence of a realistic threat of new competition in all markets at all times, that it has fostered a significantly less efficient system than would be achievable by adopting entry policies consistent with the Act that would at all times pose such a realistic and immediate threat of new competitive entry.

The matter of short- and long-term costs is worthy of further attention. It might be argued, for instance, that even if carrier selection by the marketplace is just as valid in terms of section 102 objectives as selection by the Board, the latter is less costly. Even in the short term, we have a great deal of doubt that this is the case. The costs of selection by the marketplace are of course perfectly real, but it is easy to exaggerate them. When several carriers struggle for a place in a market which has not room for all of them, there is a temporary excess of capacity as a result of either their offering more service than the consuming public is prepared to buy at the going price, or else their offering it at a price that does not cover the costs of some or all of them at the load factors they are able to achieve. Because destructive competition does not occur, and particularly because capacity can so easily be shifted to different markets, we do not expect this condition of excessive (i.e., inadequately compensated) capacity to persist for a long time. It presently becomes evident which carrier or combination of carriers has hit on the winning combination of factors in the market, and the others yield to the market's choice. Very little beyond advertising and marketing costs is irretrievably lost; capacity is merely underutilized and therefore inadequately compensated for a time.[49]

On the other hand, selection by the Board also has its costs. Most obviously, there are the costs to the government and to private parties of conducting and participating in Board route proceedings. These are by no means negligible; indeed, they are a very serious deterrent to a small carrier seeking to enter the certificated system. Less obvious, but quite possibly greater, are the unseen costs of Board selection. When a new carrier applies to enter a market with a plan for better service, lower fares, or both, that both the Board and the marketplace agree is economically sound, the public loses the benefits of that service during the year or two that passes while the Board is considering the case. When a carrier believes that it could benefit both the public and itself by seeking to replace a carrer already serving a market, but refrains from filing an application because it sees little likelihood that the application will qualify for hearing under the Board's priority policies, the public loses the benefit of the arguably better service for an indefinite time. Similarly, when the Board selects a carrier to serve a market which is not the carrier that competitive forces would have selected—is not, that is to say, the carrier prepared to provide the best (including lowest-priced) service to the public at a profit to itself—then again the public loses. In the long run, these effects are cumulative; as we said earlier, one of the major costs of the traditional system of restrictive entry with carrier selection by the Board is that it has fostered a significantly less efficient system that would be achievable under a system of freer entry consistent with the Act that would emphasize carrier selection by the marketplace and a permanent realistic threat of competitive entry to keep incumbent carriers on their toes.

We have no reliable way of measuring these different kinds of costs or of weighing them against each other in numerical terms, but our belief is that in the long run the costs of selection by the marketplace are decidedly less than those of selection by the Board. In the long run, how these respective costs are incurred is at least as important as their short-term measure. The costs of selection by the marketplace are incurred in a way which has a very strong tendency to promote efficiency, initiative, and good management generally. Unfortunately there is little evidence that the process by which the Board selects carriers in conventional route cases has any measurable tendency to promote these desirable results.[49a]

It is sometimes argued, and may be argued here, that applicants or their financial backers cannot and will not take the risk of investing capital in the establishment and promotion of a new service unless they can have, at least temporarily, an exclusive franchise. We frankly cannot see why this should be the case. It is of course a question of fact whether entrepreneurs will take risks, or financial backers provide capital, in any specific situation. But we observe that relatively high factor mobility in air transportation reduces the risk of market entry as compared to other parts of the economy at large, where entrepreneurs and their financial backers launch all sorts of new enterprises, produce new products and services, mount major marketing campaigns, and the like, all involving large sums of money, and all without the comforting protection of an exclusive franchise. Moreover, as already pointed out, the Board's conventional route awards give no protection against the incumbent in the market; so why should protection be required against fellow-applicants, who have none of the incumbent's advantages? It may be that an applicant here will be able to convince us that, for some special reason, it will be able and willing to enter the competitive battle in one of the markets in issue only if granted the limited type of exclusive franchise which is the most the Board could or would grant—and also to convince us that its services would be so valuable as to outweigh the very great disadvantages that a return to comparative carrier selection in this case would entail. But such an applicant bears a doubly heavy burden of proof to show us that such exclusivity is indispensable. Our expectation is that there will be an ample number of applicants to serve the Oakland markets at issue without any promise of exclusive rights.

Having tentatively concluded that our proposed policy of permissive awards to all qualified applicants will further the statutory goals embodied in section 102 of the Act at least as well as (and quite possibly better than) a continuation of the traditional policy of selecting a single applicant or limited number of applicants (less than all) to serve each market, we next inquire whether there is any express or inescapably implicit barrier in the statute which would preclude us from adopting this policy—or, to put it differently, whether the statute mandates the past Board practice of comparative carrier selection. We tentatively conclude that it does not, and we are reinforced in our conclusion by the fact that, although the Board has usually followed this practice in the past, in a significant number of situations it has not done so.

Briefly, we conclude that the statutory prerequisites to awarding a carri-

[49] In comparing the costs of selection by the market vs. selection by the Board, moreover, it should be noted that a competitive struggle for a place in the market also occurs in most cases where the Board selects an additional carrier to serve a previous monopoly market, even though this struggle may perhaps not be as extensive as it will be under a policy of permissive awards to all qualified applicants. However, as we have previously discussed, we do not under our proposed policy expect that all successful applicants will actually inaugurage service; to the extent that they do not elect to do so, of course, neither they nor the incumbent carriers will incur the short-run costs of a competitive struggle.

[49a] Although the Board has on occasion expressed a desire to employ efficiency of operations as a carrier-selection factor in its route decisions, it has not found it possible to do so effectively because of an absence of consensus as to what are the fairest and most reliable measures of operating efficiency that can be derived from an evidentiary record. See, e.g., the *Fort Myers-Atlanta Case*, Order 75-10-119, October 29, 1975, at p. 7; Order 76-1-81 (on reconsideration), January 22, 1976, at p. 4, n. 12; *Transatlantic Route Proceeding*, Order 78-1-118, January 11, 1978, Appendix (Board opinion dated October 21, 1977), pp. 26-27.

er authority to perform air transportation are (1) that the carrier be found fit, willing, and able to perform the air transportation in question and (2) that the air transportation in question (i.e., service between certain named points) be found required by the public convenience and necessity. The Act does not, we conclude, require the Board to find that the particular applicant, in a multi-applicant situation, will actually inaugurate and continue to perform the air transportation in question, so long as it finds that someone will perform it. Accordingly, once the Board has concluded that the public convenience and necessity require certain service, it can award permissive authority to all applicants found fit, willing, and able to perform the service and can rely on the forces of the marketplace to determine which among them will actually provide the service from time to time. The fact that the Board has customarily (but not invariably) selected from among the applicants a carrier or carriers to perform service it found required by the public convenience and necessity, and has denied authority to all other applicants, does not, we believe, stem from any command of the statute. It stems rather from circumstances that prevailed at the time the Act was adopted, and continued to prevail for a considerable time thereafter, but no longer prevail today. Specifically, these circumstances were (1) that at the time the Act was adopted substantially all air service was heavily subsidized by the federal treasury, whereas today only service to small communities (a relatively minor part of the overall air transportation system) is subsidized, and virtually all new route awards are ineligible for subsidy; and (2) that at the time the Act was adopted most route authority was mandatory in form, whereas today most authority (including most newly awarded authority) is permissive. These changed circumstances, we believe, require a reappraisal of the Board's past practice of comparative carrier selection.

Nothing in the Federal Aviation Act expressly requires the Board, when confronted with several applications for the same route authority, to pick and choose among the applicants on grounds other than fitness, granting one or more of the applications and denying the others. Nothing in the Act, in fact, speaks of a comparative hearing in which applications for the same authority are considered together.[49a] On the contrary, section 401(c) simply provides that each application filed shall be brought to public notice, shall be set for public hearing, and shall be disposed of as speedily as possible, while section 401(d) provides that the Board shall issue a certificate authorizing the whole or any part of the [air] transportation covered by the application if it finds that the applicant is fit, willing, and able to perform such transportation properly and that "such transportation" is required by the public convenience and necessity. Despite the implications of some statements in past Board decisions,[50] quire the Board to find that performance of "such transportation" *by the applicant* is required by the public convenience and necessity, only that "such transportation" is so required.[51] Thus a literal reading of section 401(d) is not offended by the policy we propose to follow in the present case.[52] Carrier applications to serve one or more markets requested for investigation by the Oakland parties are already on file, and others will presumably be filed in response to this order. In each of the Oakland markets being placed in issue, the Board will determine whether "such transportation" (i.e., nonstop air service such as that proposed in the applications) is required by the public convenience and necessity, and will then award authority for such transportation to each qualified applicant found to be fit, willing, and able to perform such transportation, with the full expectation that such transportation will be performed by one or more of the existing or newly authorized carriers, though not, perhaps, by all of them.

Moreover, while the Board has engaged in comparative carrier selection in most multi-applicant cases over the past forty years, there have been significant cases in which it has refused to do so, at least one of which has

[49a] It might be argued that the doctrine of *Ashbacker Radio Co.* v. *F.C.C.*, 326 U.S. 327 (1945), as applied to Board route cases, necessarily assumes that applications for the same route authority are mutually exclusive and that the Board must grant one (or, at least, no more than it finds the market will accommodate) and deny the others. But all *Ashbacker* holds is that if applications are mutually exclusive then they must be heard and decided contemporaneously. The syllogism's minor premise, mutual exclusivity, is established not by anything in the Act but by the Board's longstanding policy of treating applications for the same authority as mutually exclusive in most situations, and its specific findings of mutual exclusivity "as a matter of economic fact" in numerous cases. Under our proposed policy, of course, applications will no longer be mutually exclusive in the same sense as formerly, since all qualified applicants will be granted the authority in question on a permissive basis.

[50] See *New York-Florida Renewal Case*, 41 C.A.B. 404 (1964), set aside on other grounds in *Northeast Airlines* v. *C.A.B.*, 345 F.2d 488 (C.A. 1, 1965), *cert. denied sub nom. Eastern Air Lines* v. *Northeast Airlines*, 382 U.S. 845 (1965). The Board had awarded Northeast Airlines a New York-Florida route on the basis of findings that a third carrier was needed in the New York-Florida markets and that the award would strengthen Northeast. Subsequently, when the temporary award came up for renewal, the Board refused to renew it on the grounds that Northeast had lost large sums of money in serving the route and could be expected to go on doing so, and hence that the public convenience and necessity no longer required Northeast's services in the markets. The First Circuit remanded the case (331 F.2d 579, C.A. 1, 1964), pointing out that the Board had neither reexamined and repudiated its earlier finding of a need for a third carrier in the markets (the court held that Northeast's losses did not negate that need), nor found Northeast unfit, nor selected another carrier to take Northeast's place. On remand, the Board in the above-cited decision insisted in effect that its earlier findings of a public need for a third carrier in the markets did not constitute a complete public convenience and necessity finding, and that the issue was whether the public convenience and necessity required service by the particular applicant, Northeast. It held that Northeast's losses did not render the applicant unfit, but did support the conclusion that renewal of Northeast's authority was not required by the public convenience and necessity. (Looking back, it is not clear why the Board did not find that Northeast, though "fit" and "willing", would not long be "able" to go on serving the route in view of its expected large losses and weakened financial condition. The answer may perhaps lie in the Board's extreme reluctance to make a finding which could be characterized as stigmatizing an established carrier as "unfit".)

[51] The language quoted is from section 401(d)(1), dealing with applications for permanent certificates; it does not appear in section 401(d)(2), dealing with applications for temporary certificates, and the latter provision differs in other ways as well. The Supreme Court in *C.A.B.* v. *State Airlines*, 338 U.S. 572 (1950), described the differences between the two subparagraphs as "slight but immaterial" and went on to repudiate the idea that the language of section 401(d) should be read in such a manner as to restrict the Board's authority. In that case the Board had found that the public convenience and necessity required service over a route described in some of the applications consolidated for hearing, and then awarded the route to a carrier whose application did not actually describe that route, but covered it only by way of a general clause requesting any other authority the Board might see fit to grant. The Court of Appeals held that the Board could not under section 401(d) award a route to a carrier whose application did not describe it, but the Supreme Court reversed, holding that the Board's procedure was reasonable and that section 401(d) should be interpreted flexibly. In a later case, *North Central Airlines* v. *C.A.B.*, 281 F.2d 18 (C.A.D.C. 1960), the court upheld the Board in awarding authority to a carrier that not only had not requested it in its application, but actively sought to reject it. While the exact points at issue here are not the same as in the *State Airlines* and *North Central* cases, we think the flexible construction those cases put on section 401(d) supports our thesis here.

[52] As the subsequent discussion will show, the "speedy disposition" requirement of section 401(c) should be better satisfied by the policy and procedures we propose here than by more traditional procedures.

been upheld by the courts. See, *e.g., Louisville-New York Nonstop Investigation*, 21 CAB 794 (1955); *Eastern Route Consolidation* case, 25 CAB 215 (1957); *Detroit-California Nonstop Service Investigation*, 43 CAB 557 (1966), *aff'd sub nom. United Air Lines v. C.A.B.*, 371 F. 2d 221 (C.A. 7, 1967); and see *Western Route Realignment*, Order 77-11-74, November 17, 1977 (in "minor markets", unrestricted authority awarded as a matter of policy to all carriers for whom the markets are on-system). In the first three cited cases, the Board removed restrictions on the authority of all carriers serving the markets at issue, notwithstanding tacitly conceded claims by parties that the markets were not large enough to support unrestricted nonstop service by so many carriers. Similarly there have been other areas of air transport regulation—air taxis and commuter air carriers, freight forwarders, tour operators, supplemental carriers—where the Board has expressly or implicitly rejected any notion of comparative selection of carriers. We cite these cases and areas, not to suggest that selection has not been the norm in certificated route cases, but to suggest that it has not been treated as an indispensable element of air transport regulation under the Act or an invariable rule of Board decision.

Notwithstanding this literal reading of section 401(d), however, the Board from a very early date treated applications for the same authority as mutually exclusive in most situations. We have earlier described the first reported case involving two applications for the same route authority, decided only a few months after the Board (then the Civil Aeronautics Authority) was set up.[54] Since both applicants agreed that only one application should be granted, it is understandable that the Board treated the applications as mutually exclusive and selected one applicant over the other. The assumption of mutual exclusivity, in this and subsequent cases, is even more understandable when it is recalled that the original "grandfather" certificated routes stemmed directly from air mail contracts which under earlier legislation were awarded by competitive bidding to a single applicant.

Moreover, virtually all certificated air routes—the "grandfather" routes and those subsequently awarded alike—where in the early days of certification heavily subsidized by the federal taxpayers through the payment of mail pay based upon the entire "need" of the carrier rather than merely on the cost of actually carrying the mails.[55] Apart from a handful of "non-mail" routes, certificated route authority ineligible for subsidy support did not begin to be awarded until a number of years after the Board began operations. Under these circumstances, awarding authority to more applicants than a market needed or could support would have meant, not selection by operation of competitive market forces, but a large and unjustified increase in federal subsidy.

Finally, most early (and many subsequent) Board decisions awarding new route authority explicitly or implicitly conveyed the idea that a successful applicant had an obligation to inauguarate promptly the service it had proposed, on the basis of which (in part, at least) it had been selected for an award. The concept appears to have been that of an exchange of benefits and obligations, with the government conferring a valuable and to some extent exclusive franchise (i.e., a certificate) in return for the carrier's undertaking to actually provide the service which it has promised and the Board has found to be needed. Moreover, authority under early certificates was predominantly mandatory in form.[56] It would obviously have been anomalous, when a route award was considered to carry with it an obligation of actual service, to make more awards in a market than the number of competing carrier operations the Board believed the market to be currently or at least prospectively capable of sustaining at a reasonable subsidy cost.

However, at a very early stage of its history the Board began to award authority in city-pair markets which was not mandatory and which the Board did not necessarily expect the holder to operate. The Board began by adopting a "nonstop" regulation[57] which significantly increased certificate holders' operating flexibility by conditionally authorizing (but not requiring) additional nonstop operations between points not consecutively named on a route segment. Over the years, this regulation was progressively liberalized until trunkline carriers had complete freedom to overfly intermediate points, and to begin and terminate flights short of terminal points, except where expressly forbidden by a certificate restriction.[58] The Board also began at an early date to consolidate separate grandfather routes of the same carrier, thus (subject to the nonstop regulation) creating potential permissive nonstop authority in dozens of city-pair markets by eliminating the certificate requirement of a stop at the route junction point.[59] Although these route consolidations required a certificate amendment and the carrier was required to propose and show the benefits of overflying the segment junction point on at least some flights it was not required either to show a need for or to promise performance of

[53] In the *Detroit-California* case this claim appears to have been borne out by subsequent events, since one of the three applicants terminated nonstop service in the markets after a brief period of unsuccessful competitive effort. Notwithstanding this outcome, we are aware of no evidence that the public interest suffered in any material respect as a result of the Board's decision.

[54] *Continental A.L., et al., Mandatory Route*, see note 30 above.

[55] As we noted earlier, in the *Continental* case 80 percent of the winning applicant's revenues consisted of mail pay. Although the Board did not undertake to separate the service and subsidy elements of mail pay until more than a decade later, there is no question but that mail pay in 1939 was mostly subsidy.

[56] At this remove it is difficult to measure exactly the degree to which authority in city-pair markets under early certificates was mandatory. Under the air mail contracts that preceded the 1938 Act and became the basis for almost all of the original "grandfather" routes, it was apparently contemplated that the basic mail schedules would begin at one terminal of an air mail route and proceed to the other terminal via stops at each intermediate point named on the route; there was, however, a qualified right to add non-mail flights and, with the approval of the Postmaster General, mail flights which omitted some or all of the intermediate points. The pre-Civil Aeronautics Act state of affairs was carried forward and to some extent liberalized by the Board's original so-called "nonstop" regulation, whose history is recounted in some detail in *Transcontinental & Western Air, Detroit-St. Louis Nonstop*, 6 CAB 471 (1945). (The first reported decision arising under the regulation appears to be *Eastern A.L., Birmingham-New Orleans Non-Stop (sic) Service*, 2 CAB 596 (1941).) Basically, the Board in adopting the regulation held that nonstop service between points not consecutively named on a route segment did not require a certificate amendment, since these were already points "between which" the carrier was authorized to engage in air transportation. The establishment of such nonstop service was nevertheless subject to a notification procedure which allowed the Board an opportunity to disapprove the proposed nonstop operation if it involved a substantial departure from the shortest course flown pursuant to the route description in the certificate and if, after a hearing, the Board found the public interest would be adversely affected by such a departure.

[57] See preceding footnote.

[58] The local service carriers, whose certificates were granted later, have authority to overfly intermediate points on route segments which in most cases is conditional on first providing two daily round trips to each intermediate point overflown. Although this certificate condition restricts the carriers' operational flexibility to a degree, none of the authority involved on a multi-point segment is strictly speaking mandatory since the carrier is not required to operate any particular service pattern in any city-pair market, and indeed can avoid the force of the condition altogether by refraining from overflights.

[59] Two early decision of this kind are *Northwest Air., Consolidation of Routes Nos. 3 and 16*, 2 CAB 96 (1940), and *United A.L., Consolidation of Routes Nos. 1 and 12*, 3 CAB 72 (1941).

nonstop service in each of the dozens of city-pair markets in which nonstop authority was thereby created. Some of this nonstop authority, indeed, remains dormant to the present day. In contrast, later route realignments have been granted without a requirement that the carrier propose or show the benefits of any particular pattern of improved service.

Subsequent Board interpretations of the requirements of air carriers' certificates have rendered most of the remaining certificated route authority permissive rather than mandatory. Thus, the board held that where two points are named on a long linear segment, the carrier is not obligated to provide nonstop or even single-plane service between them; all that is required is that a traveler be able, by some succession (however inconvenient) of on-line connecting flights over the segment, to get from one point to the other.[60] The net effect is that, where a point (as is typical) appears on a long linear segment, the carrier requires suspension authority from the Board only if it proposes to discontinue service at the point altogether; no lesser reduction in service is held to violate its certificate obligation.

Some Board opinions have stated in dictum that, despite the permissive nature of a carrier's route authority in a particular city-pair market, the carrier nevertheless has a duty under section 404 of the Act to render adequate service in accordance with its certificate. It is fair to say, however, that insofar as it relates to providing any particular service pattern in a city-pair market, the obligation of adequate service under section 404 has remained virtually a dead letter which the Board has been able neither to define nor to enforce. During the first two decades of its history the Board conducted no adequacy-of-service investigations; it then conducted several in quick succession, and in two actually issued orders requiring the provision of specified flights; but this flurry exhausted the impulse, and since that time the Board has conducted no further such investigation. In one of the cases,[61] the Board ruled that, even where a carrier has previously been specifically selected to meet an affirmatively found need for competitive service in a particular market, its subsequent obligation of adequate service under section 404 depends on the service currently being provided by the other carrier or carriers authorized to serve the market—in other words, unless combined service of all carriers in the market is legally inadequate (a very low standard) neither carrier can be charged with violating section 404 no matter how little (if any) service it provides.

Actually, the Board long ago concluded that there is simply no feasible way to enforce attractive and convenient service on the part of an unwilling and unsubsidized carrier, regardless of its theoretical obligations under section 404. (A subsidized carrier presumably will be willing if the subsidy offered is large enough.) Accordingly, the Board's preferred and indeed only solution for demonstrably poor service by an incumbent carrier has been to find a willing applicant and certificate it in place of or in addition to the incumbent.[62] Thus as a practical matter permissive authority carries with it no affirmative service obligation, despite the language of section 404. Nor does even authority which is mandatory in form impose an obligation to provide service that meets the substantive public need; the Board has never defined any minimum standard of service under mandatory authority, and a carrier with such authority in a market can reduce its service to a purely nominal level, such as one round trip per week, without apparently violating its certification obligations.[63]

In a 1968 decision[64] the Board held that an award of permissive rather than mandatory authority to a new carrier was appropriate even where the record in the proceeding demonstrated an affirmative need for additional service in the markets at issue. Since then (as indeed was usually the case earlier) new authority has almost invariably been awarded in permissive form, regardless of the nature of the public convenience and necessity findings in the case, where the market at issue were already on-system or at least on-segment to the applicant. While off-segment and off-system extensions continued for the most part to be granted in mandatory form, even these extensions have recently been granted in expressly permissive form.[65]

Meanwhile subsidy has played a constantly declining role in the certificated air transportation system. Whereas in 1938 virtually all certificated air transportation was heavily subsidized, today the trunklines have not received subsidy for two decades and more, one of the local service carriers has already gone off subsidy, and subsidy plays a constantly decreasing proportionate role in the finances of the remaining local service carriers. Virtuallyt all new route authority awarded during the past decade and a half has been made ineligible for subsidy support,[66] and considerable amounts of formerly subsidized service to small communities is today being provided by noncertificated commuter carriers, without subsidy support, under suspension/replacement agreements and orders.

We cite these long-standing trends toward permissive and subsidy-ineligible route authority because in our view they thoroughly undermine much of the original rationale for treating limitation of entry and comparative carrier selection as logical or practical necessities of regulation. We believe that these trends place on us an affirmative duty to reappraise the necessity and desirability of continuing our normal past practice of carrier selection, and the advantages which might accrue from moving to the proposed policy of permissive awards to all qualified applicants. Air transportation has gone in forty years from the struggling infant industry of 1938, in which most route authority was mandatory, most service was non-competitive and virtually all was heavily subsidized, and in which there was little realistic opportunity for new entry, to the prosperous and well-established industry of today, in which the great majority of route authority is permissive, most traffic moves in competitive markets, subsidy is a minor and declining factor in carrier finances, and in which new entrants are impatiently waiting to join the industry. It cannot be that Congress intended us to follow precisely the same entry policies today as in 1938.

Nor would it be logical to do so. If service pursuant to the authority

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[60] See *National Airlines, Jacksonville-Miami Nonstop*, 6 CAB 521, 523 (1945); *cf. United Air Lines, Amended Certificate*, 29 CAB 1298, 1300 (1959). In contrast, where two points are made terminals of a route segment without any intermediate points, the carrier is mandatorily required to provide nonstop service between them. Many such mandatory two-point segments, however, have been wiped out by subsequent route realignments, and recent authority of this type has sometimes been given on an expressly permissive basis.

[61] *Fort Worth Investigation*, 27 CAB 260, 266, 279 (1958). Members Minetti and Hector dissented on the cited point.

[62] See *New England Service Investigation*, Order 74-7-70, July 17, 1974.

[63] See *Complaint of Donald Pevsner*, Order 77-11-94, November 18, 1977.

[64] *Allegheny Airlines Route 97 Investigation*, 50 CAB 94, 104 (1968).

[65] See *Midwest-Atlanta Competitive Service Case*, Order 78-4-113, April 6, 1978; *Memphis-Twin Cities/Milwaukee Case*, Order 78-3-35, March 9, 1978; *Ohio/Indiana Points Nonstop Service Investigation*, Order 78-2-71, February 14, 1978; *Phoenix-Des Moines/Milwaukee Route Proceeding*, Order 78-1-116, January 27, 1978. Compare *Las Vegas-Dallas/Fort Worth Nonstop Service Investigation*, Order 78-3-121, March 24, 1978, with *Improved Authority to Wichita Case*, Order 78-3-78, March 16, 1978.

[66] The two conspicuous exceptions have been the award of new certificates to Air New England and Air Midwest (see Orders 74-10-101, October 18, 1974, and 76-12-59, December 16, 1976), each case involving the reestablishment of subsidized service to communities which formerly received such service from another carrier (Northeast and Frontier, respectively).

granted in a route proceeding is ineligible for subsidy (and particularly under the "subsidy spillover" conditions we have recently devised),[67] then a successful applicant considering institution of service is risking no one's money but its own. If it is clearly understood that a successful applicant is free not only to terminate unprofitable new service, but indeed to refrain from inaugurating new service in the first place if competitive conditions appear unfavorable at the time of the award, then the applicant cannot be put in the position of having to choose between violating its obligations and wasting its capital on unprofitable operations; instead, its realization of profit or loss will depend entirely and exclusively on its management skill and business judgment.[68] If a certificate does not impose any service obligations, there is no inherent reason why it should convey any exclusive authority. Thus, since we have already tentatively concluded that our proposed policy of multiple permissive awards will further the objectives of the Act, and we now further conclude that the Act does not preclude us from adopting that policy, it would seem evident that we ought to do so.

An additional benefit we see as flowing from adoption of the proposed new policy—particularly if it is adopted at the outset of the proceeding, as we propose to do here—lies in the dramatic reduction in the complexity, cost to applicants, and time required to complete route proceedings. Over the years, one of the most frequent complaints about Board proceedings has been their cost and the time they take. Almost all of the numerous bills to reform air transport regulation which have been introduced in Congress in the past few years have included provisions calling for faster action by the Board on applications for new route authority under section 401 of the Act. The Board has endeavored in various ways to expedite its procedures, and will continue to do so; yet the problem remains. The CAB Advisory Committee on Procedural Reform, whose report was filed on December 31, 1975, surveyed all hearing cases decided between 1970 and 1972, and two facts stand out from the survey: that route cases take many months, even years, to complete, and that the trend was then toward an increase rather than a decrease in completion time.

Although more recent efforts have speeded up the decisional process to a degree, an internal survey of cases closed during the 27 months ended September 30, 1977, indicated that an average of 568 days—approximately 19 months—elapses between the time a domestic licensing case is ordered set for hearing and final Board decision. Moreover, the Board's workload of applications for new domestic route authority is increasing, while its resources are limited. Accordingly, past delays are no longer acceptable, and any potential means of simplifying and shortening domestic route cases and reducing their demands on Board staff resources (the two things are closely correlated) deserves to be carefully explored. The Board is actively exploring shortened and simplified procedures, and has in fact just issued a notice of proposed rulemaking looking toward the adoption of additional such procedures.[69] But there is a limit to the extent to which procedural changes alone can speed up the processing of cases, where the issues to be resolved remain complex. Hence another avenue which the Board feels obligated to explore is the simplification, and where possible, elimination of substantive issues in route proceedings.

Anyone familiar with Board route proceedings will agree that the single issue which complicates and prolongs them the most is the issue of comparative carrier selection. Single-applicant cases are notoriously easier to decide than those with multiple applicants—in fact, an oral evidentiary hearing is often not required. In the past year or two we have begun to process foreign-carrier permit cases (where by definition there is only one application) through the use of show-cause procedures; and more recently we have undertaken to employ such procedures in at least some domestic single-applicant licensing cases.[70]

If the issue of comparative carrier selection is eliminated, the remaining evidence as a rule is both simple to obtain and noncontroversial. For example, (1) the facts concerning the historic traffic in the market or markets at issue, and the present and past services (if any) provided by the incumbent carrier or carriers, are ordinarily easy to ascertain and not subject to dispute. (2) Whether the service proposed by the applicant carrier will be generally beneficial to the traveling and shipping public typically requires little analysis; what creates complications is the need to quantify precisely in its various dimensions the degree of public benefit likely to be conferred by an applicant's service proposals. (3) Once it is ascertained that a market is or will be large enough to support competitive nonstop operations (a comparatively simple fact to establish), it is usually not essential to inquire at length into the merits or demerits of the existing service in the market, or the ability or willingness of the incumbent carrier to increase operations to meet public demand; the Board's long-established policy has been that in such situations competition is inherently beneficial and should be authorized unless serious reasons to the contrary are shown.[71] (4) As we have recently had occasion to point out, it is not essential to show that an applicant's proposed services will be profitable, particularly where the authority to be granted will be permissive.[72] (5) Finally, it is ordinarily not difficult to determine whether the impact of a grant of new authority on the carrier or carriers already in the market—diversion, in short—will or will not meet the standard the Board is currently applying (see discussion at p. 15 above). What complicates the typical route case, however, is the need to quantify precisely the diversion from the incumbent which an award to each possible applicant would cause, in order to employ comparative diversion as a factor in choosing among the applicants.

In sum, therefore, we anticipate that eliminating the issue of comparative carrier selection will enormously simplify and expedite the conduct of the evidentiary hearing on public convenience and necessity issues which will be held in this case. No applicant will be required to submit exhibits designed to show that its service proposal will produce greater public benefits than any other applicant's, or that its service will be more profitable or will produce a greater reduction in subsidy need or will otherwise result in a greater or more needed degree of route strengthening, or that it will divert less revenue from an incumbent—or, in general, that it outranks

[67] See *Phoenix-Des Moines/Milwaukee Route Proceeding, et al.*, Order 78-1-116, January 26, 1978.

[68] The same observations, of course, apply to an incumbent whose authority is permissive (as is all of the incumbents' authority at Oakland).

[69] See *Expedited Procedures for Processing Licensing and Rates Cases*, PDR-54, April 18, 1978, in which the facts referred to in the text above are explored in greater detail.

[70] See *Piedmont Boston Entry Application*, Order 78-4, 69, April 14, 1978. The Board has also used show-cause procedures to grant domestic fillup rights on international flights, another situation in which competition between applicants for the same authority is not involved.

[71] See *Continental Air Lines* v. *C.A.B.*, 519 F.2d 944 (1975), *cert. denied*, 424 U.S. 958 (1976), and Board decisions cited therein; *Southern Tier Competitive Nonstop Investigation*, Order 69-7-135, July 24, 1969; and see *Domestic Passenger-Fare Investigation*, Order 71-4-54, April 9, 1971, at p. 27 ("One of our principal policies has been that the traveling public is entitled to the benefit of competition whenever it is justified by existing and projected market traffic.").

[72] *Ohio/Indiana Points Nonstop Service Investigation*, Order 78-2-71, February 14, 1978, at p. 29; *Improved Authority to Wichita Case*, Order 78-3-78, March 16, 1978; *Piedmont Boston Entry Application*, footnote 70 above, at p. 6.

all other applicants in any of the numerous factors which the Board has historically employed in choosing among competing applicants for the same authority.

Moreover, as pointed out above, our proposed policy contemplates not only that some entrants may drop out of the market if their operations prove unprofitable, but that some applicants awarded authority may elect not to inaugurate service if it appears unlikely to become profitable. Given this degree of uncertainty, an applicant cannot reasonably be expected to produce a service proposal which it explicitly or implicitly promises to operate if granted authority, regardless of conditions prevailing at the time; nor can it reasonably be expected to produce separate service proposals responsive to every possible combination of contingencies as to what incumbents and other applicants may elect to do in the future. The most that can be required—and what we will in fact require—is merely that each applicant submit an illustrative service proposal, comprising illustrative schedules and fares, costed on certain reasonable assumptions, which demonstrates that it has given serious thought to the requirements and potentialities of the market at issue and which, if operated and economically viable, would satisfy all or part of the public need. Unlike the service proposals submitted in the typical route case before this, the illustrative service proposals to be submitted here will *not* be comparatively evaluated.[73] Section V-B of this order describes in greater detail the illustrative service proposal which each applicant is to submit; the point to be made here is simply that it will be a markedly simpler piece of evidence to prepare and evaluate than the traditional competitive service proposal.

The foregoing analysis raises fundamental questions about whether the Board should continue to conduct and decide its route cases as it has conducted and decided most of them most of the time during the past forty years. If dispensing with comparative carrier selection by the Board in favor of permissive awards to all qualified applicants, to be followed by competitive selection in the market place, will not lead to the perils feared by Congress in 1938; if it is as likely as the traditional policy to realize the goals of the statute as set forth in section 102; if it is not forbidden by the terms or the logic of the statute; and finally if it will vastly simplify, speed up, and reduce the cost of route certification proceedings—then there would certainly appear to be a strong case for the change. In deference to forty years of mostly contrary practice, the Board is not yet prepared to arrive at any conclusion at this time as to whether the proposed new policy should be adopted for future route cases generally. But we do propose, subject to comment and argument as detailed in section V-A of this order, to adopt the new policy for the purposes of our Oakland investigation.

From all that has been said, it will be evident why we are excluding from the issues the solution advocated by the Oakland parties, that of deleting or suspending the authority of the incumbent carriers at Oakland. First, it would be totally incompatible with our proposed policy of granting permissive authority to all qualified applicants (a category from which incumbents cannot logically be excluded). Second, putting in issue the deletion or suspension of incumbents' authority against their will would enormously complicate and delay the kind of proceeding we have in mind, and would indeed lose most of the benefits of the simplification of issues our proposed policy will make possible. Third, our analysis suggests that the existing state of affairs at Oakland and San Francisco has given the incumbent carriers strong incentives to keep their service to the Bay area concentrated at San Francisco International Airport, whereas the new state of affairs which will be created by our present investigation should give them equally strong incentives to attempt to exploit the potential of service at the Oakland Airport. If the latter is the case, we see no logical reason for moving to preclude the incumbents from attempting to exploit Oakland's potential, now or later. Even if they do not do so, we see no threat in the continued existence of their unused or underutilized authority sufficient to warrant re-complicating and delaying a case we have been at considerable pains to simplify and expedite.[74]

V. PROCEDURES

A. COMMENTS AND ARGUMENT ON PROPOSED POLICY DETERMINATION

All interested parties will have 21 days from the date of service of this order (which will also be published in the FEDERAL REGISTER) to file comments on the proposed policy determination set forth in section IV of this order, i.e., the decision to award permissive authority to all qualified applicants in each of the Oakland markets in issue in which a need for additional authority is found in this proceeding.[75] Approximately 14 days after these comments are due (the exact date and time will be announced later) the Board will schedule an oral argument on the policy issue. Interested parties will then have an additional 21 days to file reply comments addressing the issues raised by the initial comments and the oral argument. The Board will endeavor to issue an order setting forth its determination on the policy issue as soon as possible thereafter.

Interested parties should address the proposed policy from the standpoint of law, fact, economics, and public policy. Any factual material that a party wishes the Board to consider should be reduced to exhibit or affidavit form and appended to the party's comments. It is the Board's tentative view that any issues of fact material to the application of the proposed policy at Oakland, and a fortiori to its application generally, comprise the kind of broad issues of "legislative" fact (to employ Professor Davis' classification[76] that lend themselves better to an argument type of hearing rather than a trial type. Parties who contend that a trial type of hearing should be held on this issue should be prepared to show in specific detail why the procedure of written comment and oral argument provided for above is inadequate.

Apart from questions arising under the Federal Aviation Act itself, we are particularly interested in parties' views as to the interaction between our proposed policy and laws relating to energy conservation and protection of the environment. While specific factual questions relating to energy and environmental issues will be dealt with in the economic hearing (see below), general policy questions should be addressed in this phase of the proceeding to the extent they involve whether or not the Board should go forward with the proposed policy. In particular, if any party contends that the environ-

[73] Analytically, the evidence of each applicant's illustrative service proposal goes in part to the issue of the applicant's willingness to provide the air transportation for which a need is determined at the hearing. However, the illustrative service proposals, individually and collectively, should also aid in the ascertainment of what transportation is required by the public convenience and necessity in the various markets at issue and whether, if operated, the applicant's proposal would meet all or part of that need. This evidence will therefore be received and evaluated in the economic hearing (see section V-B).

[74] The issue of deleting or suspending incumbents' unused authority in the markets already at issue usually does not significantly complicate the traditionally scoped route case. We have, therefore, included this issue in some such cases simply to maximize the Board's decisional flexibility at the close of the case. See e.g., *St. Louis-Louisville and San Francisco Bay Area Nonstop* case, Orders 77-12-113, December 22, 1977, and 78-3-104, March 23, 1978. For the reasons indicated in the text, the circumstances are quite different here.

[75] Participation in comments and oral argument on the policy issue is not obligatory; no applicant's status will be adversely affected by failure to participate.

[76] K. Davis, *Administrative Law Treatise*, §§ 7.02, 7.20 (1958); and see *American Airlines* v. *CAB*, 359 F.2d 624, 633 (C.A.D.C. 1966).

mental or energy laws preclude the Board from adopting the proposed policy, we expect this contention to be raised at the outset. We will also welcome comments suggesting how the proposed policy can be accommodated with the environmental and energy laws. One specific matter: our environmental regulations, in section 312.12 (14 CFR § 312.12), require all applicants to file environmental evaluations which contemplate more detailed schedule proposals than it is practical to require under the proposed policy. We solicit comments as to the extent to which this regulation can and should be waived or modified to fit in with the procedures we propose to follow in this proceeding.

Interested persons who do not plan to participate in the hearings in this proceeding (see subsequent sections) may nevertheless participate in this resolution of the policy issue by filing twenty copies of written data, views, or arguments pertaining thereto, without the necessity for seeking leave to intervene or becoming a formal party. Individual members of the public can likewise participate informally by filing their comments with the Docket Section in letter form, without the necessity of filing additional copies. All comments so filed will be available for inspection in the Docket Section.

B. ECONOMIC HEARING

A hearing will be conducted before an Administrative Law Judge to consider all elements of the public convenience and necessity for awards of additional certificated route authority in the Oakland markets placed in issue, including those on which the Board has made tentative findings in this order, but excluding the policy issue which will be decided under the procedure outlined in section V-A above, and excluding issues of fitness, willingness, and ability of individual applicants. The issues to be addressed in this hearing include traffic, the general feasibility of operating proposals, diversion, and environmental and energy issues, as well as any other economic matters deemed relevant and material by the Administrative Law Judge, except for matters expressly excluded, particularly those related to comparative selection.

Traffic. The evidentiary focus of the economic hearing should be on the Board's tentative findings concerning traffic set forth in this order, including its assessment of what is the minimum level of traffic necessary to sustain some service with suitable aircraft in each market. These findings—that some service can be operated on an economic basis by at least one carrier using suitable aircraft—are expected to be determinative of the public convenience and necessity for additional authority.

Accordingly, evidence submitted by the parties should be designed to supplement or rebut the Board's forecast, and its determination in respect to the feasibility of economic service. For the 12 markets for which we have tentatively found need, forecasts should not be based on operating proposals but should concentrate on historic local traffic, normal growth rates, airport demand shift, and price elasticity of demand. Methodologies which take into account the impact of schedules, including the provision of new single plane service in beyond markets, generally will produce higher forecasts than those set forth in the Board's forecast. Since only a minimum forecast is necessary to justify the finding that the market is large enough to support some service, such forecasts are unnecessary in those markets. For the remaining markets, however, rebuttal to the Board's forecast may show that the Board has understated traffic. Proposed routing and anticipated flow traffic will be considered for this purpose.

Operating Proposals. Operating proposals are required to demonstrate that the applicant's proposed service is reasonably calculated to meet some demand in the market. Evidence concerning operating proposals will be sufficient if an applicant shows that it would be economically feasible to operate a minimum pattern of service—one daily round trip—with an aircraft suitable for the traffic density and stage length. Attachment H specifies that the forecast should also specify the prices to be offered and a break-even costing of the illustrative schedule. This evidence is required to show general economic feasibility, and there will be no comparison of the schedule proposal of one applicant with that of another. For these reasons applicants need not submit detailed schedules showing a complete pattern, including beyond-area services, schedule times, and the like.[77] On the contrary, because the Board is proposing to authorize multiple entry in addition to retaining existing authority, the actual service patterns that may be offered are likely to be established by trial and error depending on competitive conditions which cannot be forecast. Accordingly, the kind of detailed forecasts showing traffic, revenue and costs are not necessary insofar as these are utilized in traditional Board proceedings to permit the selection—and exclusion—of applicants on a comparative basis.

Diversion. Incumbent carriers authorized to serve Oakland or San Francisco and other parties may submit evidence of diversion that may result from the grant of permissive authority to all qualified applicants in each of the 15 city pair markets at issue in this proceeding. Given incumbents' ability to respond competitively, however, we expect any carrier claiming diversion to show in detail how additional operations at Oakland will threaten its ability to perform its certificate obligations, or will necessarily result in termination of essential services which will not be replaced by an applicant or by other carriers. We also expect the single local service carrier receiving subsidy to submit a detailed forecast of increased subsidy need, if any. (See discussion at pp. 15-17 above.)

Nevertheless, evidence relating to diversion will not be limited, except as the Administrative Law Judge may determine. In particular, since applicants will not be providing detailed schedule proposals but only illustrative schedules, "worst case" assumptions may be made concerning the volume of service or the prices to be offered at Oakland by newly authorized carriers. Any such assumptions, however, should be explained in detail in accompanying narrative and the assumptions concerning market size, airport demand shift, the efficiency and cost level of newly authorized carriers, and the profitability of such carriers should be set forth.

Energy and Environment. The economic hearing will also deal with all issues relating to energy conservation and the protection of the environment. Applicants who have not already done so should file their environmental evaluations under section 312.12 of the Procedural Regulations (14 CFR 312.12) within 50 days after the date of service of this order, or within 15 days after filing their respective applications, whichever is later. Other evidence on environmental and energy issues, including a statement by each applicant of the maximum fuel usage required to implement its illustrative service proposal, shall be submitted at the time of direct exhibits, and rebuttal thereto at the time of rebuttal exhibits. Environmental evaluations filed by applicants shall include the information specified in Part 312.12(c) of the Board's Procedural Regulations (14 CFR 312.12(c)) to the extent that the illustrative operating proposals required by this order permit.[78] To the extent that an applicant is unable to supply that information using its illustrative schedule, it shall base its environmental evaluation on its forecast of the worst

[77] If subsequently the Board determines to consider evidence on a comparative basis, carriers will be permitted to submit revised exhibits.

[78] Attachment J provides the airport profile for scheduled operations at Oakland. Applicants are free to add nonscheduled operations to the profile, but any additions should be explained clearly.

case (with respect to the environment) which might result, should its application be granted.

In addition, all applicants are put on notice that they may be required to produce, introduce, and cosponsor an exhibit which describes the potential environmental impact at Oakland of an award of multiple permissive authority, in terms that go beyond the individual environmental evaluations required by Part 312.12. The timing and content of this exhibit will be left to the discretion of the Director of the Bureau of Pricing and Domestic Aviation.

C. FITNESS HEARING

All issues relating to the fitness, willingness, and ability of applicants for new and improved authority herein will be consolidated for hearing into a separate proceeding before an Administrative Law Judge. The fitness hearing will go forward simultaneously with the economic hearing provided for in B above, having due regard for the convenience of the parties in each proceeding in respect to procedural dates.

There may be significant differences between the applicants in respect to the subordinate issues raised by the statutory requirement that the Board find each applicant to be fit, willing, and able. For example, it is clear that under traditional practice the fitness of existing federally certificated carriers can be established by generalized findings based on officially noticeable data, such as the Forms 41, and the noticeable fact that the applicant is an operating entity. Furthermore, intrastate and other carriers seeking certification in this proceeding should not have to prove fitness separately if the matter has been adjudicated in other proceedings. Because fitness is in no sense comparative, but is a test to be passed or failed by each applicant without regard to any other applicant, the Board suggests that fitness findings based on officially noticeable data or findings and information noticeable from other proceedings be handed down in a separate initial decision, and not await the more complex and difficult findings that may be required in the case of applicants whose fitness evidence cannot be as readily determined.

Attachment I sets forth the minimum fitness evidence and information that applicants whose fitness cannot be established by notice, including applicants not operating air service at this time, should provide. The Administrative Law Judge in his discretion may alter or amend Attachment I; it is attached to this order at this time primarily to permit applicants to begin preparing for the fitness hearing.

D. OVERALL PROCEDURAL SCHEDULE

To avoid any possibility of disruption in the event the Board, after receiving comments and hearing oral argument, decides not to go forward with the proposed policy of permissive awards to all qualified applicants in some or all of the markets in issue, the hearings on economic issues and fitness will not commence until the Board arrives at a final decision on the policy issue. Once this decision is arrived at, the Administrative Law Judges will issue notices of prehearing conference. Applications conforming to the scope of the issues may be filed at any time prior to the prehearing conference in the economic issues hearing.

Petitions for reconsideration of this order may be filed within 21 days after the date of service. Such petitions may address themselves to the scope of the proceeding and to the general procedures to be followed. They should not address the proposed policy determination which will be the subject of comments and oral argument. They should also not address the Board's tentative findings in this order which will be open to rebuttal at the economic hearing, unless the party shows why its disagreement with these findings cannot be dealt with adequately at the hearing. Answers to petitions for reconsideration shall be filed within 15 days following the due date for filing such petitions.

Accordingly, it is ordered that:

1. A proceeding to be designated the *Oakland Service Case* is instituted in Docket 30699 and shall be set for hearing in accordance with the procedures set forth below.

2. The issues in said proceeding shall be:

(a) Whether the public convenience and necessity require the grant of additional certificated route authority between Oakland, Calif., on the one hand, and some or all of the following points: Albuquerque, N. Mex.; Atlanta, Ga.; Boston, Mass.; Chicago, Ill.; Dallas/Ft. Worth, Tex.; Denver, Colo.; Detroit, Mich.; Houston, Tex.; Kansas City, Mo.; Minneapolis/St. Paul, Minn.; Philadelphia, Pa.; Phoenix, Ariz.; Portland, Oreg.; Salt Lake City, Utah; and Seattle/ Tacoma, Wash.

(b) Whether the applicants for such authority are fit, willing, and able to perform the air transportation found by the Board to be required by the public convenience and necessity.

3. Petitions for reconsideration of this order shall be filed within twenty-one (21) days following the date of service of this order, and answers shall be filed within fifteen (15) days thereafter. Petitions for leave to intervene, applications, and motions to consolidate applications within the scope of the proceeding shall be filed prior to the prehearing conference in the economic proceeding (see 4(b) below).

4. The proceeding shall be divided into three phases as follows: (a) *Comments on proposed policy determination.* (i) Within 21 days from the date of service of this order, all interested parties are invited to file comments on the proposed policy determination set forth in section IV of this order, and to serve such comments on the other parties to the proceeding. Failure to file comments, however, will not affect any person's status as an applicant. Such comments should address the proposed policy from the standpoint of law, fact, economics, and public policy. Any factual material that a party wishes the Board to consider should be reduced to exhibit or affidavit form and appended to the party's comments.

(ii) Approximately 14 days following the date for receipt of comments, the Board will schedule oral argument thereof, at a time and place to be hereafter designated. Parties desiring to take part in the oral argument shall so indicate in their comments.

(iii) Within 21 days following the oral argument, all interested parties may file reply comments addressing the issues raised by the original comments and the oral argument. Following receipt of the reply comments, the Board will issue an order disposing of the policy issues involved as soon as practicable.

(iv) Interested persons who do not plan to participate in the hearings to be held in this proceeding may nevertheless participate in the resolution of the policy issue, without having to seek leave to intervene or become a formal party, by filing twenty (20) copies of written data, views, or arguments, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before June 20, 1978, will be considered by the Board before taking final action on the proposed policy determination. Copies of such comments will be available for examination by interested persons in the Docket Section of the Board, Room 710, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

(v) Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the address above, without the necessity of filing additional copies.

(b) *Economic hearing.* All issues in the proceeding other than the policy determination covered by paragraph 4(a) and the fitness issues covered by paragraph 4(c) shall be heard before an Administrative Law Judge at a time and place to be determined later. This phase of the proceeding shall focus on the Board's tentative findings as to the need for the award of additional route authority in the Oakland mar-

kets at issue; its tentative traffic forecasts and findings that some service with suitable aircraft can be economically operated in at least 12 of the 15 markets at issue; the illustrative service proposals of the applicants; the effects of new authorizations on the operations of incumbent carriers at Oakland and San Francisco; and environmental and energy issues. The evidence required of all applicants is set forth in Attachment H hereto, subject to the rulings of the Administrative Law Judge. All applicants shall file environmental evaluations pursuant to Part 312 of the Board's Regulations within 50 days of the date of service of this order, or 15 days after the filing of their respective applications, whichever is later.

(c) *Fitness, willingness, and ability hearing.* All issues relating to the fitness, willingness, and ability of the applicants shall be heard before an Administrative law Judge at a time and place to be later determined. The evidence required of applicants not holding a certificate of public convenience and necessity for scheduled service, or whose fitness has not been adjudicated in another proceeding, is set forth in Attachment I, subject to the rulings of the Administrative Law Judge.

5. All authority awarded in this proceeding shall be permissive and ineligible for Federal subsidy, and all authority awarded to local service carriers and any other subsidized carriers shall be subject to the subsidy-ineligible condition established in Order 78-1-116.

6. to the extent that they conform to the scope of the proceeding, as defined in paragraph 2 above, the applications of Allegheny Airlines in Docket 30739, Braniff Airways in Docket 30819, Frontier Airlines in Docket 30862, Hughes Airwest in Dockets 30863 and 31583, Northwest Airlines in Docket 30981, and Texas International Airlines in Docket 30866, are consolidated into the proceeding instituted by paragraph 1; to the extent they do not conform and to the extent not consolidated with the *California-Nevada Low Fare Route Proceeding,* Docket 31574, these applications are dismissed.

7. The motion of Northwest Airlines to consolidate its application in Docket 30981 is granted.

8. The motions of Frontier Airlines and the Regional Airport Planning Committee for leave to file unauthorized documents in Docket 30699, and the motions of United Air Lines, Hughes Airwest, and the Arizona Department of Transportation for leave to file unauthorized documents in Docket 30583, are granted.

9. The following are made parties to the proceeding instituted by paragraph 1: Allegheny Airlines, Braniff Airways, Frontier Airlines, Hughes Airwest, Northwest Airlines, Texas International Airlines, Trans World Airlines, United Air Lines, the Oakland Chamber of Commerce and Port of Oakland, the Regional Airport Planning Committee, the Arizona Department of Transportation, the Alameda County Mayors' Conference, the State of California and the Public Utilities Commission of the State of California, the Contra Costa County Mayors' Conference, the Denver Parties and Colorado Public Utilities Commission, the Minneapolis/St. Paul Airports Commission, the City of Phoenix, the City of Portland, Portland Chamber of Commerce, Portland Freight Traffic Association and the Port of Portland, the Seattle Parties, the Spokane Parties, and the Utah Agencies and Utah Department of Transportation.

10. The petitions for leave to intervene of the Minneapolis/St. Paul Airports Commission, the Alameda County Mayors' Conference, the Contra Costa County Mayors' Conference, the People of the State of California and the Public Utilities Commission of the State of California, the Regional Airport Planning Committee, the Denver Parties and Colorado Public Utilities Commission, the Utah Agencies and Utah Department of Transportation, and the Portland Parties are granted.

This order shall be published in the FEDERAL REGISTER.[79]

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

All Members concurred and Member O'Melia filed the attached concurring statement.

O'Melia, member, concurring statement: I concur fully with the tentative finding set forth in this order that the present air services to the East Bay area may be severly deficient and that additional and effective authority may be necessary to properly serve the Oakland International Airport. I am concerned, however, that the procedures contemplated in the order adopted today, involving untested techniques, major departures from past practice, a new interpretation and a modified application of the Federal Aviation Act, new hearing concepts for the Administrative Law Judges, and novel issues for the applicants and practitioners, may create a proceeding of undesirable complexity. Moreover, an omnibus route proceeding involving 16 largely discrete markets with different characteristics may be almost unmanageable, and is certain to require extensive efforts over a considerable period of time, even under the premises and procedures tentatively adopted today. The imaginative effort to meet Oakland's petition could well frustrate the very purposes it is meant to serve. An experimental proceeding may be very useful for the Board, but it may not be equally effective in giving Oakland the services it needs in a timely fashion on a petition filed over a year ago.

I am concerned about this point, because it seems certain that the *Oakland Service Case,* which will surely become a landmark case in terms of its innovative features, is certain to consume a considerable period of time and to absorb the time and energies of a substantial portion of our staff analysts and attorneys. As the order notes, six of the markets listed in Oakland's quest for new services—markets that are not insubstantial—are already at issue in pending proceedings. Any progress made in moving these and other important cases along is dependent upon the same staff resources. I hope that the Board will lend equal efforts to pressing ahead with the proceedings in question, as listed in footnote 1 of the Board's Order, so that the air transport needs of passengers and shippers in the East Bay area can be offered some meaningful relief at the earliest possible time.

As we proceed with implementation of the *Oakland Service Case,* we should not lose sight of the fact that the arduous task undertaken by Congress to reform and renew this country's aeronautical statute is nearing its culmination, and may very possibly come to fruition in the next few months. That legislation, if it gives us the results intended for it, may accomplish for markets such as those contemplated in this proceeding, all that a route case might accomplish, and with much less effort. Recognizing the intensive work and dedication of the staff in designing a response to Oakland's petition, I consider it unfortunate that the conclusion of regulatory reform may moot much of this effort if it comes about before the final stages of the *Oakland Service Case.*

Although I am in agreement with the stated purpose of the order being issued today—to seek to increase service to Oakland—and believe it is desirable to explore new policies and new procedures meant to diminish regulatory burdens and expand services, I have prepared this concurring statement to make known some reservations that I hope will be addressed by the parties to the case in the course of the proceeding. The first deals with the adoption of a permissive multiple awards policy, and the second has to do with the contemplated severance of economic and fitness issues.

The concept of granting permissive multiple awards has many very substantial attractions, and is certainly a move in the direction of permitting the marketplace to be a principal determining factor of what carriers will offer what services. Yet it cannot divorce itself from many dangers of both a legal and a policy nature. The Board's order fully recognizes the risks involved. On May 17 and 18, moreover, the Board conducted an omnibus oral argument on the issue of multiple permissive awards, and a talented array of representatives from the industry

[79] The following attachments are filed with the Office of the FEDERAL REGISTER as part of the original document. Copies of the order and attachments may be obtained at the Civil Aeronautics Board, Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. 20428: Attachment A—Summary of Pleadings; B—Narrative to Forecasts; C—True O&D Traffic and Forecast, 15 Bay Area Markets; D—Estimated Financial Result of Nonstop Service, 15 Oakland Markets; E—Domestic Trunk On-Flight Haul & Yield; F—Fare Increases and Inflated Low Fares, 15 Markets; G—East Bay Economic Statistics; H—Evidence To Be Supplied By all Applicants; I—Evidence To Be Supplied by New Entrants; J—Scheduled Operations Base for Environmental Evaluations.

and the consumer public sought to warn the Board of the problems that might arise, as well as to encourage the Board in its search for a more service-oriented system. I would have preferred for the Board and its staff to have had more time to evaluate the comments presented, before finalizing the issuance of this order. However, given the age of Oakland's petition (filed April, 1977), I accept that time is of the essence, and that those same comments can be brought to bear on this proceeding as we again explore the merits of permissive multiple awards.

In tentatively adopting, for the purposes of this proceeding, a policy of awarding permissive, subsidy-ineligible authority in selected Oakland markets to every qualified applicant, I reserve the right to press for a different or a modified solution on the basis of the evidence, briefs and arguments that are to be presented. While I believe that this reservation, of itself, may not distinguish my position from that of some of the other Members of the Board, it needs to be said because the tentative findings, predicated in large measure on Board policy in cases still being litigated, have too much of a flavoring of prejudgment.

I also have reservations about the proposal to separate the hearings on economic issues from those on carrier fitness in the secondary stages of this proceeding. The determination that an applicant carrier meets the established standards of fitness, willingness, and ability calls for specific evidentiary submissions and specific findings. Conceivably these can be separated from the submissions and findings required in a hearing to ascertain traffic, operating proposals, diversion and environmental factors, so long as the latter are not involved when the final fitness determination is made. However, I am not convinced that this division is either necessary or desirable. In the Board's tradition of some forty years, the issues of public convenience and necessity, on the one hand, and of fitness, on the other, have been considered to be integral parts of a final determination in a particular case. The reasons for that integration are not obscure. The judgment of whether a carrier is "fit, willing and able" has always been made in the context of the services to be performed, route to be operated, and the competition to be mounted. The proposal to separate economic from fitness determinations raises the question whether traditional judgments are no longer to be made. In such a case, a finding of fitness, at least for a certificated carrier, might become a pro forma determination.

There is, of course, a distinct difference between the task of ascertaining fitness for a certificated carrier and fitness for non-certificated new entrants, and it may be desirable for the Board, as a general proposition, to move in the direction of separate fitness hearings. However, pending the receipt of further comments, from both advocates and opponents of the proposed separation, I would also reserve my position on this point.

RICHARD J. O'MELIA.

[FR Doc. 78-15197 Filed 6-1-78; 8:45 am]

[6320-01]

[Dockets 32486 and 32487]

KODIAK-WESTERN ALASKA AIRLINES ACQUISITION PROCEEDING

Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter, now assigned to be held on May 30, 1978, (43 FR 22430, May 25, 1978), is postponed indefinitely. This postponement has been granted at the request of counsel for the applicant carrier who has stated that the applications in Dockets 32486 and 32487 will be withdrawn.

Dated at Washington, D.C., May 26, 1978.

THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc. 78-15389 Filed 6-1-78; 8:45 am]

[6320-01]

[Order 78-5-157; Dockets 27918, 27918-1]

NORTH ATLANTIC FARES INVESTIGATION; PART CHARTER PHASE

Order Terminating the Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of May 1978.

We have decided to terminate this investigation. The Part-Charter Phase (Docket 27918-1) will, however, be continued.

The purpose of this investigation was to "establish reasonable standards and guidelines [for] evaluating both fare level and fare structure, on a recurrent basis, in the context of North Atlantic fare agreements that are reached in IATA Traffic Conferences and are filed with the Board for its approval."[1] The investigation was instituted shortly after the completion of the Domestic Passenger Fare Investigation (DPFI), Docket 21866, which established ratemaking standards and policies on an industry-wide basis for air transportation within the 48 States. Thus, the Board contemplated that the North Atlantic Fares Investigation would "mirror" the DPFI, insofar as it would consider the establishment of long-term ratemaking standards, with appropriate allowance for the Board's inability to prescribe international fares.[2]

In the years since this investigation was started, there have been profound changes in both the Board's fare policies and the international fare-setting mechanism. We have moved away from strict DPFI-style ratemaking and placed more reliance on carrier management to establish fares geared to the needs of the marketplace. Our underlying philosphy is that competition is a more efficient price regulator than government, and that excessively high prices can be inhibitied effectively by the presence of aggressive competitors or the threat of entry. Therefore, we have endeavored to increase the forces of competition in the airline industry by encouraging market entry, particularly where an applicant proposes to institute lower fares or improve service. The result in domestic markets has been a dramatic increase in price competition, with the introduction of innovative fares and services designed to reflect the operating characteristics and marketing philosophies of individual carriers. This trend has spread to the international area as well, where we have seen both new services, such as Laker's Skytrain, and new low fares, such as the APEX, standby, and budget, by both new and established scheduled airlines. Indeed, at the present time the filing of uniform fares in conformance with IATA Traffic Conference Agreements has been largely discontinued, and an open-rate situation prevails in the North Atlantic in which each carrier devises fares that it believes will be in its best interest. In evaluating a unilateral filing, the Board now chooses to rely on the carrier's judgment of its self-interest, without speculating about whether it would be profitable for all carriers in the market.

Thus, a strict DPFI-style set of ratemaking standards and policies on an industry-wide basis would be totally at odds with our current policy of encouraging competition. Although we still view with concern the high level of normal economy fares in the North Atlantic and possible cross-subsidizations of discount passengers by full-fare passengers, we are reluctant to dampen the initiative of carrier management by restricting fares to a predetermined structure based on the average of all carrier costs, or to restrict our ability to evaluate new fare filings on a case-by-case basis. While the information submitted in this docket by the carriers indicates specific problem areas that may require Board action, such as prorate dilution and stop-over provisions, these can be dealt with in rulemakings of limited scope. For these reasons, a comprehensive fare investigation is no longer necessary or desirable; we will therefore terminate the North Atlantic Fares Investigation.

We have decided to continue the Part-Charter Phase rulemaking, Docket 27918-1. This rulemaking is designed to explore the feasibility of various types of "fill-up" fares in scheduled service, including the so-called "part-charter" fares proposed by several carriers. Since the result may be greater freedom for the scheduled car-

[1] Order 76-10-12, dated Oct. 1, 1976, at 2.
[2] Order 75-6-42, dated June 9, 1975, at 2.

riers to offer low-fare services, it is clearly in line with current Board fare policies, and should be continued.

Accordingly, *It is ordered*, That:

1. The investigation in Docket 27918 is terminated.

2. The Part-Charter Phase, Docket 27918-1, will continue as a separate investigation.

3. Copies of this order will be served on the persons named in the service lists in Dockets 27918 and 27918-1.

This order will be published in the FEDERAL REGISTER.[3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15390 Filed 6-1-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

FLORIDA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Florida Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 1 p.m. on June 21, 1978, El Toro Room, Sheraton Motel, 224 E. Gordan Street, Pensacola, Fla. 32501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue NE., Atlanta, Ga. 30303.

The purpose of this meeting is to review proceedings of Regional SAC Conference, discuss role of SAC's in Commission organization, outline Commission Programming for fiscal years 1979 and 1980, plan SAC activity for balance of fiscal year 1978.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 30, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-15367 Filed 6-1-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

PARK SILK COMPANY, INC., BENNETT IMPORTING CO., AND GERALYN BLOUSE CO.

Petitions for Adjustment Assistance; Investigations

Petitions were accepted for filing from three firms: (1) Park Silk Co., Inc., 2 Park Avenue, New York, N.Y. 10012, producer of fabric (accepted May 15, 1978); (2) Bennett Importing Co., Inc., 19 Bennett Street, Lynn, Mass. 01905, a producer of novelty, sports, and casual shoes for women (accepted May 15, 1978); and (3) Geralyn Blouse Co., Inc., 536 Broadway, New York, N.Y. 10012, producer of women's blouses (accepted May 18, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-15323 Filed 6-1-78; 8:45 am]

[3510-25]

Industry and Trade Administration

ELECTRON MICROSCOPES

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00168. Applicant: Frederick Cancer Research Center, P.O. Box B, Frederick, Md. 21701. Article: Electron Microscope, Model EM 201C and Accessories. Manufacturer: Philips Electronics Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to investigate changes in cells related to the development of tumors following exposure to cancer inducing chemicals. The project is an integral part of a comprehensive study of the induction of human cancer by chemicals in the environment. The results of the electron microscopic studies will be correlated with parallel biochemical and biological experiments dealing with chemical transformation of chemicals in the tissue and of changes in the tissue cells which will be observed by light and electron microscopy. Article ordered: September 23, 1977.

Docket No. 78-00174. Applicant: University of Florida, Department of Anatomy, MG-42 M.S.B., Gainesville, Fla. 32610. Article: Electron Microscope, Model JEM 100S Including Water Recirculator and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for experiments involving the study of Cryptorchidism in mammals and the characterization of Sertoli cell functions using tracer elements. These experiments will be conducted in order to develop and improve upon current techniques for the production of new information regarding the characterization of Sertoli cell functions at the ultrastructural level. Article ordered: February 6, 1978.

Docket No. 78-00177. Applicant: University of Nebraska, Lincoln, 14th and R Streets, Lincoln, Nebr. 68588. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study micro-organisms, viruses, and nucleic acids, the interaction of plants and pathogens, and plant responses to disease and stress at the cellular level. Experiments will include serological, autoradiographic, and ultrastructural studies by electron microscopy to characterize viruses and antigens and determine their location in plant hosts and vectors and their probable site, sequence, and method of synthesis; determination of physiological and cytological changes in plants and vectors caused by viral, fungal, or bacterial pathogens and the relation of these changes to the general problem of the interaction of virus, fungus, bacterium, plant, and vector, study of translocation of pesticides and herbicides in plants; localization of heavy metal uptake by crop plants grown on soils into which municipal wastes were incorporated. The articles will also be used in teaching a course in electron microscope techniques to individual students in lieu of university language requirements. Article ordered: February 21, 1978.

[3] All members concurring.

Docket No. 78-00184. Applicant: The Ohio State University, College of Veterinary Medicine, 1900 Coffey Road, Columbus, Ohio 43210. Article: Electron Microscope, Model H-300 and Accessories. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used to confirm that sphincteric areas of the intracranial arteries in the dog are morphologically unlike those of the intestine and colon then the question of innervation becomes significant. Association of the sphincteric areas with the autonomic nervous system would suggest function as peripheral resistance vessels and help account for the greater blood supply available to the brain shock. The article will also be used for training of graduate students and as a research tool by students on Master of Science and Ph. D. program. In addition, the faculty will be using the article for the preparation of teaching materials for undergraduate professional veterinary programs. These materials will be used in all of teaching materials for undergraduate professional veterinary programs. These materials will be used in all of the "systems courses," covering histological and small surface structures of the respiratory, cardiovascular, digestive, reproductive, and musculoskeletal systems. Article ordered: January 11, 1978.

Docket No. 78-00195. Applicant: The University of Texas System Cancer Center, M.D. Anderson Hospital and Tumor Institute Science Park, Research Division, Buescher State Park, P.O. Box 418, Smithville, Tex. 78957. Article: Electron Microscope, Model EM 201 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be use for research directed toward identification of various environmental carcinogens and elucidation of their mode of action at both the molecular and cellular levels. The research projects will include the following:

(1) Cellular selection and its relationship to histopathological changes observed during carcinogenesis;

(2) metabolic alterations induced by chemical carcinogens;

(3) alterations in plasma membrane structure, dynamics and antigenic properties during carcinogenesis; and

(4) virus-chemical carcinogen interactions. Article ordered: December 20, 1977.

Docket No. 78-00197. Applicant: Medical College of Georgia, 1120 15th Street, Augusta, Ga. 30901. Article: Electron Microscope, Model EM400 HMG and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of biological materials derived from laboratory animals and/or humans. The experiments to be conducted will include the following:

(a) Examination and photographic recording of tissue sections, 500A to 4μm thick, from normal and experimentally altered laboratory animals;

(b) examination and photographic recording of normal and experimentally altered whole cells from tissue culture;

(c) examination of cells, organelles, inclusions and cell membranes from (a) and (b) above using eucentric goniometer to optimalize the orientation of these structure for photographic analyses; and

(d) examination and photographic recording of normal and pathological human tissue, including the use of goniometric analysis as detailed in (c) above.

All projects are directed at providing as detailed a correlation of structural relationships with regard to normal experimentally altered and/or pathological states as possible. The article will also be used for educational purposes in the courses: Anatomy 814. High Resolution Microscopy (the basic technique in electron microscopy) and Anatomy 322. Advanced High Resolution Microscopy (advance and specialized techniques of electron microscopy). Application received by Commissioner of Customs: April 6, 1978.

Docket No. 78-00199. Applicant: Stanford University, 851 Welch road, Palo Alto, Calif. 94304. Article: Electron Microscope, Model EM 201 with Plate Camera and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in conducting the following experiments:

(a) Studies of eggs and sperm in fertilization studies in sea urchins;

(b) particle distribution and size in plasma membranes in fruit flies (*Drosophila*) in reference to circadian rhythms;

(c) structure and development of male reproductive structures in selected species of algae; and

(d) structure of walls and internal components in algal cells and how these structures relate and effect functions of tissues. The article will also be used for independent research at the graduate and postdoctoral level as well as in a course in cellular biology for advance undergraduates. Article ordered: December 29, 1977.

Docket No. 78-00203. Applicant: Biomedical Laboratory, Aberdeen Proving Ground Edgewood Area, Aberdeen Proving Ground, Md. 21010. Article: Electron Microscope, Model JEM 100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study ultrastructural changes in animal tissues to detect changes caused by potentially toxic chemicals. Article ordered: December 20, 1977.

Docket No. 78-00204. Applicant: The Johns Hopkins University, Charles and 34th Streets, Baltimore, Md. 21218. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for localization of enzeme activities in bone and cartilage cells using electron microscopic histochemistry and investigations of the substructure of bone and cartilage cells, and noncellular matrix secreted and resorbed by these cells, including collagen fibers, proteoglycans and mineral crystals. The objectives of these studies include gaining insight into the control mechanisms of skeletal growth and development, and the identification and characterization of bone and cartilage lysosomal enzymes. Application received by Commissioner of Customs: April 6, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be use, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-15363 Filed 6-1-78; 8:45 am]

[3510-25]

NIH—BETHESDA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scien-

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00128. Applicant: National Institutes of Health, National Institute of Dental Research, 9000 Rockville Pike, Bethesda, Md. 20014. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of undermineralized tooth and bone, exocrine glands and tissue cultural cells. Investigations will include studies on the process of mineralization, exocrine gland structure and function, cytochemical studies on various cellular organelles, electron diffraction of mineralized tissues, and energy dispersive X-ray analysis of various tissues. The article will also be used in teaching basic electron microscopy and cytochemistry.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards in its memorandum dated May 16, 1978, that: (1) cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies, and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-15364 Filed 6-1-78; 8:45 am]

[3510-25]

BONA FIDE MOTOR-VEHICLE MANUFACTURERS

Names and Addresses

AGENCY: U.S. Department of Commerce, Industry and Trade Administration, Bureau of Domestic Business Development.

ACTION: List of Names and Addresses of Bona Fide Motor-Vehicle Manufacturers.

SUMMARY: In accordance with headnote 2 to Subpart B, Part 6, Schedule 6 of the Revised Tariff Schedules of the United States (19 U.S.C. 1202) and 15 CFR Part 315 the following is a list of the names and addresses of bona fide motor-vehicle manufacturers, as determined by the Deputy Assistant Secretary for Domestic Business Development Department of Commerce, and the effective date for each such determination. Each determination shall be effective for the 12-month period beginning on the determination date shown following the name and address of each manufacturer. From time to time this list will be revised, as may be appropriate, to reflect additions, deletions, or other necessary changes.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Meehan, Industry Specialist, Transportation and Capital, Equipment Division, Office of Producer Goods, 202-377-4816.

UNITED STATES BONA FIDE MOTOR VEHICLE MANUFACTURERS LIST MAY 1, 1978 WITH DATE OF CERTIFICATION

Adams International Truck Co., Inc., 116 Carroll St., P.O. Box 1556, Thomasville, Ga. 31792, January 18, 1978.

Adolph Truck Equipment, Inc., 1701 Fairfax Trfwy., Kansas City, Kans. 66115, January 1, 1978.

Allentown Brake & Wheel Service, Inc., R.D. 3, P.O. Bx 2088, Allentown, Pa. 18001, October 19, 1977.

Allied Truck Equipment, 4524 Clyde Park Ave., Grand Rapids, Mich. 45909, January 1, 1978.

American Equipment & Trailer, Inc., 610 North Grand, Drawer 4028, Amarillo, Tex. 79105, January 1, 1978.

AM General Corp., 32500 Van Born Rd., Wayne, Mich. 48184, April 1, 1978.

American La France, Division of A-T-O, Inc., 100 East La France St., Elmira, N.Y. 14902, July 8, 1977.

American Motors Corp., 27777 Franklin Rd., Southfield, Mich. 48034, January 1, 1978.

American Trailer, Inc., 1500 Exchange Ave., Oklahoma City, Okla. 73126, Januray 1, 1978.

American Trailer Service, Inc., 2814 North Cleveland Ave., St. Paul, Minn. 55113, January 18, 1978.

Amthor Welding Service, Inc., 307 State Route 52 East, Walden, N.Y. 12586, July 9, 1977.

Harold G. Anderson Equipment Corp., One Anderson Drive, Albany, N.Y. 12205, October 4, 1977.

Antietam Equipment Corp., P.O. Box 91, Hagerstown, Md. 21740, January 1, 1978.

ARC Welding & Fabricating Co., 71 Mill Street Victoria Mount, Johnston, R.I. 02919, July 1, 1977.

Arctic Enterprises, Inc., P.O. Box 635, Thief River Falls, Minn. 56701, August 1, 1977.

Arkansas Trailer Manufacturing, Inc., P.O. Box 4056, Asher Avenue Station, 32nd & Elm St., Little Rock, Ark. 72204, January 1, 1978.

Arrow Trailer & Equipment Co., 140 North Dirksen Parkway, Springfield, Ill. 62702, April 1, 1978.

Ateco Equipment, Inc., P.O. Box 8741, Pittsburgh, Pa., 15521, April 1, 1978.

ATTEX, Inc., 870 West Main St., East Palestine, Ohio 44413, August 1, 1977.

Automated Waste Equipment Co., Inc., 328 4th St., Trenton, N.J. 08638, September 1, 1977

Automotive Service Co., 111-113 North Waterloo, Jackson, Mich. 49204, January 18, 1978.

Avanti Motor Corp., 765 South Lafayette Blvd., P.O. Box 1916, South Bend, Ind. 46634, January 10, 1978.

B.E.C. Truck Equipment, Inc., 3209 Vestal Parkway East, Vestal, N.Y. 13850, March 6, 1978.

Bethelhem Fabricators, Inc., 1700 Riverside Dr., P.O. Box 70, Bethlehem, Pa. 18016, January 20, 1978.

Allan U. Bevier, Inc., 1201 Ridgely St., Baltimore, Md. 21230, April 1, 1978.

Blue Bird Body Co., P.O. Box 937, Fort Valley, Ga. 31030, January 18, 1978.

Bock Products, Inc., 1901 West Hively Ave., Elkhart, Ind. 46514, January 1, 1978.

Boone Heavy Duty Trailer, Inc., Route 20 East, Palmer, Mass. 01069, January 1, 1978.

Borbein Young & Co., 234 North Sherman St., Springfield, Mo. 65806, January 1, 1978.

Boyertown Auto Body Works, Inc., Boyertown, Pa. 19512, September 1, 1977.

Brake & Equipment Co., Inc., 1801 North Mayfair Rd., Milwaukee, Wis. 53226, January 1, 1978.

Brake Service & Parts, Inc., 170 Washington St., Bangor, Maine 04401, January 18, 1978.

Bristol-Donald Co., Inc., Bristol-Donald Manufacturing Corp., 50 Roanoke Ave., Newark, N.J. 07105, January 1, 1978.

Broadway-St. Louis, Inc., 104 Elam Dr., Valley Park, Mo. 63088, December 15, 1977.

Bus Andrews Equipment, Sales & Service, Inc., 2828 East Kearney St., Springfield, Mo. 65803, January 1, 1978.

Bush Hog Loadcraft, P.O. Box 431, Brady, Tex. 76825, January 1, 1978.

Caelter Industries, Inc., Purdy Ave., Watertown, N.Y. 13601, April 1, 1978.

The Carnegie Body Co., 9500 Brookpark Rd., Cleveland, Ohio 44129, January 1, 1978.

Champion Carriers, Inc., 2321 E. Pioneer Dr., Irving, Tex. 75061, October 20, 1977.

Champion Home Builders Co., 5573 East North St., Dryden, Mich. 48428, August 1, 1977.
Checker Motors Corp., 2016 North Pitcher St., Kalamazoo, Mich. 49007, January 1, 1978.
Cherry Valley Tank Division, Inc., 75 Cantiague Rd., Westbury, N.Y. 11590, April 1, 1978.
Chrysler Corp., CIMS 416-16-06, Chrysler Center, 12000 Oakland Ave., Highland Park, Mich. 48288, January 18, 1978.
B.M. Clark Co., Inc., Route 17, P.O. Box 185, Union, Maine 04862, January 14, 1978.
D.W. Clark Road Equipment, Inc., 448 East Brighton Ave., Syracuse, N.Y. 13205, May 1, 1978.
Clark Truck Equipment Co., 6821 Academy Parkway West, NE., Albuquerque, N. Mex. 87103, January 1, 1978.
Fred Clemett & Co., Inc., 2020 Lemoyne St., Syracuse, N.Y. 13211, July 1, 1977.
Collins Industries, Inc., P.O. Box 58, Hutchinson, Kans. 67501, Dec. 1, 1977.
Comet Corp., N. 3808 Sullivan Rd., Spokane, Wash. 99216, January 18, 1978.
Commercial Truck & Trailer, Inc., 313 North State St., Girad, Ohio 44420, January 1, 1978.
Cook Body Co., 3701 Harlee Ave., Charlotte, N.C. 28208, October 22, 1977.
Correct Manufacturing Corp., London Road Extension, Delaware, Ohio 43015, July 1, 1977.
Cortez Enterprises, Inc., 777 Stow St., Kent, Ohio 44240, February 1, 1978.
Crane Carrier Co., 1925 North Sheridan, Tulsa, Okla. 74151, September 19, 1977.
Crenshaw Corp., 1700 Commerce Rd., Richmond, Virginia 23224, July 1, 1977.
Cross Truck Equipment Co., Inc., 1801 Perry Drive SW., Canton, Ohio 44706, August 23, 1977.
Crown Coach Corp., 2428 East 12th St., Los Angeles, Calif. 90021, March 20, 1978.

Daleiden Auto Body & Manufacturing Corp., 425 East Vine St., Kalamazoo, Mich. 49001, January 12, 1978.
Darby Equipment Co., Inc., P.O. Box 5698, Longview, Tex. 76501, January 1, 1978.
Dealers Truck Equipment Co., Inc., 2460 Midway St., P.O. Box 31435, Shreveport, La. 71130, January 1, 1978.
Dealers Truckstell Sales, Inc., 653 Beale St., P.O. Box 502, Memphis, Tenn. 38101, January 1, 1978.
Decker Tank Co., Division of Chet Decker Auto Sales, 300 Lincoln Ave., Hawthorne, N.J. 07506, November 3, 1977.
John Deere Horicon Works of Deere & Co., 220 East Lake St., Horicon, Wis. 53032, June 1, 1977.
Delevan Industries, 1560 Harlem Rd., Buffalo, N.Y. 14206, January 1, 1978.
Downs Clark, P.O. Drawer 1376, Brownwood, Tex. 76801, January 19, 1978.
Dufrane Motors Distributors, Inc., 417 East Main St., Malone, N.Y. 12953, January 1, 1978.
Dunham Manufacturing Co., Inc., P.O. Box 430, Minden, La. 71055, January 1, 1978.
Dutec, Inc., 60 Lumber St., Hopkington, Mass. 01748, January 15, 1978.

Eastern Tank Corp. 290 Pennsylvania Ave., Paterson, N.J. 07503, January 1, 1978.
Eight Point Trailer Corp., 6100 East Washington Blvd., Los Angeles, Calif. 90040, January 18, 1978.
Equipment Industries, 100 Pavonia Ave., Jersey City, N.J. 07032, January 1, 1978.
Equipment Service, Inc., 40 Airport Rd., Hartford, Conn. 06114, April 1, 1978.
E. D. Etnyre & Co., 200 Jefferson St., Oregon, Ill. 61061, October 1, 1977.
E. & R. Trailer Sales, Inc., RFD No. 1, Middle Point, Ohio 45863, January 1, 1978.
Euclid Inc., 2221 St. Clair Ave., Cleveland, Ohio 44117, August 1, 1977.
Ewell Equipment Co., 307 North Timberland Dr., Lufkin, Tex. 75901, February 1, 1978.
Excalibur Automobile Corp., 1735 South 106th St., Milwaukee, Wis. 53214, May 22, 1977.

Fasino's Power Brake Inc., 291 Jay St. Rochester, N.Y. 14608, January 1, 1978.
Fifth Wheel, Inc., Box 15706, Tulsa, Okla. 74115, January 1, 1978.
Fleet Equipment Co., 10605 Harry Hines, P.O. Box 20578, Dallas, Tex. 75220, January 1, 1978.
Ford Motor Co., The American Rd., Dearborn, Mich. 48121, January 18, 1978.
F & P Truck & Trailer Equipment Division, 254-266 Central Ave., Newark, N.J. 07103, October 12, 1977.
Freightliner Corp. 4747 North Channel Ave., Portland, Oreg. 97217, December 14, 1977.
French Tool & Supply Co., 915 East Second St., P.O. Box 2752, Odessa, Tex. 79760, January 1, 1978.
Fruehauf Corp., 10900 Harper Ave., Detroit, Mich. 48213, December 1, 1977.
FWD Corp., 105 East 12th St., Clintonville, Wis. 54929, January 1, 1978.

Peter Garafano & Son, Inc., 264 Wabash Ave., Paterson, N.J. 07503, June 4, 1977.
Garnon Truck Equipment Co., 1617 Peninsula Dr., Erie, Pa. 16505, January 1, 1978.
General Motors Corp., 3044 West Grand Blvd., Detroit, Mich. 48202, January 19, 1978.
General Trailer Co., Inc., 546 West Wilkins St., Indianapolis, Ind. 46225, January 27, 1978.
General Truck Equipment & Trailer Sales, 5310 Broadway Ave., Jacksonville, Fla. 32205, January 1, 1978.
Gillig Bros., 25800 Clawitter Rd., Hayward, Calif. 94545, January 1, 1978.
Gilson Bros., P.O. Box 152, Plymouth, Wis. 53073, September 26, 1977.
Gooch Brake & Equipment Co., 506 Grand Ave., Kansas City, Mo. 64106, January 6, 1978.
Granning Service Corp., 2471 Wyoming Ave., Dearborn, Mich. 48121, January 1, 1978.
The Greyhound Corp., Greyhound Tower, Phoenix, Ariz. 85077, d.b.a. Motor Coach Industries, Inc., Pembina, N. Dak. 58271, and Transportation Manufacturing Corp., Roswell, N. Mex. 88201, August 1, 1977.
Grumman Flxible Corp., 970 Pittsburgh Dr., Delaware, Ohio 43015, January 1, 1978.

Hackney & Sons, 400 Hackney Ave., Washington, N.C. 27889, January 1, 1978.
Hallenberger, Inc., 5716 Boonville Highway, P.O. Box 5085, Evansville, Ind. 47715, January 1, 1978.
Harley-Davidson Motor Co., Inc., 3700 West Juneau Ave., Milwaukee, Wis. 53201, April 1, 1978.
Harris Truck & Trailer Sales Inc., 2145 Independence, Cape Girardeau, Mo. 63701, January 1, 1978.
Harvel Truck Equipment, Inc., 1000 East 8th St., Los Angeles, Calif. 90021, January 1, 1978.
Heil Equipment Co. of Philadelphia Inc., 1223 Ridge Pike, Conshohocken, Pa. 19428, January 1, 1978.
Hendrickson Manufacturing Co., 8001 West 47th St., Lyons, Ill. 60534, January 1, 1978.
Herter's, Inc., Route 1, Waseca, Minn. 56093, May 16, 1977.
The Hess & Eisenhardt Co., 8959 Blue Ash Rd., Cincinnati, Ohio 45242, January 9, 1978.
Hews Body Co., 190 Rumery St., South Portland, Maine 04106, January 18, 1978.
Hobbs Equipment Co., Inc., Keeler Ave., P.O. Box 59, Norwalk, Conn. 06954, August 9, 1977.
O. G. Hughes & Sons, Inc., 4816 Rutledge Pike, P.O. Box 6277, Knoxville, Tenn. 37914, January 1, 1978.
Hunting Brakes Service, Inc., 448 East Jericho Turnpike, Huntington, N.Y. 11746, January 1, 1978.
Hustler Corp., 3029 Distribution Dr., Jonesboro, Ark. 72401, November 1, 1977.

Illinois Auto Central, Inc., 4750 South Central Ave., Chicago, Ill. 60638, January 1, 1978.
Indiana Truck & Trailer, 2017 Highway 41 North, Evansville, Ind. 47727, January 1, 1978.
International Body Co., Inc., 545 Duke Rd., Buffalo, N.Y. 14225, January 1, 1978.
International Harvester Co., 401 North Michigan Ave., Chicago, Ill. 60611, January 18, 1977.
Iroquois Manufacturing Co., Inc., Richmond Rd., Hinesburg, Vt. 05461, July 1, 1977.

Jeep Corp., 27777 Franklin Rd., Southfield, Mich. 48034, January 1, 1978.

Kaffenbarger Welding Co., 10100 Ballentine Pike, New Carlisle, Ohio 45344, January 1, 1978.
Kawasaki Motors Corp., 2009 E. Edinger Ave., Santa Ana, Calif. 92711, January 1, 1978.
Kencar Equipment Co., 1906 Lakeview Ave., Dayton, Ohio 45408, January 19, 1978.

L. W. Ledwell & Son, Inc., 3300 Waco St., Texarkana, Tex. 75501, January 1, 1978.
Leland Equipment Co., 7777 East 42d Place South, P.O. Box 45128, Tulsa, Okla. 74145, January 18, 1978.
Loadking, Elk Point, S. Dak. 57025, January 1, 1978.
Long Trailer Service, Inc., P.O. Box 5105, Greenville, S.C. 29606, January 1, 1978.

Mack Trucks, Inc., P.O. Box M, Allentown, Pa. 18105, January 1, 1978.
Maday Body & Equipment Corp., 575 Howard St., Buffalo, N.Y. 14206, January 1, 1978.
Madison Truck Equipment, Inc., 2410 S. Stoughton Rd., Madison, Wis. 53716, October 22, 1977.
Manning Equipment, Inc., 12000 Westport Rd., P.O. Box 23229, Louisville, Ky. 40223, April 16, 1978.
Marmon Motor Co., P.O. Box 5175, Dallas, Tex. 75222, January 1, 1978.
Maxon Industries, Inc., 1960 East Slauson Ave., Huntington Park, Calif. 90255, August 16, 1977.
Mickey Truck Bodies, Inc., P.O. Box 2044, High Point, N.C. 27261, June 30, 1977.
Middlehauff, Inc., 1615 Ketcham Ave., Toledo, Ohio 43608, January 18, 1978.
Mid West Truck Equipment Sales Corp., 4041 North Brush College Rd., R.R. 7 Box 463F, Decatur, Ill. 62521, February 22, 1978.
Moline Body Co., 222 52d St., Moline, Ill. 61265, January 6, 1978.
Monon Trail, a Division of Evans Transportation Co., P.O. Box 655, Monon, Ind. 47959, April 8, 1978.
Moore & Sons, Inc., P.O. Box 30091, Memphis, Tenn. 38130, January 1, 1978.

Motor Truck Equipment Corp., 2950 Irving Blvd., P.O. Box 47385, Dallas, Tex. 75247, January 1, 1978.
Mount Vernon Truck & Body Co., 2222 South 10th St., Mount Vernon, Ill. 68264, January 1, 1978.
Mutual Wheel Co., 2345 4th Ave., Moline, Ill. 61265, February 20, 1978.

Nabors Trailers, Inc., P.O. Box 979, Mansfield, La. 71052, January 1, 1978.
Neil's Automotive Service, Inc., 167 East Kalamazoo Ave., Kalamazoo, Mich. 49007, January 1, 1978.
Nelson Manufacturing Co., Route 1, Box 90, Ottawa, Ohio 45875, January 1, 1978.
Ness Co., The, P.O. Box 365, York, Pa. 17405, January 1, 1978.
New Method Equipment Co., 707 27th Avenue SW., P.O. Box 4638, Cedar Rapids, Iowa 52407, January 1, 1978.
Newark Truck Parts, Inc., 560 Market St., Newark, N.J. 07105, January 1, 1978.
Novi Manufacturing Co., P.O. Box 324, 25701 Seeley Rd., Novi, Mich. 48050, November 1, 1977.

Ohio Body Manufacturing Co., North Main St., New London, Ohio 44851, January 1, 1978.
Ohio Truck Equipment, Inc., 4100 Rev Dr., Cincinnati, Ohio 45232, January 1, 1978.
Olson Bodies, Inc., 600 Old Country Rd., Garden City, N.Y. 11530, November 1, 1977.
Olson Trailer & Body Builders Co., 2740 South Ashland Ave., P.O. Box 2445, Green Bay, Wis. 54306, January 18, 1978.
Oshkosh Truck Corp., 2307 Oregon St., Oshkosh, Wis. 54901, January 18, 1978.
Ottawa Truck Division, Gulf & Western Manufacturing Co., 415 East Dundee St., Ottawa, Kans. 66067, January 1, 1978.
Outboard Marine Corp., 100 Sea Horse Dr., Waukegan, Ill. 60085, January 18, 1978.

PACCAR, Inc., d.b.a. Kenworth Truck Co., Peterbilt Motors Co., P.O. Box 1518, Bellevue, Wash. 98009, January 18, 1978.
Palmer Spring Co., 355 Forest Ave., Portland, Maine 04101, January 18, 1978.
Palmer Trailer Sales Co., Inc., 162 Park St., Palmer, Mass. 01069, January 18, 1978.
Peabody Galion Corp., 500 Sherman St., Galion, Ohio 44833, November 1, 1977.
Peerless Division, Royal Industries, Inc., 18205 Southwest Boones Ferry Rd., Tualatin, Oreg. 97062, January 8, 1978.
Perfection Equipment Co., 5100 West Reno, Box 75540, Oklahoma City, Okla. 73107, January 12, 1978.
Petroleum Equipment & Supply Co., Inc., 321 Forbes Ave., New Haven, Conn. 06512, September 28, 1977.
Pezzani & Reid Equipment Co., 3960 West Fort St., Detroit, Mich. 48216, January 1, 1978.
Pheonix Manufacturing, Inc., 375 West Union St., Nanticoke, Pa. 18634, February 20, 1978.
Polaris E-Z-Go Division of Textron, Inc., 1225 North Country Rd. 18, Minneapolis, Minn. 55427, August 2, 1977.
C. E. Pollard Co., 13575 Auburn Ave., Detroit, Mich. 48223, July 27, 1977.
Power Brake Service & Equipment Co., 1022 Carnegie Ave., Cleveland, Ohio 44115, January 1, 1978.
Progress Industries, Inc., 400 East Progress St., Arthur, Ill. 61911, October 1, 1977.

Quality Truck Equipment Co., Route 66 Bypass and Mercer Ave., P.O. Box 102, Bloomington, Ill. 61701, November 15, 1977.

Recreatives Industries, Inc., 60 Depot St., Buffalo, N.Y. 14206, July 13, 1977.
Reliable Spring Co., Inc., 10557 South Michigan Ave., Chicago, Ill. 60628, January 20, 1978.
Roanoke Welding Co., P.O. Box 4373, Roanoke, Va. 24015, January 1, 1978.
Rowland Truck Equipment, Inc., 2900 Northwest 73d St., Miami, Fla. 33147, November 19, 1977.
R/S Truck Body Co., Inc., P.O. Box 420, Allen, Ky. 41601, January 1, 1978.
Ryder Truck Rental, P.O. Box 5, Red Hill, Pa. 18076, January 1, 1978.
Ryder Truck Rental, 2770 Bluff Rd., Indianapolis, Ind. 46225, January 1, 1978.

Sanitary Equipment Co., Inc., P.O. Box 836, Orange, Conn. 96477, March 17, 1978.
Schien Body & Equipment Co., Inc., North on University, Carlinville, Ill. 62626, January 18, 1978.
Scientific Brake & Equipment Co., 314 West Genesee Ave., Saginaw, Mich. 48602, January 19, 1978.
Scorpion, Inc., Box 300, Crosby, Minn. 56441, April 29, 1978.
Sebring-Vanguard, Inc., Sebring Air Terminal, P.O. Box 1479, Sebring, Fla. 33870, July 1, 1977.
Sharpsville Steel Equipment Co., 6th and Main Sts., Sharpsville, Pa. 16150, January 2, 1978.
Smith-Moore Body Co., Inc., P.O. Box 27287, Richmond, Va. 23261, January 18, 1978.
Somerset Welding & Steel, Inc., P.O. Box 628, Somerset, Pa. 15501, January 1, 1978.
South Florida Engineers, Inc., 5911 East Buffalo Ave., P.O. Box 11927, Tampa, Fla. 33680, July 2, 1977.
Southwest Truck Body Co., 200 Sidney St., St. Louis, Mo. 63104, February 11, 1978.
Spring Valley Dodge, Inc., 19 South Main St., Spring Valley, N.Y. 10977, April 1, 1978.
Steffen, Inc., 623 West Seventh St., Sioux City, Iowa 51103, November 4, 1977.
Superior Lima Division, Sheller-Globe Corp., 1200 East Kibby St., Lima, Ohio 45802, March 20, 1978.
George Swanson & Son, Inc., 5400 Marshall, Arvade, Colo. 80002, November 1, 1977.

Thoikol Corp., Logan Division, 2503 North Main St., Logan, Utah 84321, January 15, 1978.
Thomas Built Buses, Inc., 408 Courtesy Rd., High Point, N.C. 27161, August 1, 1977.
impte, 075 East 74th Ave., Commerce City, Colo. 80022, January 1, 1978.
Traffic Transport Engineering, Inc., 8900 Goddard Rd., Romulus, Mich. 48174, January 1, 1978.
Transport Equipment Co., 400, Sixth Ave., South, P.O. Box 3817, Seattle, Wash. 98124, January 18, 1978.
Truck Equipment Co., Inc., 911 Southwest Washington St., Peoria, ILL. 61601, January 18, 1978.
Truck Equipment, Inc., 80 Potts Ave., Green Bay, Wis. 54303, January 18, 1978.
Truck Equipment Co., 900 Wheeler, P.O. Box 837, Fort Smith, Ark. 72901, January 1, 1978.
Truck Equipment, Inc., 560 Northeast 44th Ave., P.O. Box 3265, Des Moines, Iowa 50316, January 1, 1978.
Truck Equipment Service Co., 00 Oak St., Lincoln, Nebr. 68521, January 1, 1978.
The Truck Engineering Co., 200 East Pontiac St., Fort Wayne, Ind. 46803, January 1, 1978.
Truck Parts & Equipment, Inc., 4501 West Esthner, Wichita, Kans. 67209, November 11, 1977.
Turtle Top Corp., 118 West Lafayette St., Goshen, Ind. 46526, October 14, 1977.
Union City Body Co., Inc., 1015 West Pearl St., Union City, Ind. 47390, August 15, 1977.
Unit Rig & Equipment Co., P.O. Box 3107, Tulsa, Okla. 74101, January 1, 1978.

Varniman International, Inc., 30 Central Ave., Farmingdale, N.Y. 11735, January 1, 1978.
Vernon Blvd. Truck Equipment, Inc., 32-03 Vernon Blvd., Long Island City, N.Y. 11106, June 1, 1977.
Volkswagen Manufacturing Corp of America, 7111 East Eleven Mile Rd., Warren, Mich. 48090, October 11, 1977.
Vulcan Trailer Manufacturing Co., 1321, Third St., Ensley, Birmingham, Ala. 35214, December 1, 1977.

Walter Motor Truck Co., School Rd., Voorheesville, N.Y. 12186, April 29, 1978.
Ward School Bus Manufacturing, Inc., Highway 65, South, Conway, Ark. 72032, April 19, 1978.
Wayne Corp., an Indian Head Co., P.O. Box 1447, Industries Rd., Richmond, Ind. 47374, Octover 31, 1977.
Wayne Engineering Corp., P.O. Box 648, Cedar Falls, Iowa 50613, January 1, 1978.
Westinghouse Air Brake Co., Construction & Mining Equipment Group, 2300 Northeast Adams St., Peoria, Ill. 61639, February 1, 1978.
Weston Equipment Co., Inc., 130 Railroad Hill St., Waterbury, Conn. 06708, January 3, 1978.
Wheels & Brakes Inc., 1270 Memorial Dr. SE., Atlanta, Ga. 30316, January 1, 1978.
Wheel & Rim Sales Co., 435 West State St., Columbus, Ohio 43215, January 1, 1978.
White Motor Corp., 35129 Curtis Blvd., Eastlake, Ohio 44094, January 18, 1978.
White Trucks & Equipment Sales, Inc., 2401 Dinneen Ave., Orlando, Fla. 32804, December 1, 1977.
Winnebago Industries, Inc., Jct. Highway 9 and 69, Forest City, Iowa 50436, March 19, 1978.
Wollard Aircraft Equipment, Inc., 6950 Northwest 77th Ct., Miami, Fla. 33166, December 1, 1977.
Wyman's Inc., Box 541, Montpelier, Vt. 05602, July 1, 1977.

ROBERT E. SHEPHARD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-15396 Filed 6-1-78; 8:45 am]

[3510-25]

FREDERICK CANCER RESEARCH CENTER, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific

value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before June 22, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00228. Applicant: Frederick Cancer Research Center, P.O. Box B, Frederick, Md. 21701. Article: MM/ZABIB Ultra-High Resolution Electron Impact Ionization Mass Spectrometer with Reversed Geometry and Accessories. Manufacturer: VG Micromass, United Kingdom. Intended use of article: The article is intended to be used for precise mass spectrometric analysis of a wide range of substances obtained or produced by the very varied interdisciplinary carcinogenesis research programs. These will include: (1) high molecular weight potential antitumor compounds related to various antibiotics; (2) products formed by the interaction of carcinogenic polycyclic aromatic hydrocarbons (and/or metabolic derivatives) with components of DNA and RNA; (3) metabolities of bile acids, sterols, and aromatic amines which may affect tumor development; (4) metabolites and hydroxy derivatives of the carcinogen 7,12-dimethylbenz(a)anthracene; (5) polar antitumor drugs and metabolites; (5a) hormones and small peptides which may serve as tumor markers; (6) synthetic compounds (polycyclic aromatics, steroids, nitrosamines, etc.) prepared for use as research tools; (7) metabolites of nitrosamines; (8) alkylated purines and pyrimidines resulting from reactions with carcinogenic nitrosamines, triazenes, tetrazenes, etc.; (9) components of complex mixtures resulting from chemical studies on nitrosamine precursors. Application received by Commissioner of Customs: May 10, 1978.

Docket No. 78-00229. Applicant: Baylor College of Medicine, 1200 Moursund Avenue, Houston, Tex. 77030. Article: Goniometer Tilt Stage for Electron Microscope. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of article: The article is an accessory to an existing electron microscope which will be used in studies of the myofibril protein lattice in striated muscle called the *z band* and *microtubule* networks in *striated muscle*. The objectives of these studies are to build and test three dimensional models of these structures based on electron micrographs at various tilt angles in various orientations and based on optical diffraction data from the electron micrographs. Application received by Commissioner of Customs: May 15, 1978.

Docket No. 78-00232. Applicant: The University of Chicago, 5801 S. Ellis Ave., Chicago, Ill. 60637. Article: 12kW RU-200H High Brilliance Rotating Anode X-Ray Generator with Accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used in studies of the x-ray properties of molecular-sieve zeolits and amorphous semiconductors in an attempt to understand the chemical forces between the atom. Application received by Commissioner of Customs: May 15, 1978.

Docket No. 78-00233. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, Calif. 94550. Article: Two (2) 4 GHz Oscilloscope, Model TSN 660. Manufacturer: Thomson-CSF, France. Intended use of article: The articles are intended to be used to precisely time the occurrence of x-rays at various energies with relation to the incident laser beam. The articles will be used with the "Dante" experiment which consists of several windowless x-ray detectors with appropriate filtering such that different energy levels of x-ray spectrum are observed. Application received by Commissioner of Customs: May 11, 1978.

Docket No. 78-00234. Applicant: University of Kansas Medical Center, 39th and Rainbow Boulevard, Kansas City, Kans. 66103. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for conducting the following research: (a) High resolution studies of mineralization of matrix vesicles derived from cartilage and bone cells to determine the crystalline nature of mineral formed and how the biological membranes of the matrix vesicles change during mineralization; (b) freeze-fracture EM studies of unfixed epiphyseal growth plate during growth and mineralization; (c) nature of intracellular junctions in renal tubular epithelial cells in normal and diseased humans; (d) abnormal mineralization of bone in patients with chronic renal disease who are on prolonged dialysis; and (e) ultrastructure of human tumor cells of various types taken at surgery to confirm or establish a new diagnosis not determined by conventional light microscopy. In addition, the article will be used to train resident doctors in Pathology to use electron microscopy in their future diagnostic work and graduate students in Pathology for pathological research. Application received by Commissioner of Customs: May 15, 1978.

Docket No. 78-00235. Applicant: National Eye Institute, DHEW, NIH, Building 10, Bethesda, Md. 20014. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section human and animal tissues which will be used in investigations to further basic knowledge on cell and tissue ultrastructure and to reveal, at the ultrastructural level, the enzyme localization and distribution in cells and tissues developing under normal and pathological conditions. Application received by Commissioner of Customs: May 15, 1978.

Docket No. 78-00237. Applicant: Indiana University-Purdue University at Indianapolis (IUPUI)—Biology Department, 1201 East 38th Street, Indianapolis, Ind. 46205. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of various biological materials including multicellular and unicellular plants and animals, as well as subcellular preparations. These studies will be conducted to elucidate ultrastructural development sequences with respect to the distribution of cellular organelles and membrane systems and their respective enzymes systems. In some cases, investigations will attempt to further understand cell function or to elucidate host-parasite relationships under different experimental conditions. In addition, the article will be used in a course entitled Electron Microscopy which is designed to teach basic preparative techniques for electron microscopy (including histochemical techniques), the principles and use of the electron microscope, and the interpretation of ultrastructure. Students in a plant anatomy course will use the article for the required project. Application received by Commissioner of Customs: May 15, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-15365 Filed 6-1-78; 8:45 am]

[3510-25]

MOUNT SINAI SCHOOL OF MEDICINE, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to

section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before June 22, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00230. Applicant: Mount Sinai School of Medicine, 5th Avenue and 100th Street, New York, N.Y. 10029. Article: 1 Hemofiltration Unit BF 910 and Accessories. Manufacturer: Bellco-Germany GmbH, West Germany. Intended use of article: The article is intended to be used in studies which involve the comparative clinical trial of a new form of artificial kidney treatment. This treatment consists in principle in the separation of an ultrafiltrate for blood of uremic patients and replacement by a physiological solution. Application received by Commissioner of Customs: May 17, 1978.

Docket No. 78-00231. Applicant: The Johns Hopkins University, 34th and Charles Street, Baltimore, Md. 21218. Article: Gammacell 40 Small Animal Irradiator and accessories. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used in research directed along the lines of studying adoptive immunotherapy of cancer (hematopoietic and lymphoid grafts), and in a program of hematopoietic cell support for bone marrow transplant patients. Experiments to be conducted will include preparation of a large number of rats and mice with lethal whole body irradiation in order to study repopulation of hematopoietic cells (spleen colony forming units) and the effect of drugs on these cells, adoptive transfer of immune systems (transplantation of antigens and spleen cells to lethally irradiated mice), induction of graft versus host disease, and study of its sequellae on mice, rats, hamsters and rabbits (lethal irradiation followed by allogenic hematopoietic and lymphoid cells). The article will also be used to kill lymphoid cells and tumor cells used in tumor immunology and antigen matching studies, such as the mixed lymphocyte cultures and 51 Chromium release studies. Other studies include the irradiation of blood products for totally immunosuppressed patients. Application received by Commissioner of Customs: May 17, 1978.

Docket No. 78-00239. Applicant: Northwestern University, 2299 Sheridan Road, Evanston, Ill. 60201. Article: Tycoon Micro-Electrode Puller, Model EH-12 20V with auto timer and volt slider. Manufacturer: Takahashi Seiki Kogyo Co., Ltd., Japan. Intended use of article: The article is intended to be used to produce very long shanked, slender electrodes with extremely fine tip diameter (less than 0.1μm). Intracellular potentials are recorded from the hair cells of the mammalian cochlea during research to gain understanding of the functional properties of the receptor cells of the ear. Application received by Commissioner of Customs: May 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-15366 Filed 6-1-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-609]

COVE VENTURES INC., COVE TANKERS CORP. AND COVE TRADING INC.

Application

Notice is hereby given that by letter of May 4, 1978, attorneys representing Cove Tankers Corp., filed an application requesting written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, for Cove Ventures Inc., an affiliate of Cove Tankers Corp., to own the SS *Cove Leader* (ex-*Vantage Defender*) for operation in the domestic trade, and for another affiliate, Cove Shipping Inc., to operate the *Cove Leader* in the domestic trade, as well as the right to move the vessel from one domestic trade to another, and/or from a foreign trade to a domestic trade. The *Cove Leader* is a 71,054 d.w.t. tanker built in 1959.

Cove Ventures Inc. is an applicant for an operating-differential subsidy contract for bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics. If this application is granted, it will be necessary to extend to Cove Ventures Inc. as an affiliated company, the same written permission as has heretofore been granted Cove Tankers Corp. and Cove Trading Inc. both of which have heretofore been awarded operating-differential subsidy contracts. Those written permissions are as follows:

1. For Cove Shipping Inc. to operate the USNS's *Susquehanna, Neches, Columbia,* and *Hudson* in Domestic service under MSC or private charters.

2. For Cove Tankers Corp.'s owned vessel, *Mount Explorer,* and its bareboat chartered vessels, *Mount Navigator* and *Cove Communicator,* to engage in the domestic service under MSC or private charter, and for Cove Shipping Inc. to operate these same vessels in the domestic trade.

3. For Cove Trading Inc. to own the *Cove Trader* for worldwide operation (including domestic operation), and Cove Shipping Inc. to operate the *Cove Trader* and *Stuyvesant* in the carriage of Alaskan oil in the domestic trade.

4. The right to move the foregoing vessels from one domestic trade to another, and/or from a foreign trade to a domestic trade.

It will also be necessary to extend to Cove Trading Inc. and to Cove Tankers Corp. the written permission requested for Cove Ventures Inc. to own, and for Cove Shipping Inc. to operate the *Cove Leader* in the domestic trade, as well as the right to move the vessel from one domestic trade to another, and/or from a foreign trade to a domestic trade.

Additionally, written permission has been requested on behalf of Cove Ventures Inc., Cove Trading Inc., and Cove Tankers Corp. for Cove Tanker Associates to own the *Mount Navigator* and for Cove Communicator Associates to own the *Cove Communicator.*

Cove Ventures Inc. and Cove Trading Inc. are subsidiaries of Cove Steamship Inc., which is owned 100 percent by Cove Maritime Cos., Inc. Lawrence Shipping Corp. is also owned 100 percent by Cove Maritime Co., Inc. Lawrence Shipping Corp. owns 100 percent of the outstanding stock of both Cove Tankers Corp., and Cove Shipping Inc. One officer and director of Cove Ventures Inc. owns a pecuniary interest in Cove Tankers Associates. Two officers and directors of Cove Ventures Inc. own a pecuniary interest in Cove Communicator Associates.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on June 8, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time

or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

Dated: May 30, 1978.

By order of the Assistant Secretary for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-15332 Filed 6-1-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

MARINE TURTLE PROGRAM; SOUTHEAST REGION

Meeting

Notice is hereby given of a public meeting to obtain views on a program for the conservation of marine turtles. The meeting will be co-hosted by the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service (FWS). The agencies are currently investigating methods of enhancing population of marine turtles. During the meeting, items related to the marine turtle program will be discussed. The meeting will be held on Monday and Tuesday, June 26 amd 27, 1978, in the Tampa Room of the Barclay Airport Inn, 5303 West Kennedy Boulevard, Tampa, Fla. 33609. The meeting will convene at 9 a.m. and adjourn at approximately 5 p.m. each day.

PROPOSED AGENDA

1. Review of the NMFS-FWS Marine Turtle Program.
2. Future requirements.
3. Priority considerations.

The meeting is open to the public and there will be seating for a limited number of the public on a first come first served basis. For further information concerning this meeting, interested persons should contact: Regional Director, NMFS, 9450 Koger Boulevard, St. Petersburg, Fla. 33702, telephone 813-893-3141.

Dated: May 26, 1978.

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

[FR Doc. 78-15319 Filed 6-1-78; 8:45 am]

[3510-22]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Change in Location of Meeting

Notice of a meeting of the New England Fishery Management Council on June 7-8, 1978, was published in the FEDERAL REGISTER on May 23, 1978, Vol. 43, No. 100, p. 22004. The location of this meeting has unavoidably been changed from the Downtown Holiday Inn to the Portland Civic Center. However, the agenda and meeting times remain the same.

Dated: May 30, 1978.

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

[FR Doc. 78-15349 Filed 6-1-78; 8:45 am]

[3510-22]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND 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; and (2) separate meetings of the SSC and AP.

The SSC and AP will meet separately on June 21, 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 Aleutian Room of the Anchorage/Westward/Hilton Hotel, 3d and E Streets, Anchorage, Alaska, beginning at 9a.m., to discuss and prepare their report to the Council.

The Council and its SSC and AP will meet jointly on Thursday and Friday, June 22 and 23, 1978, in the Anchorage/Westward/Hilton Hotel, 3d 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:

JUNE 22

(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 the Council's Drafting Management Planning Teams; (4) Closed 2-hour session (1:30 p.m. to 3:30 p.m.) to discuss properly classified material on the status of international negotiations affecting fishery stocks in the North Pacific Ocean; (5) Period for public comment; (6) Review of foreign fishing activities.

JUNE 23

(1) Consideration and discussion of Fishery Management Plan/Environmental Impact Statement for: High Seas Salmon Fishery Off the Coast of Alaska east of 175° East Longitude; Bering Sea Surf Clam; King Crab; Bering Sea and Aleutian Islands Groundfish Fishery During 1979; Tanner Crab Off Alaska, 1978; (2) Amendments to the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery During 1978; and (3) 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, June 22, 1978, from 1:30 p.m. to 3:30 p.m., to hear and discuss Department of State security classified material on international negotiations affecting fishery stocks in the North Pacific Ocean. Only those Council 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 25, 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 30, 1978.

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

[FR Doc. 78-15350 Filed 6-1-78; 8:45 am]

[3510-22]

NATIONAL MARINE FISHERIES SERVICE

Issuance of Permit

On February 7, 1978, Notice was published in the FEDERAL REGISTER (43 FR 5035) that an application had been filed with the National Marine Fisheries Service by Mr. and Mrs. Lawrence Jeffrey Foerder 811 Anza Drive, Santa Barbara, Calif. 93105, for a permit to take two (2) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on May 19, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to Mr. and Mrs. Lawrence Jeffrey Foerder, subject to certain conditions set forth therein. The Permit is 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, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: May 19, 1978.

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

[FR Doc. 78-15360 Filed 6-1-78; 8:45 am]

[3510-22]

NATIONAL MARINE FISHERIES SERVICE

Modification of Permit

Notice is hereby given that pursuant to the provisions of sections 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Scientific Research Permit No. 92 issued to Dr. Nicholas R. Hall and Dr. William W. Dawson, Department of Neuroscience and Ophthalmology, College of Medicine, University of Florida, Gainsville, Fla. 32610, on May 6, 1975 (40 F.R. 21507), is modified in the following manner:

Section B-3 has been changed to read, "The animals shall be maintained at the facilities of the Marine Mammal Foundation, South Pasadena, Florida, for the purpose of conducting the research described in the application."

This modification is effective on the date of publication in the FEDERAL REGISTER. The Permit, as modified, is 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, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Dated: May 5, 1978.

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

[FR Doc. 78-15361 Filed 6-1-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the Pat.-Appl. number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324

Patent application 871,067: Adding Frequency Agility to Fire-Control Radars. Filed January 20, 1978.

Patent application 871,866: Improved Fabry-Perot Diplexer. Filed January 24, 1978.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research Code 302, Arlington, Va. 22217

Patent application 840,939: Fluidic Combustion of a Solid Fuel Ramjet; filed October 11, 1977.

Patent application 843,905: Two-Axis Motion Compensation for AMTI; filed October 20, 1976.

Patent application 852,646: Parabolic Optical Waveguide Horns and Design Thereof; filed November 18, 1977.

Patent application 858,873: Wide Field-of-View Michelson Filter; filed December 8, 1977.

Patent application 860,814: Apparatus for Determining Projectile Position and Barrel Pressure Characteristics; filed December 15, 1977.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent application 839,963: Mixed Diamines for Lower Melting Addition Polyimide Preparation and Utilization; filed October 6, 1977.

Patent application 858,763: Pseudo Continuous Wave Acoustic Instrument; filed December 8, 1977.

Patent application 860,404: A Speed Control Device for a Heavy Duty Shaft; filed December 13, 1977.

Patent 3,387,218: Apparatus for Handling Micron Size Range Particulate Material; filed May 6, 1964, patented June 4, 1968; not available NTIS.

Patent 3,492,858: Microbalance; filed May 8, 1967, patented February 3, 1970; not available NTIS.

Patent 3,538,053: Nuclear Alkylated Pyridine Aldehyde Polymers and Conductive Compositions Thereof. Filed September 11, 1968, patented November 3, 1970; not available NTIS.

Patent 3,600,599: Shunt Regulation Electric Power System. Filed October 3, 1968, patented August 17, 1971; not available NTIS.

Patent 3,777,811: Heat Pipe with Dual Working Fluids. Filed June 1, 1970, patented December 11, 1973; not available NTIS.

Patent 4,063,814: Optical Scanner; filed April 6, 1976, patented December 20, 1977; not available NTIS.

Patent 4,064,692: Variable Cycle Gas Turbine Engines; filed June 2, 1975, patented December 27, 1977; not available NTIS.

Patent 4,066,039: Adjustable Securing Base; filed September 7, 1976, patented January 3, 1978; not available NTIS.

Patent 4,067,653: Differential Optoacoustic Absorption Detector; filed August 27, 1976; patented January 10, 1978; not available NTIS.

Patent 4,068,495: Closed Loop Spray Cooling Apparatus; filed March 31, 1976, patented January 17,1978; not available NTIS.

[FR Doc. 78-15362 Filed 6-1-78; 8:45 am]

[3510-18]

Office of the Secretary

ADVISORY COMMITTEE ON FEDERAL POLICY ON INDUSTRIAL INNOVATION

Proposed Establishment

On May 9, 1978, President Carter directed that an Industrial Innovation Coordinating Committee, under the chairmanship of the Secretary of Commerce (the Secretary), develop for Presidential consideration a set of policy options to address issues and problems bearing on industrial innova-

tion. The President explicitly required that input be sought from the private sector.

To assist in receiving input from the private sector, it is anticipated that the Secretary, in accordance with the provisions of the Federal Advisory Committee Act [5 U.S.C. App. (1976)] and Office of Management and Budget Circular A-63 of March 1974, will propose the establishment of an Advisory Committee on Federal Policy on Industrial Innovation. The establishment of such a committee is subject to consultation with the General Services Administration.

The proposed Committee would advise the Secretary of the views of its members with regard to Federal policy options designed to increase significant industrial innovation in the United States as required by the referenced Presidential Directive of May 9, 1978.

The proposed Committee would consist of approximately 125 members to be appointed by the Secretary to assure a balanced representation of such interests as industry, business, academia, labor, consumers, environmentalists and other public interests.

The proposed Committee would function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. The proposed Committee would operate through subcommittees of its members.

Pending the formal establishment of the Advisory Committee, interested persons are invited to submit nominations and comments to the Secretary. Such comments should be addressed to the Secretary of Commerce, United States Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230.

Dated: May 30, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-15437 Filed 6-1-78; 8:45 am]

[6330-01]

COMMISSION OF FINE ARTS

VARIOUS PROJECTS AFFECTING APPEARANCE OF WASHINGTON, D.C.

Meeting

The Commission of Fine Arts will meet in open session on Tuesday, June 27, 1978, at 10 a.m., in the Commission offices at 708 Jackson Place NW., Washington, D.C. 20006, to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This notice confirms notice published December 27, 1977, 42 FR 64651.

Dated in Washington, D.C., May 24, 1978.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 78-15275 Filed 6-1-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1978 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: June 2, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On January 20, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (43 FR 2916) of proposed addition to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1978:

CLASS 1440

Circuit Card Assembly (SH), 1440-00-454-8574.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc. 78-15354 Filed 6-1-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

ARMED FORCES EPIDEMIOLOGICAL BOARD, SUBCOMMITTEE ON HEALTH MAINTENANCE SYSTEMS

Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board Subcommittee on Health Maintenance Systems.
Date of meeting: June 23, 1978.
Time: 0900-1700 hours.
Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.
Proposed agenda: The proposed agenda will include a discussion of the Subcommittee Director's site visit to the Medical Evaluation Review Board and discussion of the draft report on the scope of periodic physical examinations for military personnel.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: May 30, 1978.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc. 78-15322 Filed 6-1-78; 8:45 am]

[3710-08]

EXECUTIVE COMMITTEE OF THE NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following committee meeting:

Name of Committee: Executive Committee of the National Board for the Promotion of Rifle Practice.
Date of Meeting: 14 JULY 1978.
Place: Secretary of the Army Conference Room, Room 2E 687, The Pentagon.
Time: 0900 hours.
Proposed Agenda: (1) M1 rifle sales program; (2) public relations program for civilian marksmanship program; (3) expansion of DCM ammunition sales program; (4) NBPRP support for a pistol program; (5) current and future national match scheduled events; (6) implementation of A. D. Little recommendations; (7) NBPRP interservice marksmanship responsibility; (8)

new caliber .30 M72 match bullet; (9) national shooting facility; (10) Marine Corps pistol trophy; and (11) nomination for board membership.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

Dated May 22, 1978.

ROBERT VINSON,
Administrative Officer.

[FR Doc. 78-15369 Filed 6-1-78; 8:45 am]

[3710-92]

WINTER NAVIGATION BOARD ON GREAT LAKES—ST. LAWRENCE SEAWAY

Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Winter Navigation Board to be held on June 29, 1978 at the Holiday Inn, located approximately one mile from the Baltimore-Washington International Airport, at 6500 Elkridge Landing Road in North Linthicum, Md. The meeting will be in session from 8:30 a.m., EST until 4:00 p.m.

The Winter Navigation Board is a multi-agency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes-St. Lawrence Seaway navigation season extension demonstration investigations being conducted pursuant to Pub. L. 91-611, as amended by Pub. L. 93-251 and Pub. L. 94-587.

The primary purpose of the meeting is to review the preliminary draft Feasibility Report addressing year-round navigation on the entire Great Lakes-St. Lawrence Seaway System. In addition, the Environmental Plan of Action and its proposed implementation under the EAGLE (Environmental Assessment of Great Lakes-St. Lawrence Ecosystem) organization will be discussed. The schedule to complete fiscal year 1979 St. Lawrence River Demonstration Activities will also be reviewed.

The meeting will be open to the public, subject to the following limitations:

a. As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements to be made part of the minutes may be submitted prior to, or up to 10 days following, the meeting, but oral participation by the public is limited because of the time schedule.

Inquiries may be addressed to Mr. David Westheuser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231, telephone (313) 226-6770.

Date: May 25, 1978.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Adminsitration Management, TAGCEN.

[FR Doc 78-15368 Filed 6-1-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

FUSION MATERIALS IRRADIATION TEST FACILITY, HANFORD RESERVATION, RICHLAND, WASHINGTON DOE/EIS-0017

Availability of Final Environmental Impact Statement

Notice is heareby given that the U.S. Department of Energy (DOE) has issued a final Environmental Impact Statement, DOE/EIS-0017, Fusion Materials Irradiation Test Facility, Hanford Reservation, Richland, Wash. (April 1978). The statement was prepared pursuant to implementation of the National Environmental Policy Act of 1969 in support of legislative action providing finds to construct and operate a deuterium-lithium high flux neutron source facility at the DOE Hanford Reservation in Richland, Benton County, Wash. The draft of this statement was issued in July 1977, by the former Energy Research and Development Administration (ERDA) as ERDA-1556-D, High Flux Neutron Source Facility. Since the issuance of ERDA-1556-D, the responsibility for the project was assumed by DOE and the project subsequently renamed the Fusion Materials Irradiation Test Facility and the statement number changed to DOE/EIS-0017.

The proposed facility will be used in the DOE magnetic fusion program to assist in developing radiation resistant structural materials and insulators suitable for use in fusion reactors. The environmental impacts which may be associated with the construction and operation of the facility were assessed. The overall environmental impacts were determined to be minimal and do not represent an undue environmental risk either from normal operation or postulated accidents.

Copies of the final Environmental Impact Statement are available for public inspection at the DOE public reading rooms located at:

Library, Room 1223, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Copies of the final statement have been furnished to those who commented on the draft statement. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, extension 34672. The statement is also available from the the National Technical Information Service, Springfield, Va. 22161.

Dated at Washington, D.C., this 26th day of May 1978.

For the Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-15321 Filed 6-1-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER78-378]

ALABAMA POWER CO.

Proposed Tariff Change

MAY 24, 1978.

Take notice that Alabama Power Co. (Alabama) on May 17, 1978, tendered for filing a rate schedule designated Rate Schedule-Interim Power Supply. Alabama states that the filed rate schedule operates in addition to and in accordance with the provisions of the Interconnection Agreement between Alabama Power Co. and Alabama Electric Cooperative, Inc. dated February 23, 1972, as amended (FERC Rate Schedule No. 133).

Alabama further states that the rate schedule is intended to cover and provide for temporary capacity and enegy transactions between the Company and the Cooperative on and after June 1, 1978, from month to month, until the Cooperative's new generating capacity is declared available for commercial operation.

Alabama requests an effective date of June 1, 1978, and therefore requests

waiver of the Commission's notice requirements.

According to Alabama copies of this filing were served upon Alabama Electric Cooperative, Inc., the Southeastern Power Administration, the Alabama Public Service Commission and the Rural Electrification Administration.

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 §§ 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 June 5, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15286 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. CP76-85]

ALGONQUIN GAS TRANSMISSION CO. AND TEXAS EASTERN TRANSMISSION CORP.

Motion

MAY 25, 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) of the DOE Act.

Take notice that on May 5, 1978, Algonquin Gas Transmission Co. (Algonquin Gas), 1284 Soldiers Field Road, Boston, Mass. 02135, Texas Eastern Transmission Corp. (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001, and Boston Gas Co., (Boston Gas), One Beacon Street, Boston, Mass. 02108, filed in Docket No. CP76-85 a motion to extend the limited-term authorization issued in this proceeding pursuant to section 7(c) of the Natural Gas Act so as to authorize a continuation of the exchange, transportation, and delivery of certain quantities of gas by Movants to The Brooklyn Union Gas Co. (Brooklyn Union) through June 30, 1979, all as more fully set forth in the motion on file with the Commission and open to public inspection.

On November 10, 1975, the FPC granted Movants a temporary certificate authorizing the proposed transportation-exchange of natural gas for Brooklyn Union during a term commencing November 1, 1975, and ending April 30, 1976, it is said. Further, it is stated that the temporary certificate was granted upon the condition that Algonquin Gas' charge for service rendered thereunder be collected subject to refund pending further FPC action. After formal hearings in this proceeding, it is indicated that on July 30, 1976, the FPC issued an order approving settlement and issued certificates authorizing the service for the benefit of Brooklyn Union through October 31, 1976. It is asserted that the July 30, 1976, order also found that the stipulation and settlement provided a reasonable basis for disposing of issues relating to the reimbursement charge to Boston Gas and Boston Gas' jurisdictional status.

The motion further indicates that by order of November 26, 1976, Algonquin Gas and Texas Eastern were granted temporary certificates authorizing a further continuation of the service through December 31, 1977, and making the transportation charges to be collected by Algonquin Gas subject to refund. On December 13, 1976, Boston Gas and Brooklyn Union were authorized to continue their exchange through December 31, 1977, and Algonquin Gas was granted permanent limited-term authorization for the transportation services to Brooklyn Union through December 31, 1977, and the refund condition concerning Algonquin Gas' proposed transportation charge was removed. It is stated that said order referred the adjudication of the reasonableness of that charge to Algonquin Gas' pending rate proceedings.

Movants state that on September 16, 1977, the FPC determined that Brooklyn Union's participation in this transaction does not affect its current exempt status under section 1(c) of the Natural Gas Act. It is indicated further that on December 30, 1977, the previous orders in this proceeding were amended to authorize continuation of the exchange-transportation services for Brooklyn Union for the period December 31, 1977, to June 30, 1978.

Movants state that Brooklyn Union has requested an extension of the subject service currently being provided through June 30, 1979. It is indicated that the extended service proposed to be undertaken by the parties is to permit receipt of quantities of gas to be made available for Brooklyn Union by Distrigas of Massachusetts Corp. (DOMAC) Pursuant to authorization granted in Docket No. CP77-216. It is said that the gas to be transported and delivered under the extended service is required by Brooklyn Union to assure its ability to meet the requirements of its high priority markets pending completion and authorization of long-term transportation arrangements for gas made available by DOMAC. It is stated that deliveries under the proposed service are not anticipated to exceed 40 billion Btu's per day, with total deliveries during the extended period not exceeding approximately 13,630 billion Btu's.

Movants expressly request a limited-term authorization terminating June 30, 1979.

Boston Gas requests that any extension of authority granted to it continue on the terms and subject to the conditions set forth in the stipulation which appears on pages 135-136 of the hearing transcript in Docket No. CP76-85, et al., which, it is asserted, the order of July 30, 1976, found to provide a reasonable basis for disposing of the Boston Gas reimbursement charge issue and the Boston Gas jurisdiction issue.

Any person deisiring to be heard or to make any protest with reference to said motion should on or before June 8, 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. 78-15307 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ID-1835]

BRIAN A. PARENT

Application

MAY 24, 1978.

Take notice that on May 8, 1978, Brian A. Parent, (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Assistant Treasurer and Assistant Secretary, Atlantic City Electric Co., Public Utility and Assistant Treasurer and Assistant Secretary, Deepwater Operating Co., Public Utility.

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 §§ 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 June 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 of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15287 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ID-1405]

CHARLES F. MORGAN

Application

MAY 24, 1978.

Take notice that on May 8, 1978, Charles F. Morgan, (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President and Treasurer, Atlantic City Electric Co., Public Utility and Director and Treasurer, Deepwater Operating Co., Public Utility.

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 §§ 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 June 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 of this filing are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15288 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-332]

COLORADO INTERSTATE GAS CO.

Notice of Application

MAY 24, 1978.

Take notice that on May 15, 1978, Colorado Interstate Gas Co. (Applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-332 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 on a best-efforts basis for Western Slope Gas Co. (Western) pursuant to a gas transportation agreement dated May 5, 1978, between Applicant and Western, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Western is a customer of Applicant and is investigating an abandoned gas field in Morgan County, Colo. (the Roundup Field), to determine if it will be suitable for the underground storage of natural gas, it is said. In order to enable Western to investigate the feasibility of using the Roundup Field for underground storage without constructing major facilities which would be of no future use if the field did not prove to be suitable for Western's needs, Applicant, whose facilities are located much closer to the storage site than are Western's, proposes to assist Western by transporting limited volumes of gas, to be used for injection and withdrawal, until the valuation program is complete, but not beyond December 31, 1978, it is said.

Pursuant to the May 5, 1978, agreement, Applicant proposes to transport up to a maximum of 15,000 Mcf of gas per day from the Mesa Delivery Point in Adams County, Colorado, where Western purchases such gas under Applicant's Rate Schedule P-1, to an existing tap on Applicant's Watkins-to-Fort Morgan pipeline (the Roundup Delivery Point) located in Morgan County, Colorado, it is said. Western would redeliver some or all of the gas withdrawn during the field evaluation to Applicant at the Roundup Delivery Point, and Applicant would transport those volumes of gas to the Mesa Delivery Point for redelivery to Western, it is said. Applicant states that the maximum volume of gas to be transported each way by applicant is 150,000 Mcf.

Applicant states that it would charge Western 1 cent for each Mcf of gas transported from the Mesa Delivery Point to the Roundup Delivery Point and for each Mcf or gas that Western delivers to Applicant at the Roundup Delivery Point for transportation and redelivery at Mesa. Western would provide measurement facilities for all gas volumes, irregardless of the direction of flow, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 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 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 a 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. 78-15289 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-323]

COLUMBIA GAS TRANSMISSION CORP. AND NATIONAL FUEL GAS SUPPLY CORP.

Application

MAY 24, 1978.

Take notice that on May 9, 1978, Columbia Gas Transmission Corp. (Columbia) and National Fuel Gas Supply Corp. (National) filed in Docket No. CP78-323 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas on a gas for gas basis at four existing points of interconnection, seven new points of interconnection, and other unspecified points in Applicants' general operating

area (i.e., the northeastern part of Ohio and the state of New York and the Commonwealth of Pennsylvania), and to construct and operate interconnecting measuring facilities at two specified points and at other unspecified points as necessary, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The proposed exchange would be pursuant to an agreement dated February 28, 1978, between Columbia and National which provides that Columbia may deliver gas to National and National would receive such gas as is tendered by Columbia utilizing the available capacity of National's existing facilities, and National may deliver gas to Columbia and Columbia would receive such gas as is tendered by National utilizing the available capacity of Columbia's existing facilities, it is said. It is indicated that the delivery exchange points by Columbia to National would consist of three new delivery points as follows: (1) From Columbia's Line 4657 into National's Line A-12, in Highland Township, Elk County, Pa.; (2) from Columbia's Line 4010 into National's Line G-20, in Rose Township, Jefferson County, Pa.; and (3) from Columbia's gas purchase and gathering facilities into National's Line PY in the towns of Java and Arcade, Wyoming County, N.Y. The delivery exchange points by National to Columbia will consist of: (a) An existing delivery point from the unit well line for Well H-246, jointly owned by Columbia and National, into Columbia's 4-inch Line G-1, in the town of Hartsville, Steuben County, N.Y.; and (b) a new delivery point from National's gathering line into Columbia's Line 1711 in Cherry Hill Township, Indiana County, Pa.

Columbia and National also propose to construct and operate interconnecting measuring facilities at exchange points (1) and (2) above, it is said. The cost of such facilities is estimated to be $12,900 which costs will be financed with funds generated internally by Columbia and National. It is said that the facilities associated with exchange points (3) and (b) above, which are to be utilized for Applicants' gas purchases, would be constructed under Applicants budget-type gas purchase authorizations.

In addition, Applicants request authorization to exchange natural gas at unspecified points associated with gas purchases by Applicants, when the required interconnecting facilities would be constructed under Applicants' then effective gas purchase authorizations; to exchange natural gas and construct and operate interconnecting facilities at unspecified points which are established for the purpose of attaching gas produced by Applicants; and to exchange natural gas and construct and operate interconnecting facilities at unspecified points which are established for purposes other than attaching gas purchased or produced by Applicants.

It is stated that balancing will be achieved as nearly as possible on a monthly basis; however, if the deliveries by each Applicant to the other at points of exchange do not balance, such net difference shall be redelivered to the deficient Applicant by the other Applicant at the balancing points. The Applicant which redelivers gas at new balancing points shall be entitled to retain and deduct 5 percent of the gas so redelivered as an allowance for company use and gas unaccounted for, it is said.

It is indicated that the delivery balancing points by Columbia to National would consist of three existing points as follows: (1) From the discharge side of Columbia's Ellwood City compressor station into National's 12-inch Line N, in Franklin Township, Beaver County, Pa.; (2) at the interconnection of Columbia's Line 1862 and National's transmission line in Cameron County, Pa.; and (3) at the point of delivery from Columbia to National in Warren County, Pa. It is further indicated that the delivery balancing points by National to Columbia would consist of two existing points as follows: (1) At Columbia's Ellwood City compressor station, in Franklin Township, Beaver County, Pa.; and (2) at the interconnection of Columbia's Line 1862 and National's transmission line in Cameron County, Pa.

Applicants state that it is necessary to have advance Commission authorization for both the exchange and the construction of interconnecting facilities in order expeditiously to establish additional exchange points for the attachment of Applicant's own production volumes and to alleviate emergencies on Applicant's pipeline systems.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15308 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-377]

CONNECTICUT VALLEY ELECTRIC COMPANY INC.

Proposed Tariff Change

MAY 24, 1978.

Take notice that Connecticut Valley Electric Co. Inc. (Connecticut Valley), on May 17, 1978, tendered for filing proposed changes in its Transmission Service Agreement with the New Hampshire Electric Cooperative, Inc. Connecticut Valley indicates that the proposed changes would decrease revenues from jurisdictional sales and service by $680 based on the 12-month period ending May 1978. Connecticut Valley further requests waiver of the Commission's 30-day notice requirement so that the reduction may become effective on June 1, 1978.

Connecticut Valley further indicates that the filing is made to comply with the provisions of Transmission Agreement (FPC No. 8) which requires that charges shall be modified annually to incorporate the applicable cost data contained in the Company's current Ferc Form No. 1.

According to Connecticut Valley copies of the filing were served upon the New Hampshire Cooperative, Inc., and the New Hampshire Public Utilities 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 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

June 5, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15290 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ID-1811]

ERNEST D. HUGGARD

Application

MAY 24, 1978.

Take notice that on May 8, 1978, Ernest D. Huggard, (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Control, Altantic City Electric Co., Public Utility and Director, Vice President, Deepwater Operating Co., Public Utility.

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 §§ 1.8, 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 June 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 of this filing are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15291 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-376]

FLORIDA POWER & LIGHT CO.

Proposed Agreement To Provide Specified Transmission Service

MAY 24, 1978.

Take notice that Florida Power & Light Co. (F.P. & L.), on May 16, 1978, tendered for filing as an initial rate an executed Agreement, entitled "Agreement To Provide Specified Transmission Service Between Florida Power & Light Co. and Fort Pierce Utilities Authority." F.P. & L. indicates that under the Agreement, F.P. & L. will transmit power and energy for the Fort Pierce Utilities Authority (Fort Pierce) as is required by Fort Pierce in the implementation of its interchange agreement with the city of Homestead, Fla.

F.P. & L. requests an effective date for this Agreement of no later than 30 days after the date of filing. F.P. & L. states that copies of the filing were served on the Utilities Director of the Fort Pierce Utilities Authority.

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 June 5, 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. 78-15292 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ID-1833]

FRED W. YEADON, JR.

Application

MAY 24, 1978.

Take notice that on May 8, 1978, Fred W. Yeadon, Jr., (Applicant), filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, Central Vermont Public Service Corp., Public Utility and Director, Vermont Electric Power Co., Inc., Public Utility.

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 §§ 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 June 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 of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15293 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. RI78-54]

GAS PRODUCING ENTERPRISES, INC.

Petition for Special Relief

MAY 25, 1978.

Take notice that on April 21, 1978, Gas Producing Enterprises, Inc. (Petitioner), Five Greenway Plaza East, Houston, Tex. 77046 filed a petition for special relief in Docket No. RI78-54 pursuant to section 2.76 of the Commission's rules.

Petitioner requests permission to charge $0.859500 per Mcf at 14.65 psia for the sale of gas to Colorado Interstate Gas Co. from its Jermyn Well 1-19 located in Keyes Field, Cimarron County, Okla. Currently, Petitioner charges $0.315798 per Mcf for its gas. Petitioner plans to spend $23,000 to work-over the well to restore production and recover of the remaining estimated 144 Mmcf of gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15309 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. RI78-57]

HUBERT K. ELROD AND C. DAVID LONG

Petition for Special Relief

MAY 24, 1978.

Take notice that on May 1, 1978, Hubert K. Elrod and C. David Long (Petitioners), 125 N. Roosevelt, Box 292, Guymon, Okla. 73942 filed a petition for special relief in Docket No. RI78-57 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76) for the sale of gas from the Oliver Gas Well Unit No. 1, Sec. 3-2N-14 ECM, Texas County, Okla. to Western Gas interstate.

Petitioners currently receive 41.84¢ per Mcf and request a rate of 76.188¢ per Mcf for the sale of said gas. Petitioners state that the well is under produced creating a financial hardship on Petitioners who must pay for the rising costs of operating items.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 15, 1978, filed 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, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15294 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. RI77-100]

INDEPENDENT OIL & GAS ASSOCIATION OF WEST VIRGINIA

Petition for Special Relief

MAY 24, 1978.

Take notice that on April 25, 1978, Independent Oil & Gas Association of West Virginia (IOGA), 1150 Connecticut Avenue NW., Washington, D.C. 20036 has filed a petition for further relief from applicable rates in the above-captioned docket pursuant to §§ 2.56a(g) and 2.56b(h) of the Commission's statements of general policy and interpretations, Order No. 411, as amended, and pertinent settlement proposals previously approved by the Commission.

IOGA seeks cost-based increases in presently authorized rates to permit the recovery of a Federal income tax cost component for gas from wells commenced prior to January 1, 1973, and during the period between January 1, 1973, and January 1, 1975; and to attract required investment capital for West Virginia wells not yet drilled. Specifically, Petitioner requests a rate of $75.88¢ per Mcf for gas from wells commenced prior to January 1, 1973; $1.1944 per Mcf for gas from wells commenced during the period from January 1, 1973 to January 1, 1975; $2.1379 for gas from wells commenced after January 1, 1978 for gas sold from West Virginia wells to the interstate pipelines of Carnegie Natural Gas Co., Equitable Gas Co., Columbia Gas Transmission Corp., and Consolidated Gas Supply Corp.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15295 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-379]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Tariff Change

MAY 24, 1978.

Take notice that Indiana & Michigan Electric Co. on May 17, 1978, tendered for filing proposed changes in its FERC Tariff No. 25, applicable to service to Michigan Power Co. Indiana & Michigan Electric Co. indicates that the proposed changes would increase revenues from jurisdictional sales and service by approximately $2,972,047, based on the 12-month period ending December 31, 1978. Indiana & Michigan Electric Co. proposes that the rates and charges and terms and conditions of service revised by this filing become effective June 16, 1978.

Copies of the filing were served upon the affected customer, and the Michigan Public Service Commission, according to Indiana & Michigan Electric Co.

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. 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 June 5, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15296 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-380]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Tariff Change

MAY 24, 1978.

Take notice that Indiana & Michigan Electric Co. (I&M Electric) on May 17, 1978, tendered for filing proposed changes in its FERC Tariff No. 22, applicable to service to Northern Indiana Public Service Co. I&M Electric indicates that the proposed changes would increase revenues from jurisdictional sales and service by approximately $3,369,330, based on the 12-month period ending December 31, 1978. Indiana & Michigan Electric Co. proposes that the rates and charges and terms and conditions of service revised by this filing become effective June 16, 1978.

Copies of the filing were served upon the affected customer and the Public Service Commission of Indiana, according to I&M Electric.

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 §§ 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 June 5, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15297 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-381]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Tariff Change

MAY 24, 1978.

Take notice that Indiana & Michigan Electric Co. (I&M) on May 17, 1978, tendered for filing an Interconnection Agreement dated as of January 2, 1977, between it and the City of Richmond. I&M indicates that that Agreement is now pending before the Commission on a joint motion seeking, among other things, the approval of the Agreement. I&M now seeks to have the Agreement filed, together with certain modifications to the Firm Power Schedule which is annexed to the Agreement. I&M states that the

proposed changes would increase revenues from jurisdictional sales and service under the Agreement by approximately $1,090,335, based on the 12-month period ending December 31, 1978. I&M proposes that the changed rates and charges as revised by this filing, become effective June 16, 1978.

Copies of the filing were served upon the affected customers and the Public Service Commission of Indiana, according to I&M.

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 §§ 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 June 5, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15298 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-382]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Tariff Change

MAY 25, 1978.

Take notice that Indiana & Michigan Electric Co. on May 17, 1978, tendered for filing proposed changes in its FERC Electric Tariff MRS and its FERC Electric Tariff WS, both applicable to service to municipal wholesale for resale customers only. I&M indicates that the proposed changes would increase revenues from jurisdictional sales and service by approximately $3,562,205, based on the 12-month period ending December 31, 1978. Indiana & Michigan Electric Co. proposes that the rates and charges and terms and conditions of service revised by this filing become effective June 16, 1978.

Copies of the filing were served upon the affected customers, the Public Service Commission of Indiana and the Michigan Public Service Commission, according to I&M.

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 §§ 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 June 5, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary

[FR Doc. 78-15310 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-383]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Tariff Change

MAY 25, 1978.

Take notice that Indiana & Michigan Electric Co. (I&M) on May 17, 1978, tendered for filing proposed changes in its FERC Electric Tariff REC-1, applicable to service to rural electric cooperative wholesale for resale customers only. I&M indicates that the proposed changes would increase revenues from jurisdictional sales and service by approximately $5,366,032, based on the 12-month period ending December 31, 1978. I&M proposes that the rates and charges and terms and conditions of service revised by this filing become effective June 16, 1978.

Copies of the filing were served upon the affected customers, the Public Service Commission of Indiana and Michigan Public Service Commission, according to I&M.

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 §§ 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 June 5, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15311 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ID-1832]

JACK R. MCCLENDON

Application

MAY 24, 1978.

Take notice that on May 2, 1978, Jack R. McClendon, (Applicant), filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, The Connecticut Light and Power Co., Public Utility and Vice President, The Hartford Electric Light Co., Public Utility.

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 §§ 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 June 9, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15299 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ID-1834]

JERROLD L. JACOBS

Application

MAY 24, 1978.

Take notice that on May 8, 1978, Jerrold L. Jacobs (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Atlantic City Electric Co., Public Utility, and Vice President, Deepwater Operating Co., Public Utility.

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 §§ 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 June 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 of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15300 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ER78-384]

KANSAS POWER & LIGHT CO.

Proposed Changes on Rates and Charges

MAY 25, 1978.

Take notice that on May 18, 1978, the Kansas Power & Light Co. (KPL) tendered for filing a newly executed renewal contract dated April 12, 1978, with the city of Centralia, Kans., for wholesale service to that community. KPL states that this is a renewal of a similar contract dated March 6, 1968, and designated KPL Rate Schedule FPC No. 99. The proposed effective date is May 1, 1978, and KPL requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to KPL, the net billing for the 12 months succeeding the proposed change in agreements will be $82,073.73. In addition, KPL states that copies of the contract have been mailed to the city of Centralia and the State Corporation Commission of Kansas.

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, 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 June 5, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15316 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. RI78-42]

MAGUIRE OIL CO.

Petition for Special Relief

MAY 25, 1978.

Take notice that on March 21, 1978, Maguire Oil Co. (Petitioner) 4200 First National Bank Building, Dallas, Tex. 75202 filed a petition for special relief in Docket No. RI78-42.

Petitioner seeks authorization to sell its gas at a rate of 54 cents per Mcf plus an additional 30 percent as a certificated small producer, plus adjustments for the Btu factor, marketing cost, and compression. Currently, Petitioner is authorized to sell gas at a rate of 45 cents per Mcf. The purchaser of the gas is Valley Gas Transmission, Inc.

Petitioner states that it plans to install compression facilities in order to return its well to production. Petitioner's well is located in the Buena Suerte Field, Duvall County, Tex.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15312 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ID-1645]

MARTIN R. MEYER

Application

MAY 24, 1978.

Take notice that on May 8, 1978, Martin R. Meyer (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Secretary and Assistant Treasurer, Atlantic City Electric Co., Public Utility, and
Secretary, Deepwater Operating Co., Public Utility.

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 §§ 1.8, 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 June 12, 1978. Protests will be considered by the Commmission 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 available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15301 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-327]

MID-CONTINENT GAS STORAGE CO., AND SOUTHERN NATURAL GAS CO.

Application

MAY 24, 1978.

Take notice that on May 11, 1978, Mid-Continent Gas Storage Co. (Mid-Continent), P.O. Box 190, Aurora, Ill. 60507, and Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202 (Applicants) filed in Docket No. CP78-327 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to perform certain services necessary to enable Mid-Continent to provide on an annual basis up to 15,000,000 Mcf of gas storage service to Southern for a period ending November 30, 1981, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that a serious shortage of natural gas exists both nationwide and in Southern's service territory which is making it increasingly difficult to serve higher priority customers during the winter heating season. The application further states that Mid-Continent proposes to furnish storage service to help Southern mitigate the effects of the gas shortage by storing gas during the warmer injection period (April 1 through November 30) for delivery to Southern during the colder withdrawal period (November 1 to March 31). Southern has contracted with Mid-Continent for the proposed storage service to meet its storage requirements until the Bear Creek project proposed in Docket Nos. CP78-266 and CP78-267 is operational, it is stated.

It is indicated that Mid-Continent entered into a limited term storage leasing agreement (lease) dated March 23, 1978, under which it leased an undivided interest in Northern Illinois Gas Co.'s (NI-Gas) extensive intrastate storage and related transportation system for a fixed period ending November 30, 1981. It is further indicated that Mid-Continent has acquired under the lease those rights necessary to provide storage service to Southern under a limited term storage agreement dated March 23, 1978, which storage agreement provides that during the initial 1978 injection period

(April 1 through November 30) and during each subsequent injection period (April 1 through November 30), Southern may deliver or cause to be delivered to Mid-Continent an injection volume of natural gas (injection period volume) of up to 15,000,000 Mcf for transportation and storage. It is stated that Mid-Continent has an obligation to accept up to 15,000,000 Mcf of gas during the initial injection period and during each subsequent injection period, subject of Mid-Continent's right on any 54 days during any injection period to refuse to accept all or any portion of the tendered daily injection volumes if such refusal is necessary under the provisions of the lease subordinating Mid-Continent's leased storage capacity on a daily basis to NI-Gas' intrastate distribution system needs and NI-Gas' pre-existing obligations to third system needs and NI-Gas' pre-existing obligations to third parties.

Applicants indicate that the storage agreement further provides that during the withdrawal periods (November 1 through March 31) Mid-Continent would make available or cause to be made available to Southern an aggregate storage withdrawal volume (withdrawal period volume) of gas thermally equivalent to the volume of gas injected during the immediately preceding injection period, subject to the conditions that (1) Mid-Continent would make available a daily withdrawal volume of gas up to 125 percent of 1/150th of the withdrawal period volume, (2) the daily obligation to make gas available is on a best efforts basis subject to provisions of the lease subordinating Mid-Continent's leased storage capacity to NI-Gas' intrastate distribution system needs and NI-Gas' pre-existing obligations to third parties and (3) if Southern elects to withdraw up to 15,000,000 Mcf of gas during a withdrawal period when it does not, for any reason, have in storage 15,000,000 Mcf of gas, it would deliver or cause to be delivered during the next injection period in addition to any other injections, an aggregate make-up injection volume of natural gas thermally equivalent to the volume withdrawn in excess of said preceding injection period volume.

It is stated that all injection and withdrawal gas required for the storage service would be furnished by Southern. It is further stated that Southern agrees to deliver injection gas and accept withdrawal gas at already existing interconnections (Delivery Point) of NI-Gas' intrastate facilities with those of one or more of NI-Gas' existing pipeline suppliers, and that Southern would be responsible for all transportation and exchange arrangements necessary to deliver or receive gas at the Delivery Point.

The application states that in order to deliver the injection period volume and receive the withdrawal period volume, Southern will enter into a transportation agreement with Tennessee Gas Pipeline Co., a Division of a Tenneco Inc. (Tennessee). Pursuant to such agreement Southern would deliver gas for injection into storage to Tennessee at the presently authorized interconnection between Southern's and Tennessee's systems near Pugh, Miss., and that to deliver such gas to the Delivery Point, Tennessee would enter into a transportation agreement with Midwestern Gas Transmission Co. (Midwestern), it is said. It is indicated that Tennessee would deliver the gas received from Southern to Midwestern at an existing point of interconnection between their systems and Midwestern would then deliver such gas to Mid-Continent at the Delivery Point. Southern would receive the withdrawal period volume by the reverse of these procedures, it is stated.

It is indicated that each month, Southern would pay to Mid-Continent a storage charge which would be the sum of a demand charge and a two-tier commodity charge determined as follows:

(a) The demand charge would be the product of $16.11 per Mcf times the Daily Withdrawal Volume (66,667 Mcf).

(b) Until an aggregate volume of 10,000,000 Mcf of gas has been injected or withdrawn during any injection period or withdrawal period, the commodity charge per Mcf injected or withdrawn during such month would be $0.0056.

(c) After an aggregate volume of 10,000,000 Mcf of gas has been injected or withdrawn during any injection period or withdrawal period, the commodity charge for each additional Mcf of gas injected during such month would be $0.65. These monthly storage charges would be applied to a minimum bill of $13,000,000 for each of the periods ending November 30, 1979, 1980, and 1981.

It is indicated that Southern would pay 21.09 cents per Mcf of injection volumes at 14.73 psia to Tennessee for the transportation services, and that in addition, Tennessee would receive 4.67 percent of the injection volumes delivered to it by Southern.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 14, 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15302 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket Nos. ER77-493, etc.]

MONTAUP ELECTRIC CO.

Filing of Settlement Agreement

MAY 24, 1978.

Take notice that on May 17, 1978, Montaup Electric Co. tendered for filing a proposed settlement agreement together with a motion to the Commission to approve the agreement. Montaup states that the settlement agreement would resolve all issues among the parties in the above docketed consolidated proceedings. Montaup further states that all parties have signed the Settlement Agreement except the Attorney General of the Commonwealth of Massachusetts, who has represented that he does not oppose the agreement.

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 June 2, 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. 78-15303 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. AR64-2, etc.]

N. C. GINTHER, ET AL., AND W. L. GINTHER AND M&M MINERALS CORP.

Petition for Special Relief, Supplement to Petition for Special Relief and Petition for Declaratory Order With Respect to Refunds

MAY 24, 1978.

Take notice that on November 14, 1977, N. C. Ginther, et al. (Petitioners), 1400 Bank of the Southwest Building Houston, Tex. 77002 filed pursuant to §§ 1.7 and 1.7(a) a petition for special relief; W. L. Ginther (Ginther, Warren & Co.) and M&M Minerals Corp. (Applicants), 1400 Bank of Southwest Building, Houston, Tex. 77002 filed a petition for declaratory order with respect to refunds in the above-captioned docket. On November 21, 1977, Petitioners filed a supplement to petition for special relief from refund obligation pursuant to §§ 1.11(a), 1.7(a) and 154.109.

Specifically, Petitioners who are non-operating working interest owners of leases in the Sarco Creek and West Videuri Fields, Texas Gulf Coast Area from which sales were made by Petitioners to Tennessee Gas Pipe Line Co. between June 1959 and May 1971 request special relief from the Commission's July 14, 1977, Order Directing Disbursement of Refunds. (Said order found Petitioners owing $116,000 for sales under Ginther, Warren & Co. Gas Rate Schedule Nos. 1 and 2.) Petitioners seek relief on the basis of the equities involved, pointing out, inter alia, that they collected below ceiling rates between 1965 and 1971.

Due to financial problems, Ginther, Warren & Co., operators of the leases, filed in District Court for proceedings in an arrangement; subsequently these leases were assigned to M&M Minerals Corp. It is Applicants' contention that by virtue of the proceedings in arrangement the refund obligation under Ginther, Warren & Co.'s Gas Rate Schedule Nos. 1 and 2 should be deemed discharged. Also Applicants state that M&M Minerals Corp. (M&M) should not be held liable for the refund obligation since M&M did not make the sales, and had no interest in the leases when the refund obligation accrued; furthermore, M&M received an interest in the leases pursuant to an agreement which was part of the arrangement proceeding. Therefore, in the petition for declaratory order, Applicants request that the Commission declare they do not owe refunds under Gas Rate Schedules Nos. 1 and 2.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15304 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. ES78-34]

NORTHWESTERN PUBLIC SERVICE CO.

Application

MAY 25, 1978.

Take notice that on April 24, 1978, the Northwestern Public Service Co. (Applicant) filed an application with the Commission, pursuant to section 204 of the Act, seeking authorization to issue, and to renew or extend the maturity of, promissory notes to evidence short-term borrowings as needed for the Applicant's business from time to time, provided that the aggregate principal amount of such notes outstanding at any one time shall not exceed $30 million. The notes will be issued through the period ending July 1, 1979 and with maturities of not exceeding 360 days.

The Applicant is incorporated under the laws of the State of Delaware, with its principal business office at Huron, S. Dak. and is qualified to do business as a foreign corporation in the States of Iowa, North Dakota and South Dakota.

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 Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 9, 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. 78-15313 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. CI78-767]

PENNZOIL LOUISIANA AND TEXAS OFFSHORE, INC.

Application For Certificate Pursuant To Optional Procedure

MAY 23, 1978.

Take notice that on May 17, 1978, Pennzoil Louisiana and Texas Offshore, Inc. (PLATO), Houston, Tex. 77001, filed an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act and 18 CFR 2.75 (optional procedure). PLATO requests a rate of $4.75/Mcf plus 5 cents/Mcf compression charge for the sale of approximately 239 Bcf of reserves from 50 offshore Louisiana and Texas blocks to United Gas Pipe Line Co. (United). The Applicant requests a rate of $3.67/Mcf plus 5 cents/Mcf compression charge for the sale of 83 Bcf of reserves from 14 blocks in offshore Louisiana and Texas to Sea Robin Pipe Line Co. (Sea Robin). For the total sales of 322.330 Bcf of reserves, PLATO is requesting the Commission to approve rates which in the aggregate would equal approximately $1,454,728,050.00. This is about $875,776,750.00 more than Applicant would collect should it be authorized to collect the applicable nationwide rate ($1.61/Mcf flat rate). Applicant estimates that the reserves from the subject 64 blocks would be depleted in 1987.

PLATO requests the Commission waive the provision in 18 CFR 2.75(o) which requires an applicant to collect the nationwide rate for the first 9 months of deliveries, and asks that it be authorized to collect its rates of $4.79 and $3.72/Mcf subject to refund from June 17, 1978.

Applicant also requests that the present application be consolidated with its applications filed in Docket Nos. CI77-702 (July 25, 1977) and CI78-499 and CI78-500 (March 2, 1978).

Notice is hereby given that Applicant as well as Pennzoil Oil and Gas, Inc. (POGI), and Pogo Producing Co. (Pogo) on March 2, 1978, filed applications pursuant to the Commission's optional procedure, requesting certificates covering the sale of gas from each's interest in High Island Blocks 323 and 520 offshore Texas to United at an initial base rate of $2.89/Mcf. PLATO's filings on March 2, 1978, were in Docket Nos. CI78-499 and 500; POGI's were in Docket Nos. CI78-498 and 501; and Pogo's were in Docket Nos. CI78-502 and 503. Each Applicant therein requested waiver of 18 CFR §§ 2.75(f) and 154.93 to permit acceptance for filing their respective contracts which contained impermissible pricing provisions.

The application of PLATO in Docket No. CI78-767 purports to consolidate PLATO's applications in Docket Nos. CI78-499 and 500 as well as its application in Docket No. CI77-702.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15305 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. RI78-53]

SUN OIL CO.

Petition for Special Relief

MAY 25, 1978.

Take notice that on April 20, 1978, Sun Oil Co. (Petitioner), II NorthPark East, Suite 800, Dallas, Tex. 74231 filed a petition for special relief in Docket No. RI78-53 pursuant to § 2.76 of the Commission's rules.

Petitioner seeks permission to charge at total base rate of 50.00¢ per Mcf for the sale of gas from the Tebo Gas Unit, Well No. 1, Hamilton County, Texas, so that it can recover monies to be spent in restimulating the well to recover the maximum amount of gas reserves. Kansas Nebraska Natural Gas Co. is the purchaser of Petitioner's gas. Currently, Petitioner charges 29.5¢ per Mcf for its gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-15314 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket Nos. CP78-317; CP78-94]

TENNESSEE GAS PIPELINE CO.

Pipeline Application

MAY 23, 1978.

Take notice that on May 5, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-317 an application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing the construction and operations of 0.85 miles of 6⅝" pipeline extending from a platform in Vermilion 218 to a point on the existing Blue Water System. Alternatively, Tennessee requests in Docket No. CP78-94 waiver of § 157.7(b)(1)(i).

Tennessee states that granting of the requested certificate will enable Tennessee to receive additional deliverability from previously committed reserves. Tennessee also states that granting Tennessee's alternate request for waiver will relieve Tennessee of the time and expense of preparing several other relatively minor certificate applications and will also relieve the Commission and its Staff of the burden of processing Tennessee's request for a certificate for these facilities at Vermilion 218 as well as such other minor applications.

Further, Tennessee says that the proposed construction for the facilities at Vermilion 218 is expected to cost about $930,000.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 14, 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 if 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. 78-15315 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-330]

TRANSCONTINENTAL GAS PIPELINE CORP.

Application

MAY 24, 1978.

Take notice that on May 12, 1978, Transcontinental Gas Pipeline Corporation (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-330 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation, and operation of three 3,735 horsepower (hp) Solar Centaur centrifugal gas turbine compressor units, station piping and other appurtenant facilities to be located at existing Compressor Station 60 on Applicant's mainline system in East Feliciana Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the additional horsepower obtained from the proposed facilities is necessary because the maximum capacity of its existing facilities at the discharge side of Station 60 is approximately 1,833,000 Mcf per day; however, Applicant anticipates that during the 1978-79 winter season the quantity of gas which would be required to be moved through Station 60 from all upstream sources would be up to about 2,061,000 Mcf per day. Applicant indicates that this total quantity is the sum of anticipated maximum flowing supplies from presently attached sources as well as new sources to be attached, withdrawal quantities from the Washington Storage Field, withdrawal quantities from the Hester Storage Field, the quantities attributable to exchange transactions in this area of the system, short- and long-haul transportation

quantities, and anticipated emergency gas supplies of an estimated 150,000 Mcf per day.

The proposed facilities are estimated by Applicant to cost $4,032,000, which cost would be financed initially through short-term loans and available cash, it is said. Construction is scheduled to commence in July, 1978, in order that the three compressor units, which are to be delivered in October, 1978, can be installed and ready for an in-service date of December 1, 1978, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 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. 78-15306 Filed 6-1-78; 8:45 am]

[6740-02]

[Docket No. CP78-328]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

MAY 24, 1978.

Take notice thay on May 12, 1978, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-328 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the long-haul firm and interruptible transportation service for Consolidated Gas Supply Corporation (Consolidated) under a revised transportation agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is authorized pursuant to the certificate issued in Docket No. CP72-244 and an agreement dated September 12, 1972, which is on file with the Commission as Rate Schedule X-56 in Applicant's FERC Gas Tariff, Original Volume No. 2, to provide firm transportation service for Consolidated up to 71,548 Mcf per day (14.7 psia) and interruptible transportation service up to 30,663 Mcf per day from two points on Applicant's system in Louisiana to the Clinton County, Pa., redelivery point for a 20-year term, expiring October 31, 1992.

Applicant states that as a result of changes and additions in the sources of gas supply available to Consolidated, particularly from offshore Louisiana, and in the terms and conditions under which Applicant renders similar long-haul transportation services for others, Applicant and Consolidated have revised the basic agreement pursuant to which Applicant proposes to provide firm and interruptible transportation services for Consolidated in the future.

It is indicated that the principal provisions of the revised transportation agreement dated April 12, 1978, are as follows:

(a) Delivery points for the receipt of Consolidated's gas on Applicant's system in the production area are divided into three groups: (1) delivery points at which Applicant would receive gas for firm transportation service through its main line for delivery in Clinton County, Pennsylvania, at Applicant's effective Rate Schedule CD-3 demand and commodity rate (less certain adjustments to the commodity rate); (2) delivery points at which Applicant would receive gas for firm main line transportation at its Rate Schedule CD-3 demand and commodity rate (as above), plus an additional charge to reimburse Applicant for Consolidated's share of the capacity for expanded facilities installed by Applicant in the production area in order to provide the transportation service on a firm basis; and (3) delivery points at which Applicant would receive gas for interruptible transportation. In addition, in the event that Applicant is required to install additional facilities between its main line and any point designated for the receipt of interruptible volumes for Consolidated, Consolidated may terminate the transportation service from such delivery point, reduce the maximum daily volume assigned to such point so as to eliminate the need for additional facilities, or convert the deliveries tendered at such point to a firm basis. If Consolidated exercises the latter option, then Applicant, either separately or jointly with Consolidated, would construct the required facilities and charges for the transportation services for gas tendered at such point would be adjusted.

(b) Applicant's obligation to provide firm transportation service, now stated volumetrically as 71,548 Mcf per day (14.7 psia), is restated in heating value units in dekatherms (dt) per day. Interruptible transportation volumes may be tendered by Consolidated up to 100,000 dt per day, a change from 30,663 Mcf per day. The contract rate of 22.0 cents per Mcf for existing interruptible service under Rate Schedule X-56 is changed, initially, to 24.0 cents per dt.

(c) The revised agreement provides: (1) that Applicant would retain fuel use and line loss make-up volumes related to rendering the interruptible transportation service, (2) for reimbursement for plant use and shrinkage in the event Consolidated's gas is processed, and (3) terms for the transportation of liquids in gas tendered by Consolidated.

(d) Five new delivery points for the receipt of Consolidated's gas by Applicant are as follows: (1) a point on Applicant's Southwest Louisiana Gathering System and the U-T Offshore System's Johnson's Bayou Plant in Cameron Parish, Louisiana; (2) a point on Applicant's existing facilities in South March Island Area, Block 66 Field, offshore Louisiana; (3) a point on Applicant's existing facilities in Vermilion Area, Block 101 Field, offshore Louisiana; (4) a point on Applicant's existing Southwest Louisiana Gathering System immediately downstream from Mobil Oil Corporation's Cameron Plant, in Cameron Parish, Louisiana; and (5) a point at the interconnection between Applicant and Trunkline Gas Company at Ragley, Beauregard Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 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. 78-15317 Filed 6-1-78; 8:45 am]

[3128-01]

Office of the Secretary

ENERGY RESEARCH ADVISORY BOARD

Determination To Establish

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify that the establishment of an Energy Research Advisory Board, ERAB as hereinafter identified, is in the public interest in connection with the performance of duties imposed upon the Department of Energy by the DOE Organization Act (Pub. L. 95-91) and other applicable law. This determination follows consultation with the General Services Administration, pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63 (Revised).

1. *Name of Advisory Committee.* Energy Research Advisory Board.

2. *Purpose.* The ERAB will advise the Office of the Secretary of Energy, through the Director of Energy Research, on scientific and technical matters of interest to the Department. Specifically the ERAB is to advise the Secretary, the Deputy Secretary, and the Under Secretary of Energy, and the Director of Energy Research on overall research and development (R. & D.) being conducted in DOE and provide long-range guidance in these areas to the Department. In furtherance of this mission, the Board shall concern itself with research and development policy matters in the area of long-range planning and shall render advice to the Office of the Secretary of Energy and the Department's key managers in areas useful to their offices as to specific energy systems and related research programs. Specific advice shall be rendered to meet the needs of the Agency by agreement with the Assistant Secretaries and the Under Secretary of the Department. The ERAB shall be responsible to requests for advice from the Secretary of Energy, the Deputy Secretary, the Under Secretary and the Director of Energy Research, and the Assistant Secretaries concerned with research.

3. *Effective Date of Establishment and Duration.* The ERAB is established, effective June 19, 1978, and after filing of the charter with the standing committees of Congress having legislative jurisdiction of the Department of Energy, and will be terminated or renewed not later than two years from the date the charter is filed as required by the Federal Advisory Committee Act.

4. *Membership.* The membership of ERAB will rotate each December 31 (approximately one-fourth of the Board being replaced each year). Membership and representation of all interests will be determined in accordance with the requirements of the Federal Advisory Committee Act (Pub. L. 92-463) and section 624(b) of the Department of Energy Organization Act (Pub. L. 95-91). Membership will include reasonable representation of the various points of view and functions of the industry and users affected, including residential, commercial, and industrial consumers; membership will also include, where appropriate, representation from both State and local governments, and representatives of state regulatory utility commissions selected after consultation with the respective national associations. Small business shall be represented. The Board members will be selected on the basis of their preeminence in the fields of science and technology pertinent to the interests of the respective offices of the Department, their professional expertise in relevant fields, their insight into the relationship between these discipline areas and relevant energy issues, their working experience with the points of view of industry, university, government, and professional community areas, and on the basis of their ability to knowledgeably express the views of other affected and appropriate interests. Selection of members will reflect the Board's principal focus on R. & D. The Board, it's Executive Steering Committee and other subcommittees and ad hoc subpanels will include a significant representation from science interest groups concerned with residential consumer issues at both the Federal and regional level.

There will be no discrimination based on race, color, national origin, religion, or sex.

5. *Operation.* The ERAB will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), OMB Circular A-63 (Revised), section 624 of the Department of Energy Organization Act (Pub. L. 95-91), and other directives and instructions issued in accordance with the implementation of these Acts. An Executive Steering Committee of ERAB will normally meet four times each year and at such other times as may be called by the Chairperson in consultation with the Director of Energy Research.

Agenda will be determined by the Chairperson in consultation with the Executive Director and the Director, Division of Advisory and Liaison Programs, with the approval of the Director of Energy Research giving due consideration to the suggestions of the Board members. Staff support will be provided to the Board by the Office of the Director, Division of Advisory and Liaison Programs, Office of Energy Research, DOE.

6. *Objectivity.* The advice and recommendations of this Advisory Committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the Advisory Committee's independent judgment.

Issued at Washington, D.C. on May 26, 1978.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 78-15391 Filed 6-1-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 904-7; PFT-28]

FOOD ADDITIVE PETITION

Filing

BASF Wyandotte Corp., Agricultural Chemical Division, 100 Cherry Hill Road, Parsippany, N.J. 07054, has submitted a petition (FAP 8H5182) to the Environmental Protection Agency (EPA) which proposes that 21 CFR Part 193 be amended by establishing a regulation permitting the use of the plant regulator N,N-dimethyl- piperidinium chloride in an experimental program involving the application of said pesticide to growing cotton with a tolerance limitation of 2 parts per million (ppm) in cottonseed meal. Notice of this submission is given pursuant to the provisions of Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington D.C. 20460. Inquiries concerning this petition may be directed to Special Registration Branch (SRB), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-755-4851. Written comments should bear a notation indicating the petition number. Comments may be

made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 24, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-15336 Filed 6-1-78; 8:45 am]

[6560-01]

[FRL-904-6]

OFFICE OF ENFORCEMENT

Guidelines for Section 211(f) Waivers for Alcohol-Gasoline Blends

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Clean Air Act Amendments of 1977 added section 211(f), which prohibits or limits the use of certain fuels and fuel additives, including alcohol-gasoline blends. Section 211(f) also provides for waivers of these prohibitions and limitations if a fuel or fuel additive manufacturer can show that a fuel or fuel additive will not cause or contribute to the failure of any emission control device or system installed on vehicles or engines to achieve compliance with applicable emission standards.

Pursuant to section 211(f), the Administrator has 180 days after receipt of an application within which to grant or deny a waiver. If the Administrator does not act within 180 days, the application for waiver shall be treated as granted.

These Guidelines are being published in order to facilitate waiver application and review for alcohol-gasoline blends, in particular Gasohol. The Guidelines also establish procedures for the waiver process.

FOR FURTHER INFORMATION CONTACT:

George Y. Sugiyama, Attorney-Advisor, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-2848.

SUPPLEMENTARY INFORMATION:

GUIDELINES: SECTION 211(f)(4) WAIVERS

I. APPLICATIONS FOR WAIVERS AND BURDEN OF PROOF

All requests for a waiver, the supporting data, and the contents of all related submittals should be public information and therefore releasable to any party requesting such data. Should an applicant for a waiver desire to assert a claim of business confidentiality or trade secret information over any part of an application requesting a waiver, such assertion should only be made if the failure to submit such information would seriously jeopardize the success of the application and the release of such information will cause significant harm to the applicant.

Applications for waivers should be submitted only by manufacturers of fuels or fuel additives. Requests for waivers by individuals or organizations who are not manufacturers will not be considered a sufficient request for waiver such as to initiate the 180 day review period provided by section 211(f)(4). For purposes of initiating the 180 day requirement, an application will be considered to be received on the date it is delivered to the Director, Mobile Source Enforcement Division. Use of certified (return receipt) or registered mail is encouraged.

The Administrator may waive the section 211(f) prohibitions and restrictions if he "determines that the *applicant has established*" (emphasis supplied) that the fuel additive in question will not cause the effects described in section 211(f)(4). The burden of performing tests and furnishing data and evidence is upon the applicant. Applications which are not accompanied by any evidence as to the effects of a fuel additive upon the emissions performance of the national automobile fleet will be denied. Any waiver granted to one manufacturer will be applicable to any manufacturer similarly situated. Multiple applications for the same waiver are not necessary and are discouraged unless based on different or additional information.

II. DEFINITIONS

A. *Substantially Similar*

A fuel additive is not substantially similar to any fuel additive used in the certification of any model year 1975 or subsequent model year vehicle or engine under section 206 of the Clean Air Act (as amended), if:

(a) Such fuel additive contains any element other than an impurity which was not specified for use, or was not typically contained, in the fuel utilized in the certification of any model year 1975, or subsequent model year vehicle or engine, or

(b) The chemical structure of the additive is not identical to the chemical structure of any additive specified for use in the certification of any model year 1975, or subsequent model year vehicle or engine.

B. *Introduction Into Commerce*

Introduction into commerce of a fuel additive occurs when with regard to a quantity of fuel containing such additive:

(a) No further blending, mixing, or other treatment or change to the chemical composition of the fuel will occur, and

(b) The fuel has entered into the process of shipment, such as pipeline or common carrier (whether or not owned or controlled by the manufacturer), with the purpose of selling or offering for sale.

C. *Increase in Concentration*

The phrase "increase in concentration" is applicable on a per refiner basis and, with respect to fuel additives, will be considered to occur if any concentration in any gallon of fuel (in grams of additive per gallon) exceeds any preceding concentration for a fuel entered into commerce.

III. TESTING PROCEDURES

A request for a waiver should contain data relating to a fuel additive's emissions effects which are derived from vehicle testing. It is essential that test data provide a reliable basis for comparison with the conditions under which vehicles are certified pursuant to section 206 of the Clean Air Act. The various tests and conditions under which tests should be conducted are described below.

A. *Use of the FTP for Exhaust Emissions Testing*

For all tailpipe tests the Federal Test Procedure for 1978 and subsequent year light-duty vehicles should be used. The FTP is described at 40 CFR 86.101 et seq. Any deviations from the FTP should be reported in the application for waiver along with an explanation as to the reasons for such deviations.

B. *Federal Durability Schedule*

EPA has reason to believe that any alcohol-gasoline blended fuels effects which may cause or contribute to the failure of a vehicle or engine to meet emission standards will be concentration and/or time dependent. Due to this dependence, such effects may not appear during the relatively short period (3 to 4 months) over which mileage is accumulated utilizing the 50,000 mile Federal Durability Schedule (40 CFR Part 86 Appendix IV).

EPA requests information on any time and concentration dependent effects that alcohol-gasoline blends may have on automotive systems such as gaskets or other parts of fuel systems, both metallic and nonmetallic. Further, any testing procedures which are used to determine such effects should be described in detail.

Should an applicant for a waiver choose to obtain mileage accumulation data, any deviations from the Federal

Durability Schedule should be reported in the application for waiver along with an explanation of the reasons for such deviations.

C. Testing at Various Concentration Levels of Fuel Additives

Where a waiver is sought for a fuel additive, the additive's effects upon emissions performance may be critically dependent upon its concentration in use. Data submitted should encompass the range of concentrations intended for use. No attempt by EPA to extrapolate data to a permissible concentration level is contemplated.

IV. FUEL AND FUEL ADDITIVE SPECIFICATIONS

A. Mileage Accumulation Fuel

The fuel utilized for mileage accumulation should be similar to that utilized in the certification of light-duty motor vehicles under section 206 of the Clean Air Act except with regard to the application additive. Reference should be made to 40 CFR 86.113-79(a)(2) for an example of one such fuel. Specifications for the mileage accumulation fuel should be reported in the application for a waiver along with documentation that the fuel utilized did not vary in specifications.

B. Emission Test Fuel

All emission testing should be performed using Indolene fuel except with regard to the application additive. If Indolene fuel is not used, then it is recommended that the specifications for emission test fuel contained at 40 CFR 86.113-79(a)(1) be followed. Specifications for the emission test fuel used should be reported in the application for a waiver along with documentation demonstrating that the fuel utilized did not vary in specifications.

V. DURABILITY OF EMISSION CONTROL SYSTEMS AND DEVICES

A waiver cannot be granted if a fuel additive will cause or contribute to a failure of any emission control device or system to achieve compliance with the standards over the vehicle's useful life. EPA believes that harm to emission control devices or systems which adversely affects vehicle performance, such that removal or rendering inoperative of such devices or systems may be reasonably expected, should be considered a basis under section 211 (f)(4) for denying a waiver. Where the potential for such harm is evidenced, the applicant has the burden of proving that such harm will not occur.

VI. FORMATS FOR SUBMITTAL OF INFORMATION

A. A separate application should be filed for each additive for which a waiver is requested.

B. The application should be in writing, signed by an authorized representative of the applicant, and clearly indicate that it is an application for a waiver pursuant to section 211 (f)(4) of the Clean Air Act.

C. All information and data which is used to support a request for a waiver should be submitted at the same time. Substantive amendments (other than technical corrections of information already received by EPA) may be considered to be new applications, and the date such amendments are received may be treated as the beginning of the 180 day period specified in section 211 (f)(4).

D. An application filed by more than one party is permissible and will be accepted.

E. The applicant has the burden of furnishing to EPA all data which is referenced or utilized as support for a request for a waiver.

F. Each application will receive a docket number which will be communicated to the applicant(s) along with the receipt date of the application. All correspondence should refer to the docket number.

G. A copy of each application should be submitted to: Director, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

H. Each application should contain the following information:

1. Fuel and fuel additive specification for the mileage accumulation and emissions test fuel and for the fuel and/or fuel additive for which a waiver is requested and the methods of analysis.

2. HC, CO, NOx emission values in grams/mile for each test performed.

3. Deterioration factors for each vehicle.

4. A description or reference to a description of all procedures used to test each vehicle.

5. A record and description of maintenance and other servicing performed.

6. The results of each emission test for each vehicle and the point in the durability schedule at which such vehicles were tested.

7. A description of each vehicle in the control and test fleets, including a description of their engines, emission control systems, fuel system components, and any auxiliary emission control devices.

8. Results of analysis of the actual fuel used in mileage accumulation and emission testing with respect to additive concentration, lead content, octane rating, sulfur content, phosphorus content, Reid vapor pressure, distillation specifications, and hydrocarbon composition.

9. Evidence of other physical effects of the additive for which waiver is requested on fuel system parts for the 50,000 miles of operation (e.g., indication of corrosion or material incompatibility with the additive).

10. Evidence of the physical effects of the additive for which waiver is requested on catalytic converters for the 50,000 miles of operation (e.g., pressure drop test results or other physical testing to determine extent of catalyst plugging).

Dated: April 24, 1978.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 78-15352 Filed 6-1-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: May 24, 1978.

Released: May 26, 1978.

Notice is hereby given, pursuant to section 1.572(c) of the Commission's Rules, that on July 7, 1978, the TV broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(b)(1) and section 1.591(b) of the Commission's Rules, an application in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 6, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on July 6, 1978.

The attention of any party in interest desiring to file pleadings concerning any pending TV broadcast application, pursuant to section 309(d)(1) of the Communication's Act of 1934, as amended, is directed to section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

BPCT-4970 (new), Greenville, Miss., Big River Broadcasting Co., Channel 15, ERP. Vis.: 2746 kW, HAAT 887 ft.

BPCT-5130 (new), Las Vegas, Nev., Broadcast West, Inc., Channel 21, ERP. Vis.: 280 kW, HAAT 1,419 ft.

BPCT-5148 (new), Pembina, N. Dak., North American Communication Corp., Channel 12, ERP. Vis.: 316 kW, HAAT 825 ft.

BPCT-5149 (new), Cleveland, Ohio, Cleveland Television Corp., Channel 19, ERP. Vis.: 1090 kW, HAAT 1,008 ft.

BPCT-5155 (new), Grand Junction, Colo., Pikes Peak Broadcasting Co., Channel 8, ERP. Vis.: 162 kW, HAAT 2,973 ft.

BPCT-5166 (new), Grand Rapids, Mich., T.V. 17 Unlimited, Inc., Channel 17, ERP. Vis.: 440.5 kW, HAAT 1,057 ft.
BPCT-5167 (WBTW-TV), Florence, S.C., Daily Telegraph Printing Co., Channel 13, change transmitter site; change ERP. Vis.: 316 kW; change HAAT 1,949 ft.
BPCT-5168 (new), Alexandria, La., Louisiana Educational TV Authority, Channel 25, ERP. Vis.: 2690 kW, HAAT 940 ft.
BPCT-5169 (new), Abilene, Tex., Big Country TV Co., Channel 32, ERP. Vis.: 2051.3 kW, HAAT 909.5 ft.
BPCT-5170 (new), San Antonio, Tex., Family Television, Inc., Channel 29, ERP. Vis.: 1242 kW, HAAT 894 ft.
BPET-598 (new), Bemidji, Minn., Northern Minnesota Public Television, Inc., Channel *9, ERP: Vis. 316 kW, HAAT 1,098 ft.
BPET-599 (new), Edwardsville, Ill., Southwestern Illinois Public Television, Inc., Channel *18, ERP: Vis. 5000 kW, HAAT 1,225.3 ft.
BPET-600 (WNJB), New Brunswick, N.J., New Jersey Public Broadcasting Authority, Channel *58, change transmitter location; change ERP: Vis. 3040.9 kW, HAAT 1410.3 ft., and request for waiver of section 73.610(d) of the Commission's Rules.
BPET-602 (new), West Palm Beach, Fla., Public Broadcasting Foundation of Palm Beach County, Inc., Channel *42, ERP: Vis. 1069 kW, HAAT 1,971 ft.
BPET-604 (new), Fort Myers, Fla., the State Board of Regents of Florida, Channel *30, ERP: Vis. 614 kW, HAAT 968.3 ft.
BPET-605 (KFME-TV), Fargo, N. Dak., Prairie Public Television, Inc., Channel *13, change transmitter location; change ERP: Vis. 305.5 kW; and change HAAT 1,142 ft.
BPET-607 (KOAP-TV), Portland, Oreg., State of Oregon Acting by and through the State Board of Higher Education, Channel *10, change ERP: Vis. 309 kW.
BPET-608 (new), Los Angeles, Calif., Quality Public Broadcasting Corp., Channel *68, ERP: Vis. 2265 kW, HAAT 2,284 ft.
BPCT-5177 (new), San Antonio, Tex., Hubbard Broadcasting, Inc., Channel 29, ERP: Vis. 2084 kW, HAAT 1,474 ft.

[FR Doc. 78-15197 Filed 6-1-78; 8:45 am]

[6712-01]

[Report No. 911]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 22, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30-day notice period (see § 309(c) of the Communications Act), applications filed under part 68, applications filed under part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for part 68 applications.

In order for an application filed under part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20848-CD-P-78 Penna. Radio Telephone Co. (new) C.P. for a new station to operate on 454.350 MHz to be located at North Queen and Chestnut Streets, Lancaster, Pa.
20951-CD-P-78 General Telephone Co. of Florida (KWT890) C.P. for additional facilities to operate on 152.84 MHz to be located at a new site Loc. No. 6: 2.8 miles north of Knights, Fla.
21194-CD-P-78 Carolina Telephone & Telegraph Co. (KDS725) C.P. to relocate facilities operating on 158.10 MHz to be located at .7 mile northwest of Whiteville, N.C.
21197-CD-P-78 Gulf Central Communications & Electronics, Inc. (new) C.P. for a new 1-way station to operate on 43.22 MHz to be located at State Highway 98, 1.8 miles east of Maxie, La.
21207-CD-P-(2)-78 General Telephone Co. of the Southwest (KFL909) C.P. to change antenna system operating on 152.60 and 152.72 and to add standby facilities operating on 152.60 and 152.72 MHz located at Highway 377 West at Hall Rock Quary, Brownwood, Tex.
21249-CD-P-(2)-78 Bruce Graham (KLB689) C.P. to relocate facilities operating on 152.09 MHz from Loc. No. 1 to Loc. No. 2 and for additional facilities to operate on 152.12 MHz at Loc. No. 2: 6 miles south of Canadian, Tex.
21250-CD-P-(3)-78 Two-Way Radio of Carolina, Inc. (new) C.P. for a new 1-way station to operate on 158.70 MHz, base, 72.24 MHz, repeater, at Loc. No. 1: East side U.S. Hwy. 29A—1.5 miles northwest of Concord, N.C., and 75.88 MHz, control at Loc. No. 2: 400 South Tyron, Charlotte, N.C.
21278-CD-P-(2)-78 Evans Communications, Inc. (KTS235) C.P. to designate facilities operating on 152.24 MHz at Loc. No. 1 as standby and for additional facilities to operate on 152.24 MHz to be located at a new site Loc. No. 2: Corner of Gervais and Bull Street, Columbia, S.C.
21279-CD-P-78 Ranch Radio, Inc. (KLB324) C.P. for additional facilities to operate on 454.250 MHz at Loc. No. 1: 1 mile north of El Campo, Tex.
21280-CD-P-78 Telephone Answering Service, Inc. (KJU799) C.P. for additional facilities to operate on 152.18 MHz located at 805 Kentucky Avenue, Paducah, Ky.
21285-CD-P-(7)-78 Southwestern Bell Telephone Co. (KKB855) C.P. for additional facilities to operate on 152.63 MHz and to correct coordinates and change transmitters operating on 152.51, 152.54, 152.66, 152.75, 152.78, and 152.81 MHz located at 3.7 miles north and 2.9 miles west of the intersection of Grand and Main Streets, in Enid, Okla.
21286-CD-P-(3)-78 Mobilfone Communications, Inc. (KKX714) C.P. to change antenna system operating on 152.03, 152.18, and 152.21 MHz at Loc. No. 2: 3.63 miles west of Pflugerville, Tex.
21287-CD-P-78 Answerphone of Cumberland & Atlantic Counties, Inc. (KTS279) C.P. for additional facilities to operate on 454.100 MHz to be located at a new site Loc. No. 2: Brigantine Inn, 1400 Ocean Avenue, Brigantine, N.J.
21289-CD-P-78 Mobilfone Communications, Inc. (KFL661) C.P. for additional facilities to operate on 152.24 MHz at a new site Loc. No. 4: 3.63 miles west of Pflugerville, Tex.
21294-CD-P-(2)-78 General Telephone Co. of the Southwest (KLF468) C.P. to replace transmitter operating on 152.51 and 152.72 MHz and for additional facilities to operate on 152.51 and 152.72 MHz, standby located at east side of FM2012, 2.5 miles north of intersection of FM2012 and FM918, Kilgore, Tex.
21295-CD-P-(9)-78 Mobilfone Communications, Inc. (KKX714) C.P. for additional facilities to operate on 152.06, 152.09, 152.15, 454.050, 454.100, 454.150, 454.200, 454.250, and 454.350 MHz at Loc. No. 2: 3.63 miles west of Pflugerville, Tex.
21296-CD-P-(3)-78 Mobile Phone of Texas, Inc. (KKO341) C.P. for additional facilities to operate on 454.125 MHz, control at Loc. No. 1: KFDX-TV tower, State Route 30 and Old Seymour Road, Wichita Falls, Tex.; and 152.09 MHz, base and 459.125 MHz, repeater at a new site Loc. No. 2: 0.9 mile south of Hwys. 25 and 287 near Electra, Tex.
21420-CD-P-(2)-78 Airsignal International, Inc. (KQB688) C.P. for additional facilities to operate on 152.06 and 152.15 MHz to be located at a new site Loc. No. 6: Gates Mill Shopping Center, Mayfield Heights, Ohio.
21421-CD-P-78 Radio Relay Corp.-New Jersey (KEC935) C.P. for additional facilities to operate on 35.58 MHz to be located at a new site Loc. No. 6: 1,500 feet east of Route 34, 3 miles south of Matawan, N.J.
21422-CD-AL-(2)-78 AAA Anserphone, Inc.—Jackson. Consent to Assignment of License from AAA Anserphone, Inc.—

Jackson, Assignor to Anserphone of Natchez, Inc., Assignee, Stations: KRH666 and KUD208, Natchez, Miss.

21423-CD-P-(2)-78 Metro Fone Communications, Inc. (KRS655) C.P. for additional facilities to operate on 2128.0 MHz, repeater at Loc. No. 1: IDS Center, 80 South Eighth Street, Minneapolis, Minn., and 2178.0 MHz, control, at a new site Loc. No. 2: 4211 Rhode Island Avenue, North, New Hope, Minn.

21424-CD-MP-78 Carolinal Telephone & Telegraph Co. (KDS761) M.P. to relocate facilities operating on 158.10 MHz to be located at 2.7 miles north, Ahoskie, N.C.

21425-CD-P/ML-78 DPRS, Inc. t/a ZipCall (KCB890) C.P. to change antenna system operating on 43.58 MHz at Loc. No. 8: Oak Street, 0.4 miles north of Route 6, Barnstable, Mass.

21426-CD-AL-78 Betty Bowen Bradshaw, d.b.a. Salisbury Answering Service. Consent to Assignment of License from Betty Bowen Bradshaw, d.b.a. Salisbury Answering Service, Assignor to Salisbury Mobile Telephone, Inc., Assignee. Station KGH868, Salisbury, Md.

21428-CD-P-(6)-78 Advanced Radio Communications Co. (KQZ755) C.P. for additional facilities to operate on 454.025, 454.050, 454.200, 454.250, 454.300, and 454.350 MHz to be located at location No. 6: Bull Run Mountain, 7.1 miles NNW of Haymarket, Va. .

21429-CD-P-(2)-78 Tel-Page Corp. (KEC941) C.P. for additional facilities to operate on 454.275 and 454.350 MHz to be located at Loc. No. 2: One Lincoln First Square, Rochester, NY.

21430-CD-P-(4)-78 George L. Oakley (new) C.P. for a new station to operate on 152.06, 152.21 at two (2) new sites described as Loc. No. 1: At San Miguel Mountain, approx. 5 miles Southeast of Spring Valley, Calif.; and Loc. No. 2: At Birch Hill, approx. 6 miles Southwest of Oak Grove, Calif.

21431-CD-P-78 Southern Radio-Phone, Inc. (KLF537) C.P. for additional facilities to operate on 454.350 MHz at Loc. No. 2: 3.7 miles west of Princeton, Fla.

21432-CD-P-78 Southeast Mobilphone, Inc. (KQZ742) C.P. to change antenna system operating on 152.09 MHz at Loc. No. 1: 1.5 miles Northwest of Morristown, Tenn.

21427-CD-TC-(2)-78 Radio Dispatch Corp. Consent to Transfer de facto control from Richard A. Howard, Transferor to Edward Konjoyan, Transferee. Stations: KMD992 and KSV928, Pomona, Calif.

21433-CD-P-78 Marc Weber Tobias and Michael Charles Tobias, d.b.a. MT Systems, Inc. (new) C.P. for a new station to operate on 152.09 MHz to be located at White Clay Butte, 3.4 miles north-northeast of Murdo, S. Dak.

21434-CD-P-(4)-78 R.C.S., Inc. (KMD689) C.P. for additional facilities to operate on 454.025, 454.050, 454.275, and 454.300 MHz at Loc. No. 2: 1224 Murray Avenue, San Luis Obispo, Calif.

21435-CD-P-(4)-78 Intrastate Radio Telephone, Inc. of Los Angeles (KMA200) C.P. for additional facilities to operate on 454.250 and 454.275 MHz to be located at Loc. No. 4: Oat Mountain, near Los Angeles, Calif; and 454.250 and 454.275 MHz at a new site described as Loc. No. 5: 3960 Crest Road, Rolling Hills, Calif.

21435-CD-AP/AL-(2)-78 Albert M. Steiner, d.b.a. Long Island Telephone Co. Consent to Assignment of License and Permit from Albert M. Steiner, d.b.a. Long Island Telephone Co., Administrator of the Estate of Albert M. Steiner, Assignor to Albert Steiner, Administrator of the Estate of Albert M. Steiner, Assignee. Stations: KAA278, Brookville, N.Y.; and KEJ885, Brookville, N.Y.

21437-CD-P-(3)-78 Radiotelephone Co. of Indiana, Inc. (KSA811) C.P. to change antenna system and relocate facilities operating on 454.100, 454.200, and 454.275 MHz at Loc. No. 3: 2530 Enterprise Street, Indianapolis, Ind.

21438-CD-P-78 Radiotelephone Co. of Indiana, Inc. (KUC846) C.P. for additional facilities to operate on 35.22 MHz to be located at a new site Loc. No. 2: 401 North Pennsylvania Street, Indianapolis, Ind.

MAJOR AMENDMENT

21129-CD-P-78 Future Communications, Inc., Morris Illinois (new) Amend base frequency 454.125 MHz to read 454.175 MHz. All other particulars to remain as reported on PN No. 905 dated April 10, 1978.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

Renewal of Licenses Expiring July 1, 1978. Term: July 1, 1978 to July 1, 1983

Allied Utilities Corp., KLF469, Arkansas.
Allied Telephone Co. of Missouri, Inc., KAH665, Missouri.
Allied Telephone Co. of Missouri, Inc., KBM511, Missouri.
Allied Telephone Co. of Oklahoma, Inc., KLB508, Oklahoma.
Allied Telephone Co. of Oklahoma, Inc., KLB684, Oklahoma.
Allied Telephone Co. of Arkansas, Inc., KFJ885, Arkansas.
Allied Telephone Co. of Arkansas, Inc., KLB683, Arkansas.
Allied Telephone Co. of Arkansas, Inc., KLB697, Arkansas.
Allied Telephone Co. of Arkansas, Inc., KLB774, Arkansas.
Breda Telephone Corp., KUS310, Iowa.
Bell Telephone Co. of Pennsylvania, KB9819, Pennsylvania.
Bell Telephone Co. of Pennsylvania, KEK300, Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGA474, Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGA475, Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGA476, Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGA585, Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGA592 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGB868 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGC226 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGC228 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGC229 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGC411 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGC412 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGH861 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGH867 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGH872 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGH874 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGI262 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGI263 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGI264 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGI265 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGI266 Pennsylvania.
Bell Telephone Co. of Pennsylvania, KGI785 Pennsylvania.
Blue Earth Valley Telephone Co., KBM521, Minnesota.
Bridge Water Telephone Co., KDS970, Minnesota.
Boone County Telephone Co., KLB775, Arkansas.
Bloomingdale Home Telephone Co., Inc., KSJ817, Indiana.
Bledsoe Telephone Cooperative, KQZ759, Tennessee.
Branderburg Telephone Co., KIY459, Kentucky.
Brandenburg Telephone Co., KWH341, Kentucky.
Continental Telephone Co. of Arkansas, KLB709, Arkansas.
Continental Telephone Co. of Arkansas, KFL950, Arkansas.
Continental Telephone Co. of Arkansas, KLB700, Arkansas.
Continental Telephone Co. of Arkansas, KLB691, Arkansas.
Continental Telephone Co. of Arkansas, KLB695, Arkansas.
Continental Telephone Co. of Arkansas, KLB708, Arkansas.
Continental Telephone Co. of Arkansas, KLB793, Arkansas.
Continental Telephone Co. of Arkansas, KLB801, Arkansas.
Continental Telephone Co. of California, KMM688, California.
Continental Telephone Co. of California, KFL896, California.
Continental Telephone Co. of California, KFL908, Nevada.
Continental Telephone Co. of California, KMA746, California.
Continental Telephone Co. of California, KMM584, California.
Continental Telephone Co. of California, KMM598, California.
Continental Telephone Co. of California, KMM633, California.
Continental Telephone Co. of California, KMM635, California.
Continental Telephone Co. of California, KMM637, California.
Continental Telephone Co. of California, KMM638, California.
Continental Telephone Co. of California, KMM650, California.
Continental Telephone Co. of California, KMM661, California.
Continental Telephone Co. of California, KMM662, California.
Continental Telephone Co. of California, KMM663, California.
Continental Telephone Co. of California, KMM664, California.
Continental Telephone Co. of California, KMM669, California.
Continental Telephone Co. of California, KMM670, California.
Continental Telephone Co. of California, KMM672, California.
Continental Telephone Co. of California, KMM681, California.
Continental Telephone Co. of California, KMM682, California.
Continental Telephone Co. of California, KOF901, Nevada.
Continental Telephone Co. of California, KOP243, Nevada.

Continental Telephone Co. of Illinois, KDS788, Illinois.
Continental Telephone Co. of Illinois, KSJ617, Illinois.
Continental Telephone Co. of Illinois, KSJ624, Illinois.
Continental Telephone Co. of Illinois, KSJ768, Illinois.
Continental Telephone Co. of Indiana, KSD325, Indiana.
Continental Telephone Co. of Iowa, KFL915, Iowa.
Continental Telephone Co. of Iowa, KAF637, Iowa.
Continental Telephone Co. of Iowa, KAL874, Iowa.
Continental Telephone Co. of Iowa, KDT218, Iowa.
Continental Telephone Co. of Iowa, KEK285, Iowa.
Continental Telephone Co. of Iowa, KFJ904, Iowa.
Continental Telephone Co. of Kansas, KDT222, Kansas.
Continental Telephone Co. of Kentucky, KIM917, Kentucky.
Continental Telephone Co. of Maine, KCI294, Maine.
Continental Telephone Co. of Maine, KCI298, Maine.
Continental Telephone Co. of Minnesota, KAD928, Minnesota.
Continental Telephone Co. of Minnesota, KAF647, Minnesota.
Continental Telephone Co. of Minnesota, KAL875, Minnesota.
Continental Telephone Co. of Minnesota, KLF532, Minnesota.
Continental Telephone Co. of Missouri, KAD514, Missouri.
Continental Telephone Co. of Missouri, KBM506, Missouri.
Continental Telephone Co. of Missouri, KDT216, Missouri.
Continental Telephone Co. of Missouri, KGI768, Missouri.
Continental Telephone Co. of New Hampshire, KCI301, New Hampshire.
Continental Telephone Co. of New Jersey, KEK273, New Jersey.
Continental Telephone Co. of Northwest, Inc., KOK413, Oregon.
Continental Telephone Co. of Northwest, Inc., KFL898, Oregon.
Continental Telephone Co. of Northwest, Inc., KON906, Washington.
Continental Telephone Co. of Northwest, Inc., KOK336, Washington.
Continental Telephone Co. of Northwest, Inc., KH2322, Oregon.
Continental Telephone Co. of the South, KIY351, Georgia.
Continental Telephone Co. of the South, KIY791, Georgia.
Continental Telephone Co. of Texas, KLB517, Texas.
Continental Telephone Co. of Texas, KKT567, Texas.
Continental Telephone Co. of Texas, KLB789, Texas.
Continental Telephone Co. of Texas, KKQ969, Texas.
Continental Telephone Co. of Texas, KLB766, Texas.
Continental Telephone Co. of Texas, KLB767, Texas.
Continental Telephone Co. of Texas, KLB768, Texas.
Continental Telephone Co. of Texas, KLB763, Texas.
Continental Telephone Co. of Texas, KLB503, Texas.
Continental Telephone Co. of Texas, KKB865, Texas.
Continental Telephone Co. of Vermont, KCC788, Vermont.
Continental Telephone Co. of Virginia, KIM907, Virginia.
Continental Telephone Co. of Virginia, KIY597, Virginia.
Continental Telephone Co. of Virginia, KIY580, Virginia.
Continental Telephone Co. of the West, KFL906, Utah.
Continental Telephone Co. of the West, KLF567, Utah.
Continental Telephone Co. of the West, KOE515, Utah.
Continental Telephone Co. of the West, KLF549, Idaho.
Continental Telephone Co. of the West, KJU802, New Mexico.
California-Oregon Telephone Co., KMM686, California.
Carolina Telephone & Telegraph Co., KIJ362, North Carolina.
Carolina Telephone & Telegraph Co., KFL939, North Carolina.
Carolina Telephone & Telegraph Co., KFQ924, North Carolina.
Carolina Telephone & Telegraph Co., KIY788, North Carolina.
Carolina Telephone & Telegraph Co., KFL937, North Carolina.
Carolina Telephone & Telegraph Co., KIJ363, North Carolina.
Capital City Telephone Co., KDN410, Missouri.
Consolidated Telephone Co., KQZ710, Minnesota.
Conroe Telephone Co., KUS305, Texas.
Coose Valley Telephone Co., KWB378, Alabama.
Cowiche Telephone Co., KFL882, Washington.
Citizens Utilities Co. of Pennsylvania, KWU221, Pennsylvania.
Chenango & Unadilla Telephone Corp., KEJ895, New York.
Chenango & Unadilla Telephone Corp., KEJ896, New York.
Chenango & Unadilla Telephone Corp., KEJ897, New York.
Chenango & Unadilla Telephone Corp., KEJ898, New York.
Chenango & Unadilla Telephone Corp., KEJ899, New York.
Clifton Telephone Co., KLB579, Texas.
City of Beresford, KFL952, South Dakota.
City of Brookings Telephone Department, KAL878, South Dakota.
California-Pacific Utilities Co., KEK279, California.
Calhoun City Telephone Co., Inc., KUS373, Mississippi.
Camden Telephone Co., KQK719, Michigan.
Camden Telephone Co., KQK716, Michigan.
Camden Telephone Co., Inc., KSJ810, Indiana.
Cameron Telephone Co., KKO357, Louisiana.
Cascade Telephone Co., KRM954, Iowa.
Cascade Telephone Co., KOP320, Washington.
Central Telephone Co., KOH273, Nevada.
Central Telephone Co., KUS241, Minnesota.
Central Telephone Co., KFL960, Minnesota.
Central Telephone Co., KQK770, Michigan.
Central Telephone Co., KWU415, Iowa.
Central Telephone Co., KDT213, Iowa.
Central Telephone Co. of Florida, KIN646, Florida.
Central Telephone Co. of Florida, KIY737, Florida.
Central Telephone Co. of Illinois, KUS220, Illinois.
Central Telephone Co. of Illinois, KFQ929, Illinois.
Central Telephone Co. of Illinois, KRS701, Illinois.
Central Telephone Co. of Illinois, KSD683, Illinois.
Central Telephone Co. of Illinois, KUC880, Illinois.
Central Telephone Co. of Missouri, KLF467, Missouri.
Central Telephone Co. of Virginia, KIY771, Virginia.
Central Telephone Co. of Virginia, KJU797, Virginia.
Central Telephone Co. of Virginia, KQZ725, Virginia.
Delaware Telephone Co., Inc., KEJ901, New York.
Delaware Telephone Co., Inc., KEJ902, New York.
The Diamond State Telephone Co., KGA471, Delaware.
The Diamond State Telephone Co., KGA473, Delaware.
The Diamond State Telephone Co., KGH864, Delaware.
The Diamond State Telephone Co., KGH865, Delaware.
Doniphan Telephone Co., KAA485, Missouri.
Doniphan Telephone Co., KLF575, Missouri.
Denver & Ephrata Telephone & Telegraph Co., KGH859, Pennsylvania.
Denver & Ephrata Telephone & Telegraph Co., KGI782, Pennsylvania.
Empire Telephone Corp., KEK286, New York.
Florida Telephone Corp., KQZ771, Florida.
Federated Telephone Cooperative, KAH663, Minnesota.
General Telephone Co. of Illinois, KRH635, Illinois.
General Telephone Co. of Illinois, KQZ751, Illinois.
General Telephone Co. of Illinois, KRH669, Illinois.
General Telephone Co. of Illinois, KQZ703, Illinois.
General Telephone Co. of Illinois, KRS622, Illinois.
General Telephone Co. of Illinois, KUS259, Illinois.
General Telephone Co. of Illinois, KQZ758, Illinois.
General Telephone Co. of Illinois, KRH645, Illinois.
General Telephone Co. of Illinois, KRH633, Illinois.
General Telephone Co. of Illinois, KRH670, Illinois.
General Telephone Co. of Illinois, KQZ746, Illinois.
General Telephone Co. of Indiana, KSA260, Indiana.
General Telephone Co. of Indiana, KSA623, Indiana.
General Telephone Co. of Indiana, KSJ800, Indiana.
General Telephone Co. of Indiana, KSH815, Indiana.
General Telephone Co. of Indiana, KSA309, Indiana.
General Telephone Co. of Indiana, KSA624, Indiana.
General Telephone Co. of Indiana, KSJ809, Indiana.
General Telephone Co. of the Northwest, Inc., KFQ933, Oregon.
General Telephone Co. of the Northwest, Inc., KEK281, Idaho.
General Telephone Co. of the Northwest, Inc., KDS908, Washington.
General Telephone Co. of the Northwest, Inc., KON912, Washington.

General Telephone Co. of the Northwest, Inc., KTS244, Washington.
General Telephone Co. of the Northwest, Inc., KWU496, Washington.
General Telephone Co. of the Northwest, Inc., KUC860, Washington.
General Telephone Co. of the Northwest, Inc., KTS239, Washington.
General Telephone Co. of the Northwest, Inc., KOH271, Oregon.
General Telephone Co. of Kentucky, KLF654, Kentucky.
General Telephone Co. of Kentucky, KQZ735, Kentucky.
General Telephone Co. of Kentucky, KIY450, Kentucky.
General Telephone Co. of Kentucky, KRH664, Kentucky.
General Telephone Co. of Kentucky, KWH321, Kentucky.
Glacier State Telephone Co., KWA665, Alaska.
Glenwood Telephone Membership Corp., KWU388, Nebraska.
Goshen Telephone Co., Inc., KUS294, Alabama.
Home Telephone Co., KWT872, Indiana.
Hendricks Telephone Corp., KFL938, Indiana.
Hendricks Telephone Corp., KWT929, Indiana.
Hopkinton Telephone Co., KCI302, New Hampshire.
Harrington Telephone, Inc., KWT932, Nebraska.
Hager City Telephone Co., KJU798, Wisconsin.
Illinois Consolidated Telephone Co., KSJ763, Illinois.
Illinois Consolidated Telephone Co., KSJ764, Illinois.
Illinois Consolidated Telephone Co., KSJ765, Illinois.
Illinois Consolidated Telephone Co., KSC369, Illinois.
Intra-State Telephone Co., KQZ727, Illinois.
Intra-State Telephone Co., KSJ807, Illinois.
Kearsarge Telephone Co., KUS308, New Hampshire.
Kearsarge Telephone Co., KUS300, New Hamsphire.
Lufkin Telephone Exchange, Inc., KKX717, Texas.
Munising Telephone Co., KUS387, Michigan.
Munising Telephone Co., KUS386, Michigan.
Munising Telephone Co., KUS388, Michigan.
Mid-Texas Telephone Co., KLB616, Texas.
Mid-Texas Telephone Co., KUC998, Texas.
New Jersey Telephone Co., KEJ893, New Jersey.
New Ulm Rural Telephone Co., KAQ613, Minnesota.
Northern Telephone Cooperative, Inc., KLF525, Montana.
Northwestern Telephone Systems, Inc., KOK412, Oregon.
Northwestern Telephone Systems, Inc., KFL914, Montana.
Oklahoma Allied Telephone Co., KLB620, Oklahoma.
Oklahoma Allied Telephone Co., KLB675, Oklahoma.
Palmerton Telephone Co., KGC403, Pennsylvania.
Pioneer Telephone Cooperative, Inc., KWT908, Oklahoma.
Pioneer Telephone Cooperative, Inc., KLB671, Oklahoma.
Pioneer Telephone Cooperative, Inc., KLB670, Oklahoma.
Pioneer Telephone Cooperative, Inc., KLB699, Oklahoma.
Pioneer Telephone Cooperative, Inc., KUO614, Oklahoma.
Peninsula Telephone & Telegraph Co., KOK333, Washington.
Quaker State Telephone Co., KGH858, Pennsylvania.
Romain Telephone Co., Inc., KLB755, Texas.
RCA Alaska Communications, Inc., KTR985, Alaska.
RCA Alaska Communications, Inc., KWA671, Alaska.
Souris River Telephone Mutual Aid Corp., KAI930, North Dakota.
Souris River Telephone Mutual Aid Corp., KAI931, North Dakota.
The Southern New England Telephone Co., KCA221, Connecticut.
The Southern New England Telephone Co., KCA718, Connecticut.
The Southern New England Telephone Co., KCA723, Connecticut.
The Southern New England Telephone Co., KCA751, Connecticut.
The Southern New England Telephone Co., KCC475, Connecticut.
The Southern New England Telephone Co., KLF610, Connecticut.
Southland Telephone Co., KIY521, Alabama.
St. John Cooperative Telephone & Telegraph Co., KRS675, Washington.
Stockbridge and Sherwood Telephone Co., KWH347, Wisconsin.
St. Joseph Telephone & Telegraph Co., KIY457, Florida.
Smithville Telephone Co., Inc. KWU240, Indiana.
St. Joseph Telephone & Telegraph Co., KUS237, Florida.
South Georiga, Telephone Co., KIY751, Georgia.
Schaller Telephone Co., KWU471, Iowa.
Trinity Valley Telephone Co., KLB788, Texas.
Taconic Telephone Corp., KED363, New York.
Thomaston Telephone Co., KIR201, Georgia.
Twin-Lakes Telephone Cooperative Corp., KUO635, Tennessee.
Tri-County Telephone Co., KFJ883, Alabama.
Tri-County Telephone Co., Inc., KWT873, Indiana.
Tri-County Telephone Cooperative, Inc., KJU801, Wisconsin.
United Telephone Co. of Florida, KIM901, Florida.
United Telephone Co. of Florida, KIJ354, Florida.
United Telephone Co. of Florida, KUD237, Florida.
United Telephone Co. of Florida, KRM968, Florida.
United Telephone Co. of Florida, KDS357, Florida.
United Telephone Co. of Florida, KDS548, Florida.
United Telephone Co. of Florida, KSD329, Florida.
United Telephone Co. of the Northwest, KFQ926, Oregon.
United Telephone Co. of the Northwest, KJU803, Washington.
United Telephone Co. of the Northwest, KOK335, Oregon.
United Telephone Co. of the Northwest, KOK349, Oregon.
United Telephone Co. of the Northwest, KON917, Washington.
United Telephone Co. of the Northwest, KON924, Washington.
United Telephone Co. of Missouri, KLF578, Missouri.
United Telephone Co. of Missouri, KLF541, Missouri.
United Telephone Co. of Missouri, KLF483, Missouri.
United Telephone Co. of Missouri, KFQ937, Missouri.
United Telephone Co. of Missouri, KLF481, Missouri.
United Telephone Co. of Missouri, KDT201, Missouri.
United Telephone Co. of Missouri, KWA658, Missouri.
United Telephone Co. of Minnesota, KFL953, Minnesota.
United Telephone Co. of Minnesota, KFL890, Minnesota.
United Telephone Co. of Minnesota, KFL881, Minnesota.
United Telephone Co. of Kansas, Inc., KUC861, Kansas.
United Telephone Co. of Kansas, Inc., KAQ637, Kansas.
United Telephone Co. of Kansas, Inc., KBM522, Kansas.
United Telephone Co. of Ohio, KQA651, Ohio.
United Telephone Co. of Ohio, KQA459, Ohio.
United Telephone Co. of Ohio, KUA305, Ohio.
United Telephone Co. of Arkansas, KFL956, Arkansas.
United Telephone Co. of Iowa, KLF489, Iowa.
United Telephone Co. of Iowa, KLF488, Iowa.
United Telephone Co., of the West, KAQ626, Nebraksa.
United Telephone Co. of the West, KUC851, Nebraska.
The United Telephone Co. of Pennsylvania, KGH871, Pennsylvania.
The United Telephone Co. of Pennsylvania, KGH863, Pennsylvania.
The United Telephone Co. of Pennsylvania, KGI777, Pennsylvania.
United Telephone Co. of Pennsylvania, KUD216, Pennsylvania.
The United Telephone Co. of Pennsylvania, KUO634, Pennsylvania.
The United Telephone Co. of Pennsylvania, KUS330, Pennsylvania.
United Telephone Mutual Aid Corp., KWT940, North Dakota.
United Telephone Mutual Aid Corp., KWT961, North Dakota.
United Telephone Mutual Aid Corp., KWT971, North Dakota.
United Telephone Mutual Aid Corp., KWT970, North Dakota.
Unity Telephone Co., KLF540, Maine.
Upper Peninsula Telephone Co., KWU296, Michigan.
Upper Peninsula Telephone Co., KQZ732, Michigan.
Upper Peninsula, Telephone Co., KQK776, Michigan.
United Telephone Co., KSJ625, Wisconsin.
Vernon Telephone Cooperative, KTS260, Wisconsin.
Viroqua Telephone Co., KRS673, Wisconsin.
Valley Telephone Co., KSW211, Wyoming.
Wheat State Telephone Co., Inc., KWT888, Kansas.
The Wheat State Telephone Co., Inc., KUC850, Kansas.
Wheat State Telephone Co., Inc., KBM514, Kansas.
Whidbey Telephone Co., KOP303, Washington.

Wolverine Telephone Co., KLF494, Michigan.
West Jersey Telephone Co., KEC942, New Jersey.
West Jersey Telephone Co., KUO562, New Jersey.
Walnut Hill Telephone Co., KLB682, Arkansas.
West Virginia Telephone Co., KQD316, West Virginia.
Wise County Telephone Co., KLB325, Texas.
The Western Reserve Telephone Co., KQA650, Ohio.
The Western Reserve Telephone Co., KQK583, Ohio.
West Florida Telephone Co., KFL958, Florida.
Wellman Co-Operative Telephone Association, KLF566, Iowa.
Webster County Telephone Co., KFL949, Missouri.
West Branch Telephone Co., KAF638, Iowa.
Webster-Calhoun Cooperative Telephone Association, KRS681, Iowa.

RURAL RADIO SERVICE

60240-CR-P/L-78 Hawaiian Telephone Co. (new) C.P. and license for a new rural subscriber station to operate on 157.86 and 157.92 MHz to be located at 1st Avenue, home of James McCauliff, Hawaiian Paradise Park, Hawaii.
60241-CR-P/L-78 Hawaiian Telephone Co. (new) C.P. and license for a new rural subscriber station to operate on 157.86 and 157.92 MHz to be located at Hawaii Island Safari, Mess Hall Building, Hale Pohaku, Hawaii.
60242-CR-P/L-78 Hawaiian Telephone Co. (new) C.P. and license for a new rural subscriber station to operate on 157.86 and 157.92 MHz to be located at University of Hawaii Cafeteria Building, Hale Pohaku, Hawaii.
60243-CR-P/L-78 Hawaiian Telephone Co. (new) C.P. and license for a new rural subscriber station to operate on 157.86 and 157.92 MHz to be located at Home of Dr. Mark Rosenberg, 3 miles NE of Kaimu, Kehena Beach, Hawaii.
60244-CR-P/L-78 Hawaiian Telephone Co. (new) C.P. and license for a new rural subscriber station to operate on 157.86 and 157.92 MHz to be located at 5th Avenue, Home of Ezell Fern, Hawaiian Paradise Park, Hawaii.

POINT TO POINT MICROWAVE RADIO SERVICE

IL—2022-CF-ML-78 Illinois Bell Telephone Co. (KVH77) .25 mile NW. of Sicily (Christian) Ill. Mod of license to correct coordinates from Lat. 39°35'30" N. Long. 89°29'41" W. to read Lat. 39°35'28" N. Long. 89°29'51" W.
WV—2170-CF-R-78 General Telephone Co. of the Northwest, Inc. (WAT941). In territory of grantee, application for renewal of radio station license (developmental) expiring May 28, 1978, term; May 28, 1978 to May 28, 1979.
WV—2284-CF-P-78 American Telephone and Telegraph Co. (KQE76). 1.5 miles NW. of Tyler, (Kanawha) W Va. Lat. 38°24'02" N. Long. 81°44'20" W. C.P. to add frequency 4010V MHz toward Gandeeville, W Va.
WV—2285-CF-P-78 Same (KQA40) 1.8 miles west of Gandeeville, (Roan) W Va. Lat. 38°41'51" N. Long. 81°26'35" W. C.P. to add frequency 3970V MHz toward Tyler, and Elizabeth, W Va.
WV—2286-CF-P-78 Same (KQA41) 2.0 miles NNE. of Elizabeth, (Wirt) W Va. Lat. 39°05'07" N. Long. 81°24'44" W. C.P. to add frequencies 4010V toward Gandeeville, and 3750H MHz toward Parkersburg, W Va.
WV—2287-CF-P-78 Same (KQA42) Mary and George Sts. Parkersburg, (Wood) W Va. Lat. 39°15'46" N. Long. 81°32'50" W. C.P. to add frequency 4030H MHz and replace antennas on frequency 4050V HMz toward Elizabeth, W Va.
AR—2295-CF-P-78 United Telephone Co. of Arkansas (new). West Main and Flagler Sts. Monette, (Craighead) Ark. Lat. 35°53'21" N. Long. 90°20'31" W. C.P. for a new station on frequency 2178H MHz on azimuth 170.3° toward Caraway, Ark.
AR—2296-CF-P-78 Same (new) NE. corner Nelson and First St. Leachville, (Mississippi) Ark. Lat. 35°56'14" N. Long. 90°15'24" W. C.P. for a new station on frequency 2162H MHz on azimuth 195.2° toward Caraway, Ark.
MO—2297-CF-P-78 Southwestern Bell Telephone Co. (KAL86) 600 St. Louis Street Springfield, (Greene) Mo. Lat. 37°12'31" N. Long. 93°17'10" W. C.P. to add a new point of communication on frequency 6226.9H MHz on azimuth 124.6° toward Rogersville, Mo.
MO—2298-CF-P-78 Same (new) 2.1 miles SW. of Rogersville, (Greene) Mo. Lat. 37°05'45" N. Long. 93°04'55" W. C.P. for a new station on frequencies 5974.8V MHz on azimuth 304.7° toward Springfield, Mo. and 5945.2V Mhz on azimuth 057° toward Fordland, Mo.
MO—2299-CF-P-78 Southwestern Bell Telephone Co. (new) 3.5 miles NE. of Fordland, (Webster) Mo. Lat. 37°11'51" N. Long. 92°53'10" W. C.P. for a new station on frequencies 6197.2H MHz on azimuth 237.1° toward Rogerville, and 6226.9V MHz on azimuth 111.6° toward Mansfield, Mo.
MO—2300-CF-P-78 Same (new) State Highway 5, south of U.S. 60 Mansfield, (Wright) Mo. Lat. 37°05'57" N. Long. 92°34'39" W. C.P. for a new station on frequencies 5945.2H MHz on azimuth 081.5° toward Cabool, and 5974.8H MHz on azimuth 291.8° toward Fordland, Mo.
MO—2301-CF-P-78 Same (new) 1.5 miles north of Cabool, (Texas) Mo. Lat. 37°09'09" N. Long. 92°07'26" W. C.P. for a new station on frequencies 6197.2V MHz on azimuth 261.8° toward Mansfield, and 6226.9V MHz on azimuth 145.9° toward Willow Springs, Mo.
MO—2302-CF-P-78 Same (new) 1.1 miles SW. of Willow Springs, (Howell) Mo. Lat. 36°59'12" N. Long. 91°59'03" W. C.P. for a new station on frequency 5974.8H MHz on azimuth 326.0° toward Cabool, Mo.
2310-CF-R-78 Mountain States Telephone and Telegraph Co. (KAQ85). In territory of Grantee, application for renewal of radio station license (developmental) expiring June 12, 1978, term; June 12, 1978 to June 12, 1979.
MS—2312-CF-P-78 South Central Bell Telephone Co. (KLP20) 201 East George St. Greenwood, (Leflore) Miss. Lat. 33°31'15" N. Long. 90°10'43" W. C.P. to replace transmitters and change frequencies 6323.3H to 6123.1H MHz and 6382.6H to 6004.5H MHz toward Glendora, Miss.
MS—2313-CF-P-78 Same (KLO99) 1.2 miles WNW. of Glendora (Tallahatchie) Miss. Lat. 33°50'05" N. Long. 90°18'58" W. C.P. to replace transmitters and change frequencies 6071.2H to 6375.2V MHz and 6130.5H to 6256.5V MHz toward Greenwood, Miss. change 5997.1V to 6375.2H MHz and 6115.7V to 6256.5H MHz toward Clarksdale River, Miss.
MS—2314-CF-P-78 Same (KLO98) Clarksdale River 3.8 miles SE. of Clarksdale, (Coahoma) Miss. Lat. 34°09'10" N. Long. 90°32'21" W. C.P. to replace transmitters, move and replace antennas and change frequencies 6249.1V to 6123.1V MHz, change 6367.7V to 6004.5V MHz toward Glendora, change 6264.H to 6123.1H MHz and 6382.6H to 6004.5H MHz toward Clarksdale, Miss.
MS—2315-CF-P-78 Same (KYJ42) 86 Yazoo Ave. Clarksdale, (Coahoma) Miss. Lat. 34°12'17" N. Long. 90°34'25" W. C.P. to replace transmitters, move and replace antennas and change frequencies 6011.9H to 6375.2V MHz and 6130.5H to 6256.5V MHz toward Clarksdale River, Miss.
GA—2316-CF-P-78 Southern Bell Telephone and Telegraph Co. (KJK96) Garretta 8.2 miles ESE. of Rentz, (Laurens) Ga. Lat. 32°20'02" N. Long. 82°52'07" W. C.P. to move antennas on frequency 5945.2H MHz toward Mcrae, Ga.
KS—2322-CF-P-78 Southwestern Bell Telephone Co. (KAE27) 137 South 7th Street Salina, (Saline) Kans. Lat. 38°50'21" N. Long. 97°36'35" W. C.P. to increase structure height, add a new point of communication on frequency 6286.2V MHz on azimuth 257.5° toward Brookville, Kans., and move antennas on frequency 3730H MHz toward McPherson, Kans.
KS—2323-CF-P-78 Same (new) 8.5 miles west of Brookville, (Ellsworth) Kans. Lat. 38°46'00" Long. 98°01'17" W. C.P. for a new station on frequencies 6034.2H MHz on azimuth 077.2° and 6034.2V MHz on azimuth 249.1° toward Ellsworth, Kans.
KS—2324-CF-P-78 Same (new) Ellsworth J, 2.5 miles SW. of Ellsworth, (Ellsworth) Kans. Lat. 38°41'47" N. Long. 98°15'19" W. C.P. for a new station on frequencies 6286.2H MHz on azimuth 68.9° toward Brookville, Kans. and 6286.2V MHz on azimuth 311.7° toward Wilson Junction, Kans.
KS—2325-CF-P-78 Same (new) Wilson Junction 1.9 miles NNW. of Wilson, (Russell) Kans. Lat. 38°51'25" N. Long. 98°29'09" W. C.P. for a new station on frequencies 6034.2H MHz on azimuth 131.6° toward Ellsworth, Kans. and 6034.2V MHz on azimuth 268.9° toward Russell Junction, Kans.
KS—2326-CF-P-78 Same (new) Russell Junction 3.5 miles SW. of Russell, (Russell) Kans. Lat. 38°50'59" N. Long. 98°54'39" W. C.P. for a new station on frequencies 6286.2H MHz on azimuth 088.6° toward Wilson Junction, Kans., and 6286.2V MHz on azimuth 274.1° toward Hays, Kans.
KS—2327-CF-P-78 Same (new) 126 west Eleventh St. Hays, (Ellis) Kans. Lat. 38°52'21" N. Long. 99°19'53" W. C.P. for a new station on frequency 6034.2H MHz on azimuth 093.8° toward Russell Junction, Kans.
UT—2071-CF-P-78 Utah-Wyoming Telephone Co. (WBA722) North Main Street Randolph, (Rich) Utah. Lat. 41°40'01" N. Long. 111°11'05" W. C.P. to add a new point of communication on frequency 2112.5V MHz on azimuth 158.4 toward Crawford Bt. passive reflector and from passive to Woodruff, Utah.
UT—2072-CF-P-78 Same (new) Main Street Woodruff, (Rich) Utah. Lat. 41°31'22" N. Long. 111°09'45" W. C.P. for a new station on frequency 2162.5V MHz on azimuth 66.5° toward Crawford Bt. passive

reflector and from passive to Randolph, Utah.

CA, NE, UT, AZ—2319-CF-AL-AP-(39)-78 Western Tele-Communications, Inc. Application for consent to assignment of radio station construction permit of license from Western Tele-Communications, Inc., assignor, to MCI Telecommunications Corp., assignee, for the following stations:

WOI61 San Francisco, California
WOI62 Mt. Vaca, California
WOI65 Sacramento, California
WBA842 Bald Mountain, California
WBA843 Ward Peak, California
WBA844 Slide Mountain, Nebraska
WBA845 Reno, Nevada
WBA846 Warm Springs, Nevada
WBA847 Toulon Peak, Nevada
WBA848 Mt. Moses, Nevada
WBA849 Stony Point, Nevada
WBA850 Elko Mountain, Nevada
WBA851 Wells, Nevada
WBA852 Pilot Range, Utah
KOC42 New Promontory, Utah
WBA853 Ogden, Utah
KPT21 Nelson Peak, Utah
WBA854 Salt Lake City, Utah
WAH596 Phoenix, Arizona
WJL70 Yuma, Arizona
WDL71 Telegraph Pass, Arizona
WJL72 Baker Peak, Arizona
WKR44 Miramar NAS, California
WKR45 Woodson Mountain, California
WOI52 El Centro, California
WOI53 Midway Wells, California
WOI54 Telegraph Pass, Arizona
WOI55 San Diego, California
WOI56 Toro Peak, California
WOI57 Elsinore Peak, California
WOI58 Catalina Island, California
WOI59 Saddle Peak, California
WOI60 Los Angeles, California
WOI81 Oatman Mountain, Arizona
WOI82 White Tauk Mountain, Arizona
WOI83 Phoenix, Arizona
WOI84 Pinal Peak, Arizona
WOI85 Mt. Bigelo, Arizona
WOI86 Tucson, Arizona

CORRECTIONS

NY—1938-CF-P-78 New York Telephone Co. (new) Mount Trembleau 1.2 miles SSE. of Port Kent, (Essex) N.Y. Correct azimuth to read 348.5° toward Platsburgh. All other particulars remain the same as reported on Public Notice No. 907 dated April 24, 1978.

[FR Doc. 78-15194 Filed 6-1-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1777]

BOSCO SERVICES FREIGHT FORWARDING CO., TERCO, INC., D.B.A.

Reinstatement of License

By Federal Maritime Commission Order served and published in the FEDERAL REGISTER, Bosco Services Freight Forwarding Co., Terco, Inc. d.b.a., Independent Ocean Freight Forwarder License No. 1777 was revoked effective February 15, 1978, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was served on February 21, 1978.

An appropriate surety bond has been received in favor of Bosco Services Freight Forwarding Co., Terco, Inc., d.b.a., and compliance pursuant to Section 44, Shipping Act, 1916, and Section 510.9 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission Order No. 201.1 (Revised) Section 5.01(a), dated August 8, 1977, Independent Ocean Freight Forwarder License No. 1777 is hereby reissued to Bosco Services Freight Forwarding Co., Terco, Inc., d.b.a., effective February 15, 1978. A copy of this Notice of Reinstatement shall be published in the FEDERAL REGISTER and served upon Bosco Services Freight Forwarding Co., Terco, Inc., d.b.a.

ROBERT M. SKALL,
Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 78-15385 Filed 6-1-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1943]

JAMCO INTERNATIONAL, INC.

Order of Revocation

On May 15, 1978, Jamco International, Inc., P.O. Box 53376, Houston, Tex. 77002, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1943 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1943 issued to Jamco International, Inc., be and is hereby revoked effective May 15, 1978, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Jamco International, Inc.

ROBERT M. SKALL,
Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 78-15387 Filed 6-1-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 663]

OCEANIC FORWARDING CO.

Order of Revocation

The bond issued in favor of Oceanic Forwarding Co., 140 Park Lane, Brisbane, Calif. 94005, FMC No. 663, was cancelled effective May 20, 1978.

By letter dated April 24, 1978, the licensee was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 663 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before May 20, 1978.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Oceanic Forwarding Co. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01(d) dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 663 be and is hereby revoked effective May 20, 1978.

It is further ordered, That Independent Ocean Freight Forwarder License No. 663 issued to Oceanic Forwarding Company be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Oceanic Forwarding Co.

ROBERT M. SKALL,
Deputy Director, Bureau of Certification & Licensing.

[FR Doc. 78-15388 Filed 6-1-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 2059]

TRANSGO FORWARDING, INC.

Order of Revocation

On May 19, 1978, Transgo Forwarding, Inc., P.O. Box 523474, Miami, Fla. 33122, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 2059 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 2059 issued to Transgo Forwarding, Inc. be and is hereby revoked effective May 19, 1978, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Transgo Forwarding, Inc.

ROBERT M. SKALL,
Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 78-15386 Filed 6-1-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78D-0098]

ACTION LEVELS FOR DIBROMOCHLORO- PROPANE (DBCP) RESIDUES IN RAW AGRICULTURAL COMMODITIES

Availability of Administrative Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of the administrative guideline pertaining to the action levels for residues of the pesticide dibromochloropropane (DBCP) in raw agricultural commodities.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: There are no tolerances established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for the pesticide chemical, dibromochloropropane (DBCP), in raw agricultural commodities. The Environmental Protection Agency (EPA) has suspended the use of DBCP for certain food crops and classified all other uses of DBCP as "restricted use pesticides" (see the FEDERAL REGISTER of September 26, 1977 (42 FR 48915)). EPA's action was taken after determining that DBCP is an "imminent hazard" in that it is a carcinogen. Therefore, in the absence of a tolerance, the Food and Drug Administration established these action levels, based on the recommendations from EPA, for determining the regulatory status of raw agricultural commodities containing DBCP residues. This notice also informs interested persons of the availability of information the agency relied on in establishing the action levels. Copies of the EPA recommendation and other supporting documents are available for public examination in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The administrative guideline setting forth the action levels of 1.5 ppm for DBCP in milk (fat basis) and 0.05 ppm for DBCP in raw agricultural commodities other than milk is available for public examination in the Office of the Hearing Clerk, Food and Drug Administration. The FDA established these action levels on the basis of EPA's recommendation that they be set at the level of the regulatory assay method's analytical sensitivity, taking into account its precision. Requests for single copies of the guideline may be made in writing to the Hearing Clerk (HFC-20), Food and Drug Administration (address above).

Interested persons may submit written comments on the guideline to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857 (preferably four copies, each identified with the Hearing Clerk docket number found in brackets in the heading of this document). Received comments will be incorporated into the public file on the guideline and may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Dated: May 24, 1978.

WILLIAM F. RANDOLPH
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-15071 Filed 6-1-78; 8:45 am]

[4110-03]

[Docket No. 78D-0006]

MERCURY CONTAMINATION OF FISH, SHELLFISH, AND OTHER AQUATIC ANIMALS

Availability of Sample Preparation Instructions

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: This document anounces the availability of instructions for preparing the portion of the food used for analysis in determining compliance with the guideline for mercury contamination of fish, shellfish, crustaceans, and other aquatic animals.

ADDRESS: Single copies of instructions are available from the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has learned, through the decision in *United States* v. *An article of food * * * halibut*, No. C76-822S (W.D. Wash. Oct. 11, 1977), that there is a need for more details on the procedures for preparing the portion of the food used for analysis in determining compliance with the administrative guideline for mercury contamination of fish, shell fish, crustaceans, and other aquatic animals.

The guideline is established on the "edible portion" of the food. In general, inedible portions of the product are discarded, and the edible portion only is analyzed. Instructions for preparation of several aquatic animals are listed in the Food and Drug Administration's Pesticide Analytical Manual. Analysts should use discretion in determining the inedible portion of products not listed. The edible protion preparations currently listed in the Pesticide Analytical Manual are:

Crabs, hard shell—Examine a homogeneous mixture of meat and fatty materials isolated as described below: Heat crab in boiling water or place in autoclave under flowing steam for one minute. Remove claws and other appendages and pick out meat. Remove back shell, clean out and discard viscera and gills (easily removed by hand). Include in the edible portion fatty material (yellowish colored) from inside tips of the back shell and any fatty material (yellowish colored adhering to meat. Break crab in half and remove meat from body cavity excluding shell and other obviously extraneous materials.

Crab, soft shell—Examine entire crab.

Fish (raw)—Remove and discard heads, scales, tails, fins, guts and inedible bones; do not remove skin; fillet to obtain all flesh and skin from head to tail and from top of back to belly on both sides. Where extremely large whole fish are to be analyzed and filleting is impractical, 3 cross-sectional slices from each fish may be taken and combined. Clean, scale and eviscerate fish. Take one inch thick slices, one from behind the pectoral fins, one from halfway between first slice and the vent, and one from behind the vent. Remove bones from each slice before combining. Rule of edibility supersedes these directions; e.g., catfish skin (inedible) is discarded.

Oyster, Clams (raw)—Examine a homogeneous mixture of meats and liquor.

Shrimp (raw), crawfish and similar shellfish—Remove and discard heads, tails and shells; examine edible meat only.

Fish, breaded, raw or cooked—Do not remove breading. Fillet as necessary (as described for "fish (raw)") to remove bones and/or tails.

Fish, canned in brine or water—Drain and discard liquid, examine remainder.

Fish, canned in oil, broth or sauce—Examine a homogeneous mixture of can contents.

Fish, frozen—Thaw, drain and discard drainings. Fillet—use entire piece. Whole fish—proceed as for "fish (raw)."

Fish, smoked—Proceed as for "fish (raw)."

Frog legs—Discard bones; examine edible meat only.

Oysters and clams, canned or frozen—Examine a homogeneous mixture of meats and liquor.

Shrimp and similar shell fish, breaded—Examine as received.

Shrimp and similar shellfish, canned in brine—Drain and discard brine; examine edible meat.

Shrimp and similar shellfish, frozen—Thaw, drain and discard drainings. Remove and discard heads, tails and shells; examine edible meat only.

Copies of the instructions for sample preparation (Pesticide Analytical Manual, Vol. 1, sections 141.12 and 141.22) are available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies may be made in writing to that office.

Dated: May 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-15070 Filed 6-1-78; 8:45 am]

[4110-03]

[Docket No. 77N-0388; DESI 10936]

ONYCHO-PHYTEX SOLUTION

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice reclassifies Onycho-Phytex solution (NDA 10-936) to lacking substantial evidence of effectiveness, proposes to withdraw approval of the new drug application (NDA), and offers an opportunity for hearing on the proposal. The drug has been used for topical treatment of fungus infection of the skin.

DATE: Hearing requests due on or before July 3, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 10936, directed to the attention of the appropriate office named below, and addresed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. Requests for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65. Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 10936) published in the FEDERAL REGISTER of June 23, 1970 (35 FR 10242), the Food and Drug Administration announced its conclusion that the drug product described below is less than effective (possibly effective) for topical treatment of mycotic infections of the nails.

NDA 10-936; Onycho-Phytex solution containing boric acid-tannic acid-salicylic acid complex and ethyl alcohol; Unimed, Inc., 35 Columbia Road, Somerville, N.J. 08876.

A notice of opportunity for hearing on a proposal to withdraw approval of this new drug application was published in the FEDERAL REGISTER of July 17, 1971 (36 FR 13283). The notice also included Phytex liquid (NDA 10-937), also containing boric acid-tannic acid-salicylic acid complex. A hearing was not requested concerning Phytex liquid, and a final order withdrawing its approval appears elsewhere in this issue of the FEDERAL REGISTER. The notice of opportunity for hearing was premature and is hereby withdrawn insofar as it applied to Onycho-Phytex solution, because the NDA holder had previously been granted an extension of time to complete ongoing clinical studies for that product. Results of the studies were submitted to the Food and Drug Administration prior to the revocation on December 14, 1972 (37 FR 26623), of extensions to permit further testing. Those studies are discussed below.

Four double-blind studies were performed, one each by Drs. Deegan, Helfand, Gibbs, and Carter, comparing Onycho-Phytex solution with placebo in the treatment of fungus infections of the nails. The placebo used in the studies was the total product minus the active ingredient. At the beginning of the studies all patients had a nail or nails exhibiting the typical appearance of onychomycosis. Scrapings from the nails also showed the presence of fungus elements when tested in a potassium hydroxide (KOH) preparation. The treatment period was 12 months. At the end of the test periods, clinical appraisals and mycological evaluations with KOH tests were performed to determine whether fungal elements remained. Based upon the results at the end of the 12-month treatment period, in the Helfand and Carter studies the drug outperformed placebo as measured by both the clinical appraisal and the mycological evaluation (KOH tests), although in the Helfand study, the drug eliminated fungal elements in only one-third of the cases and the difference was not statistically significant.

In the Gibbs study there was no difference between drug and placebo either clinically or mycologically. In the Deegan study the clinical evaluation favored the drug but the mycological results clearly showed placebo to be superior. As the most important criterion of effectiveness in treatment of this disease is the elimination of the causative organism, the placebo obviously outperformed the drug in this study.

In summary, in only one study (Carter) out of four was the drug clearly superior to placebo, both clinically and mycologically, and in only one study (Carter) was the drug significantly superior to placebo in eliminating fungal elements. In view of the inconsistencies in the results of the other three studies, i.e., one clearly unfavorable to the drug, and two showing no strong trend toward reproducing the results of the Carter study, the Carter study is not sufficient to provide substantial evidence of effectiveness.

The NDA holder has proposed that the drug be labeled as an adjunct to debridement. Patients in these four studies did receive debridement, and the lack of a consistent advantage in KOH-demonstrated cures in the drug-treated group still renders the drug less than effective, whether as primary treatment or adjunctive treatment.

In addition, there is a question of the validity of the studies that do show some degree of effectiveness in that they are not adequate and well-controlled as defined in 21 CFR 314.111(a)(5). Adequate steps were not taken to minimize bias on the part of the subjects in the studies or the observer-analyst when debridement was performed during regular patient visits. (21 CFR 314.111(a)(5)(ii)(*a*)(*3*).) Since the patients were not randomized for this aspect of the study, a question exists of how much of the clinical improvement may have been due to the debridement of the nail. (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*).)

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all

amendments and supplements thereto on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at the time the application was approved, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder of the new drug application specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before (insert date 30 days after date of publication in the FEDERAL REGISTER) a written notice of appearance and request for hearing, and (2) on or before (insert date 60 days after date of publication in the FEDERAL REGISTER), the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: May 25, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-15278 Filed 6-1-78; 8:45 am]

[4110-03]

[Docket No. 77N-0388; DESI 10936]

PHYTEX LIQUID

Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application for Phytex liquid (NDA 10-937) containing boric acid-tannic acidsalicylic acid complex and ethyl alcohol. The drug has been used for topical treatment of fungus infections of the skin.

EFFECTIVE DATE: June 12, 1978.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 10936 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 10936; Docket No. FDC-D-361 (now Docket No. 77N-0388)) published in the FEDERAL REGISTER of July 17, 1971 (36 FR 13283) the Food and Drug Administration offered an opportunity for a hearing on a proposal to issue an order withdrawing approval of the following drug product based upon the lack of substantial evidence of effectiveness.

NDA 10-937; Phytex liquid containing boric acid-tannic acidsalicylic acid complex, and the ethyl alcohol; Unimed, Inc, 25 Columbia Rd., Somerville, N.J. 08876.

Onycho-Phytex solution, which was also included in the July 17, 1971, notice, is not affected by this notice.

All drug products that are identical, related, or similar to the drug named above, and are not the subject of an approved new drug application are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Division of Drug Labeling Compliance (address given above).

Neither the holder of the new drug application nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes

election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore pursuant to the foregoing finding, approval of new drug application 10-937, and all amendments and supplements applying thereto, is withdrawn effective June 12, 1978.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: May 25, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-15279 Filed 6-1-78; 8:45 am]

[4110-35]

Health Care Financing Administration

STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCIL OF NORTH CAROLINA

Request for Nominations for Public Member Positions on the Council

Nominations are being accepted for public member positions on the North Carolina Statewide Professional Standards Review Council. A Statewide Council is being established because there are now eight Professional Standards Review Organizations (PSRO's) in North Carolina.

PSRO's review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have three or more PSRO's to: (1) Help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSRO's as a result of their reviews of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the designation of replacement PSRO's when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in North Carolina under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSRO's and physician groups); or

(2) Organizations and groups that are represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly their knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

Virginia M. Smyth, Regional Administrator, Health Care Financing Administration, 101 Marietta Tower, Atlanta, Ga. 30323.

After consideration of all nominations received within 60 days of this Notice, including nominees of the Governor of North Carolina, the Secretary will appoint four public representatives, two of whom will have been recommended by the Governor.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, 404-242-2329.

Dated: May 25, 1978.

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

[FR Doc. 78-15334 Filed 6-1-78; 8:45 am]

[4110-35]

STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCIL OF FLORIDA

Request for Nominations for Public Member Positions on the Council

Nominations are being accepted for public member positions on the Florida Statewide Professional Standards Review Council. A Statewide Council is being established because there are now three Professional Standards Review Organizations (PSROs) in Florida.

PSROs review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Coucils are established in States that have three or more PSROs: (1) Help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Florida under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organizations and groups that are represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly their knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

Virginia M. Smyth, Regional Administrator, Health Care Financing Administration, 101 Marietta Tower, Atlanta, GA. 30323.

After consideration of all nominations received within 60 days of this Notice, including nominees of the Governor of Florida, the Secretary will appoint four public representatives, two

of whom will have been recommended by the Governor.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, 404-242-2329.

Dated: May 25, 1978.

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

[FR Doc. 78-15333 Filed 6-1-78; 8:45 am]

[4110-83]

Health Resources Administration

NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Change of Meeting Date

In FEDERAL REGISTER Document 78-13967 appearing at page 22076 in the issue for Tuesday, May 23, 1978, the June 9, 1978, meeting of the "National Council on Health Planning and Development" has been changed to July 14, 1978. The Council will continue discussions of Goals Implementation Strategy, Improving Policy Communications, and Pending Regulations and Evaluations Plans for Pub. L. 93-641. The discussion on Issues, Rate Regulation, Certification of Need and Health Planning Linkages scheduled for June, will be postponed until the Fall of this year. All other information is correct as appears.

Dated: May 30, 1978.

MONTE B. NICHOL,
Acting Associate Administrator for Operations and Management.

[FR Doc. 78-15485 Filed 6-1-78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

HEALTH INTERVIEW SURVEY TECHNICAL CONSULTANT PANEL OF THE UNITED STATES NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1978:

Name: Health Interview Survey Technical Consultant Panel of the United States National Committee on Vital and Health Statistics.
Date and Time: June 28-29, 1978, 9 a.m.
Place: Hubert H. Humphrey Building, Rooms 525-A and 529-A, 200 Independence Avenue SW., Washington, D.C. 20201.
Open for entire meeting.

Purpose. The Secretary and by delegation the Assistant Secretary for Health and the Director, National Center for Health Statistics (NCHS), are charged under section 306 of the Public Health Service Act, as amended, 42 U.S.C. 242k, with the responibility to collect, analyze, and disseminate national health statistics on vital events and health activities, including the physical, mental, and physiological characteristics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operation of the health services system, health economic expenditures, and changes in the health status of people; administer the Cooperative Health Statistics System; stimulate and conduct basic and applied research in health data systems and statistical methodology; coordinate the overall health statistical activities of the programs and agencies of the Health Resources Administration and provide technical assistance in the management of statistical information; maintain operational liaison with statistical gathering and processing services of other health agencies, public and private, and provide technical assistance within the limitations of staff resources, research, consultation and training programs in international statistical activities; and participate in the development of national health policy with Federal agencies.

Agenda. (1) Alternative Methods of Providing Sub-national Estimates; (2) Objectives and priorities of the Health Interview Survey; (3) Need for data on Alcoholism and (4) Status Reports on: (a) Smoking and immunization supplements, (b) 1979 Pretest, and (c) Data users form.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7122.

Agenda items are subject to change as priorities dictate.

Dated: May 24, 1978.

WAYNE RICHEY, Jr.,
Associate Director for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-15274 Filed 6-1-78; 8:45 am]

[4110-08]

National Institutes of Health

CANCER CONTROL PREVENTION, DETECTION, DIAGNOSIS AND PRETREATMENT EVALUATION REVIEW COMMITTEE

Amended Notice of Meeting

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, May 31, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

Notice is hereby given of a change in meeting place of the Cancer Control Prevention, Detection, Diagnosis, and Pretreatment Evaluation Review Committee, National Cancer Institute, June 1-2, 1978, which was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21058). The meeting will be held in the Blair Building, Room 110, 8300 Colesville Road, Silver Spring, Md. 20014.

Dated: May 24, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-15177 Filed 6-1-78; 8:45 am]

[4110-08]

ADVISORY COMMITTEE TO THE DIRECTOR, NIH

Notice of Meeting

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, May 31, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, June 15-16, 1978, National Institutes of Health, Bethesda, Md., Building 31, Conference Room 10, C Wing. The meeting will take place from 9 a.m. to 5 p.m. on June 15, and from 9 a.m. to 1 p.m. on June 16. The entire meeting will be open to the public.

The purpose of the meeting will be to discuss possible strategies to develop appropriate principles for health research planning. The Committee will consider the speech delivered by Secretary Califano before the Annual Meeting of the Federation for Clinical Research and develop themes and procedures for carrying out the goals outlined by the Secretary. The Committee will review and comment on documents drafted for the purpose of implementing these goals.

In addition, the development of revised Recombinant DNA Research Guidelines and other policy issues of concern to the Director, NIH, will be discussed.

The Executive Secretary, Charles R. McCarthy, Ph.D., National Institutes of Health, Building 1, Room 201, Bethesda, Md. 20014, 301-496-1480, will furnish summaries of the meeting, rosters of Committee members and guests, and substantive program information.

Dated: May 24, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-15176 Filed 6-1-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

[Docket No. N-78-877]

NEWFIELDS NEW COMMUNITY

Intent to Supplement Environmental Impact Statement

The U.S. Department of Housing and Urban Development, New Community Development Corporation, Washington, D.C., intends to issue a supplement to the Final Environmental Impact Statement for Newfields New Community which is located approximately seven miles northwest of downtown Dayton, in Montgomery County, Ohio.

The Supplement will evaluate the impact of certain actions HUD/NCDC is contemplating with respect to the proposed withdrawal of Title VII assistance to the project.

The new community project as originally approved by HUD/NCDC consisted of some 4,000 acres and was planned to be developed over a 20-year period to accommodate a population of approximately 40,000 in 13,000 dwelling units. At present, Newfields consists of a partially developed area of approximaterly 300 acres. The partially developed area, which is served by roads and utilities, is the home of approximately 43 families. It also includes approximately 20 unoccupied dwelling units, a commercial office building, a 10-acre lake, approximately 35 acres of open space, a swimming pool and a community building.

Copies of the Supplement will be available in the near future. The comment period for the Supplement will be 30 calendar days.

The final Environmental Impact Statement for Newfields was issued on June 19, 1973. Copies of the final EIS are available for review at the New Community Development Corporation at HUD in Washington, D.C., and at the HUD Area Office located at 60 East Main Street, Columbus, Ohio, telephone 614-469-7345.

Comments concerning this Notice are invited from all affected and interested parties. Please send comments by June 19, 1978 to: Earl DeMaris, Deputy Administrator for Project Support and Development, U.S. Department of Housing and Urban Development, New Community Development Corporation, Room 7134, 451 7th Street SW., Washington, D.C. 20410. Telephone inquiries about this Notice may be directed to Raymond G. Hay, Environmental Clearance Officer (alternate), 202-755-6876.

Issued at Washington, D.C., May 23, 1978.

WILLIAM J. WHITE,
General Manager, New Community Development Corporation.

[FR Doc. 78-15283 Filed 6-1-78; 8:45 am]

[4210-01]

Office of the Secretary

[OILSR No. 0-02849-40-267(E); Docket No. N-78-876; Docket No. ED-78-2-IS]

WATERWOOD, HORIZON PROPERTIES CORP.

Notice of Hearing

In the matter of Waterwood, Horizon Properties Corp., Respondent.

Pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) and 1720.120, Notice is hereby given that:

1. Waterwood, Horizon Properties Corp., its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Suspension dated April 7, 1978, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the statement of Record and Property Report for Waterwood of San Jacinto County, Tex., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received May 16, 1978, in response to the Order of Suspension.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Order of Suspension.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) and 1720.120, it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Order of Suspension will be held before Judge James W. Mast, in Room 7143, HUD Building, 451 Seventh Street SW., Washington, D.C. at 10 a.m. on June 9, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before May 31, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR § 1710.45(a).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR § 1720.120

Dated: May 23, 1978.

By the Secretary.

JAMES W. MAST,
Chief Administrative Law Judge.

[FR Doc. 78-15281 Filed 6-1-78; 8:45 am]

[4210-01]

[Docket No. D-78-501]

ATTESTING OFFICERS

Revision of List of Designees

AGENCY: Department of Housing and Urban Development.

ACTION: Revision to List of Designees.

SUMMARY: This Notice revises and updates the list of designees of the Department of Housing and Urban Development who are attesting officers and who are delegated the authority to cause the seal of the Department of Housing and Urban Development to be affixed and to authenticate copies of documents.

EFFECTIVE DATE: May 25, 1978.

FOR FURTHER INFORMATION CONTACT:

David D. White, Assistant General Counsel for Administrative Law, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-7087.

SUPPLEMENTARY INFORMATION: The designation and delegation of authority published at 36 FR 23835 (December 15, 1971), as amended at 37 FR 23468 (November 3, 1972), and further amended at 39 FR 40186 (November 14, 1974) lists the employees of the Department of Housing and Urban Development who are designated as attesting officers and who are authorized to cause the seal of the Department of Housing and Urban Development to be affixed to such documents as may require its application and to certify that a copy of any book, record, paper, or other document is a true copy of that in the files of the Department. This notice revises and updates that list.

Accordingly, the list of employees of the Department of Housing and Urban Development, who are designated as attesting officers and who are authorized to cause the seal of the Depart-

ment of Housing and Urban Development to be affixed to such documents as may require its application and to certify that a copy of any book, record, paper, or other document is a true copy of that in the files of the Department, is revised to read as follows:

1. Legal Assistant to Assistant General Counsel for Administrative Law.
2. Secretary to the General Manager, New Communities Development Corporation.
3. Financial Analyst, Project Financing Staff, Office of Assistant Secretary for Housing—Federal Housing Commissioner.
4. Interstate Land Sales Administrator.
5. Deputy Administrator, Office of Interstate Land Sales Registration.
6. Federal Insurance Administrator.
7. Director, Mortgage Insurance Accounting Group, Office of Finance and Accounting.
8. Deputy Director, Mortgage Insurance Accounting Group, Office of Finance and Accounting.
9. Chief, Program Liquidation Branch, assisted Housing Management, Office of Assistant Secretary for Housing—Federal Housing Commissioner.
10. The Secretary to each Regional Administrator, and the Secretary to each Regional Counsel.
11. The Secretary to each Area Director, and the Secretary to each Area Counsel.
12. Secretary to the Associate Regional Counsel for Private Market Financing, Atlanta Regional Office, Region IV.
13. Assistant for Operations, Office of Assistant Secretary for Fair Housing and Equal Opportunity.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d).)

Issued at Washington, D.C., May 25, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-15282 Filed 6-1-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 24402I&J]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4½" o.d. natural gas pipeline for the East Douglas Creek Gathering System approximately 0.75 miles long, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 2 S., R. 101 W.
Sec. 34: SE¼NE¼, NE¼SE¼.
Sec. 35: W½NW¼.
T. 3 S., R. 100 W.
Sec. 15: NW¼SW¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the application. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corp.*

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-15372 Filed 6-1-78; 8:45 am]

[4310-84]

[Colorado 26299-B]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111, has applied for R/W 78103 for the Mountain Fuel Gathering System of approximately 1 mile of 4½" pipeline through the following Public Land:

SIXTH PRINCIPAL MERIDIAN, MOFFAT COUNTY, COLO.

T. 12 N., R. 95 W.
Sec. 19: Lots 2, 3, 9, and 11, NE¼SW¼, NE¼SE¼.

The above-named gathering system will enable the applicant to collect natural gas and to convey it to the applicant's customers. The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-15373 Filed 6-1-78; 8:45 am]

[4310-84]

[N-19622]

NEVADA

Proposed Withdrawal and Reservation of Lands of Military Purposes; Correction

MAY 22, 1978.

The notice published as FR Doc. 78-12775, page 20281 of the issue for May 11, 1978, should have included the following words immediately preceding the land description.

"All that public land lying within the following described area:"

LACEL E. BLAND,
Acting Chief, Division of Technical Services.

[FR Doc. 78-15374 Filed 6-1-78; 8:45 am]

[4310-84]

[W-63511]

WYOMING

Application

MAY 24, 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 Coastal States Gas Corporation of Houston, Tex. filed an application for a right-of-way to construct a cathodic protection ground bed to complete the cathodic protection of an existing natural gas transmission line affecting the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 52 N., R. 101 W.,
Sec. 29, SE¼SW¼ and W½SE¼.

The facilities for this proposed right-of-way extent from a point of connection with an existing pipeline in the NW¼SE¼ and will end in the SE¼SW¼ of Section 29, T. 52 N., R. 101 W., Park 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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15375 Filed 6-1-78; 8:45 am]

[4310-84]

[W-62900]

WYOMING

Application

MAY 23, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah has filed an application for a right-of-way to construct a buried 8⅝-inch O. D. pipeline as an addition to their gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,
Secs. 1, 9, 10, 11 and 12.
T. 25 N., R. 107 W.,
Sec. 31.
T. 24 N., R. 108 W.,
Secs. 4, 5 and 6.
T. 25 N., R. 108 W.,
Secs. 35 and 36.
T. 24 N., R. 109 W.,
Secs. 1, 4, 5, 6, 9, 10, 11 and 12.
T. 24 N., R. 110 W.,
Secs. 1, 2, 7, 8, 9, 10 and 11.

The proposed pipeline designated as Lincoln Gathering System—Trunk "B" will begin at a point of connection with Northwest Pipeline Corporation's proposed Trunk "A" pipeline located in the SE¼NW¼ of Section 9, T. 24 N., R. 111 W., Sweetwater County, Wyo. and will end at a point in the NW¼NE¼ of Section 31, T. 25 N., R. 107 W., 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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15376 Filed 6-1-78; 8:45 am]

[4310-84]

[W-63855]

WYOMING

Application

MAY 24, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Western Oil Transportation Co., Inc., of Casper, Wyo. filed an application for a right-of-way to construct a 4½ O. D. pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 58 N., R. 76 W.,
Sec. 30, lots 19 and 20.
T. 58 N., R. 77 W.,
Sec. 24, lot 10;
Sec. 25, lot 1.

The pipeline is a proposed addition to a gathering system in Sheridan County.

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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15377 Filed 6-1-78; 8:45 am]

[4310-84]

[W-63213]

WYOMING

Application

MAY 24, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct two 6⅝-inch O. D. pipelines for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 38 N., R. 89 W.,
Sec. 6, lots 5, 9 and 10.
T. 38 N., R. 90 W.,
Sec. 1, lots 2, 5, SW¼NE¼ and S½NW¼;
Sec. 2, SE¼NE¼.
T. 39 N., R. 90 W.,
Sec. 36, W½SE¼

The proposed pipelines will transport natural gas from the MDU Cevin No. 1-6 Monsanto well located in the NW¼ of Section 6, T. 38 N., R. 89 W., and the O'Connell No. 1-36 well located in the SE¼ of Section 36, T. 39 N., R. 90 W., to connect with an existing pipeline in the NW¼ of Section 1, T. 38 N., R. 90 W., all within Fremont 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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15378 Filed 6-1-78; 8:45 am]

[4310-84]

[W-63845]

WYOMING

Application

MAY 25, 1978.

Notice is hereby given that pursuant to Section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a 12¾-inch pipeline for the purpose of transporting natural gas across the following described lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 112 W.,
Secs. 2 and 28.
T. 20 N., R. 112 W.,
Sec. 26.
T. 20 N., R. 111 W.,
Secs. 2 and 14.
T. 21 N., R. 111 W.,
Sec. 32.

This pipeline is a proposed addition to their gathering system in Sweetwater County and Lincoln 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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15379 Filed 6-1-78; 8:45 am]

[4310-84]

[W-61559]

WYOMING

Application; Amendment

MAY 22, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Co. of Wyoming filed an application to amend right-of-way W-61559 to construct an additional 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 103 W.,
Sec. 34, SE¼SW¼.

The proposed pipeline will transport natural gas from the KD Luff 3-34 well to a point of connection with Stauffer Chemical's existing pipeline all within the SE¼SW¼ of Section 34, T. 23 N., R. 103 W., 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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15380 Filed 6-1-78; 8:45 am]

[4310-84]

[W-63273]

WYOMING

Application

MAY 23, 1978.

Notice is hereby given that pursuant to Section 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 a cathodic protection station for the protection and safe operation of their natural gas pipeline system and affects the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 27 N., R. 112 W.,
Sec. 28, SW¼NE¼

The facilities for this station extend from a point of connection with an existing pipeline in the SE¼NW¼ and end in the SW¼NE¼ of section 28, T. 27 N., R. 112 W., Sublette 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 do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82001.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-15381 Filed 6-1-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 30th day of May 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 26, 1978

Name of applicant and location of enterprise	*Principal product or activity*
Burke Mountain Recreation, Inc., East Burke, Vt.	Ski resort and recreation area.
Augusta Fiberglass Coatings, Inc., Blackville, S.C.	Fiberglass fabrications.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 26, 1978—Continued

Name of applicant and location of enterprise	*Principal product or activity*
Aero Mech, Inc., Clarksburg, W. Va.	Commuter airline operations.
Milarn Inc. (Pine Grove Nursing Home), Cedar Grove, Wis.	Nursing home.
Haydon E. Woodard, Junction, Tex.	Motel.
Pearson Enterprises, Inc., Pineville, La.	Retail/wholesale pharmaceutical drugs.
Iowa Gateway, Inc., Keokuk, Iowa.	Unloading barges, storing, and shipping by trucks.
Blaine County Development Corp., Chinook, Mont.	Livestock sales ring.

[FR Doc. 78-15425 Filed 6-1-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

[Docket No. M-78-26-M]

ANTHONY DALLY & SONS, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Anthony Dally & Sons, Inc., Pen Argyl, Pa. 18072, a subsidiary of Doney Slate Co. and Diamond Slate Co., has filed a petition to modify the application of 30 CFR 57.19-7, to its Quarry No. 6, Stephens Jackson Quarry, Doney Slate Co. Pit and Mill, and Diamond Slate Co. Quarry and Mill Mines, located in Northampton County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Petitioner proposes to use a second fully qualified hoist engineer when men are being lowered into or hoisted out of the quarry instead of using a mechanical device to prevent overspeed or overtravel. The auxiliary engineer would be stationed immediately next to the operating engineer as a standby in the event of a sudden health problem of the operating engineer.

(2) The danger of overtravel is more effectively removed by the presence of a standby engineer.

(3) The use of a mechanical device could cause the man box to be suspended in mid-air, thereby creating an increased and unnecessary hazard.

(4) There is no danger of overspeed because the speed of travel is less than 100 feet a minute.

(5) Friction bands on the hoist drum and endless drum provide a natural and constant braking power.

(6) Severe competition from Europe and the increase of substitute products has contributed to reducing the number of active quarries from 76 to 6. Requiring the addition of expensive and/or unnecessary equipment would only increase the burden upon an already hard-pressed industry.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before July 3, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-15399 Filed 6-1-78; 8:45 am]

[4510-43]

[Docket No. M-78-29-M]

HECLA MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Hecla Mining Company, Box 320, Wallace, Idaho 83873, has filed a petition to modify the application of 30 CFR 57.19-71 (hoisting procedures), to its Lucky Friday Mine, located in Mullen County, Idaho, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The area to be covered by the variance would be limited to the shaft-sinking operation at the above mine.

(2) Past practice has been for the men to ride from the bottom of the shaft in a bucket partially filled with muck.

(3) After considerable investigation of alternative methods, Petitioner believes this method provides the safest means of transport for the men engaged in shaft-sinking.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before July 3, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 22, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-15400 Filed 6-1-78; 8:45 am]

[4510-43]

[Docket No. M-78-20-M]

HOMESTAKE MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Homestake Mining Co., P.O. Box 875, Lead, S. Dak. 57754, has filed a petition to modify the application of 30 CFR 57.9-112, to its Homestake Mine, located in Lawrence County, S. Dak., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) For the reasons set forth below, Petitioner requests that a modification of 30 CFR 57.9-112 be granted to allow reflectors to be used instead of trip lights on the following listed equipment. All rock haulage, trip and other cars or equipment not listed will be equipped with blinker lights when they are moved.

(2) Large explosive cars, used to transport explosives to and from underground magazines, will be equipped with reflectors on each end of the car. These cars are moved at a slow speed through lighted drifts and would not create a hazard to employees or other haulage.

(3) Small explosive cars that are used to transport explosives from the underground magazines to the working places would be equipped with reflectors on each end of the cars. These cars are generally used once per day and only two cars are involved. Because of the length of the train no hazard would be involved.

(4) Supply trucks would be equipped with a quick attached reflector bar on the rear of the pulled trip, or the front car of a pushed trip. Because of the limited height of the empty car it has been found that the reflector bar is much safer than any other type of warning device because it can be seen from either direction.

(5) Track trucks, pipe trucks, and underground toilets will be equipped with reflectors on each end of the car. When these cars are moved, they are either pushed by hand or if moved by a locomotive, only one car is involved.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before July 3, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 19, 1978.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 78-15401 Filed 6-1-78; 8:45 am]

[4510-43]

[Docket No. M-78-66-C]

LIGON PREPARATION CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Ligon Preparation Co., Box 47, Drift, Ky. 41619, has filed a petition to modify the application of 30 CFR 75.1100 (fire protection), to its I-203 Mine, located in Floyd County, Ky., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) In lieu of a water line running the entire length of the belt line capable of delivering 50 gallons per minute at 50 PSI, Petitioner proposes that:

(a) A man shall patrol the belt to keep it in good running condition, well rock dusted and lubricated.

(b) Water deluge or dry chemical deluge fire suppression devices shall be located at all points where coal passes from secondary beltlines to the primary belt.

(c) Telephone communications along the belt to the surface will be established.

(d) A fire sensing unit shall run the entire length of the belt.

(e) 240 pounds of bagged rock dust shall be placed at intervals not to exceed 300 feet along the belt line.

(f) A portable water car of at least 1,000 gallons will be located in the section with 500 feet of fire hose.

(2) A water line able to deliver less than the required amount and pressure of water already runs the length of the belt with outlets every 300 feet.

(3) The insufficient water supply at the mine makes this petition necessary.

(4) Petitioner's proposal will provide adequate protection at the above mine.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before July 3, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 22, 1978.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 78-15397 Filed 6-1-78; 8:45 am]

[4510-43]

[Docket No. M-78-57-C]

NATIONAL MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that National Mines Corp., P.O. Box 295, Wayland, Ky. 41665, has filed a petition to modify the application of 30 CFR 75.1710-1(a) (cabs or canopies), to its Stinson No. 1, Stinson No. 2, Stinson No. 3, Stinson No. 5, and Beaver Creek No. 4 Mines, located in Knott County, Ky., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Due to the combination of severly limited vision and close confinement in the cab, appendages of the operator's body, such as his head and limbs, hang out in such a manner that they are in jeopardy of being crushed between the equipment and the coal rib.

(2) Ingress and egress from the cab is so limited that the operator is held captive and cannot escape in case of roof damage, machine malfunction, cable damage, power failure or machine fire.

(3) Due to rolls and adverse conditions, canopies constantly strike roof bolts, sheering or destroying the torque of the roof bolts and reducing them to an inefficient state. This exposes all employees to the hazard of a roof fall and causes the overall reduction of safety to miners in Petitioner's mine.

(4) For the reasons set forth above, Petitioner requests that a modification of 30 CFR 75.1710-1 be granted for the above mines. Petitioner proposes to substitute 10" x 10" roof bolt plates instead of the current 6" x 6" plates, providing additional support and more bearing to the surface on the roof.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before July 3, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 22, 1978.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 78-15398 Filed 6-1-78; 8:45 am]

[4510-43]

[Docket No. M-78-22-M]

PENN BIG BED SLATE CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Penn Big Bed Slate Co., Inc., P.O. Box 184, Slatington, Pa. 18080, has filed a petition to modify the application of 30 CFR 57.19-7 (hoists), to its Manhattan Quarry Mine, located in Lehigh County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Petitioner proposes to use a second fully qualified hoist engineer when men are being lowered into or hoisted out of the quarry instead of using a mechanical device to prevent overspeed or overtravel. The auxiliary engineer would be stationed immediately next to the operating engineer as a standby in the event of a sudden health problem of the operating engineer.

(2) The danger of overtravel is more effectively removed by the presence of a standby engineer.

(3) The use of a mechanical device could cause the man box to be suspended in mid-air, thereby creating an increased and unnecessary hazard.

(4) There is no danger of overspeed because the speed of travel is less than 100 feet a minute.

(5) Friction bands on the hoist drum and endless drum provide a natural and constant braking power.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before July 3, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 19, 1978.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 78-15402 Filed 6-1-78; 8:45 am]

[4510-43]

[Docket No. M-78-24-M]

STANDARD METALS CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Standard Metals Corp., Box 247, Silverton, Colo. 81433, has filed a petition to modify the application of 30 CFR 57.19-57 (hoisting fitness certification), to its Sunnyside Mine/American Tunnel, located in San Juan County, Colo., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Petitioner has a multi-level mine employing over 170 employees underground on day shift and swing shift, including four full time hoistmen and one fill-in that are examined and certified yearly.

(2) Petitioner's geologists and engineers constantly go in and out of production areas, often when crews are not in the areas, requiring hoisting by one of the geologists or engineers.

(3) Petitioner has a high turnover and report off problem with personnel, partially due to snow slides which block the only two ways in and out of town. Therefore, almost everyone in the above mine has, at one time or another, operated the tuggers to compensate for these shortages.

(4) The cost for medical examinations to comply with 57.19-57 would be well over $20,000 annually to cover general employees who will only operate a tugger once or twice a year. In addition, every small tugger station would be papered with these certificates so these persons could operate the tuggers if the need arose.

(5) Presently, no employee is allowed underground who does not pass his pre-employment physical, which detects major problems such as hearing or sight loss and heart defects, and Petitioner is currently setting up a program where every employee will be given a physical examination approximately every 4 years to ensure that no physical or mental defects have occurred.

(6) For the reasons set forth above, Petitioner requests that the requirements of 30 CFR 57.19-57 be modified for the above mine so that the general mine personnel will be exempt from taking yearly medical examinations as well as being certified to operate hoists. The safety department, management and supervision feel that requesting this variance will not endanger the general mine personnel in any respect.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before July 3, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 19, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-15403 Filed 6-1-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under section 4(a) of Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on June 20th starting at 9:30 a.m. in Room S4215 A, B, and C New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Announcements.

II. Prospects of including safety and health training into USCSC Management and Supervisory Courses.

III. Status of the new Executive Order.

IV. Committee Reports:

A. Standing Committee on FARS—Status of Standardized Reporting System.

B. Standing Committee on Occupational Noise—Progress on developing a Model program.

C. Standing Committee on Safety and Health Conferences—1978 Conferences both Regional and National.

D. Standing Committee on National Programs—Target—Prevention and Protection program status.

E. Standing Committee on Federal Safety and Health Awards—Recommended revised agency hazard categories.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business June 16, 1978, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business June 16, 1978. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communication regarding this Advisory Council should be addressed to Ms. Annie Asensio, Executive Director, FACOSH, Department of Labor, OSHA, First Floor South, 2100 M Street NW., Washington, D.C. 20210, telephone 202-653-5500.

Signed at Washington, D.C. this 30th day of May 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-15404 Filed 6-1-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-3207]

APECO CORP., EVANSTON, ILL.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 23, 1978, in response to a worker petition received on February 8, 1978, which was filed on behalf of workers and former workers producing electro static photocopy machines at the Apeco Corp. of Evanston, Ill.

Notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held.

The petitioning group of workers in this case is covered under certification TA-W-988, issued on November 17, 1976. Since all workers separated, totally or partially, from the Evanston, Ill., headquarters on or after July 12, 1975 (impact date), and before November 17, 1978 (expiration date of the certification), are covered, a new investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C., this 17th day of May, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-15129 Filed 6-1-78; 8:45 am]

[4510-28]

[TA-W-3175]

FINE CRAFT COAT CO., INC., BROOKLYN, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initi-

ated on February 21, 1978, in response to a worker petition received on February 6. 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on January 31, 1978, on behalf of workers and former workers producing men's suits and sportcoats at Fine Craft Coat Co., Inc., Brooklyn, N.Y.

Notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

On February 3, 1978, the Department issued a certification of eligibility to apply for adjustment assistance for all workers engaged in employment related to the production of men's suits and sportcoats at Fine Craft Coat Co., Inc., Brooklyn, N.Y. (TA-W-362). All workers separated from employment at Fine Craft on or after October 11, 1974 (impact date), and before February 3, 1978 (expiration date of the certification), would have been covered under TA-W-362.

Since all employees were separated in December 1977 during the existence of an active certification, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 19th day of May 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-15130 Filed 6-1-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on June 15 at the New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. The Committee will meet in room N-3437. The meeting will begin at 9 a.m. The public is invited to attend.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The Committee will hear and discuss a NIOSH report by J. Donald Millar, Acting Director, National Institute of Occupational Safety and Health. A report on recent legal developments affecting OSHA will be given by the Associate Solicitor, Benjamin Mintz. There will be a discussion of the progress regarding protection of workers under section 11(c) of the Occupational Safety and Health Act.

For additional information contact:

Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3635, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, telephone: 202-523-8024.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and its subgroups, and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairpersons of the Committee and its subgroups, to the extent which time permits.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 1st day of June 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-15533 Filed 6-1-78; 10:19 am]

[1410-03]

LIBRARY OF CONGRESS

Copyright Office

NOTIFICATION OF FILING AND DETERMINATION OF ACTIONS UNDER TITLE 17 OF THE UNITED STATES CODE

Notice is hereby given that the Copyright Office is taking action as indicated below, under the following provision of the copyright law, title 17 of the U.S. Code, Pub. L. 94-553:

§ 508 Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

These notifications and any other items, such as copies of pleadings, orders, judgments, and written opinions of the courts, received by the Copyright Office after January 1, 1978, from the clerks of the courts of the United States under this provision, will be made a part of the public records of the Copyright Office by recording them on microfilm. The Copyright Office will also catalog and index them in the Copyright Card Catalog under each of the titles of the works involved and under the names of each of the parties to the action.

This microfilm and the Copyright Card Catalog are available to the public in the Crystal Square Annex to the Library of Congress, located in Building No. 4 of Crystal Square, 1745 Jefferson Davis Highway, Arlington, Va., from 8 a.m. to 4 p.m., Mondays through Fridays (except legal holidays).

In addition, the recorded items themselves are filed in the Copyright Office Library, in the Crystal Mall Annex to the Library of Congress, located in Building No. 2 of Crystal Mall, 1921 Jefferson Davis Highway, Arlington, Va., which is also open from 8 a.m. to 4 p.m., Mondays through Fridays (except legal holidays), where they will be available to the public as a single group of records.

Search reports made by the Copyright Office will in appropriate cases include the facts of record reflecting notifications recorded under this provision, when searches are conducted under the names and titles under which these notifications are indexed.

Photocopies of these recorded items will be provided by the Copyright Office to the public, on request, at the general photocopying fee; and certified copies will be made at the photocopying fee plus the statutory certification fee.

Dated: May 18, 1978.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc. 78-15324 Filed 6-1-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR ATMOSPHERIC SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463,

the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences.
Dates: June 22, 23, and 24, 1978.
Time: 9 a.m.–5 p.m.
Place: Room 642, National Science Foundation, 1800 G. Street NW., Washington, D.C. 20550.
Type of Meeting: Open.
Contact Person: Dr. Alan J. Grobecker, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone: 202-634-1490.
Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of Committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area.

AGENDA

JUNE 22, 1978

0900—Correction of Minutes of February Meeting.
0930—National Center for Atmospheric Research (NCAR) Facilities for Atmospheric Sciences (ATM) Research.
1200—Lunch.
1300—Reconvene for Discussion.
1700—Adjourn.

JUNE 23, 1978

0900—NCAR Procedures for Planning and Post-hoc Review of Center Activities.
1000—NSF Procedures for NSF/NCAR Planning and Post-hoc Review of Center Activities.
1100—Discussion.
1200—Lunch.
1300—Priorities of NSF/ATM Activities.
1700—Adjourn.

JUNE 25, 1978

0900—Plans for Next Meeting to Discuss "The Role of NCAR in NSF Plans".
1100—Issues to be Addressed by Advisory Committee for Atmospheric Sciences Next Year.
1200—Lunch.
1300—Reconvene for Discussion.
1500—Adjourn.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 30, 1978.

[FR Doc. 78-15382 Filed 6-1-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR THE TWO-YEAR COLLEGE SCIENCE EDUCATION NEEDS ASSESSMENT

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for the Two-Year College Science Education Needs Assessment.
Date and Time: June 23, 1978—8:30 a.m. to 5 p.m.
Place: Room 651, 5225 Wisconsin Avenue NW., Washington, D.C.
Type of Meeting: Closed.
Contact Person: Mr. Bill G. Aldridge, Program Manager Division of Science Education Development and Research, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7910.
Purpose of Advisory Committee: To provide advice and recommendations concerning support for projects in Two-Year College Comprehensive Assessment of Science Education.
Agenda: Review fiscal year 1978 grants. Review and discuss proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 30, 1978.

[FR Doc. 78-15383 Filed 6-1-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR MATHEMATICAL AND COMPUTER SCIENCES SUBCOMMITTEE FOR COMPUTER SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mathematical and Computer Sciences Subcommittee for Computer Science.
Dates: June 19 and 20, 1978.
Time: 9 a.m. each day.
Place: Rooms 321 and 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of Meeting: Part open—06/19 (9 a.m.–5 p.m.) Closed; 06/20 (9 a.m.–5 p.m.) Open.
Contact Person: Mr. Kent K. Curtis, Head, Computer Science Section, telephone: 202-632-7346. Anyone planning to attend this meeting should notify Mr. Curtis no later than June 6, 15, 1978.
Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose for Subcommittee: To provide advice and recommendations concerning support for research in Computer Science.

AGENDA

MONDAY, JUNE 19, ROOMS 321 AND 338

9 a.m.–5 p.m. Review Intelligent Systems and Computer Science Research Equipment Programs

TUESDAY, JUNE 20 ROOM 338

9 a.m. Report of Intelligent Systems Program Sub-Panel.
10:30 a.m. Report of Computer Science Research Equipment Program Sub-Panel.
12:30 p.m. Lunch.
1:30 p.m. Briefing by Dr. James A. Krumhansl, AD/MPE.
2:30 p.m. Briefing by Dr. John R. Pasta.
3:30 p.m. Discussion of Proposal Reviewing with Dr. Ronald E. Kagarise, DAD/MPE.
5 p.m. Adjourn.
Reason for Closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Director, NSF, pursuant to provisions of Section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Committee Management Coordinator.

MAY 30, 1978.

[FR Doc. 78-15384 Filed 6-1-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Generalized System of Preferences (GSP): Notice of Deadline for Receipt of Petitions Requesting Modification of the List of Articles Eligible for Duty-Free Treatment Under the GSP

Notice is hereby given that, in order to be considered in the next annual review of products covered by the GSP, petitions for modification of the list of articles eligible for duty-free treatment under the GSP must be received no later than the close of business on Tuesday, July 18, 1978. The GSP provides for the duty-free importation of qualifying eligible articles when imported from designated beneficiary developing countries. The GSP was established by Title V of the Trade Act of 1974 and implemented by Executive Order 11888.

Requests should be submitted in 20 copies, in conformance with regulations codified in 15 CFR Chapter XX, especially Part 2007 (published in the September 9, 1977 FEDERAL REGISTER, 42 FR 45532), and addressed to the Chairman, GSP Subcommittee, Trade Policy Staff Committee, Office of the

Special Representative for Trade Negotiations, Room 711, 1800 G Street NW., Washington, D.C. 20506. Further information can be obtained from Doral Cooper, Executive Director, GSP Subcommittee, telephone 202-395-6971.

Notice of petitions accepted for review will be published in the FEDERAL REGISTER on or about August 1, 1978. Public hearings on accepted petitions will be held September 18-22, 1978.

WILLIAM B. KELLY, Jr.,
Chairman, Trade Policy Staff Committee.

[FR Doc. 78-15327 Filed 6-1-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20554; 70-6168]

AMERICAN ELECTRIC POWER CO., INC. AND AMERICAN ELECTRIC POWER SERVICE CORP.

Proposed Issuance of Note and Procurement of Letters of Credit or Surety Bonds by Service Company in Connection With Casualty Insurance Program

MAY 24, 1978.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), a registered holding company, and its service company subsidiary American Electric Power Service Corp. ("Service Company"), 2 Broadway, New York, N.Y. 10004, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 12(b) and 12(d) of the Act and Rule 50(a)(4) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Service Company renders various management and other services to the AEP System companies, including the procurement of virtually all their required insurance protection. A major component of such insurance protection consists of a primary casualty insurance program which affords workman's compensation and comprehensive public liability protection in each instance up to a limit of $500,000 per occurrence. In addition to such primary casualty insurance, excess public liability insurance is also maintained to provide coverage for losses in excess of $500,000.

Prior to April 1, 1978, Service Company maintained a conventional primary casualty insurance program affording the following workmen's compensation as well as general and automobile liability insurance: (1) Workmen's compensation insurance for all benefits payable under state compensation laws and employers' liability in an amount of not in excess of $500,000 per occurrence; and (2) general liability and automobile insurance providing for full coverage in each instance up to $500,000 per occurrence for bodily injury liability and self-insured deductible of $500,000 for property damage liability. The premiums payable for such a program were predetermined prior to the effective date of the insurance protection. The workmen's compensation insurance premiums were determined by application of rates per $100 of payroll prescribed by state insurance manuals. The general liability and automobile insurance premiums were derived from the use of a loss rating to determine an appropriate rate per $100 of payroll and per vehicle in service. Consequently, the total amount of premium was calculated prior to the commencement of coverage. For the year of coverage from 1977 to 1978 a deposit premium was payable in the amount of 12½ percent of the pre-calculated premium at the inception of coverage and the balance was payable in eleven equal monthly installments. The deposit premium was subject to premium audits and retrospective loss adjustments to reflect favorable or unfavorable actual loss experience.

Effective April 1, 1978, Service Company instituted a new primary casualty insurance program with Insurance Co. of North America ("INA") providing workmen's compensation coverage and comprehensive public liability coverage. The workmen's compensation insurance program (which includes employer liability coverage) continues to provide insurance for all benefits payable under state compensation laws, but the premium for such coverage is determined on a paid loss retrospective rating basis under which (1) the AEP System companies pay a deposit premium of $181,000 in twelve monthly installments instead of a standard deposit premium of $722,000, (2) Service Company agrees to reimburse INA for paid losses and maintains a special deposit fund of $36,750 from which INA may alternatively pay losses, and (3) Service Company issues a promissory note in favor of INA in the initial amount of $670,250 as collateral for the payment of the unpaid balance of the deposit premium ($722,000 less $15,000 for the first monthly installment and less $36,750 for the special deposit loss fund of $36,750). The workmen's compensation premium paid under this program is subject to loss fund, audit and paid loss retrospective adjustments which could result in changes during the course of the program in the amount of the promissory note so that such note would equal, together with the cash deposit premium payments made, the entire amount of the premium as then determined (such premium not to exceed 250 percent of the estimated standard deposit premium of $722,000). Such promissory note will be non-interest bearing and payable upon demand by INA. In addition such note must be supported by either a letter of credit or a surety bond in the full amount of the note.

This new program also includes general and automobile liability insurance on a deductible basis providing coverage for bodily injury with a limit of liability of $500,000 whereby (1) the AEP System companies pay a deposit premium of $693,000 in twelve monthly installments instead of a standard deposit premium of over $4,000,000, (2) Service Company agrees to reimburse INA for all paid losses and maintains a special deposit fund of $88,000 from which INA may alternatively pay losses, and (3) Service Company provides INA a letter of credit or surety bond in the amount of $2,100,000 which is equal to the expected public liability losses of $2,668,000 less expected first year paid losses of $568,000. The public liability premium payable under this program is subject to audit and paid loss adjustments which could change the amount of the required letter of credit and bond of indemnity. The maximum amount of paid losses which must be reimbursed by Service Company under the liability program shall not exceed $7,500,000, and all losses in excess thereof are to be borne by INA.

Under the new primary casualty insurance program INA basically will collect at the commencement of the program only the expense portion of the total premium normally payable for the insurance coverage afforded in the form of deposit premiums. INA will defer the collection of the loss portion of the total premium cost of the program until losses are actually paid, at which time Service Company will be billed and obliged to reimburse INA for such paid losses. This new program is expected to result in the following benefits: (1) cash flow advantages resulting from reduced deposit premiums, installment premium audit, retrosective rating adjustments and, most importantly, the reimbursement of the insurer for losses only at such time as they are actually paid; (2) premium savings in excess of $500,000 over the duration of the program for the policy year April 1, 1978, to April 1, 1979, resulting from INA's lower charges for unallocated claims and administrative expenses inherent to the program; (3) improved control over the effectiveness and cost of loss prevention service provided by INA by virtue of its increased ability to tailor such service to the specific needs of the AEP System companies; and (4) an

opportunity to plan for an orderly transition to a program of self-insurance for all casualty losses.

Letters of credit or surety bonds in the favor of INA are required under the new program so as to assure INA that the loss portion of the premium will be paid by Service Company. It is stated that it may be necessary that AEP guarantee the performance of Service Company in order for Service Company to obtain the required letters of credit or surety bonds. In such case no charge would be made by AEP for such guaranty. In the alternative it may be necessary that AEP itself obtain the required letters of credit or surety bonds on behalf of Service Company, in which case AEP will bill Service Company for any costs thereof. Approval is sought for AEP to undertake these actions if necessary.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $17,500, including legal fees of $500. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 20, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-15268 Filed 6-1-78; 8:45 am]

[8010-01]

[Release No. 20556; 70-6166]

CONNECTICUT YANKEE ATOMIC POWER CO.

Proposed Issuance and Sale of Short-Term Notes to Banks and a Dealer in Commercial Paper and Exception From Competitive Bidding

MAY 25, 1978.

Notice is hereby given that Connecticut Yankee Atomic Power Co. ("Connecticut Yankee"), P.O. Box 270, Hartford, Conn. 06101, an electric utility subsidiary company of Northeast Utilities & New England Electric System, both of which are registered holding companies, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Connecticut Yankee proposes to issue and sell notes to banks and commercial paper to a dealer from time to time on or before June 30, 1979. The aggregate amount of all such notes at any time outstanding, whether issued to banks or to a dealer in commercial paper, will not exceed $30,000,000.

The bank notes to be issued by Connecticut Yankee will each be dated the date of issue, will have maximum maturity dates of 9 months, and will bear interest at the prime rate. The bank notes will be issued no later than June 30, 1979, and will be subject to prepayment at any time at the company's option without premium. Connecticut Yankee proposes to make such borrowings from The Chase Manhattan Bank, New York, N.Y., The Connecticut Bank & Trust Co., Hartford, Conn., and Bankers Trust Co., New York, N.Y., in a maximum principal amount at any one time outstanding from each bank of $15,000,000, $10,000,000, and $5,000,000, respectively. Compensating balance requirements vary somewhat with each bank; however, Connecticut Yankee calculates that the effective cost of such borrowings will be 10.31 percent per annum based on a prime interest rate of 8¼ percent. No closing costs are required in connection with any of the proposed bank borrowings.

The commercial paper will be issued in the form of short-term promissory notes in denominations of not less than $50,000 and no more than $1,000,000, of varying maturities, with no maturity more than 270 days after the date of issue, and will not be repayable prior to maturity. The commercial paper will be sold directly to a commercial paper dealer at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity. No commercial paper shall be issued having a maturity of more than 90 days at an effective interest cost to Connecticut Yankee in excess of the effective bank interest rate at which Connecticut Yankee could obtain loans from banks in an amount at least equal to the principal amount of such commercial paper. No commission or fee will be payable in connection with the issuance and sale of the commercial paper. The purchasing dealer, as principal, will reoffer the commercial paper to institutional investors at a discount of not more than ⅛ of 1 percent per annum less than the prevailing discount rate to Connecticut Yankee.

The commercial paper will be reoffered to not more than 200 identified and designated customers in a nonpublic list prepared for Connecticut Yankee in advance by the purchasing dealer. No additions will be made to this customer list. It is anticipated that the commercial paper will be held by customers to maturity, but if such customers desire to resell prior to maturity, the purchasing dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others in the group of 200 customers.

The funds to be derived from the issuance and sale of the bank notes and commercial paper will be applied by Connecticut Yankee: (i) to repay $18,470,000 of commercial paper presently outstanding pursuant to order of the Commission (HCAR No. 20098 (July 5, 1977)), (ii) to provide funds for construction, and (iii) to provide a portion of the funds required for the purchase of additional nuclear fuel through June 30, 1979.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $2,500. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Connecticut Yankee requests that the proposed issuance and sale of commercial paper be excepted from the competitive bidding requirements of rule 50 pursuant to paragraph (a)(5)(B) thereof on the ground that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as Connecticut Yankee are published daily in financial publications. Connecticut Yankee further requests that the time for filing certificates of notification pursuant to rule 24 be extended to allow for filing on a quarterly basis.

Notice is further given that any interested person may, not later than

June 22, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-15270 Filed 6-1-78; 8:45 am]

[File No. 500-1]

CONTINENTAL MORTGAGE INVESTORS

Suspension of Trading

MAY 24, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Continental Mortgage Investors being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 4:30 p.m. (e.d.t.) on May 24 through June 2, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-15269 Filed 6-1-78; 8:45 am]

[8010-01]

[Release No. 34-14802; File No. SR-DTC-78-7]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on April 27, 1978, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Additions to the Fee Schedule for Major Services:

Conversion of convertible securities

$.01 per share of underlying security (usually common stock) resulting from the conversion of bonds or preferred stock, subject to a minimum transaction charge of $7.50 and a maximum charge of $37.50; plus two regular MDO delivery fees for the two bookentry movements affecting a Participant's account to deduct the convertible securities and add the underlying security.

Override delivery instructions (MDOs) to Continuous Net Settlement

One regular MDO delivery fee charged only to the submitting Participant for each override MDO processed specifying National Securities Clearing Corporation's CNS system as the receiver.

Regular delivery instructions (MDOs) which are not completed (dropped)

One regular MDO delivery fee charged only to the submitting Participant for each MDO dropped because of insufficient securities position, unless DTC's system shows that the submitting Participant's drop was caused by notice of potential receive of a delivery from another Participant which subsequently dropped.

Regular delivery and urgent withdrawal instructions (MDOs and CODs) which DTC rejects

$2.00 charged to the submitting Participant for each instruction rejected because of wrong CUSIP number, wrong input form, requests in securities issues which are not DTC-eligible, missing identifier for the submitting Participant (or receiving Participant on MDOs), or illegible data.

The Fee Schedule for Major Services was originally filed on Form 19b-4A, File No. SR-NYSE-75-19. A revised Fee Schedule for Major Services has been filed on Form 19b-4A, File No. SR-DTC-78-6, but is not yet effective. The above additions to the Fee Schedule for Major Services will be effective on May 1, 1978, and will continue in effect after the effectiveness of the revised Fee Schedule for Major Services filed on Form 19b-4A, File No. SR-DTC-78-6.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to establish fees for four depository activities initiated by a number of DTC Participants. One fee is for a new service inaugurated in 1977—conversion of convertible securities. The other three fees concern activities in existence for some time for which fees were never established. The primary purpose of these fees is to have the Participants initiating these activities cover DTC's costs for the activities.

The proposed rule change relates to DTC's carrying out the purposes of section 17A of the Securities Exchange Act of 1934 by equitably allocating fees among DTC Participants.

Discussions of possible fees for conversion of convertible securities were held with several Participants using that service. No written comments on the proposed fees have been solicited or received. All Participants have been notified of the proposed fees by a DTC Important Notice.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 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 23, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 25, 1978.

[FR Doc. 78-15271 Filed 6-1-78; 8:45 am]

[8010-01]

[Rel. No. 10256; 812-4296]

JOHN HANCOCK INVESTORS, INC. AND JOHN HANCOCK MUTUAL LIFE INSURANCE CO.

Filing of Application for Order

MAY 25, 1978.

Notice is hereby given that John Hancock Investors, Inc. ("Investors") a closed-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and John Hancock Mutual Life Insurance Co. (the "Life Company"), John Hancock Place, P.O. Box 111, Boston, Mass. 02117, a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts (collectively "Applicants"), filed an application on April 19, 1978, pursuant to section 17(d) of the Act and rule 17d-1 thereunder, for an order of the Commission permitting (1) the Life Company to purchase in a direct placement $3,000,000 principal amount (out of a total offering of $12,000,000) of a new issue of unsecured 8.90 percent Notes due May 1, 1993 (the "1978 Notes") of Gray Drug Stores, Inc. ("Gray Drug"), and (2) Investors, as one of the holders of Gray Drug 9¼ percent Notes due June 1, 1986 (the "1971 Notes"), to execute an instrument (the "Amendment") approving the amendment of certain of the financial covenants contained in the 1971 Notes, thereby conforming those financial covenants to the financial covenants contained in the 1978 Notes which will have the effect of consenting to issuance of the 1978 Notes. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Investors presently holds $2,700,000 of the 1971 Notes (out of a total principal amount presently outstanding of $11,700,000). These Notes were purchased in a private placement transaction on May 27, and October 28, 1971. The note agreements pertaining to the 1971 Notes (the "1971 Agreements") were amended by amendments dated July 27, 1973, and June 21, 1974, the latter amendment adding certain restrictions on the incurrence of funded debt by Gray Drug. Applicants further state that the Life Company currently owns no securities of Gray Drug. Issuance and sale of the 1978 Notes would be prohibited under the amended terms of the 1971 Notes.

The approval of the holders of 66⅔ percent in outstanding principal amount of the 1971 Notes is required for any amendment or waiver of the terms of the 1971 Agreements. Applicants state that holders of the 1971 Notes (other than Investors) holding in excess of such figure have stated that they will enter into the Amendment. However, any waiver or amendment of any term of the 1971 Agreements which affects the prepayment of the 1971 Notes requires 100 percent holder approval. Therefore, the provisions of the Amendment which would alter prepayments to the holders of the 1971 Notes on account of certain "excess sales" of Gray Drug assets would not be effective unless Investors enters into the Amendment.

Applicants state that the following are some of the major modifications which would be brought about by the proposed Amendment: (1) Permit the holders of the 1978 Notes to participate pro rata in any prepayment of the 1971 Notes caused by "excess sales" of Gray Drug assets; (2) relax the strict limitations on incurrence of funded debt in the 1971 Agreements, and permit incurrence of long-term debt if: (i) consolidated net tangible assets are at least 225 percent of consolidated funded debt, and (ii) historical ratio of annual income available for fixed charges to pro forma annual fixed charges is at least 1.75 to one for both the most recent year and the most recent 2 years (3) replace the flat limit on current debt present in the 1971 Agreements, and instead permit the incurrence of current debt if the sum of consolidated net tangible assets plus pro forma short-term debt is at least 200 percent of long-term debt plus pro forma short-term debt; (4) increase the flat limit as to the amount to which current debt must be reduced during one 45-day period a year from $2,000,000 to $7,500,000, but additionally require that during such 45-day period consolidated net tangible assets plus the highest amount of short-term debt during the 45-day period must be at least 250 percent of long-term debt plus such highest amount of short-term debt; and (5) increase required working capital to $35,000,000 (from $32,000,000) and impose a new requirement that current assets be at least 175 percent of current liabilities.

Rule 17d-1, adopted by the Commission pursuant to section 17(d) of the Act, provides, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Under section 2(a)(3) of the Act, an investment adviser to an investment company is an affiliated person of such investment company, and anyone owning more than 5 percent of the adviser's outstanding voting securities is an affiliated person of the adviser. Accordingly, since John Hancock Advisers, Inc. ("Advisers") is the investment adviser to Investors and a wholly-owned subsidiary of the Life Company, the Life Company is an affiliated person of an affiliated person of Investors, and its proposed purchase of the 1978 Notes could constitute a joint transaction with Investors due to either the continuing ownership by Investors of the 1971 Notes or the execution of the Amendment.

Applicants state that the Board of Directors of Investors ("the Board") (including four out of five of the Directors who are not interested persons of Investors, the fifth such Director not being present at the meeting at which the Amendment was considered) has determined that executing the Amendment is in the best interests of Investors for the following reasons: (1) Issuance of the 1978 Notes will permit Gray Drug to increase its capitalization, thus permitting it to convert short- and medium-term loans into long-term indebtedness; (2) because Gray Drug has improved its management, earnings, etc., since 1974, the additional restrictions imposed by the June 21, 1974, amendment are no longer appropriate, and the more conventional terms embodied in the Amendment are appropriate; (3) Gray Drug will be permitted to incur additional long-term debt and to lease new properties, thus enabling Gray Drug to refurbish its properties and exploit new market opportunities by incurring new leases; (4) it is the business judgment of the Board the the benefit to Investors of the proposed changes in the 1971 Agreements which will result from the Amendment outweighs any detriment to Investors which may result from any of such changes which are favorable to Gray Drug; (5) Investors will obtain the same terms as in the 1978 Notes; (6) the proceeds of the 1978 Notes will be indirectly available to Gray Drug to

repay the 1971 Notes; and (7) conforming the 1971 Agreements to the 1978 Agreements will give Gray Drug one set of financial covenants to adhere to, thus facilitating compliance with such convenants.

For the reasons outlined above, Applicants submit that the proposed transactions are consistent with the provisions, policies, and purposes of the Act, and that the participation of Investors in the proposed transactions is not on a basis different from or less advantageous than that of other participants. Accordingly, Applicants request an order from the Commission pursuant to section 17(d) of the Act and rule 17d-1 thereunder permitting Investors to enter into the Amendment, and permitting the Life Company to purchase the 1978 Notes.

Notice is furthur given that any interested person may, not later than June 19, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address set forth above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-15267 Filed 6-1-78; 8:45 am]

[8010-01]

[File No. 1-5562]

KOLLMORGEN CORP.

Application To Withdraw From Listing and Registration

MAY 26, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Kollmorgen Corp. (the "Company") has been listed for trading on the Amex since March 6, 1968. On April 12, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before June 23, 1978, submit by letter to the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-15266 Filed 6-1-78; 8:45 am]

[8010-01]

[Release No. 34-14801; File No. SR-OCC-78-2]

OPTIONS CLEARING CORP.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on May 15, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would revise the method in which the variable portion of OCC's clearing fund is determined to base the calculation on open interest value, rather than open interest, and to provide for recalculation on a monthly rather than a quarterly basis. Under the proposed rule change, the variable portion of the clearing fund for each month would amount to approximately 7 percent, or such greater percentage as OCC's Board of Directors prescribed from time to time by resolution, of average daily open interest value for the 3 preceding calendar months.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change would revise the formula used by OCC to determine clearing fund contributions. Under OCC's present rules, each Clearing Member is required to make a "fixed contribution" to the clearing fund in the amount of $10,000, plus a "variable contribution," redetermined quarterly, in an amount equal to $10 multiplied by the average daily number of option contracts maintained by the Clearing Member in open long or short positions with OCC during the preceding calendar quarter.

Accordingly, under OCC's present rules, the amount of the clearing fund is based primarily on open interest (i.e., the number of option contracts outstanding). It does not take into account open interest value, which is the measure of OCC's obligations to the public. Therefore, if open interest remains static but premiums rise, thereby increasing the dollar value of OCC's obligations, the clearing fund will not increase correspondingly. Conversely, during periods when open interest is increasing but premiums are declining, OCC's clearing fund requirements will increase even if OCC's aggregate loss exposure is decreasing.

The proposed rule change would revise the manner in which the variable portion of the clearing fund is calculated by basing the calculation on open interest value, rather than open interest. Generally speaking, the variable portion of the clearing fund would be fixed at 7 percent, or such greater percentage as the Board of Directors may from time to time prescribe by resolution, of average daily open interest value over the 3 calendar months preceding the determination.[1]

[1]The percentage formula is not exact, because the variable contributions of newly-

Footnotes continued on next page

The amount of the variable portion would be redetermined on a monthly, rather than a quarterly basis. Once the amount of the variable portion for each month was determined, the Clearing Member would be required to contribute its proportionate share of that amount, based on the average daily number of option contracts carried by all Clearing Members during that period.

Because of the fluctuations in open interest value over time, it is not possible to predict whether the implementation of the proposed rule change would result in an increase or a decrease in the size of OCC's clearing fund. To avoid any disclosure problems which might result in the event of a decrease, the proposed rule change would not be implemented until it had been reflected in a new prospectus or prospectus supplement.

The proposed rule change would serve the public interest by making the size of OCC's clearing fund more proportionate to the magnitude of OCC's obligations.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any material burden on competition. Any incidental burden which might result if the implementation of the rule change had the effect of increasing OCC's clearing fund requirements would be outweighed by the desirability of making the size of OCC's clearing fund more proportionate to its obligations.

On or before July 7, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it funds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and 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 23, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 25, 1978.

[FR Doc. 78-15272 Filed 6-1-78; 8:45 am]

Footnotes continued from last page

admitted Clearing Members would continue to be fixed by the Board of Directors for the first 3 months of membership. Because transactions by newly-admitted Clearing Members would be included in the denominators of the fractions used to determine the proportionate shares of the percentage fund to be contributed by other Clearing Members, the variable portion of the clearing fund might work out to be slightly more or less than the specified percentage of open interest value.

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 65]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-12609, appearing at page 19962 in the issue for Tuesday, May 9, 1978, in the third column, third complete paragraph of page 19963, "No. MC 11343 (Sub-No. 99TA)" should have read "No. MC 113434 (Sub-No. 99TA)".

[7035-01]

[Notice No. 674]

ASSIGNMENT OF HEARINGS

MAY 30, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 1515 (Sub-No. 239), Greyhound Lines, Inc., is now assigned for continued hearing July 11, 1978 (9 days), at the Ramada Inn, Monkhouse Drive, Shreveport, LA.

MC 139495 (Sub-No. 275), National Carriers, Inc., is now assigned for hearing July 7, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 136035 (Sub-No. 9), W. S. Dunning & Sons, Inc., now assigned June 7, 1978, at Louisville, KY, is canceled and transferred to Modified Procedure.

MC 119988 (Sub-No. 116), Great Western Trucking Co., Inc., now assigned June 8, 1978, at Louisville, KY, is canceled and application dismissed.

MC 143450 (Sub-No. 1), Ambassador Coach Line, Inc., now assigned June 12, 1978, at Parsons, KS, is canceled, application dismissed.

MC 114416 (Sub-No. 8), Western Transport Crane & Rigging, Inc., now assigned June 5, 1978, at Spokane, WA, is canceled and transferred to Modified Procedure.

MC 143829, Scalea Airport Service, Inc., now being assigned July 25, 1978 (2 days), for continued hearing at Philadelphia, PA, in a hearing room to be later designated.

MC 6078 (Sub-No. 86F), D. F. Bast, Inc., now being assigned July 27, 1978 (2 days), at Philadelphia, PA, in a hearing room to be later designated.

MC 19157 (Sub-No. 45), McCormack's Highway Transportation, Inc., now being assigned June 20, 1978, for continued hearing at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 110683 (Sub-No. 122), Smith's Transfer Corp., now assigned June 27, 1978, at Indianapolis, IN, is canceled and application dismissed.

MC 144188, P. L. Lawton, Inc., now assigned for hearing on June 28, 1978, at Washington, DC, is canceled and transfered to Modified Procedure.

MC 118989 (Sub-No. 170), Container Transit, Inc., is now assigned for hearing July 17, 1978 (2 days), At Chicago, IL, at a location to be later designated.

FF 209, Lyons Transport, Inc., is now assigned for hearing July 19, 1978 (3 days), at Chicago, IL, at a location to be later designated.

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

[FR Doc. 78-15408 Filed 6-1-78; 8:45 am]

[7035-01]

[Notice No. 84]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 24, 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 predicted, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5470 (Sub-No. 145 145 TA), filed April 26, 1978. Applicant: TAJON, INC., R.D. 5, P.O. Box 146, Mercer, PA 16137. Applicant's representative: Richard W. Sanguigni, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground glass and cullet* in dump vehicles, from Cleveland, OH to Delmar, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Bassickis Co., 2300 West 3rd Street, Cleveland, OH 44113. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 52460 (Sub-No. 214TA), filed April 13, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 NW. 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, except in bulk, from the facilities of Vlasic Foods, Inc. at or near Greenville, MS, to points in AL, AR, CO, FL, GA, KS, KY, LA, MO, NM, OK, TN, TX and points in IL on and south of IL Hwy 16 and points in IN in and south of Sullivan, Greene, Monroe, Brown, Bartholomew, Decatur, and Franklin Counties, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vlasic Foods, Inc., 33220 West 14 Mile Road, West Bloomfield, MI 48033. Send protests to: Connie Stanley, Transportation Assistant, Room 240 NW. 3rd, Oklahoma City, OK 73102.

No. MC 58923 (Sub-No. 49TA), filed April 5, 1978. Applicant: GEORGIA HIGHWAY EXPRESS, INC. 2090 Jonesboro Road SE., P.O. Box 6944, Atlanta, GA 30315. Applicant's representative: Jerome F. Marks, Georgia Highway Express, Inc., 2090 Jonesboro Road SE., P.O. Box 6944, Atlanta, GA 30315. 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, commodities requiring special equipment, and those injurious or contaminating to other lading). (1) Between Memphis, TN and Atlanta, GA, serving all intermediate points: From Memphis, TN over U.S. Hwy 72 to Huntsville, AL (also over U.S. Alternate Hwy 72, from intersection of U.S. Hwy 72 and U.S. Alternate Hwy 72, near Tuscumbia, AL, to Huntsville, AL), then over U.S. Hwy 431 to Gadsden, AL, then over U.S. Hwy 411 to Centre, AL, then over AL State Hwy 9 to GA-AL State Line, then over GA State Hwy 20 to Rome, GA, then over U.S. Hwy 411 to intersection of U.S. Hwy 41, then over U.S. Hwy 41 to Atlanta, GA, and return over the same route; (2) Between Memphis, TN and Atlanta, GA, serving all intermediate points: From Memphis, TN over U.S. Hwy 78 to Junction U.S. Hwy 278, then over U.S. Hwy 278 to Atlanta, GA, and return over the same route; (3) Between Memphis, TN and Valdosta, GA, serving all intermediate points: From Memphis, TN over U.S. Hwy 78 to Tupelo, MS, then over U.S. Hwy 45 to Columbus, MS, then over U.S. Hwy 82 to Tifton, GA, then over U.S. Hwy 41 to Valdosta, GA, and return over the same route; (4) Between junction U.S. Hwy 78 and U.S. Hwy 43 (at or near Hamilton, AL) to Mobile, AL, serving all intermediate points: From junction U.S. Hwy 78 and U.S. Hwy 43, over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 31 to AL-FL State Line, then over U.S. Hwy 29 to Pensacola, FL, then over U.S. Hwy 90 to Mobile, AL (also from Pensacola, FL over U.S. Hwy 29 to junction of Interstate Hwy 10, then over Interstate Hwy 10 to Mobile, AL), and return over the same route; (5) Between Birmingham, AL and Mobile, AL, serving all intermediate points: From Birmingham, AL over U.S. Hwy 11 to junction U.S. Hwy 43, then over U.S. Hwy 43 to Mobile, AL, and return over the same route; (6) Between Huntsville, AL and Mobile, AL, serving all intermediate points: From Huntsville, AL over U.S. Hwy 431 to junction U.S. Hwy 231, then over U.S. Hwy 231 to Panama City, FL, then over U.S. Hwy 98 to Pensacola, FL, then over U.S. Hwy 29 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Mobile, AL, and return over the same route; (7) Between Pensacola, FL and Tifton, GA, serving all intermediate points: From Pensacola, FL over U.S. Hwy 29 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction U.S. Hwy 319, then over U.S. Hwy 319 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Tifton, GA (also from junction U.S. Hwy 29 and Interstate Hwy 10, over Interstate Hwy 10 to junction FL State Hwy 14, then over FL State Hwy 14 to junction FL State Hwy 145, then over FL State Hwy 145 to FL-GA State Line, then over GA State Hwy 31 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Tifton, GA), and return over the same route; (8) Between Corinth, MS and Tupelo, MS, serving all intermediate points: From Corinth, MS over U.S. Hwy 45 to Tupelo, MS, and return over the same route; (9) Serving all points in Shelby County, TN as off-route points; (10) Serving all points in AL not intermediate on the above routes as off-route points; (11) Serving all points in FL not intermediate on the above routes located in and west of Madison, Hamilton and Taylor Counties as off-route points; (12) Serving all points in the Commercial Zones of Memphis, TN and Birmingham, AL. Authority is sought for applicant to tack routes 1 thru 12 with applicant's authority presently held under Public Convenience and Necessity No. MC-58923 and Subs, and to interline with other carriers at all points of interchange in AL, FL (that portion of FL sought in the application) and Shelby County, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (58) statements of support attached to the application which may be examined at the field office named below. 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 71074 (Sub-No. 8TA), filed April 11, 1978. Applicant: WAREHOUSE TRANSPORT, INC., 211 Plainfield Street, Springfield, MA 01107. Applicant's representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses and, in connection therewith, *equipment, materials and supplies* used in the conduct of such business (except commodities in bulk) from Albany, NY to points in CT, VT, NH

and MA under a continuing contract or contracts with The Great Atlantic & Pacific Tea Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper The Great Atlantic & Pacific Tea Co., Inc., 2 Paragon Drive, Montvale, NJ 07645. Send protests to: David M. Miller, District Supervisor, 436 Dwight Street, Room 338, Springfield, MA 01103.

No. MC 95540 (Sub-No. 1018TA), filed April 17, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33801. Applicant's representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from the facilities of Rich Products Corp., at or near Murfreesboro, TN, to points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI, for 180 days. Supporting shipper: Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Bureau of Operation, 8410 NW. 53d Terrace, Miami, FL 33166.

No. MC 105457 (Sub-No. 92TA), filed April 28, 1978. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Charlotte, NC 28206. Applicant's representative: J. V. Luckadoo, 600 Johnston Road, Charlotte, NC 28206. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Centre, AL and Birmingham, AL: From Centre over U.S. Hwy 411 to junction U.S. Hwy 278, then over U.S. Hwy 278 to junction U.S. Hwy 11, then over U.S. Hwy 11 to Birmingham, and return over the same route serving all intermediate points; (2) Between Junction U.S. Hwy 278 and Interstate Hwy 59 at or near Gadsden, AL and Birmingham, AL: From junction U.S. Hwy 278 and Interstate Hwy 59 at or near Gadsden, over Interstate Hwy 59 to Birmingham, AL, and return over the same route serving all intermediate points; (3) Between Atlanta, GA and Birmingham, AL: From Atlanta over U.S. Hwy 78 (also over Interstate Hwy 20) to Birmingham, and return over the same route serving all intermediate points; (4) Between Birmingham, AL and Cullman, AL: From Birmingham over U.S. Hwy 31 to Cullman and return over the same route serving all intermediate points; (5) Between Decatur, AL and Pulaski, TN: From Decatur over U.S. Hwy 31 to Pulaski and return over the same route serving all intermediate points; (6) Between Birmingham, AL and Junction Interstate Hwy 65 and U.S. Hwy 64: From Birmingham over Interstate Hwy 65 to junction U.S. Hwy 64, and return over the same route serving all intermediate points; (7) Between Junction U.S. Hwys 78 and 431 at or near Oxford, AL and junction of U.S. Hwy 431 and AL Hwy 75 at or near Albertville, AL: From Junction U.S. Hwy 78 and 431 at or near Oxford, over U.S. Hwy 431 to junction AL Hwy 75 at or near Albertville, and return over the same route serving all intermediate points; (8) Between Arab, AL and Fayetteville, TN: From Arab over U.S. Hwy 231 to Fayetteville, and return over the same route serving all intermediate points; (9) Between Decatur, AL and Huntsville, AL: From Decatur over Alternate U.S. Hwy 72 to Huntsville and return over the same route serving all intermediate points; (10) Between Athens, AL and Huntsville, AL: From Athens over U.S. Hwy 72 to Huntsville and return over the same route serving all intermediate points for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (68) statements of support attached to the application which may be examined at the field office named below. Send protests to: District Supervisor, Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

NOTE.—Applicant intends to (a) to operate over all combinations of routes described above and (b) to join the operating authority sought herein with applicant's existing authority and thereafter perform through service (c) authority is sought to interchange with connecting carriers.

No. MC 111302 (Sub-No. 121TA), filed March 27, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, TN 37919. Applicant's representative David A. Peterson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Di nitro butyl phenol*, in bulk, in tank vehicles, from the facilities of Alpine Laboratories at or near Bay Minette, AL to the facilities of Baird McGuire Corp., in Holyoke, MA. (2) *Di nitro butyl phenol*, in bulk, in tank vehicles, from the facilities of Alpine Laboratories at or near Bay Minette, AL to the facilities of Uni-Royal Co. in Gastonia, NC. (3) *Butyl phenol*, in bulk, in tank vehicles, from the facilities of the Ethyl Corp. in Orangeburg, SC to the facilities of Alpine Laboratories at or near Bay Minette, AL. Restricted to traffic moving in round trip service between the plantsite of Alpine Laboratories at or near Bay Minette, AL and the facilities shown in parts (1), (2), and (3) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alpine Laboratories, Inc., P.O. Box 147, Bay Minette, AL 36507. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, Nashville, TN 37203.

No. MC 113666 (Sub-No. 130TA), filed April 14, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon petroleum*, except in bulk, from Manahawkin, NJ to Freeport, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Grout Corp., West End Avenue, Old Greenwich, CT 06870. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 114457 (Sub-No. 384TA), filed April 27, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing goods, supplies and accessories* (1) from Plainview, NY to IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD and WI; and (2) from Monroe, OH to CT, ME, MA, NH, NJ, NY, RI, and VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Powers-Fiat, 1 Michael Court, Plainview, NY 11803. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 110 South 4th Street, 414 Federal Building and U.S. Court House, Minneapolis, MN 55401.

No. MC 114569 (Sub-No. 223TA), filed April 20, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Applicant's representative: N. L. Cummins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum billets and extrusions; aluminum doors and windows, glazed and unglazed; fabricated metal products and hardware, accessories, and parts there-*

of when moving in connection therewith from the facilities of Capitol Products Corp. located in Hampden Township, Cumberland County, PA to points in OH, MI, IN, IL, and WI; and (2) *Aluminum scrap, glass in crates, aluminum hardware, vinyl plastics, and fluxing materials* from the points in destination states shown in (1) to the facilities of Capitol Products Corp. in Hampden Township, Cumberland County, PA; and (3) *Glass in crates, aluminum hardware, and vinyl plastics* from points in OH, MI, IL and PA to the facilities of Capitol Products Corp. in Kentland, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Capitol Products Corp., Box 69, Mechanicsburg, PA 17055. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

No. MC 118263 (Sub-No. 70TA), filed April 17, 1978. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Applicant's representative: William P. Whitney, 708 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), (1) from the facilities of American Home Foods, Division of American Home Products Corp. at Laporte, IN, to all points in OH, and KY; (2) from the facilities of American Home Foods, Division of American Home Products Corp. at Milton, PA, to Laporte, IN and the Chicago commercial zone and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Home Foods, Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 118263 (Sub-No. 72TA), filed April 19, 1978. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Applicant's representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and related products*, except in bulk, moving in vehicle equipped with mechanical refrigeration, between the warehouse sites of Louisville Freezer Center in Jefferson County, KY, on the one hand, and, on the other, all points and places in AL, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NY, NC, OH, PA, DC, TN, VA, WV, and WI. Restricted to the transportation of freight having an origin or destination at the warehouse sites of Louisville Freezer Center, for 180 days. Supporting shipper(s): Louisville Freezer Center, 2000 South Ninth Street, Louisville, KY 40208. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 121322 (Sub-No. 2TA), filed April 14, 1978. Applicant: STEVE J. DUNNE CARTAGE INC., 1800 South Wolf Road, Des Plaines, IL 60016. Applicant's representative: Daniel Freet (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail grocery establishments, between points located in the Chicago commercial zone on the one hand, and, on the other, points in the St. Louis, MO and Detroit, MI commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dry Storage Corp., Arthur Comeua, Director of Distribution, 2005 West 43d Street, Chicago, IL 60609. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 123887 (Sub-No. 13TA), filed April 28, 1978. Applicant: L. J. NAVY TRUCKING CO., 2300 Eighth Avenue, Huntington, WV 25703. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers and *used empty containers* on return, from Eden, NC to Charleston, Huntington and Williamson, WV, and from Newark, NJ to Huntington, WV and Irontown and Portsmouth, OH, for 180 days. 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 field office named below. Send protest to: Miss Frances A. Ciccarello, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC. 124813 (Sub-No. 183TA), filed April 14, 1978. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, P.O. Box 166, Eagle Grove, IA 50533. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dicalcium phosphate*, from the facilities of Beker Industries, Corp., located at or near Marseilles, IL, to points in IN, IA, MO, MI and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beker Industries, Corp., 124 West Putnam Avenue, Greenwich, CT 06830. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC. 125375 (Sub-No. 17TA), filed April 24, 1978. Applicant: F.B. GUEST d.b.a. F.B.G. TRANSPORT, Route 5, Box 298, Covington, GA 30209. Applicant's representative: Richard M. Tettlebaum, Serby & Mitchell, P.C., 5th Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products* from the facilities of Borden, Inc. at or near Watertown, NY, to points in PA, MD, WV, VA, NC, SC, GA, FL, KY, and AL; and (2) *materials, equipment and supplies* used in the production and/or distribution of dairy products, from points in the United States in and east of AL, TN, KY, and OH, to the facilities of Borden, Inc., located at or near Watertown, N.Y. Service in (1) and (2) above to be provided under a contract or continuing contracts with Borden, Inc., Watertown, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Borden, Inc., P.O. Box 1019, Columbus, Ohio 43216. Send protests to: E. A. Bryant, Interstate Commerce Commission, Room 300, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC. 127705 (Sub-No. 57TA), filed April 14, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, 501 South Broadway, Gas City, IN 46933. Applicant's representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, caps, covers and container accessories*, from the facilities of Kerr Glass Manufacturing at Huntington, WV, to Cincinnati, Leipsic, Medina, Orrville and Urbana, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kerr Glass Manufacturing, P.O. Box 97, San Springs, Okla. 74063. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne

Street, Suite 113, Fort Wayne, IN 46802.

No. MC 28404, (Sub-No. 10TA), filed April 27, 1978. Applicant: BLACKWOOD CRANE & TRUCK SERVICE, INC., P.O. Box 3037, Knoxville, TN 37917. Applicant's representative: Wayne R. Whaley, Jr., P.O. Box 3037, Knoxville, TN 37917. Authority sought to operate as a common carrier, over irregular routes, for 180 days, transporting: (1) *Iron and steel reinforcing bars, smooth bars, billets* and *other articles* made from billets from facilities of Azcon Corp. at or near Knox County, TN to FL, GA, SC, NC, VA, WV, MD, PA, OH, IN, MI, WI, IA, IL, MO, AR, LA, MS, AL, KA, OK, TX, and TN. (2) *Materials and supplies* used in the production of metal articles (except liquid and chemical commodities in bulk) on return. Supporting shipper: Knoxville Iron, Div. of Azcon Corp., 1919 Tennessee Avenue, Knoxville, TN 37921. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, ICC, Suite A-422—U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 128413 (Sub-No. 6TA), filed March 23, 1978. Applicant: SEASON-ALL TRANSPORTATION CO., Route 119 South Indiana, PA 15701. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum products, fabricated metal products and materials, equipment and supplies* used in the production, distribution and sale of the above named commodities (except commodities in bulk) between the facilities of Season-All Industries, Inc. at or near Decatur, IL on the one hand, and, on the other, points in AL, AR, CO, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OK, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI. Restriction: The operations authorized herein are limited to a transportation to be performed under a continuing contract or contracts with Season-All Industries, Inc. Supporting shipper(s): Season-All Industries, Inc., Route 119 South Indiana, PA 15701. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 135874 (Sub-No. 119TA), filed April 11, 1978. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street South, South St. Paul, MN 55075. Applicant's representative: Randy Busse, 550 E. 5th Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier,* by motor vehicle, over *irregular routes,* transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery, food, department, and hardware stores and in connection therewith, equipment, materials and supplies used in the conduct of such business (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Hodgkins, IL and its commercial zone to points in MN, ND, SD, and Hudson, La Crosse, Superior, and Eau Claire, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Couzens Warehouse & Distributors, Inc., 6600 South River Road, Hodgkins, IL 60525. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 138157 (Sub-No. 69TA), filed April 27, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *motor vehicle parts, tools, and accessories,* from points in the Los Angeles, CA commercial zone to points in TX, OK, AR, LA, MS, AL, FL, GA, TN, NC, SC, VA, and MD. Restriction: Restricted to traffic originating at the facilities of The Allen Group, Inc. Further restricted against the transportation of commodities in bulk, in tank vehicles, and commodities which by reason of size or weight require the use of special equipment. Supporting shipper: The Allen Group, Inc., 19914 South Via Baron Street, Compton, CA 90220. Send protests to: Glenda Kuss, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203, for 180 days.

No. MC 139193 (Sub-No. 76TA), filed April 19, 1978. Applicant: ROBERTS & OAKE, INC., 527 East 52nd Street North, Sioux Falls, SD 57101. Applicant's representative: Jacob P. Billig, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Fresh bananas and commodities* otherwise exempt from regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in mixed shipments with fresh bananas from Charleston, SC to points in IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, TN, and WI, restricted to the transportation of traffic having a prior movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chiquita Brands, Inc., 95 Chestnut Ridge Road, Montvale, NJ 07645, Peter Comtabad, Director of Inland Transportation. Send protests to: Chairman, Motor Carrier Board, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 139193 (Sub-No. 77TA), filed April 19, 1978. Applicant: ROBERTS & OAKE, INC., 527 East 52nd St. North, Sioux Falls, SD 57101 Applicant's representative: Jacob P. Bil- lig, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Fresh bananas, and commodities* otherwise exempt from regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in mixed shipments with fresh bananas from Albany, NY, Baltimore, MD, and Port Newark, NJ to points in IA, IL, IN, KY MI, MN, MO, OH, TN, and WI, restricted to the transportation of traffic having a prior movement by water, under a continuing contract or contracts with Chiquita Brands, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chiquita Brands, Inc., 95 Chestnut Ridge Road, Montvale, NJ 07645, Peter Comtabad, Director of Inland Transportation. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 139420 (Sub-No. 34TA), filed April 18, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Applicant's representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Waterbed frames and matching case goods, waterbed components and accessories therefor,* from the respective commercial zones of Gardena, Los Angeles, Santa Clara, Carson, Irvine, and the city of Commerce, CA, to ports of entry on the United States-Canada boundary line located at or near San Haven or Pembina, ND and Noyes, MN. Restriction: Restricted to the transportation of traffic destined to Winnipeg, MB, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Floating Ecstasy, Ltd., 108 Osborne Street, Winnipeg, MB, Canada R3L 1Y5. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Com-

merce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 139787 (Sub-No. 6TA), filed April 7, 1978, and published in the FEDERAL REGISTER issue of May 9, 1978, and republished as corrected this issue. Applicant: M. & M. TRUCKING CO., INC., P.O. Box 1743, Auburn, AL 36830. Applicant's representative: Kim C. Meyer, 235 Peachtree Street, Suite 1200, Altanta Gas Light Tower, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel* (in bulk, in dump trucks), from Montgomery, Macon, and Elmore Counties, AL, to points in GA and those points in FL in and north of Brevard, Orange, Lake, Sumter, and Hernando Counties, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. & S. Materials, Inc., P.O. Box 3547, Montgomery, Al 36109. Send protests to: Mabel E. Holston, Tansportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203. The purpose of this republication is to correct the territorial description.

No. MC 139858 (Sub-No. 22TA), filed April 17, 1978. Applicant: AMSTAN TRUCKING INC., 1255 Corwin Avenue, Hamilton, OH 45015. Applicant's representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers' goods and fittings, and materials, supplies and equipment* used in the manufacture and distribution thereof, (1) from Plainfield, CT to points in AL, AR, FL, GA, IL, IN, IA, KS, LA, MD, MI, MS, MO, NE, NC, OH, OK, PA, SC, TN, TX, VA, DC, WV, and WI. (2) from Andrews, SC and Robbins, NC to Plainfield, CT, Tiffin, OH, and Kokomo, IN. (3) from Niagara Falls, NY, to Plainfield, CT. (4) from Bessemer City, NC, to Louisville, KY. (5) from Paintsville, KY, to Torrance, CA. (6) from Malvern, AR, to Paintsville, KY. (7) from Malvern, PA, to Paintsville, KY. Restrictions: The operations authorized above are subject to the following conditions: (1) The product description does not include commodities which because of their size or weight require the use of special equipment. (2) Said operations are limited to a transportation service to be performed under a continuing contract or contracts with American Standard Inc. of New Brunswick, NJ, for 180 days. Supporting shipper(s): American Standard Inc., James P. Nelligan, General Traffic Manager, P.O. Box 2003, New Brunswick, NJ 08903. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations—ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 141764 (Sub-No. 6TA), filed April 13, 1978. Applicant: BLACKHAWK ENTERPRISES, 853 Hancock Street, Hayward, CA 94544. Applicant's representative: William D. Taylor—Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111, 415-986-1414. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and fiberglass insect screening; aluminum nails; and vinyl coated yarns* from the facilities of Phifer Wire Products, Inc. at or near Tuscaloosa, AL to City of Industry, CA, under a continuing contract or contracts with Phifer Wire Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Phifer Wire Products, Inc., 4400 Kauloosa Avenue, P.O. Box 1700, Tuscaloosa, AL 35401. Send protests to: District Supervisor, A. J. Rodriguez, 211 Main Suite 500, San Francisco, CA 94105.

No. MC 142559 (Sub-No. 12TA), filed April 14, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerators, freezers, water coolers, dishwashers, disposers, room air-conditioners, dehumidifiers, humidifiers and other household appliances.* Between Columbus, OH and Edison, NJ, for 180 days. Supporting shipper(s): White-Westinghouse International Co., 930 Fort Duquesne Boulevard, Pittsburgh, PA 15222. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 142929 (Sub-No. 2TA), filed April 19, 1978. Applicant: YAGER TRUCKING, Route 1, P.O. Box 868, Woodland, CA 95695. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and vegetables*, in vehicles equipped with mechanical refrigeration from Pasco, WA to Sacramento, CA, under a continuing contract or contracts with Northern California Frozen Foods, Inc., for 180 days. Supporting shipper(s): Northern California Frozen Foods, Inc., 1724-10th Street, Sacramento, CA 95814. Send protests to: District Supervisor, A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

No. MC 143110 (Sub-No. 4TA), filed April 17, 1978. Applicant: K. & B. EXPRESS, INC., P.O. Box 841, Union, NJ. Applicant's representative: Stuart R. Mandel, Mandel & Kavaller, 315 S. Beverly Drive, Ste. 315, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier* by motor vehicle over irregular routes, as follows: (1) Transporting: *Vacuum cleaners, vacuum cleaner bags, floor polishers, rug shampooers, electric motors, and parts*, for vacuum cleaners, vacuum cleaner bags, floor polishers and rug shampooers, *janitorial supplies, buckets, hand trucks, steelware, hardware, mop heads, mop wringers, handles, mipro, squeegees, cloth bags, yars, and related supplies and parts* (except in bulk); (1) from Old Greenwich, CT, Bristol, VA, Fultonville, NY, and Charlotte, NC to Harrisburg, PA, Charleston and Logan, WV, Bristol and Richmond, VA, Louisville and Lexington, KY, Memphis and Jackson, TN, Asheville, Charlotte, and Gastonia, NC, Columbia, SC, Atlanta (College Park) and Norcross, GA, Mobile, AL, Pine Bluff, Little Rock, and Jonesboro, AK, and Dallas, TX; (2) from Old Greenwich, CT, Bristol, VA, Fultonville, NY, and Charlotte, NC to Harrisburg, PA, Memphis and Jackson, TN, Toledo, OH, Evansville and Hammond, IN, Elk Grove Village, Springfield, Des Plaines, and Marion, IL, Waterloo, Cedar Rapids, Des Moines, and Davenport, IA, Witchita, KS, Omaha, NE, Mesa and Phoenix, AZ, Colorado Springs, Denver and Greeley CO, Salt Lake City, UT, Reno, NV, Los Angeles and Daley City, CA, Portland, OR and Seattle, WA; (3) from Bristol, VA, Fultonville, NY, and Charlotte, NC to Charlotte, NC, Richmond and Bristol, VA, Harrisburg, PA, Bronx, Fultonville, and Utica, NY, Old Greenwich and Hartford, CT, West Springfield and Worchester, MA; (2) transporting: *Plastic household cleaning and maintenance products and supplies* (except in bulk) from Sparks, NE to Fultonville, NY, Dallas, TX, Des Plaines, IL, and Charlotte, NC; (3) transporting: *Buffing compounds, polishing compounds, cleaning compound, petroleum resins, paraffin wax compounds, paraffins, petroleum wax, cleaning, scouring or washing compounds, soaps, disinfectants, cleaning and lubricating conveyor or rubber compounds* (except in bulk) from St. Louis, MO and Chicago, IL to points in AL, AZ, AK, CA, CO, CT, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OK, OH, OR, PA, SD, TN, TX, UT, VA, WA, and WI, under a continuing contract or contracts in (1) through (3) above with Electrolux Group, division of General Foods Corp., for 180 days. Supporting shipper(s): Electrolux, 51 Forest Avenue, Old Greenwich, CT 06870.

Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 143161 (Sub-No. 5TA), filed April 6, 1978. Applicant: BEVERAGE TRANSPORT, INC., Box 13515, 1210 Bluff Road, Columbia, SC 29201. Applicant's representative: Harry S. Dent, P.O. Box 528, Columbia, SC 29202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages and soft drinks and materials, supplies, and equipment* used in the manufacture, mixing, distribution, and sale of nonalcoholic beverages and soft drinks, between Cayce, SC on the one hand, and, on the other, to points and places in FL, GA, AL, MS, LA, TX, TN, NC, VA, WV, KY, IL, IN, OH, MD, DE, PA, NY, MI, WI, CT, RI, MA, VT, ME, DC, and NH, under a continuing contract or contracts with Carolina Canners South, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Carolina Canners South, Inc., Cayce, SC 29033. Send protests to: E. E. Strotheid, District Supervisor, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

No. MC 144211 (Sub-No. 1TA), filed April 14, 1978. Applicant: BROWN & SONS, INC., P.O. Box 55, Gratis, OH 45330. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Slag*, in bulk, in dump vehicles, from Middletown, OH, to Gas City, Marion, Winchester, and Dunkirk, IN, under a contining contract with The Calumite Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Calumite Co., Raymond H. Evans, General Manager of Operations, P.O. Box 7180, Trenton, NJ 08628. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 144228 (Sub-No. 3TA), filed April 20, 1978. Applicant: BAGLE TRANSPORT LINES, INC., 9632 Palo Pinto Road, Fort Worth, TX 76116. Applicant's representative: Harry F. Horak, 5001 Brentwood Stair Road, Room 109, Fort Worth, TX 76116. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Ductile iron pipe fittings and foundry supplies* used in the manufacture of ductile iron pipe fittings between Eastland, TX, Birmingham, AL, Primos, PA, Columbus, GA, Charlotte, NC, Biscoe, NC, Chattanooga, TN, Chicago, IL, South Barre, MA, Anniston, AL, Hayward, CA, New York City, NY, Stoughton, MA, Southington, CT, Mobile, AL, Provo, UT, Seattle, WA, Portland, OR, and Louisville, KY, under a continuing contract or contracts with EBAA Iron, Inc., for 180 days. Supporting shipper(s): EBAA Iron, Inc., R.F.D. 2, Eastland, TX 76448. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 144334 (Sub-No. 1TA), filed April 28, 1978. Applicant: J. WHITE TRANSPORTATION, INC., Highway 63 North, Cedar City, MO 65022. Applicant's representative: Charles J. Fain and Williard C. Reine, 235 East High Street, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Heavy electrical switchgear, electrical transformers, portable electrical substations, related protective coverings, housing, fencing material, iron and steel articles, aluminum articles, electrical substations, shelter aisle switchgear, breaker sleds, bases, switching sleds, related installation equipment, and other similar items, prefabricated or fabricated*, from Callaway County, MO to mining sites, construction sites, warehouse sites, manufacturing plants or export points within the continental United States; and similar items and equipment on return. Also from mining sites, construction sites, warehouse sites, manufacturing plants or export points within the continental United States to Callaway County, MO, similar items and equipment on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Central Electric Manufacturing, Business Route 54 South at Junction BB, Fulton, MO 65251. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC. 144490 (Sub-No. 1TA), filed April 5, 1978. Applicant: ED'S CARTAGE, INC., 354 North Hemlock, Wood Dale, IL 60191. Applicant's representative: Philip A. Lee, 120 West Madison Street, Chicago, IL 60602.Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Medicine cabinets and bathroom (plumbing and lighting) fixtures; vanity basins and marble tops; and display show casing the aforementioned commodities*, from Elk Grove Village, IL, to points and places throughout the following States, i.e., IN, OH, PA, NY, NI, DE, VA, MO, KY, TN, GA, OK, TX, NM, AZ, CA, MN, WI, IA, MI, MA, NV, AR, NE, FL, LA, MS, OR, WA, NC, and SC. Also *glass mirrors* from Cincinnati and Cleveland, OH to Elk Grove Village; also *injected molded plastic cabinets* from Social Circle, GA to Elk Grove Village, IL; also *marble dust and marble tops* from Los Angeles, CA to Elk Grove Village, IL; and also *urethane plastic door material* from Jasper, IN to Elk Grove Village, IL, under a continuing contract or contracts with General Bathroom Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): General Bathroom Products, Inc., Anthony W. Miller, Traffic Manager, 2201 Touhy Avenue, Elk Grove, IL 60007. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC. 144568TA, filed March 30, 1978. Applicant: S.W. TRANSPORT, INC., 800 Ouellette Street, Marieville, PQ, Canada. Applicant's representative: Donald E. Cross, 918-16th Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bolts, nails, screws, nuts, washers, fasteners, wire, wire mesh, rods, bars, wire fabric, and fencing*, from rouses point, NY to points in AL, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, ME, MI, MN, MS, MO, NE, NV, NH, NJ, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, under a continuing contract with Industrial Fasteners Ltd. and Sivaco Wire & Nail Co. for 180 days. Supporting shipper(s): Sivaco Wire & Nail Co., 800 Ouellette Street, Marieville, PQ, Canada, and Industrial Fasteners Ltd., (same address as previous shipper). Send protests to: District Supervisor, David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

No. MC 144610 (Sub-No. 1 TA), filed April 14, 1978. Applicant: C. ALLEN TRUCKING, INC., 1 Nenninger Lane, East Brunswick, NJ 08816. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ship Stores*, (except in bulk and food stuffs), (1) From Williamatic, CT, Hamburg, Kenilworth, New Brunswick, Passaic, and Trenton, NJ, Chester, Farmingdale, and Mineola, NY, Mechanicsburg, Schuykill Haven, and York, PA, and Bethel, VT, to Mobile, and Montgomery, AL, Miami, and Tampa, FL, New Orleans, LA, Pascagoula, MS, and Houston, TX, and (2) From New Orleans, LA, to Chester, PA, and Brooklyn, NY. Applicant has

also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper, L. F. Gaubert & Co., Inc., 700 South Broad Street, New Orleans, LA 70119. Send protests to: Robert H. Johnston, District Supervisor, 9 Clinton Street, Newark, NJ 07102, for 180 days.

No. MC 144611 (Sub-No. 1 TA), filed April 13, 1978. Applicant: BRIDGEWATER TRANSPORTATION, INC., P.O. Box 491, Bound Brook, NJ 08805. Applicant's representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. 180-day Temporary Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Disposable hospital supplies* including but not limited to such commodities as disposable incontinence pads (underpads), adult and infants' diapers, draw sheets, disposable toweling, wash-cloths and facial tissues, from Jersey City, NJ and Bridgewater, NJ to points in the United States (except AK and HI); and (2) Materials, equipment and supplies (except commodities in bulk in tank vehicles) used in the manufacture and sale of the commodities named in (1) above, from points in the United States (except AK and HI), to Jersey City, NJ and/or Bridgewater, NJ under a continuing contract or contracts with Hosposable Products, Inc. of Jersey City, NJ and/or Bridgewater Manufacturing Corp. of Bridgewater, NJ. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hosposable Products, Inc. Bridgewater Manufacturing Corp., 13-25 Edward Hart Drive, Liberty Industrial Park, Jersey City, NJ 07305. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 144637 (Sub-No. 1 TA), filed April 17, 1978. Applicant: PROFESSIONAL DELIVERY SERVICE, INC., 49 (O) East Industry Court, Deer Park, NY 11729. Applicant's representative: Piken & Piken, Esqs., One Lefrak City Plaza, New York, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular and irregular routes, transporting: *Appliances, televisions, audio equipment and furniture.* 1. From the facilities of Allbrand Appliance & T.V. Co., Inc., located at or near Deer Park, NY and Long Island City, NY, to the facilities of Allbrand Appliance & T.V. Co., Inc., located at or near Cambridge, MA, Meridan, CT, North Kingstown, RI, and North Miami, FL. 2. From points in MA, CT, RI, and FL to the facilities of Allbrand Appliance & T.V. Co., Inc. located at or near Deer Park, NY and Long Island City, NY. Restriction: The above authority is limited to service rendered under contract or continuing contracts with Allbrand Appliance & Television Co., Inc., of Long Island City, NY for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allbrand Appliance & T.V. Co., Inc., 41-50, 22nd Street, Long Island City, NY 11101. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

PASSENGER CARRIERS

No. MC 109865 (Sub-No. 16TA), filed March 15, 1978. Applicant: VALLEY TRANSPORTATION, INC., 516 Oxford Road, Oxford, CT 06483. Applicant's representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 23312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle, with passengers, in charter operations. From Springfield and W. Springfield, MA, and in New London County, CT to points and places in the United States, excluding HI, and return, restricted to charter tour movements being operated for tour brokers which also involve the pickup and discharge of tour passengers at points in the State of CT other than New London County, for 180 days. Supporting shipper: Connecticut Pleasure Tours, Inc., d.b.a. Kaplan Tours, 140 Captains Walk, New London, CT 06320. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

No. MC 144523 (Sub-No. 1TA), filed March 28, 1978. Applicant: INTERNATIONAL LIMOUSINE SERVICE, INC., 2660 Woodley Road NW., Washington, DC 20008. Applicant's representative: Remi J. Fogliarino, (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Passengers, their personal baggage and small packages* over regular routes: 1. Washington, DC to Baltimore, MD to Rockville, MD and return to Washington, DC, two runs per day. Between Mary E. Switzer Building, 330 C Street SW., Washington, DC east to Southwest Freeway to Route I-295, north to Washington-Baltimore Parkway, north to Route I-495, west to Route I-95, north to Route I-695, west to Exit 17, east to Security Boulevard, east to East High Rise Building at 6410 Security Building, Baltimore, MD. After stopping at East High Rise Building, at 6401 Security Boulevard, Baltimore, MD then west on Security Boulevard to Route I-695, south to Route I-95, south to Route I-495, west to Route MD 355, north to Twinbrook Road, east to Fishers Lane, east to Parklawn Building at 5600 Fishers Lane, Rockville, MD. After stopping at Parklawn Building at 5600 Fishers Lane, Rockville, MD then west on Fishers Lane to Twinbrook Road, south to Route MD 355, north to Route MD 187, south to Route I—495, south to Washington Memorial Parkway to Route I-95, north to 330 C Street SW., Washington, DC. 2. Baltimore, MD to Washington, DC to Rockville, MD, to Baltimore, MD and return to Washington, DC, twpo runs per day. Depart East High Rise Building, at 6401 Security Boulevard, Baltimore, MD, west on Security Boulevard, to Route I-695, south to Route I-95, south to Route I-495, south to Washington-Baltimore Parkway, south to Route I-295, south to 11th Street Bridge, SW., via Suitland Exit to Southwest Freeway, west to Switzer Building, at 330 C Street SW., Washington, DC. After stopping at Switzer Building at 330 C Street SW., Washington, DC then south on Route I-95 to George Washington Memorial Parkway to Route I-495, north to Exit 18 to Route MD 187, north to Route MD 355, north to Twinbrook Road, east to Fishers Lane, east to Parklawn Building at 5600 Fishers Lane, Rockville, MD. After stopping at Parklawn Building at 5600 Fishers Lane, Rockville, MD then west on Fishers Lane to Twinbrook Road, west to Route MD 355, north to Exit 19, north to Route I-495, north to Route I-95, north to Route I-695, west to Exit 17, east to Security Boulevard, east to the East High Rise Building, at 6401 Security Boulevard, Baltimore, MD. Under a continuing contract, or contracts, with Health Care Financing Administration, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Health Care Financing Administration, Health, Education, and Welfare, 330 C Street SW., Washington, DC 20201. Send protests to: Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Room 1413, District Supervisor W. C. Hersman, Washington, DC.

By the Commission.

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

[FR Doc. 78-15410 Filed 6-1-78; 8:45 am]

[7035-01]

[Notice No. 57]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 2, 1978.

Application filed for temporary authority under section 210a(b) in con-

nection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77688. By application filed May 24, 1978, LASALLE CARTAGE CO., INC., 2707 Territorial Road, St. Paul, MN 55114, seeks temporary authority to transfer the operating rights of Furnell & Webb Co., 2280 Hampden Avenue, St. Paul, MN 55114, under section 210a(b). The transfer to LaSalle Cartage Co., Inc., of the operating rights of Furnell & Webb Co., is presently pending.

By the Commission.

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

[FR Doc. 78-15411 Filed 6-1-78; 8:45 am]

[7035-01]

[Notice No. 58]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 2, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77689. By application filed May 25, 1978, TIGGES TRUCKING, INC., 5071 JKF Road, Dubuque, IA 52001, seeks temporary authority to transfer the operating rights of CURTIS HENKES, an individual, Monona, IA 52159, under section 210a(b). The transfer to TIGGES TRUCKING, INC., of the operating rights of CURTIS HENKES, an individual, is presently pending.

By the Commission.

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

[FR Doc. 78-15412 Filed 6-1-78; 8:45 am]

[7035-01]

[Notice No. 59]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before July 3, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77505, filed May 10, 1978. Transferee: HELEN R. LUCAS, d.b.a. BUD'S EXPRESS VAN & STORAGE, 410 Mississippi Street, Vallejo, CA 94590. Transferor: Ellis Wright, d.b.a. Bud's Express Van & Storage (same address as transferee). Applicant's representative: Mavis D. Christian, Manager (same address as transferee). Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 126581 (Sub-No. 3), issued September 16, 1975, as follows: *Used household goods*, between points in Alameda, Lake, Marin, Sacramento, San Francisco, San Joaquin, San Mateo, Placer, Yolo, Contra Constra, Napa, Sonoma, and Solano Counties, CA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77614, filed May 1, 1978. Transferee: FUTURISTIC TOURS LTD., c/o Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. Transferor: Harlem Commonwealth Tours, Inc., 361 West 125th Street, New York, NY, 10027. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. Authority sought for purchase by transferee of broker's license No. MC 130029, issued April 15, 1971, as follows: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, in round-trip tours, beginning and ending in New York, NY, and extending to points in the United States. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77632, filed May 15, 1978. Transferee: NOBLE VAN & STORAGE CO., INC., One Hayes Street, Elmsford, NY 10523, transferor: Eddy Transfer Co., Inc., 31 Merritt Street, Port Chester, NY 10573. Applicant's representative: Robert J. Gallagher, Esq., 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 140449, issued April 16, 1975, as follows: *Household goods* as defined by the Commission, between points in Westchester County, NY, and those in Connecticut within 10 miles of Port Chester, NY, on the one hand, and, on the other, points in NY, CT, MA, RI, and NJ. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 93855. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77675, filed May 17, 1978. Transferee: CALIFORNIA MOVERS EXPRESS, INC., 800 Grayson Street, Berkeley CA 94710, transferor: Bentley's Inc., 800 Grayson Street, Berkeley, CA 94710. Applicant's representative: Michael S. Rubin, attorney at law, 256 Montgomery Street, San Francisco, CA 94104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Ccertificate No. MC 96620 and (Sub-No. 1), both issued February 9, 1961, as follows: *Household goods*, as defined by the Commission, between specified points in CA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77678, filed May 17, 1978. Transferee: MARY ELIZABETH HUBERS, JOHN EDWARD HUBERS, and WILLIAM JOSEPH HUBERS, 103 Wells Avenue, Ferndale, Glen Burnie, MD. Transferor: Robert Lee Zimmerman and Barbara Ann Zimmerman, a partnership, doing business as B & B Bus Line, Linthicum, MD. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, DC 20005. Operating rights are set forth in Certificate No. MC-125765 issued May 27, 1964 as follows: *Passengers and their baggage* and newspapers and express, in the same vehicle with passengers over regular routes between Baltimore, MD and Hanover, PA, serving all intermediate points and between Hanover, PA and Gettysburg, PA serving all intermediate points. An application by the transferee to operate temporarily the properties of the transferor has been filed under section 210a(b). Transferee holds no authority issued by this Commission.

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

[FR Doc. 78-15413 Filed 6-1-78; 8:45 am]

[7035-01]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before June 22, 1978. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-11-78 (Special Certificate—Waste Products), filed April 27, 1978. Applicant: VIKING TRANSPORT, INC., 585 Hi Tech Way, P.O. Box 546, Oakdale, CA 95361. Applicant's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products* for recycling or reuse, between points in CA, AZ, and NV in furtherance or a recognized pollution control program sponsored by Circo Glass of Fresno, CA for the purpose of transporting and recycling waste products.

By the Commission.

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

[FR Doc. 78-15409 Filed 6-1-78; 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).

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[6335-01]

1

MAY 31, 1978.

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Friday, June 2, 1978, 4 p.m.

PLACE: Room 800, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Emergency conference call meeting; open to the public.

MATTER TO BE CONSIDERED: Review and consideration of the "Social Indicators Report."

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-1144-78 Filed 5-31-78; 3:25 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND PLACE: 10 a.m., June 6, 1978.

PLACE: 5th Floor Hearing Room, 2033 K Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

PIE-C Report Discussion.
2. Part 8 Disciplinary Procedures.
3. Policy Discussion on Settlement Procedures.

PORTIONS CLOSED TO THE PUBLIC

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1149-78 Filed 5-31-78; 3:25 pm]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING FOLLOWS: 9:30 a.m., Open Commission Meeting, Wednesday, May 31, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

CHANGES IN THE MEETING: The meeting on the following subject has been cancelled:

Agenda, Item No., and Subject

Hearing—1—Reconsideration of the Commission's decision in the Greenwood, Miss., AM and FM renewal proceeding (Docket Nos. 20025-26).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone 202-632-7260.

Issued: May 26, 1978.

[S-1143-78 Filed 5-31-78; 3:25 pm]

[6714-01]

4

NOTICE OF AGENCY MEETING

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation met in closed session at 4:45 p.m. on Tuesday, May 30, 1978, by telephone conference call, to consider certain personnel actions.

In scheduling the meeting, the Board determined, on motion of Chairman George A. LeMaistre, seconded by Director William M. Isaac, with Director John G. Heimann (Comptroller of the Currency) concurring, that Corporation business required action on the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the meeting was exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(2) and (c)(6) thereof (5 U.S.C. 552b(c)(2) and (c)(6)); and that the public interest did not require consideration of the matters in a meeting open to public observation.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

Dated: May 30, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1140-78 Filed 5-31-78; 1:57 pm]

[6715-01]

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, June 7, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel.

* * * * *

DATE AND TIME: Thursday, June 8, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

Setting of future meeting dates.
Correction and approval of minutes.
Advisory opinions: AO 1977-67. AO 1978-21. AO 1978-27.

Rules of procedure of the FEC pursuant to 2 U.S.C. 437c(e).
Allocation of candidate travel.
Reports from division heads.
Pending legislation.
Pending litigation.
Appropriations and budget (Budget Execution Report).
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.
Commission employee entrance into competitive civil service.

PORTIONS CLOSED TO THE PUBLIC (EXECUTIVE SESSION)

Any matters not concluded at the meeting of June 7, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1142-78 Filed 5-31-78; 3:25 pm]

[6720-01]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: May 31, 1978, 9:30 a.m.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Application for Permission to Organize a New Federal Savings and Loan Association—Salvador J. Cangeal, et al., River Ridge, La.
Limited Facility Application—Eureka Federal Savings and Loan Association of San Francisco, San Francisco, Calif.
Consideration of Association Request for a Commitment to Insure Accounts—(Proposed) First State Savings and Loan Association of Clinton, Clinton, S.C.
Consideration of Association Request for Modification of Condition—Heritage Savings and Loan Association, Grenada, Miss.
Branch Office Application—Valley Federal Savings and Loan Association, Van Nuys, Calif.
Application for Bank Membership—Charter Oak Savings Association, Cincinnati, Ohio.
Application to Acquire Control of Matagorda County Savings Association, Bay City, Tex., by Matagorda County Savings Association Group, Bay City, Tex.

No. 155, May 24, 1978.

[S-1139-78 filed 5-31-78; 11:01 am]

[6750-01]

7

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, June 6, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED.

NONADJUDICATIVE MATTER: Consideration of disposition of a nonpublic Part II matter.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; Recorded Message, 202-523-3806.

[S-1145-78 Filed 5-31-78; 3:25 pm]

[6750-01]

8

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, June 6, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 2 p.m., on Tuesday, June 6, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information Procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; Recorded Message, 202-523-3806.

[S-1146-78 Filed 5-31-78; 3:25 pm]

[7020-02]

9

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Wednesday, June 7, 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):
a. Swivel hooks (Docket No. 512).
5. Zinc (Inv. TA-201-31)—vote on remedy (if necessary).
6. Molded golf balls (Inv. 337-TA-35)—vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1137-78 Filed 5-31-78; 11:01 am]

[7020-02]

10

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, June 15, 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):
a. Wire strand from India (Docket NO. 514).
b. Pool covers (Docket No. 513).
5. Certain luggage products (Inv. 337-TA-39)—vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1138-78 Filed 5-31-78; 11:01 am]

[7035-01]

11

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, June 6, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open Regular Conference.

MATTERS TO BE CONSIDERED: 1. Tariff simplification (Traffic); 2. Metrication (Traffic); and 3. Task Force Recommendation No. 4 (Procedures to Promote Effective Competition (PRO)).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media

representatives on conference issues at the conclusion of the meeting.

MAY 30, 1978.

[S-1134-78 Filed 5-31-78; 9:11 am]

[7590-01]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of June 5, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

TUESDAY, JUNE 6, 2 P.M.

1. Briefing on NMSS Role in International Safeguards and Physical Security Determinations (Approx. 1 hr.) (Open; Portions may be closed).

2. Discussion of OIA/OGC Inquiry in Testimony of the Executive Director for Operations (Approx. 1 hr.) (Closed—Exemption 1) (Chairman's Conference Room).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

MAY 30, 1978.

[S-1141-78 Filed 5-31-78; 1:57 pm]

[7910-01]

13

RENEGOTIATION BOARD.

DATE AND TIME: Monday, June 19, 1978; 2 p.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20046.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: ABC Management Service, Inc., Fiscal Year Ended June 30, 1974 and 1975; ABC Food Service, Inc., Fiscal Year Ended June 30, 1975.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: May 31, 1978.

GOODWIN CHASE,
Chairman.

[S-1147-78 Filed 5-31-78; 3:25 pm]

[7910-01]

14

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, June 6, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 7 are open to public observation; Matters 8 and 9 are closed to public observation; Matters 10 and 11 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Meeting held May 23, 1978, and other Board Meetings, if any.

2. Report of the Chairman concerning: (a) Budget, (b) Case Processing, (c) Personnel Actions, (d) Organization Progress of the Staff, (e) Rulemaking and Regulations.

3. Recommendation for Clearance or Assignment to a Division: Fairchild Industries, Inc., Consolidated with: Burns Aero Seat Co., Inc., S.J. Industries, Inc., FYE: December 31, 1969, December 31, 1970 and December 31, 1971.

4. Recommended Clearances Without Assignment: (List 1909).

A. Powell Electronics, Inc., Fiscal Years Ended April 30, 1974, 1975 and 1976.

A-1 Powell Electronics, Inc., Fiscal Years Ended April 30, 1974, 1975 and 1976.

B. Weston Instruments, Inc., Fiscal Year Ended December 31, 1974.

B-1 Schlumberger Technology, Fiscal Year Ended December 31, 1974.

B-2 Weston Puerto Rico Inc., Fiscal Year Ended December 31, 1974.

B-3 Weston Caribe Inc., Fiscal Year Ended December 31, 1974.

B-4 Westronics, Inc., Fiscal Year Ended December 31, 1974.

C. Vanguard Electronics Co., Fiscal Year Ended January 31, 1975.

D. Pacific Forge, Inc., Fiscal Year Ended December 31, 1975.

E. Product Research and Chemical Corp., Fiscal Year Ended September 30, 1975.

F. AMI Industries, Inc. (Name changed from Aircraft Mechanics, Inc. Oct. 15, 1975), Fiscal Year Ended December 31, 1975.

5. Partial Mandatory Exemption of New Durable Productive Equipment: Bryant Grinder Corp., Fiscal Years Ended November 30, 1974 and 1975.

6. Partial Mandatory Exemption of New Durable Productive Equipment: Rockford Machine Tool Co., Fiscal Years Ended November 30, 1974 and 1975.

7. Recommended Clearances Without Assignment: (List 1910).

A. Struthers Wells Corp., Fiscal Year Ended December 31, 1975.

B. Studebaker-Worthington, Inc., Fiscal Year Ended December 31, 1975.

C. Velan Engineering Ltd., Fiscal Years Ended May 31, 1975 and 1976.

D. Ward Leonard Electric Co., Fiscal Year Ended December 31, 1975.

D-1 Lee Spring Co., Inc., Fiscal Year Ended December 31, 1975.

D-2 Unimax Switch Corp., Fiscal Year Ended December 31, 1975.

8. Finding of Excessive Profits: OSO Corp., Fiscal Year Ended October 31, 1973.

9. Court of Claims Case: *Airborne, Inc.* v. *United States*, Ct. Cl. No. 553-76.

10. Approval of Agenda for Meeting to be held June 20, 1978.

11. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary; 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: May 30, 1978.

GOODWIN CHASE,
Chairman.

[S-1148-78 Filed 5-31-78; 3:25 pm]

[8010-01]

15

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of June 5, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, June 6, 1978, at 10 a.m. and on Thursday, June 8, 1978, immediately following the open meeting scheduled for 2:30 p.m. Open meetings will be held on Wednesday, June 7, 1978, at 10 a.m., and on Thursday, June 8, 1978, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 6, 1978, at 10 a.m., will be:

Formal orders of investigation.
Referral of investigative files to Federal, State or Self-Regulatory authorities.
Authorization of staff members to testify.
Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Regulatory matters bearing enforcement implications.
Freedom of Information Act appeal.
Other litigation matters.

The subject matter of the closed meeting scheduled for Thursday, June 8, 1978, immediately following the open meeting at 2:30 p.m., will be:

Post oral-argument discussion.

The subject matter of the open meeting scheduled for Wednesday, June 7, 1978, at 10 a.m., will be:

1. Consideration of a release soliciting public comments on proposed Rule 15c3-4 and the amendment of Rule 15c3-3 to permit, under restricted conditions, the borrowing and lending of customer securities.
2. Consideration of proposed rule change filed by the Chicago Board Options Exchange, to provide restrictions on the writing of discount opening uncovered call options, under specified conditions, during the period in which stabilizing activities are conducted in connection with underwritten offerings of the related underlying securities.
3. Proposed adoption of Rule 13f-1 and related form under the Securities Exchange Act governing the reporting requirements of institutional investment managers.
4. Discussion concerning the re-examination of rules related to shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally.
5. Consideration of an exemption from certain rules of the Commission's Conduct Regulations for an attorney who will act as a consultant to the Commission for less than 60 days.

The subject matter of the open meeting scheduled for Thursday, June 8, 1978, at 2:30 p.m., will be:

Oral argument concerning broker-dealer proceedings in the matter of Nassar and Company, Inc., et al., and George M. Nassar, which has been remanded to the Commission by the United States Court of Appeals for the District of Columbia Circuit.

FOR FURTHER INFORMATION, PLEASE CONTACT:

John Ketels at 202-755-1129.

MAY 30, 1978.

[S-1133-78 Filed 5-31-78; 9:11 am]

[6320-01]

16

[M-133, AMDT. 1, MAY 26, 1978.]

NOTICE OF ADDITION OF ITEMS TO THE JUNE 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (Addition) 5a. Airline Advertising practices, Petition of OCA to prohibit advertising fares prior to the 15th day before the carrier's tariff is to take effect. (OGC, BPDA, BIA, OEA, BOE). (Addition) 9a. Dockets 31414, 29441, and 29991—*Service to Kamuela Case, Hawaiian Airlines, Application to suspend service, Aloha Airlines, Application to suspend service* (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 673-5068.

SUPPLEMENTARY INFORMATION: Item 5a is subject to the 120-day rule which expires on June 8, 1978. In order for the Board to comply with its policy statement under Part 399 relating to rulemaking petitions, 14 CFR 399.70, it is necessary that this item be considered at its next meeting.

Because the lawyer handling this case is leaving the Board on June 2, 1978, he would like it discussed in our June 1, 1978 meeting. Accordingly, the following Members have voted that agency business requires the addition of Items 5a and 9a to the June 1, 1978 meeting agenda and that no earlier announcement of these additions was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1150-78 Filed 5-31-78; 3:57 pm]

[6320-01]

17

[M-133, Amdt. 2, May 31, 1978]

NOTICE OF ADDITION AND DELETION OF ITEMS FROM THE JUNE 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (Addition) 9b. Dockets 25546 and 28266, Mackey Certification Proceeding. (Deletion) 20. Docket 32369 (correct Docket No. 32268), Petition by State and County of Hawaii for reconsideration of Order 78-4-24, which vacated suspension for intra-Hawaii fare increase (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Staff work on Item 9b was completed on May 26. The draft opinion on discretionary review should be considered by the Board at its June 1 Sunshine Meeting. The target date on this case has been advanced three times and is now fixed for June 6. The last Notice of Change in Target Date states; "The matter will be considered by the Board at its meeting during the week of May 29 with the expectation that a decision will be rendered by June 6, 1978."

The staff had earlier requested that Item 20 be placed on the June 1 calendar in the belief that it would be forwarded to the Board in time for action on that date. Other time-constrained work has intervened, however, necessitating a one week delay. Accordingly, the following Members have voted that agency business requires the addition of Item 9b and the deletion of Item 20 and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1151-78 Filed 5-31-78; 3:57 pm]

[6320-01]

18

[M-133, Amdt. 3, May 30, 1978]

NOTICE OF ADDITION OF ITEM TO THE JUNE 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2a. Docket 30254, Discretionary review on Board initiative of the initial decision approving a settlement in *In the Matter of The Flying Tiger Line, Inc., Wayne M. Hoffman, Robert W. Prescott, Joseph J. Healy, Charles I. Hopkins, Rudolph J. Valenta,* and *Anna C. Chennault* (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Unless the Board acts on this Item on June 3, the initial decision, under Section 302.27 of the regulations, becomes the order of the Board on June 4, nine days after the respondents could have sought review (May 26). Accordingly, the following Members have voted that agency business requires the addition of Item 2a to the June 1, 1978 agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1152-78 Filed 5-31-78; 3:57 pm]

[6320-01]

19

[M-134, Amdt. May 31, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument—Docket 28672, IATA Agreements Concerning Agency Matters—Uniform Commission Rates.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, Secretary, 202-673-5068.

[S-1153-78 Filed 5-31-78; 3:57 pm]

[6730-01]

20

FEDERAL MARITIME COMMISSION.

TIME AND DATE: June 2, 1978, 9 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Docket Nos. 73-22, 73-22 (Sub. No. 1) and 74-36 (Sub. No. 1): Matson Navigation Co.—Proposed changes in rates between the U.S. Pacific Coast and Hawaii—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1155-78 Filed 5-31-78; 4:01 pm]

[6210-01]

21

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., June 7, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Proposed guidelines for enforcement of Regulation Z (Truth in Lending); 2. Proposed program for improving Federal Reserve regulations; and 3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: May 31, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1154-78 Filed 5-31-78; 3:57 pm]

federal register

FRIDAY, JUNE 2, 1978
PART II



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Connecticut:	
CT78-3003; CT78-3004	Feb. 17, 1978.
Florida:	
FL77-1142	Dec. 2, 1977.
Idaho:	
ID78-5017	Apr. 7, 1978.
Indiana:	
IN78-2025; IN78-2030; IN78-2032; IN78-2033	Mar. 10, 1978.
IN78-2029; IN78-2051; IN78-2052	Mar. 24, 1978.
Louisiana:	
LA78-4013	Feb. 17, 1978.
LA78-4052	May 12, 1978.
Minnesota:	
MN77-2043; MN77-2044; MN77-2045; MN77-2046	May 6, 1977.
MN78-2009	Mar. 10, 1978.
Nevada:	
NV78-5009	Do.
NV78-5011	Mar. 17, 1978.
New Mexico:	
NM78-4046	May 5, 1978.
Pennsylvania:	
PA78-3017	Do.
PA78-3045	May 12, 1978.
Texas:	
TX77-4264	Sept. 30, 1977.
TX78-4014	Feb. 17, 1978.
TX78-4017	Mar. 10, 1978.
TX78-4028; TX78-4032; TX78-4033; TX78-4035; TX78-4036; TX78-4037; TX78-4038; TX78-4040; TX78-4041; TX78-4043; TX78-4044	Apr. 14, 1978.
Virginia:	
VA78-3040	May 5, 1978.

SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Michigan:	
MI77-2125(MI78-2054)	Sept. 16, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C., this 26th day of May 1978.

DOROTHY P. COME,
Acting Assistant Administrator
Wage and Hour Division.

DECISION NO. CT78-3003- Mod #1
(43 FR 7110- February 17, 1978)
Fairfield, Litchfield, & Windham Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; cement masons; finishers; marble masons; plasterers; stonemasons; terrazzo workers, tile setters (building constr.):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Southport, Stratford, & Trumbull	$10.05	.75	.75		.03
Fairfield Co.: New Canaan, Norwalk, Ridgefield, Weston, Westport, & Wilton	10.20	.75	.75		.03
Fairfield Co.: Darien, Stamford	10.62	.75	.75		.03
Fairfield Co.: Greenwich	10.75	.55	.55		.03
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Sheman; Lithfield Co.: Bridgewater, Kent, New Milford, & Roxbury	10.00	.75	.75		.03
Litchfield Co.: Bantam, Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Hartford, Norfolk, N.Canaan, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, and Winsted	9.80	.75	.75		.03
Windfield Co.	10.20	.75	.75		.03
Litchfield Co.: Plymouth, Thomaston, Watertown, Woodbury	9.90	.75	.75		.03
Bricklayers (Heavy & Highway):					
Fairfield Co., except Darien, Greenwich, & Stamford, Litchfield Co., W. of Housatonic R.	9.50	.50	.75	b	
Fairfield Co.: Darien & Stamford	9.83	.83	.25	b	
Litchfield Co., E. of Housatonic River, and Windham Co.	9.50	.50	.75	b	
Fairfield Co.: Greenwich	9.90	.55	.45	b	

DECISION NO. CT78-3003- Mod #1 Continued
(43 FR 7110- February 17, 1978)
Fairfield, Litchfield, & Windham Counties

	Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters, millwrights, pile-drivermen, soft floor layers (Building construction):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Stratford, Trumbull, Weston, & Westport, & that part of Orange from Orange Center Rd. w. to Milford & the Oyster River situat situated in Orange	$10.25	.90	.65	c	a
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Redding, Ridgefield, Sherman, Stamford, & Wilton; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, Norwalk, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, and Woodbury:					
commercial	10.10	.90	.65		.10
residential, up to 4 stories	6.90	.90	.65		.10
Litchfield Co.: Harwinton, Plymouth, and Terryville	9.80	.90	.65		.05
Fairfield Co.: Shelton	9.35	.35	.30	d	
Carpenters: Heavy & Highway:					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	10.05	.90	.65	f	.05
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Norfolk, Redding, Ridgefield, Sherman, Stamford, and Litchfield Co. (Rem. of County)	10.05	.90	.65	f	.10
Fairfield Co.: Greenwich	10.10	.85	.65	f	.05
Windham Co.	9.80	.80	.55	f	.03
Litchfield Co.: Harwinton, Plymouth, and Terryville	10.10	.90	.65		.05
Electricians: Fairfield Co.: Norwalk (E. of Five Mile R.), Weston, Westport, & Wilton:					
Building construction	10.50	.68	3%+.30	6%	1%
Residential, up to 4 stories	5.30	.68	3%+.30	6%	1%
Fairfield Co.: Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newtown, Redding, Ridgefield, Shelton, Sherman, Stratford, and Trumbull; Litchfield Co.: Bridgewater and New Milford:					
Building construction	10.80	1.10	3%+.30	1%	1%
Residential, up to 4 stories	5.65	1.10	3%+.30		1%

DECISION NO. CT78-3003- Mod #1 Continued
(43 FR 7110- February 17, 1978)
Fairfield, Lithchfield, and Windham Counties

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Litchfield Co.: Rem. of Co.	$10.40	1.22	3%+.60	g	1/8%
Lathers:					
Fairfield Co.: Bridgeport, Easton, Farifield, Monroe, Redding, Redgefield, Shelton, Stratford, Trumbull, Weston, Westport, & Wilton	10.00	.50	.40		.01
Painters:					
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield, Sandy Hook, Sherman; Litchfield Co.: New Milford:					
Brush, Roller	10.85	.50	.50	r	
Steel	11.95	.50	.50	r	
Paperhangers, tapers	10.85	.50	.50	r	
Epoxy	12.35	.50	.50	r	
Residential	9.10	.50	.50	r	
Plumbers, steamfitters:					
Fairfield Co.: Darien, New Canaan, & Stamford	10.55	.75	.70	4%	.02
Sheet metal workers:					
Fairfield Co., Litchfield Co.	11.50	1.28	1.04		.02
Sprinkler fitters	11.75	.75	1.05		.08
Truck Drivers (Building):					
Class 1	7.81	.665	.65	a	
Class 2	7.91	.665	.65	a	
Class 3	8.01	.665	.65	a	
Class 4	7.96	.665	.65	a	
Class 5	8.06	.665	.65	a	
Class 6	8.11	.665	.65	a	
Truck Drivers (Heavy & Highway):					
2 axle	7.37	.665	.65	a	
3 axle	7.47	.665	.65	a	
4 axle	7.57	.665	.65	a	
euclids	7.82	.665	.65	a	
trailers	7.72	.665	.65	a	

DECISION NO. CT78-3004- Mod #2
(43 FR 7117- February 17, 1978)
Hartford, Middlesex, New Haven, New London, and Tolland Counties, Connecticut

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers; cement masons, finishers; marble masons; plasterers; stonemasons; terrazzo workers & tile setters (Building):					
Hartford Co.: Berlin, Kensington, New Britain, Newington, Plantsville, & Southington; New Haven Co.: Meriden	$10.05	.75	.75		.03
Middlesex Co. & New London Co.	10.20	.75	.75		.03
New Haven Co.: Bethany, Bradford, E.Haven, Guilford, Hamden, Madison, New Haven, N.Branford, N. Haven, Orange, W.Haven, Woodbridge, Cheshire, and Remainder of Milford	9.95	.75	.75		
New Haven Co.: Ansonia & Derby	9.70	.75	.75		.03
Hartford Co.: Bristiol, Marion, and Plainville; New Haven Co.: Beacon Falls, Middlebury, Mixville, Naugatuck, Prospect, Waterbury, and Wolcott	9.90	.75	.75		.03
New Haven Co.: Devon to the Orange Town line & the Indian River in Milford	9.85	.75	.50		
Bricklayers (Heavy & Highway)	9.50	.50	.75	b	
Carpenters; millwrights; pile-drivermen; & soft floor layers:					
Building construction:					
Hartford Co.: Avon, E. Granby E. Hartland, E.Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Rocky Hill Simsbury, S.Windsor, Suffield, Thompsonville, Unionville, W.Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Bolton, Ellington, Rockville, Somers, Stafford, Tolland, and Vernon	10.35	.90	.65		.05

DECISION NO. CT78-3004- Mod #2 (Continued)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters; millwrights; pile-drivermen; & soft floor layers: Hartford Co.: Berling, Bristol, Canton, E.Berlin, Kensington, Marion, Milldale, New Britain, Newington, Plainville, Southington; Middlesex Co.; New Haven Co.: Meriden, Wallingford	$9.80	.90	.65		.05
New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Griswold, Groton, Lebanon, Ledyard, Lisbon, Lyme, Montville, New London, N.Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington (N. of Rte #184), Voluntown, Waterford; Tolland Co.: Andover, Columbia, Coventry, Hebron, Mansfield, Union, and Willington	10.25	.90	.65		.03
Carpenters (Heavy & Highway): New Haven Co.: Ansonia, Derby, Milford, Orange (W. of Orange Center Road & S. of Rte #1 & W. of the Oyster River), Oxford, & Seymour	10.05	.90	.64	f	e
Hartford Co.; Middlesex Co.; and New Haven Co.: Rem. of Co.; Tolland Co.: Bolton, Ellington, Somers, Stafford, Toland, Vernon	10.05	.90	.65	f	.05
New London Co.; Tolland Co.: Andover, Columbia, Coventry, Hebron, Mansfield, Union, and Willington	10.05	.90	.65	f	.03
Hartford Co.: Berlin, Briston, Canton, E.Berlin, Kensington, Marion, Milldale, New Britain, Newington, Plainville, Southington; Middlesex Co.; New Haven Co.: Meriden and Wallingford	10.10	.90	.65		.05
Electricians: Hartford Co.: Hartland; New Haven Co.: Beacon Falls,					

DECISION NO. CT78-3004- Mod # 2 (Continued)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians (Continued): Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, and Wolcott	$10.40	1.22	3%+.60	h	1/8%
Middlesex Co.: Cromwell, Middlefield, Middletown, & Portland; New London, Co.: Bozrah, Colchester, Franklin, Lisbon, Montville, N.Stonington, Norwich, Griswold, Lebanon, Ledyard, Preston, Salem, Sprague, Stonington, and Voluntown; and Tolland Co.	11.30	1.50	3%+.50		½%
Sprinkler fitters	11.75	.75	1.05		.08
Steamfitters	10.57	1.31	.81		.13
Truck drivers (building):					
Class 1	7.81	.665	.65	a	
Class 2	7.91	.665	.65	a	
Class 3	8.01	.665	.65	a	
Class 4	7.96	.665	.65	a	
Class 5	8.06	.665	.65	a	
Class 6	8.11	.665	.65	a	
Truck drivers (Heavy & Highway):					
2 axle	7.37	.665	.65	a	
3 axle	7.47	.665	.65	a	
4 axle	7.57	.665	.65	a	
euclids	7.82	.665	.65	a	
trailers	7.72	.665	.65	a	
Decision #FL77-1142 - Mod. #3 (42 FR 61435 - 12/2/77) Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site, Florida.					
Change:					
Air tool operators; concrete laborers; hod carriers; mason tenders; mortar mixers; kettlemen (excl. roofing & waterproofing); pipelayers; powdermen; form setters; (paving & curbing & gutter); well point & dewatering system laborer	$ 6.25	.45	.30		.01
Gunnite laborer	6.52	.45	.30		.01
Gunnite nozzlemen	6.92	.45	.30		.01
Unskilled	6.10	.45	.30		.01

DECISION #ID78-5017 - Mod. #4
(43 FR 14841 - April 7, 1978)
Statewide Idaho

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the northern boundary of Township #29 North), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Carpenters	$11.59	.78	.85		.075
Piledrivermen; Sawfilers; Stationary Power Woodworking tool operator; Floor Layer; Floor Finisher; Floor Sander	11.74	.78	.85		.075
Carpenters (burned, charred, creosoted or similarly treated material); Boom Man	11.84	.78	.85		.075
Millwrights and Machine Erectors	12.09	.78	.85		.075
Piledriver (creosoted material)	11.99	.78	.85		.075
Cement Masons:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Zone 1:					
Cement Masons	10.93	.75	1.00		.05
Gunnite; Power Machine; Power Troweling Machine; Power Magnesite or other material with oxichloride base	11.08	.75	1.00		.05
Power Tools	11.38	.75	1.00		.05

DECISION #ID78-5017 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Cement Masons (Cont'd):					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties: (Cont'd):					
Zone 2					
Cement Masons	$11.58	.75	$1.00		.05
Gunnite; Power Machine; Power Troweling Machine; Power Magnesite or other material with oxichloride base	11.73	.75	1.00		.05
Power Tools	12.03	.75	1.00		.05
Zone 3:					
Cement Masons	11.83	.75	1.00		.05
Gunnite; Power Machine; Power Troweling Machine; Power Magnesite or other material with oxichloride base	11.98	.75	1.00		.05
Power Tools	12.28	.75	1.00		.05
Zone 4:					
Cement Masons	12.28	.75	1.00		.05
Gunnite; Power Machine; Power Troweling Machine; Power Magnesite or other material with oxichloride base	12.43	.75	1.00		.05
Power Tools	12.73	.75	1.00		.05
Zone 5:					
Cement Masons	12.73	.75	1.00		.05
Gunnite; Power Machine; Power Troweling Machine; Power Magnesite or other material with oxichloride base	12.88	.75	1.00		.05
Power Tools	13.18	.75	1.00		.05

DECISION #ID78-5017 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Area 1:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Building Construction:					
Group 1	$9.45	.82	.90		.05
Group 2	9.70	.82	.90		.05
Group 3	9.95	.82	.90		.05
Group 4	10.20	.82	.90		.05
Group 5-A	10.15	.82	.90		.05
Group 5-B	10.20	.82	.90		.05
Group 5-C	10.60	.82	.90		.05
Group 5-D	10.65	.82	.90		.05
Heavy and Highway Construction:					
Zone 1:					
Group 1	9.45	.82	.90		.05
Group 2	9.70	.82	.90		.05
Group 3	9.95	.82	.90		.05
Group 4	10.20	.82	.90		.05
Group 5-A	10.15	.82	.90		.05
Group 5-B	10.20	.82	.90		.05
Group 5-C	10.60	.82	.90		.05
Group 5-D	10.65	.82	.90		.05
Zone 2:					
Group 1	10.10	.82	.90		.05
Group 2	10.35	.82	.90		.05
Group 3	10.60	.82	.90		.05
Group 4	10.85	.82	.90		.05
Group 5-A	10.80	.82	.90		.05
Group 5-B	10.85	.82	.90		.05
Group 5-C	11.25	.82	.90		.05
Group 5-D	11.30	.82	.90		.05

DECISION #ID78-5017 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Area 1 (Cont'd):					
Heavy and Highway Construction:					
Zone 3:					
Group 1	$10.35	.82	.90		.05
Group 2	10.60	.82	.90		.05
Group 3	10.85	.82	.90		.05
Group 4	11.10	.82	.90		.05
Group 5-A	11.05	.82	.90		.05
Group 5-B	11.10	.82	.90		.05
Group 5-C	11.50	.82	.90		.05
Group 5-D	11.55	.82	.90		.05
Zone 4:					
Group 1	10.80	.82	.90		.05
Group 2	11.05	.82	.90		.05
Group 3	11.30	.82	.90		.05
Group 4	11.55	.82	.90		.05
Group 5-A	11.50	.82	.90		.05
Group 5-B	11.55	.82	.90		.05
Group 5-C	11.95	.82	.90		.05
Group 5-D	12.00	.82	.90		.05
Zone 5:					
Group 1	11.25	.82	.90		.05
Group 2	11.50	.82	.90		.05
Group 3	11.75	.82	.90		.05
Group 4	12.00	.82	.90		.05
Group 5-A	11.95	.82	.90		.05
Group 5-B	12.00	.82	.90		.05
Group 5-C	12.40	.82	.90		.05
Group 5-D	12.45	.82	.90		.05

DECISION #ID78-5017 (Cont'd):

LABORERS (AREA 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Building, Heavy and Highway Construction

Group 1: Brush Hog Feeder; Concrete Crewman; Concrete Signalman; Crusher Feeder; Demolition; Dumpman; Fence Erector; Flagman; General Laborer; Grout Machine Header Tender; Nipper; Riprap Man; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural Mover; Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Track Laborer (RR); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Carpenter Tender; Cement Finisher Tender; Cement Handler; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Form Cleaning Machine, feeder, stacker; Form Setter, paving; Grade Checker using level; Jackhammer Operator; Nozzleman (squeeze and flo-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, corrugated metal Culvert; Pipelayer, multi-section; Pot Tender; Power Buggy Operator; Power Tool Operator, gas, electric, penumatic; Railroad equipment, power driven except dual mobile power spiker or puller; Railroad power spiker or puller, dual mobile; Rodder and Spreader; Sandblast Tailhoseman; Tamper; Trencher; Shawnee; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven

Group 3: Air Track Drill; Brush Machine; Caisson worker, free air; Chain Saw Operator and faller; Concrete Stack; Gunite; High Scaler; Rod Carrier; Laser Beam Operator; Monitor Operator, Air Track or similar mounting; Mortar Mixer; Nozzleman (jet blasting nozzleman, over 1200 lbs., jet blast machine power-propelled, sandblast nozzle); Pipelayer (working topman, caulker, collarman, jointer, mortarman, rigger, jacker, shorer, valve or meter installer); Pipewrapper; Vibrator, 4 inches and over

Group 4: Drills with dual masts; Powderman; Welder, electric, manual or automatic

TUNNEL AND SHAFT, Free Air

Group 5:
- Class A: Bull Gang; Pump Crete Crewman, including distributing Pipe, Assembling and dismantle and Nipper; Concrete crewman; Dumpman
- Class B: Brakeman; Finisher; Vibrator; Formsetter
- Class C: Miner and Nozzleman for concrete and Laser Beam Operator on tunnels
- Class D: Raise and Shaft Miner; Laser Beam Operator on raises and Shafts

DECISION #ID78-5017 (Cont'd):

Change (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Brush	$11.22	.40	.90		.02
Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle); Finish Drywall Taper	11.47	.40	.90		.02
Swing Stage; Over 30 ft. high	11.57	.40	.90		.02
Bitumastic; Sand Blast; Bridge; Towers; Stacks; Steeples; Tanks on legs	11.62	.40	.90		.02
Plasterers' Tenders:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	10.00	.82	.90		.05
Plumbers:					
Remaining Counties and Idaho County (south of the 46th Parallel)	12.32	.79	1.10		.10
Power Equipment Operators: (Area 1):					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Zone 1:					
Group 1	9.80	1.00	1.40		.03
Group 2	10.10	1.00	1.40		.03
Group 3	10.65	1.00	1.40		.03
Group 4	10.80	1.00	1.40		.03
Group 5	10.95	1.00	1.40		.03
Group 6	11.20	1.00	1.40		.03
Group 7	11.45	1.00	1.40		.03

DECISION #ID78-5017 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd) (Area 1) (Cont'd):					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Zone 2:					
Group 1	$10.45	$1.00	$1. 0		.03
Group 2	10.75	1.00	1.40		.03
Group 3	11.30	1.00	1.40		.03
Group 4	11.45	1.00	1.40		.33
Group 5	11.60	1.00	1.40		.03
Group 6	11.85	1.00	1.40		.03
Group 7	12.10	1.00	1.40		.03
Zone 3:					
Group 1	10.70	1.00	1.40		.03
Group 2	11.00	1.00	1.40		.03
Group 3	11.55	1.00	1.40		.03
Group 4	11.70	1.00	1.40		.03
Group 5	11.85	1.00	1.40		.03
Group 6	12.10	1.00	1.40		.03
Group 7	12.35	1.00	1.40		.03
Zone 4:					
Group 1	11.15	1.00	1.40		.03
Group 2	11.45	1.00	1.40		.03
Group 3	12.00	1.00	1.40		.03
Group 4	12.15	1.00	1.40		.03
Group 5	12.30	1.00	1.40		.03
Group 6	12.55	1.00	1.40		.03
Group 7	12.80	1.00	1.40		.03
Zone 5:					
Group 1	11.60	1.00	1.40		.03
Group 2	11.90	1.00	1.40		.03
Group 3	12.45	1.00	1.40		.03
Group 4	12.60	1.00	1.40		.03
Group 5	12.75	1.00	1.40		.03
Group 6	13.00	1.00	1.40		.03
Group 7	13.25	1.00	1.40		.03

DECISION #ID78-5017 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Soft Floor Layers:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley, Washington Counties	$7.76	.49	.10		.10
Truck Drivers:					
(Area 1):					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel) Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Zone 1:					
Group 1	10.98	1.07	.80		
Group 2	11.02	1.07	.80		
Group 3	11.08	1.07	.80		
Group 4	11.17	1.07	.80		
Group 5	11.38	1.07	.80		
Group 6	11.42	1.07	.80		
Group 7	11.48	1.07	.80		
Group 8	11.52	1.07	.80		
Group 9	11.63	1.07	.80		
Group 10	11.67	1.07	.80		
Group 11	11.98	1.07	.80		
Group 12	12.12	1.07	.80		
Group 13	12.28	1.07	.80		
Group 14	12.42	1.07	.80		

DECISION #ID78-5017 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers (Cont'd):					
(Area 1) (Cont'd):					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties (Cont'd):					
Zone 2:					
Group 1	$11.58	$1.07	.80		
Group 2	11.62	1.07	.80		
Group 3	11.68	1.07	.80		
Group 4	11.77	1.07	.80		
Group 5	11.98	1.07	.80		
Group 6	12.02	1.07	.80		
Group 7	12.08	1.07	.80		
Group 8	12.12	1.07	.80		
Group 9	12.23	1.07	.80		
Group 10	12.27	1.07	.80		
Group 11	12.58	1.07	.80		
Group 12	12.72	1.07	.80		
Group 13	12.88	1.07	.80		
Group 14	13.02	1.07	.80		
Zone 3:					
Group 1	11.83	1.07	.80		
Group 2	11.87	1.07	.80		
Group 3	11.93	1.07	.80		
Group 4	12.02	1.07	.80		
Group 5	12.23	1.07	.80		
Group 6	12.27	1.07	.80		
Group 7	12.33	1.07	.80		
Group 8	12.37	1.07	.80		
Group 9	12.48	1.07	.80		
Group 10	12.52	1.07	.80		
Group 11	12.83	1.07	.80		
Group 12	12.97	1.07	.80		
Group 13	13.13	1.07	.80		
Group 14	13.27	1.07	.80		

DECISION #ID78-5017 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers (Cont'd):					
(Area 1) (Cont'd):					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties (Cont'd):					
Zone 4:					
Group 1	$12.28	$1.07	.80		
Group 2	12.32	1.07	.80		
Group 3	12.38	1.07	.80		
Group 4	12.47	1.07	.80		
Group 5	12.68	1.07	.80		
Group 6	12.72	1.07	.80		
Group 7	12.78	1.07	.80		
Group 8	12.82	1.07	.80		
Group 9	12.93	1.07	.80		
Group 10	12.97	1.07	.90		
Group 11	13.28	1.07	.80		
Group 12	13.42	1.07	.80		
Group 13	13.58	1.07	.80		
Group 14	13.72	1.07	.80		
Zone 5:					
Group 1	12.68	1.07	.80		
Group 2	12.72	1.07	.80		
Group 3	12.78	1.07	.80		
Group 4	12.87	1.07	.80		
Group 5	13.08	1.07	.80		
Group 6	13.12	1.07	.80		
Group 7	13.18	1.07	.80		
Group 8	13.22	1.07	.80		
Group 9	13.33	1.07	.80		
Group 10	13.37	1.07	.80		
Group 11	13.68	1.07	.80		
Group 12	13.82	1.07	.80		
Group 13	13.98	1.07	.80		
Group 14	14.12	1.07	.80		

DECISION #ID78-5017 (Cont'd):

Change (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers (Cont'd):					
(Area 2):					
Remaining Counties and Idaho County (south of the 46th Parallel):					
Zone 1:					
Group 1	$9.18	.85	.75	.60	.10
Group 2	9.24	.85	.75	.60	.10
Group 3	9.30	.85	.75	.60	.10
Group 4	9.36	.85	.75	.60	.10
Group 5	9.41	.85	.75	.60	.10
Group 6	9.67	.85	.75	.60	.10
Group 7	9.73	.85	.75	.60	.10
Group 8	9.79	.85	.75	.60	.10
Group 9	9.90	.85	.75	.60	.10
Group 10	9.96	.85	.75	.60	.10
Group 11	10.02	.85	.75	.60	.10
Group 12	10.08	.85	.75	.60	.10
Group 13:					
Class A	9.56	.85	.75	.60	.10
Class B	9.77	.85	.75	.60	.10
Class C	9.90	.85	.75	.60	.10
Class D	10.08	.85	.75	.60	.10
Class E	10.19	.85	.75	.60	.10
Class F	10.31	.85	.75	.60	.10
Class G	10.59	.85	.75	.60	.10
Class H	10.82	.85	.75	.60	.10
Class I	11.05	.85	.75	.60	.10
Group 14	10.47	.85	.75	.60	.10
Zone 2:					
Group 1	10.43	.85	.75	.60	.10
Group 2	10.49	.85	.75	.60	.10
Group 3	10.55	.85	.75	.60	.10
Group 4	10.61	.85	.75	.60	.10
Group 5	10.66	.85	.75	.60	.10
Group 6	10.92	.85	.75	.60	.10
Group 7	10.98	.85	.75	.60	.10
Group 8	11.04	.85	.75	.60	.10
Group 9	11.15	.85	.75	.60	.10
Group 10	11.21	.85	.75	.60	.10
Group 11	11.27	.85	.75	.60	.10
Group 12	11.33	.85	.75	.60	.10
Group 13:					

DECISION #ID78-5017 (Cont'd):

Change (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers (Cont'd):					
(Area 2) (Cont'd):					
Remaining Counties and Idaho County (south of the 46th Parallel):					
Zone 2 (Cont'd):					
Group 13 (Cont'd):					
Class A	$10.81	.85	.75	.60	.10
Class B	11.02	.85	.75	.60	.10
Class C	11.15	.85	.75	.60	.10
Class D	11.33	.85	.75	.60	.10
Class E	11.44	.85	.75	.60	.10
Class F	11.56	.85	.75	.60	.10
Class G	11.84	.85	.75	.60	.10
Class H	12.07	.85	.75	.60	.10
Class I	12.30	.85	.75	.60	.10
Group 14	11.72	.85	.75	.60	.10

DECISION #IN78-2025 - MOD. #3
(43 FR 10167 - March 10, 1978)
Decatur County, Indiana

CHANGE:

Asbestos Workers	$12.15	.50	1.20		.01
Ironworkers:					
West ½ of County	11.95	.90	1.30		.05

DECISION #IN78-2029 - MOD. #3
(43 FR 12581 - March 24, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Fountain, Fulton, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Miami, Montgomery, Morgan, Noble, Shelby, Steuben, Tipton, Wabash, Warren, Wells, White, & Whitley Counties, Indiana					
CHANGE:					
Asbestos Workers:					
Remaining Cos.	$12.15	.50	1.20		.01
Bricklayers; Stonemasons:					
Adams, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	11.34	.45	.30		.01
Boone, Hancock, Hendricks, Johnson, Montgomery, & Morgan Cos.	12.04	.40	.35		.06
Carroll, Clinton, Fountain, Warren, & White Cos.	11.24	.48	.60		.02
Cass & Fulton Cos.	10.10	1.00	.40		
Wabash Co.	10.13	.85	.50		
Carpenters; Millwrights; Piledrivermen; Soft Floor Layers:					
Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (excl. Edinburgh), Montgomery, Morgan (Exclu. Twps. of Washington & Baker), Shelby (Camp Atterbury Area, Moral, & Van Buren Twps.), & Warren Cos.:					
Carpenters; Millwrights	12.30	.70	.60		.08
Carroll, Clinton, & White Cos.:					
Carpenters; Soft Floor Layres	10.56	.60	.50		.02
Millwrights; Piledrivermen	10.91	.60	.50		.02
Cement Masons:					
Adams, DeKalb, Noble, Steuben, & Whitley Cos.	10.50	.75			.01
Blackford, Huntington, Jay, Wabash, & Wells Cos.	9.95	.60	.80		
Carroll, Cass, Clinton, Fountain, Howard, Miami, Montgomery, Warren, & White Cos.	10.00	.60	.75		
Electricians:					
Carroll, Cass, Fulton, & White Cos.	12.00	.50	3%		½%
Fountain & Warren Cos.	12.27	.50	3%+.50		.25%

DECISION #IN78-2029 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Ironworkers:					
Adams, Blackford, DeKalb, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Cos.	$11.55	.90	1.45		.02
Boone (excl. NW ¼), Clinton (E ½), Hamilton, Hancock, Hendricks, Howard, Johnson, Madison, Morgan, Shelby, & Tipton (excl. NW ¼) Cos.	11.95	.90	1.30		.05
Boone (NW ¼), Carroll, Cass, Clinton (Rem. of Co.), Fountain, Miami, Montgomery, Tipton (NW ¼), Warren, & White Cos.	11.14	.90	1.25		.02
Fulton Co.	11.45	.90	1.33		.03
Lathers:					
Adams, DeKalb, Huntington, Noble, Steuben, Wabash, Wells, & Whitley Cos.	10.60		.50		.01
Carroll, Cass, Clinton, Howard, Montgomery, Warren, & White Cos.	10.54	.55	.35		.01
Painters:					
Clinton, Fountain, Montgomery, & Warren Cos.:					
Brush; Roller	10.75				
Structural Steel	11.00				
Sandblasting	11.75				
Spray	14.02				
Plasterers:					
Adams, DeKalb, Noble, Steuben, & Whitley Cos.	10.54	.60			
Plumbers; Steamfitters:					
Adams, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	12.15	.55	.85		.07
Boone, Hamilton, Hancock, Hendricks, Howard, Johnson, Miami (So. of Rte #218), Morgan, Shelby, & Tipton Cos.	12.40	.50	.80		.04

DECISION #IN78-2029 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Roofers:					
Adams, DeKalb, Noble, Steuben, Wells, & Whitley Cos.	$10.90		.10		
Carroll, Cass, Clinton, Fountain, Montgomery, Warren, & White Cos.:					
Composition, Damp & Waterproof	11.65	.50	.28		
Slate, Tile, & Asbestos	11.90	.50	.28		
Fulton Co.:					
Composition, Damp & Waterproof	10.95	.50	.40		.03
Slate, Tile, & Asbestos	11.45	.50	.40		.03
Sheet Metal Workers:					
Adams, Blackford, Cass, DeKalb, Howard, Huntington, Jay, Miami, Noble, Steuben, Wabash, Wells & Whitley Cos.	11.98	.50	.60		.12
Terrazzo Workers; Tile Setters:					
Adams, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	10.80				
Tile Setters:					
Boone, Hancock, Hendricks, Johnson, Montgomery, & Morgan Cos.	11.51	.40	.35		.04
Carroll, Clinton, Fountain, Warren, & White Cos.	11.24	.48	.60		.02
Cass & Fulton Cos.	9.65	1.00	.90	g	.01
Power Equipment Operators:					
Adams, Blackford, Carroll, Cass, Clinton, DeKalb, Hamilton, Hancock, Howard, Huntington, Jay, Johnson, Madison, Miami, Shelby, Steuben, Tipton, Wabash, Wells, White, & Whitley Counties					
Group 1	11.90	.55	.65		.09
Group 2	11.00	.55	.65		.09
Group 3	9.10	.55	.65		.09
Group 4	8.10	.55	.65		.09
ADD:					
Terrazzo workers; Tile setters:					
Wabash Co.	10.13	.85	.50		

DECISION #IN78-2030 - MOD. #3
(43 FR 10169 - March 10, 1978)
Statewide, except Lake, LaPorte, Porter, and St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Cement Masons:					
Adams, Allen, DeKalb, Noble, Steuben, and Whitley Counties	$10.50	.75			.01
Benton (Eastern 2/3), Carroll, Cass, Clinton, Fountain (Eastern ½), Howard, Jasper (Southern 2/3), Miami, Montgomery, Newton (Southeastern 2/3), Tippecanoe, Warren (Eastern 2/3), & White	10.00	.60	.75		
Blackford, Delaware, Grant, Huntington, Jay, Randolph, Wabash, & Wells Cos.	9.95	.60	.80		
Greene & Sullivan Cos.	11.35	.40	.70		.01
Ironworkers:					
Adams, Allen, Blackford, DeKalb, Delaware (northeastern 1/3 of Co.), Grant (excluding s/w portion), Huntington, LaGrange (eastern ½ of Co.), Noble, Steuben, Wabash, Wells, & Whitley Cos.	11.55	.90	1.45		.02
Elkhart, Fulton, Kosciusko, LaGrange (western ½ of Co.), Marshall, Pulaski, & Starke Cos.	11.45	.90	1.33		.03
Marion Co.	11.80	.90	1.30		.05
Bartholomew, Boone (southeastern ½ of Co.), Brown, Clinton (eastern 1/3 of Co.), Decatur (western ½ of Co.), Delaware (southern 2/3 of Co.) Grant (S/W Portion), Hamilton, Hancock, Hendricks, Henry, Howard, Jackson (northern ½ of Co.), Jennings (northern ½ of Co.), Johnson, Lawrence (northeastern 1/6 of Co.), Madison, Monroe, Morgan, Owen, Putnam (eastern ½ of Co. excluding Greencastle), Rush, Shelby, & Tipton Cos.	11.95	.90	1.30		.05

MODIFICATIONS P. 23

DECISION #IN78-2030 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Ironworkers:					
Benton, Boone (northwestern ½ of Co.), Carroll, Cass, Clinton (western 2/3 of Co.), Fountain, Jasper (southern ½ of Co.), Miami, Montgomery, Tippecanoe, Warren, & White Cos.	$11.14	.90	1.25		.02
Painters:					
Benton, Clinton, Fountain, Montgomery, Putnam, Tippecanoe, & Warren Cos.:					
Brush; Roller	10.75				
Structural Steel	11.00				
Sandblasting	11.75				
Spray	14.02				
Elkhart, Kosciusko, & Marshall Cos.:					
Brush	9.59		.40		$15.00p/yr
Drywall taping & finish; Paperhangers; Spray & Vinyl	9.59		.40		$15.00p/yr
Power Equipment Operators:					
Tunnel and Sewer Construction:					
Benton, Carroll, Cass, Clinton, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wabash, Wayne, & White Counties					
Group I	11.70	.55	.65		.09
Group II	10.75	.55	.65		.09
Group III	9.05	.55	.65		.09
Group IV	8.05	.55	.65		.09
Line Construction:					
Crawford, DuBois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Cos.:					
Linemen; Line Truck ops.; Hole digger; Stool handling cable splicer	13.05	.50	3%+.60		½%
Groundman	11.69	.50	3%+.60		½%
Truck driver	12.00	.50	3%+.60		½%

MODIFICATIONS P. 24

DECISION #IN78-2030 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Line Construction					
Dearborn Co.					
ADD:					
Line Construction					
Dearborn Co. & Switzerland Co.					
LINE CONSTRUCTION					
Dearborn & Switzerland Counties					
Up to & including 18 mi. radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operator all mechanized equipment operators	$12.50	.70	3%+.60		.5%
Groundmen	9.38	.70	3%+.60		.5%
Over 18 up to & including 21 mi. radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	12.80	.70	3%+.60		.5%
Groundmen	9.60	.70	3%+.60		.5%
Over 21 up to & including 25 mi. radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	12.90	.70	3%+.60		.5%
Groundmen	9.68	.70	3%+.60		.5%
Over 25 mi radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	13.05	.70	3%+.60		.5%
Groundmen	7.79	.70	3%+.60		.5%

DECISION #IN78-2032 - MOD. #2
(43 FR 10180 - March 10, 1978)
Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers:					
St. Joseph Co.:					
Bricklayers; Stonemasons	$11.36	1.00	.90		.06
Marble setters; Terrazzo workers; Tile setters	9.65	1.00	.90	a	.01
Carpenters:					
St. Joseph Co.:					
Building construction: Carpenters; Millwrights; Piledrivermen; Soft floor layers	10.90	.60	.85		.08
Electricians:					
St. Joseph Co.	11.85	4.8%	7%		.2%
Ironworkers:					
LaPorte (Rem. of Co.), & St. Joseph Cos.	11.45	.90	1.33		.03
Painters:					
St. Joseph Co.:					
Brush; Drywall tapers & finish Paperhanging; Spray & Vinyl	9.59		.40		15.00p/y
Roofers:					
LaPorte & St. Joseph Cos.:					
Composition, Damp & Waterproof	10.95	.50	.40		.03
Slate, Tile & Asbestos	11.45	.50	.40		.03

DECISION #IN78-2033 - MOD. #3
(43 FR 10188 - March 10, 1978)
Brown, Clark, Crawford, Floyd Harrison, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers:					
Brown Co.	$12.15	.50	1.20		.01
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:					
Clark, Floyd, Harrison, & Washington Cos.:					
Carpenters; Soft Floor Layers	10.35	.50	.50		.05
Millwrights	10.40	.30	.60		.02
Piledrivermen	10.60	.50	.50		.05
Electricians:					
Brown Co.	11.60	.50	3%+.50		.01
Crawford, Lawrence, & Orange Cos.	13.05	.50	3%		½%
Switzerland Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.50	.70	3%+.60		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.80	.70	3%+.60		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.90	.70	3%+.60		.5%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	13.05	.70	3%+.60		.5%
Ironworkers:					
Brown, Jackson (N. ½ of Co.), Jennings (N. ½ of Co.), & Lawrence (Except So. 2/3 of Co.)	11.95	.90	1.30		.05
Lathers:					
Switzerland Co.	13.32		.25		.025

DECISION #IN78-2033 (Cont'd) MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Brown, Jackson, & Jennings Cos.:					
Marble Setters' Finishers; & Tile Setters' Finishers	$ 9.80				
DECISION #IN78-2051 - MOD. #3 (43 FR 12589 - March 24, 1978)					
Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties Indiana					
CHANGE:					
Asbestos Workers:					
Bartholomew, Benton, Delaware, Marion, Monroe, Tippecanoe, & Vigo Cos.	$12.15	.50	1.20		.01
Bricklayers; Marble Setters; Stonemasons; Terrazzo Workers; & Tile Setters:					
Allen Co.:					
Bricklayers; Marble Setters & Stonemasons	11.34	.45	.30		.01
Benton & Tippecanoe Cos.:					
Bricklayers; Marble Setters; & Stonemasons	11.24	.48	.60		.02
Terrazzo Workers & Tile Setters	11.24	.48	.60		.02
Grant Co.:					
Bricklayers; Marble Setters; Stonemasons; Terrazzo Workers; & Tile Setters	10.13	.85	.50		
Marion Co.:					
Bricklayers; Stonemasons	12.04	.40	.35		.06
Marble Setters; Tile Setters	11.51	.40	.35		.04
Terrazzo Workers	11.25	.40	.35		.03
Vigo Co.:					
Bricklayers; Stonemasons	11.95	.40	.70		.01
Marble Setters; Terrazzo Workers; & Tile Setters	11.55	.40	.70		.01
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:					
Allen Co.:					
Carpenters; Soft Floor Layers	10.57	6%a			.08
Millwrights; Piledrivermen	10.90	6%a			.08
Bartholomew Co. (Camp Atterbury) & Marion Co.:					
Carpenters; Millwrights	12.30	.70	.60		.08
Benton & Tippecanoe Cos.:					
Carpenters & Soft Floor Layers	10.56	.60	.50		.02
Millwrights & Piledrivermen	10.91	.60	.50		.02

MODIFICATIONS P. 28

DECISION #IN78-2051 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Cement Masons:					
Allen Co.	$10.50	.75			.01
Benton & Tippecanoe Cos.	10.00	.60	.75		
Delaware & Grant cos.	9.95	.60	.80		
Electricians:					
Benton & Tippecanoe Cos.	12.00	.50	3%		½%
Dearborn Co.:					
Up to & incl. 18 mi. radius from Hamilton Co., Ohio Court House	12.50	.70	3%+.60		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co., Ohio Court House	12.80	.70	3%+.60		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co., Ohio Court House	12.90	.70	3%+.60		.5%
Over 25 mi. radius from Hamilton Co., Ohio Court House	13.05	.70	3%+.60		.5%
Monroe Co.	11.60	.50	3%+.50		.01
Vanderburgh Co.	13.05	.50	3%		½%
Vigo Co.	12.10	.50	3%+.50		.01
Glaziers:					
Vanderburgh County	10.905	.48	.50	.25	
Ironworkers:					
Allen, Delaware (Northeastern 1/3 of Co.) & Grant (excluding s/w portion) Cos.	11.55	.90	1.45		.02
Bartholomew, Delaware (Southern 2/3 of Co.), Grant (s/w portion) & Monroe Cos.	11.95	.90	1.30		.05
Marion County	11.80	.90	1.30		.05
Benton & Tippecanoe Counties	11.14	.90	1.25		.02
Lathers:					
Allen County	10.60		.50		.01
Benton & Tippecanoe Counties	10.54	.55	.35		.01
Dearborn County	13.32		.25		.025

MODIFICATIONS P. 29

DECISION #IN78-2051 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Bartholomew, Delaware, Grant, Marion, Monroe, & Tippecanoe Cos.:					
Marble Setters' Finishers; & Tile Setters' Finishers	$ 9.80				
Dearborn Co.:					
Marble Setters' Finishers	10.885				
Terrazzo Workers' Finishers	10.835				
Tile Setters' Finishers	10.785				
Painters:					
Benton & Tippecanoe Cos.:					
Brush	10.75				
Structural Steel	11.00				
Sandblasting	11.75				
Spray	14.02				
Pipefitters; Plumbers; & Steamfitters:					
Bartholomew (Camp Atterbury), & Marion Cos.	12.40	.50	.80		.04
Plasterers:					
Allen Co.	10.54	.60			
Plumbers; Steamfitters:					
Allen Co.	12.15	.55	.85		.07
Roofers:					
Allen County:					
Roofers	10.90		.10		
Pitch Work	11.15		.10		
Benton & Tippecanoe Counties:					
Composition	11.65	.50	.28		
Slate, Tile & Asbestos	11.90	.50	.28		
Sheet Metal Workers:					
Allen and Grant Counties	11.98	.50	.60		.12
Terrazzo Workers; Tile Setters:					
Allen County	10.80		-		

DECISION #IN78-2051 (Cont'd)

MODIFICATIONS P. 30

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Power Equipment Operators:					
Allen, Benton, Delaware, Grant, Marion, & Tippecanoe Counties					
Group 1	$11.90	.55	.65		.0[illegible]
Group 2	11.00	.55	.65		.09
Group 3	9.10	.55	.65		.09
Group 4	8.10	.55	.65		.09
Line Construction:					
Vanderburgh County					
Linemen; Line Truck Operator; Hole Digger; Stool Handling Cable Splicer	13.05	.50	3%+.60		½%
Groundman	11.69	.50	3%+.60		½%
Truck Driver	12.00	.50	3%+.60		½%
OMIT:					
Line Construction (Dearborn Co.)					
ADD:					
Line Construction (Dearborn Co.)					
LINE CONSTRUCTION					
Dearborn County					
Up to & including 18 mi. radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operator all mechanized equipment operators	$12.50	.70	3%+.60		.5%
Groundmen	9.38	.70	3%+.60		.5%
Over 18 up to & including 21 mi. radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	12.80	.70	3%+.60		.5%
Groundmen	9.60	.70	3%+.60		.5%
Over 21 up to & including 25 mi. radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	12.90	.70	3%+.60		.5%
Groundmen	9.68	.70	3%+.60		.5%
Over 25 mi radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	13.05	.70	3%+.60		.5%
Groundmen	7.79	.70	3%+.60		.5%

MODIFICATIONS P. 31

DECISION #IN78-2052 - MOD. #3
(43 FR 12598 - March 24, 1978)
Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union & Wayne Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers:					
Henry & Rush Cos.	$12.15	.50	1.20		.01
Cement Masons:					
Randolph Co.	9.95	.60	.80		
Electricians:					
Ohio Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.50	.70	3%+.60		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.80	.70	3%+.60		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.90	.70	3%+.60		.5%
Over 25 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	13.05	.70	3%+.60		.5%
Ironworkers:					
Fayette (Part of Co.), Henry, & Rush Cos.	11.95	.90	1.30		.05
Randolph Co. (Rem. of Co.)	11.55	.90	1.45		.02
Lathers:					
Franklin, Ohio, Ripley, & Union Cos.	13.32		.25		.025
Power Equipment Operators:					
Fayette, Henry, Randolph, Rush, Union, & Wayne Counties					
Group 1	11.90	.55	.65		.09
Group 2	11.00	.55	.65		.09
Group 3	9.10	.55	.65		.09
Group 4	8.10	.55	.65		.09

MODIFICATIONS P. 32

DECISION #LA78-4013 - Mod. #4
(43 FR 7125 - February 17, 1978)
Bossier, Caddo & Calcasieu Parishes, Louisiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Bossier & Caddo Parishes	$10.43	.40	.76		.03
Ironworkers:					
Bossier & Caddo Parishes	10.75	.45	.90		.06
Laborers:					
Bossier & Caddo Parishes:					
Group 1	6.50	.20	.10		.05
Group 2	6.60	.20	.10		.05
Group 3	6.65	.20	.10		.05
Group 4	6.70	.20	.10		.05
Calcasieu Parish - Group 1	7.80	.20	.10		.05
Group 2	7.90	.20	.10		.05
Group 3	7.95	.20	.10		.05
Group 4	8.76	.20	.10		.05
Group 5	8.32	.20	.10		.05
Group 6	8.16	.20	.10		.05
Group 7	7.85	.20	.10		.05

DECISION #LA78-4052 - Mod. #2
(43 FR 20659 - May 12, 1978)
Statewide Louisiana

Change:					
Asbestos workers - Zone 2	10.43	.40	.76		.03
Zone 3	10.00	.55	1.20		.05
Cement masons (Building Construction):					
Zone 6	7.00				
Zone 7	9.05	.35			
Ironworkers (Building Construction):					
Zone 3	10.75	.45	.90		.06
Laborers (Building Construction):					
Zone 2 - Group 1	6.32	.20	.10		.05
Group 2	6.52	.20	.10		.05
Zone 3 - Group 1	7.80	.20	.10		.05
Group 2	7.90	.20	.10		.05
Group 3	7.95	.20	.10		.05
Group 4	8.76	.20	.10		.05
Group 5	8.32	.20	.10		.05
Group 6	8.16	.20	.10		.05
Group 7	7.85	.20	.10		.05
Zone 8 - Group 1	5.91	.20	.10		.05
Group 2	6.11	.20	.10		.05
Group 3	6.16	.20	.10		.05
Group 4	6.21	.20	.10		.05
Group 5	6.56	.20	.10		.05
Zone 9 - Group 1	6.50	.20	.10		.05
Group 2	6.60	.20	.10		.05
Group 3	6.65	.20	.10		.05
Group 4	6.70	.20	.10		.05

DECISION #LA78-4052 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Laborers (Bldg. Const.)(Cont'd)					
Zone 10 - Group 1	$ 6.25	.20	.10		.05
Group 2	6.35	.20	.10		.05
Group 3	6.50	.20	.10		.05
Painters - Zone 3 - Group 1	8.965	.425	.40		.06
Group 2	9.34	.425	.40		.06
Group 3	10.215	.425	.40		.06
Plumbers & pipefitters - Zone 4	10.14	.50	.60	.95	.09

DECISION #MN77-2043 - Mod. #4
(42 FR 23390 - May 6, 1977)
Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota

CHANGE:

POWER EQUIPMENT OPERATORS:

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

GROUP 1	$14.75	.55	.50		
GROUP 2	11.46	.55	.50		
GROUP 3	11.15	.55	.50		
GROUP 4	11.02	.55	.50		
GROUP 5	10.93	.55	.50		
GROUP 6	10.15	.55	.50		
GROUP 7	9.75	.55	.50		

DECISION #MN77-2043 -(CONT'D.)

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		
CLASS 2	12.95	.55	.50		
CLASS 3	12.70	.55	.50		
CLASS 4	12.10	.55	.50		
CLASS 5	11.75	.55	.50		
CLASS 6	11.65	.55	.50		
CLASS 7	11.40	.55	.50		
CLASS 8	11.28	.55	.50		
CLASS 9	11.20	.55	.50		
CLASS 10	10.93	.55	.50		
CLASS 11	10.45	.55	.50		
CLASS 12	10.00	.55	.50		

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION #MN77-2044 - MOD. #4
(42 FR 23395 - May 6, 1977)
Blue Earth, Fairbault, Freeborn & Mower Counties, Minnesota

CHANGE:

POWER EQUIPMENT OPERATORS:

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		
GROUP 2	11.16	.55	.50		
GROUP 3	10.85	.55	.50		
GROUP 4	10.73	.55	.50		
GROUP 5	10.63	.55	.50		
GROUP 6	9.85	.55	.50		
GROUP 7	9.45	.55	.50		

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS:
Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		
CLASS 2	12.95	.55	.50		
CLASS 3	12.70	.55	.50		
CLASS 4	12.10	.55	.50		
CLASS 5	11.75	.55	.50		
CLASS 6	11.65	.55	.50		
CLASS 7	11.40	.55	.50		
CLASS 8	11.28	.55	.50		
CLASS 9	11.20	.55	.50		
CLASS 10	10.93	.55	.50		
CLASS 11	10.45	.55	.50		
CLASS 12	10.00	.55	.50		

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION #MN77-2045 - MOD. #3
(42 FR 23400 - May 6, 1977)
Olmsted County, Minnesota

CHANGE:

POWER EQUIPMENT OPERATORS:

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		
GROUP 2	11.16	.55	.50		
GROUP 3	10.85	.55	.50		
GROUP 4	10.73	.55	.50		
GROUP 5	10.63	.55	.50		
GROUP 6	9.85	.55	.50		
GROUP 7	9.45	.55	.50		

DECISION #MN77-2045 - (CONT'D.)

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS:
Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		
CLASS 2	12.95	.55	.50		
CLASS 3	12.70	.55	.50		
CLASS 4	12.10	.55	.50		
CLASS 5	11.75	.55	.50		
CLASS 6	11.65	.55	.50		
CLASS 7	11.40	.55	.50		
CLASS 8	11.28	.55	.50		
CLASS 9	11.20	.55	.50		
CLASS 10	10.93	.55	.50		
CLASS 11	10.45	.55	.50		
CLASS 12	10.00	.55	.50		

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Cunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION #MN77-2046 - MOD. #3 (42 FR 23404 - May 6, 1977) Benton, Sherburne & Stearns Counties, Minnesota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION, & INCIDENTAL PAVING					
Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W					
GROUP 1	$14.75	.55	.50		
GROUP 2	11.46	.55	.50		
GROUP 3	11.15	.55	.50		
GROUP 4	11.02	.55	.50		
GROUP 5	10.93	.55	.50		
GROUP 6	10.15	.55	.50		
GROUP 7	9.75	.55	.50		
Remainder of Benton & Stearns Counties					
GROUP 1	14.00	.55	.50		
GROUP 2	9.82	.55	.50		
GROUP 3	9.32	.55	.50		
GROUP 4	9.18	.55	.50		
GROUP 5	9.10	.55	.50		
GROUP 6	8.57	.55	.50		
GROUP 7	8.17	.55	.50		

DECISION #MN77-2046 - (CONT'D)

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		
CLASS 2	12.95	.55	.50		
CLASS 3	12.70	.55	.50		
CLASS 4	12.10	.55	.50		
CLASS 5	11.75	.55	.50		
CLASS 6	11.65	.55	.50		
CLASS 7	11.40	.55	.50		
CLASS 8	11.28	.55	.50		
CLASS 9	11.20	.55	.50		
CLASS 10	10.93	.55	.50		
CLASS 11	10.45	.55	.50		
CLASS 12	10.00	.55	.50		

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION #MN78-2009 - MOD. #1 (43 FR 10221 - March 10, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carlton, Cook, Itasca, Koochiching, Lake & St. Louis Counties, Minnesota					
CHANGE:					
POWER EQUIPMENT OPERATORS:					
SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING					
Cook, Lake & St. Louis Cos.					
GROUP 1	$14.75	.55	.50		
GROUP 2	11.46	.55	.50		
GROUP 3	11.15	.55	.50		
GROUP 4	11.02	.55	.50		
GROUP 5	10.93	.55	.50		
GROUP 6	10.15	.55	.50		
GROUP 7	9.75	.55	.50		
Carlton Co; Koochiching Co., East of a North South Line from the Canadian Border to Pelland to Big Falls & Minn. Hwy. #6; Itasca Co., East of the Western Right-of-Way of Minn. Hwy. #6					
GROUP 1	14.45	.55	.50		
GROUP 2	11.16	.55	.50		
GROUP 3	10.85	.55	.50		
GROUP 4	10.73	.55	.50		
GROUP 5	10.63	.55	.50		
GROUP 6	9.85	.55	.50		
GROUP 7	9.45	.55	.50		
Remainder of Itasca & Koochiching Counties					
GROUP 1	14.00	.55	.50		
GROUP 2	9.82	.55	.50		
GROUP 3	9.32	.55	.50		
GROUP 4	9.18	.55	.50		
GROUP 5	9.10	.55	.50		
GROUP 6	8.57	.55	.50		
GROUP 7	8.17	.55	.50		

DECISION MN78-2009 (CONT'D.)

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		
CLASS 2	12.95	.55	.50		
CLASS 3	12.70	.55	.50		
CLASS 4	12.10	.55	.50		
CLASS 5	11.75	.55	.50		
CLASS 6	11.65	.55	.50		
CLASS 7	11.40	.55	.50		
CLASS 8	11.28	.55	.50		
CLASS 9	11.20	.55	.50		
CLASS 10	10.93	.55	.50		
CLASS 11	10.45	.55	.50		
CLASS 12	10.00	.55	.50		

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION #NV78-5009 - Mod. #3
(43 FR 10229 - March 10, 1978)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Clark, Lincoln, Nye County (south of Mt. Diablo Base Line):					
Electricians; Technicians	$15.06	.73	3% +$1.30		.08
Cable Splicers	15.39	.73	3% + 1.30		.08
Nye County (north of Mt. Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area:					
Electricians; Technicians	14.18	.84	3% + 1.07		.08
Cable Splicers	15.60	.84	3% + 1.07		.08
Lake Tahoe Area:					
Electricians; Technicians	15.18	.84	3% + 1.07		.08
Cable Splicers	16.60	.84	3% + 1.07		.08
Laborers:					
Remaining Counties:					
Building Construction:					
Zone 1:					
Group 1	8.40	.95	1.05		.10
Group 2	8.50	.95	1.05		.10
Group 3	8.65	.95	1.05		.10
Group 4	8.90	.95	1.05		.10
Group 5	9.20	.95	1.05		.10
Group 6-A	9.20	.95	1.05		.10
Group 6-B	8.90	.95	1.05		.10
Group 6-C	8.55	.95	1.05		.10
Zone 2:					
Group 1	9.00	.95	1.05		.10
Group 2	9.10	.95	1.05		.10
Group 3	9.25	.95	1.05		.10
Group 4	9.50	.95	1.05		.10
Group 5	9.80	.95	1.05		.10
Group 6-A	9.80	.95	1.05		.10
Group 6-B	9.50	.95	1.05		.10
Group 6-C	9.15	.95	1.05		.10

DECISION #NV78-5009 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Remaining Counties (Cont'd):					
Building Construction (Cont'd):					
Zone 3:					
Group 1	$9.20	.95	$1.05		.10
Group 2	9.30	.95	1.05		.10
Group 3	9.45	.95	1.05		.10
Group 4	9.70	.95	1.05		.10
Group 5	10.00	.95	1.05		.10
Group 6-A	10.00	.95	1.05		.10
Group 6-B	9.70	.95	1.05		.10
Group 6-C	9.35	.95	1.05		.10
Zone 4:					
Group 1	9.90	.95	1.05		.10
Group 2	10.00	.95	1.05		.10
Group 3	10.15	.95	1.05		.10
Group 4	10.40	.95	1.05		.10
Group 5	10.70	.95	1.05		.10
Group 6-A	10.70	.95	1.05		.10
Group 6-B	10.40	.95	1.05		.10
Group 6-C	10.05	.95	1.05		.10
Heavy and Highway Construction:					
Area 1:					
Group 1	8.40	.95	1.05		.10
Group 2	8.50	.95	1.05		.10
Group 3	8.65	.95	1.05		.10
Group 4	8.90	.95	1.05		.10
Group 5	9.20	.95	1.05		.10
Group 6-A	9.20	.95	1.05		.10
Group 6-B	8.90	.95	1.05		.10
Group 6-C	8.55	.95	1.05		.10
Area 2:					
Group 1	9.55	.95	1.05		.10
Group 2	9.65	.95	1.05		.10
Group 3	9.80	.95	1.05		.10
Group 4	10.05	.95	1.05		.10
Group 5	10.35	.95	1.05		.10
Group 6-A	10.35	.95	1.05		.10
Group 6-B	10.05	.95	1.05		.10
Group 6-C	9.70	.95	1.05		.10

DECISION #NV78-5009 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Line Construction Workers:					
Remaining Counties (excluding Lake Tahoe Area):					
Lineman	$14.18	.84	3% +$1.07		.08
Line Equipment Operator	12.76	.84	3% + 1.07		.08
Groundman	10.64	.84	3% + 1.07		.08
Cable Splicer	15.60	.84	3% + 1.07		.08
Lake Tahoe Area:					
Lineman	15.18	.84	3% + 1.07		.08
Line Equipment Operator	13.76	.84	3% + 1.07		.08
Groundman	11.64	.84	3% + 1.07		.08
Cable Splicer	16.60	.84	3% + 1.07		.08
DECISION #NV78-5011 - Mod. #2 (43 FR 11441 - March 17, 1978) Washoe County, Nevada					
Change:					
Electricians:					
Washoe County, does not include Lake Tahoe Area:					
Electricians; Technicians	$14.18	.84	3% +$1.07		.08
Cable Splicers	15.60	.84	3% + 1.07		.08
Lake Tahoe Area:					
Electricians; Technicians	15.18	.84	3% + 1.07		.08
Cable Splicers	16.60	.84	3% + 1.07		.08
Laborers:					
Zone 1:					
Group 1	8.40	.95	1.05		.10
Group 2	8.50	.95	1.05		.10
Group 3	8.65	.95	1.05		.10
Group 4	8.90	.95	1.05		.10
Group 5	9.20	.95	1.05		.10
Group 6-A	9.20	.95	1.05		.10
Group 6-B	8.90	.95	1.05		.10
Group 6-C	8.55	.95	1.05		.10
Zone 2:					
Group 1	9.00	.95	1.05		.10
Group 2	9.10	.95	1.05		.10
Group 3	9.25	.95	1.05		.10
Group 4	9.50	.95	1.05		.10
Group 5	9.80	.95	1.05		.10
Group 6-A	9.80	.95	1.05		.10
Group 6-B	9.50	.95	1.05		.10
Group 6-C	9.15	.55	1.05		.10
Zone 3:					
Group 1	9.20	.95	1.05		.10
Group 2	9.30	.95	1.05		.10
Group 3	9.45	.95	1.05		.10
Group 4	9.70	.95	1.05		.10
Group 5	10.00	.95	1.05		.10
Group 6-A	10.00	.95	1.05		.10
Group 6-B	9.70	.95	1.05		.10
Group 6-C	9.35	.95	1.05		.10

DECISION #NV78-5011 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Zone 4:					
Group 1	$9.90	.95	$1.05		.10
Group 2	10.00	.95	1.05		.10
Group 3	10.15	.95	1.05		.10
Group 4	10.40	.95	1.05		.10
Group 5	10.70	.95	1.05		.10
Group 6-A	10.70	.95	1.05		.10
Group 6-B	10.40	.95	1.05		.10
Group 6-C	10.05	.95	1.05		.10
DECISION NO. NM78-4046 - Mod. #1 (43 FR 19559 - May 5, 1978) Statewide, New Mexico					
CHANGE DECISION NUMBER ON PAGE SIX TO READ "NM78-4046."					

DECISION #PA78-3017 - Mod. #1
(43 FR 19574 - May 5, 1978)
Carbon, Monroe Counties, including Tobyhanna Army Depot and Pike County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters					
Zone 4	$11.18	.64	.50		.05
Laborers:					
Zone 1					
Class 1	9.30	.48	.59		
Class 2	9.45	.48	.59		
Class 3	9.70	.48	.59		
Zone 2					
Class 1	7.96	.35	.45		
Class 2	8.21	.35	.45		
Class 3	8.36	.35	.45		
Class 4	8.98	.35	.45		
Class 5	8.71	.35	.45		
Marble Setters					
Zone 1	9.05	1.00	1.15		
Millwrights					
Zone 1	11.93	.64	.50		.05
Power Equipment Operators:					
Group 1	12.44	7%	10.3%	a	1.8%
Group 2	12.15	7%	10.3%	a	1.8%
Group 3	11.28	7%	10.3%	a	1.8%
Group 4	10.51	7%	10.3%	a	1.8%
Group 5	10.04	7%	10.3%	a	1.8%
Group 6	9.13	7%	10.3%	a	1.8%
Group 7	12.69	7%	10.3%	a	1.8%
Group 7-A	12.94	7%	10.3%	a	1.8%
Group 7-B	13.18	7%	10.3%	a	1.8%
Terrazzo Workers:					
Zone 1	9.30	1.00	1.15		
Tile Setters:					
Zone 1	9.05	1.00	1.15		
Truck Drivers:					
Class 1	8.97				
Class 2	9.04				
Class 3	9.53				

DECISION #PA78-3045 - Mod. #1
(43 FR 20714 - May 12, 1978
Lackawanna, Susquehanna, Wayne, and Wyoming Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Lackawanna, Susquehanna, and Wayne Counties	$10.67	.64	.50		.05
Wyoming County:					
East of Susquehanna River	10.67	.64	.50		.05
Electricians:					
West of Susquehanna River	11.24	.65	3%+.85		.03
Laborers:					
Lackawanna, Wayne, Susquehanna, & Northern part of Wyoming Co.:					
Unskilled and Window cleaners	9.30	.48	.59		
Semi skilled Laborers: Jackhammer operators, (each man when two required for operation of jackhammer) vibrator and buster men, wagon drill and all men handling dynamite, gas buggies 2" pumps and concrete mixers (up to 2 bags), and all pneumatic tools	9.45	.48	.59		
Plaster tenders and mason tenders and haldling of all material to be used masons & scaffold builders	9.70	.48	.59		
Non-metallic pipe layers and making of joints, clay, terra cotta, ironstone, vitrified concrete handling of burning torches, asphalt or other material	9.45	.48	.59		
Millwrights					
Lackawanna, Susquehanna, and Wayne Counties	11.25	.64	.50		.05
Wyoming County East of Susquehanna River	11.25	.64	.50		.05

MODIFICATIONS P. 49

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4264 - Mod. #5 (42 FR 53168 - September 30, 1977) Tom Green County, Texas					
Change:					
Bricklayers	$ 9.50				
DECISION #TX78-4014 - Mod. #3 (43 FR 7132 - February 17, 1978) Gregg County, Texas					
Change:					
Asbestos workers	10.43	.40	.76		.03
DECISION #TX78-4017 - Mod. #1 (43 FR 10272 - March 10, 1978) Taylor County, Texas					
Change:					
Asbestos workers	10.43	.40	.76		.03
DECISION #TX78-4028 - Mod. #2 (43 FR 16112 - April 14, 1978) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Electricians:					
Zone 2 - Electricians	10.85	.40	3%		1/10%
Cable splicers	11.10	.40	3%		1/10%
Glaziers	7.90			a	
DECISION #TX78-4032 - Mod. #1 (43 FR 16119 - April 14, 1978) Bowie County, Texas					
Change:					
Asbestos workers	10.43	.40	.76		.03
Ironworkers	10.75	.45	.90		.06
DECISION #TX78-4033 - Mod. #1 (43 FR 16120 - April 14, 1978) Brazos County, Texas					
Change:					
Electricians	11.65	.55	10%		.06

MODIFICATIONS P. 50

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4035 - Mod. #1 (43 FR 16122 - April 14, 1978) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
Change:					
Asbestos workers	$10.43	.40	.76		.03
Electricians:					
Zone 1 - Electricians	11.13	.60	7%		7/10%
Cable splicers	11.38	.60	7%		7/10%
Zone 2 - Electricians	11.03	6%	7%		1%
Cable splicers	12.13	6%	7%		1%
DECISION #TX78-4036 - Mod. #4 (43 FR 16125 - April 14, 1978) El Paso County, Texas					
Change:					
Ironworkers	8.90	.55	1.00		.15
DECISION #TX78-4037 - Mod. #2 (43 FR 16127 - April 14, 1978) Galveston & Harris Cos., Texas					
Change:					
Electricians - Harris Co.	11.65	.55	10%		.06
Roofers	9.61	.42	.35	.25	.06
DECISION #TX78-4038 - Mod. #1 (43 FR 16129 - April 14, 1978) Harrison County, Texas					
Change:					
Asbestos workers	10.43	.40	.76		.03
DECISION #TX78-4040 - Mod. #4 (43 FR 16131 - April 14, 1978) Jefferson & Orange Cos., Texas					
Change:					
Roofers	9.61	.42	.35	.25	.06
DECISION #TX78-4041 - Mod. #2 (43 FR 16133 - April 14, 1978) Lubbock County, Texas					
Change:					
Cement masons	7.80				

MODIFICATIONS P. 51

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4043 - Mod. #4 (43 FR 16134 - April 14, 1978) Travis County, Texas					
Change:					
Cement masons	$ 9.24	.50	.55		
Electricians	11.10		8%		.8%
Line Construction:					
Linemen	11.24	.50	3%		1/2%
Groundmen	6.18	.50	3%		1/2%
Groundmen (1st year)	5.62	.50	3%		1/2%
Plumbers & pipefitters	11.20	.35	.35		.05
DECISION #TX78-4044 - Mod. #2 (43 FR 16136 - April 14, 1978) Wichita County, Texas					
Change:					
Asbestos workers	10.43	.40	.76		.03
Electricians:					
Zone 1 - Electricians	10.50	.40	3%		1/10%
Cable splicers	10.75	.40	3%		1/10%
Zone 2 - Electricians	10.85	.40	3%		1/10%
Cable splicers	11.10	.40	3%		1/10%
DECISION #VA78-3040 - Mod. #1 (43 FR 19579 - May 5, 1978) Radford Army Ammunition Plant, Virginia					
Change:					
DECISION No.: VA78-3040 Supersedeas Decision No. VA77-3088 dated July 1, 1977 in 42 FR 34261					

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: Statewide
DECISION NO. MI78-2054 DATE: Date of Publication
Supersedes Decision No. MI77-2125, dated September 16, 1977 in 42 FR 46892
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction exlcusive of Buildings

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
ZONE 1					
MACOMB, MONROE, OAKLAND, ST. CLAIR & WAYNE COUNTIES: in LIVINGSTON COUNTY The Townships of Brighton, Deerfield, Genoa, Hartland, Osceola & Tyrone, in SANLAC COUNTY That part East of a line projected North & continuing the East Lapeer & West St. Clair county lines to South Huron County line	10.48	.75	9%	11%	.04
ZONE 2E					
ARENAC, BAY, CLARE, CLINTON, GENESSEE, GLADWIN, GRAIOT, HURON, INGHAM, ISABELLA, IOSCO, JACKSON, LAPEER, LENAWEE, MIDLAND, OGEMAW, SAGINAW, SHIAWASSEE, TUSCOLA & WASHTENAW COUNTIES; the Remainder of LIVINGSTON & SANILAC COUNTIES; in EATON COUNTY, All but the Townships of Bellevue, Kakamo, Vermontville & Walton; in IONIA COUNTY, the Townships of Danby, Orange Portland & Sevewa	10.38	.60	.60		.01
ZONE 2W					
ALLEGAN, BARRY, BRANCH, CALHOUN CASS, HILLSDALE, KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MESOCTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OTTAWA, ST. JOSEPH & VAN BUREN COUNTIES; the Remainder of EATON & IONIA COUNTIES; in BERRIEN COUNTY, all but the Townships of Chicaming, New Buffalo & 3 Oaks; in BENZIE COUNTY, the Townships of Blaine, Colfax, Crystal, Lake Gimore, Joyfield & Weldon	10.25	.60	.60		.01

DECISION NO. MI78-2054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D)					
ZONE 3LP					
ALCONA, ALPENA, ANTRIM, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, KALKASKA, LEELEAUNAW, MISSAUKEE, MONTMORENCY, OSEOLA, OSCADA, OTSEGO, PRESQUE, ISLE ROSCOMMON & WEXFORD COUNTIES & The remainder of BENZIE COUNTY	10.14	.60	.60		.01
ZONE 3UP					
ALGER, BARAGA, CHIPPEWA, DELTA DICKINSON, GEOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MAKINAC, MARQUETTE, MONOMINEE, ONTONAGON & SCHOOLCRAFT COUNTIES	10.09	.60	.60		.01
ZONE 4					
THE REMAINDER OF BERRIEN COUNTY	12.03	.50	.57		.05
CEMENT MASONS:					
ZONE 1					
GENESEE, LIVIGINSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW & WAYNE COUNTIES-Cement masonry related to Highway, Road & Street Construction	11.65	.50	.50		.02
ZONE 2 - Remainder of State	11.30	.50	.50		.02
PAINTERS:					
KINT, MONTCALM, MECOSTA & the West ½ of IONIA COUNTIES only:					
Brush	8.55	.50	.25		.02
Bridges over Highway or Railroads	8.80	.50	.25		.02
Steam Cleaning/Sandblasting; Bridge Work over Rivers or Lakes, Spray & Pressure Roller	9.05	.50	.25		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Structural & Reinforcing					
ZONE 1					
Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontongagon & Schoolcraft Counties	9.50	.50	1.00	1.40	.04
ZONE 2					
Emmet, Charlevoix, Antrim, Leelanau, Benzie, Grand Traverse, Lakkaska, Mason, Manistee, Wexford, Missaukee, Lake, Osceola, Oceana, Mecosta, Newaygo, Muskegon, Kent, Montcall, Ottawa, Ionia, Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, St. Joseph, Branch & Hilldale Counties	10.70	.60	1.00		.08
ZONE 3					
Remainder of State					
Structural	11.18	85	14%	17%	.09
Reinforcing	10.10	1.23	15%	15%	.07

DECISION NO. MI78-2054

LABORERS: HIGHWAY CONSTRUCTION	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 2A	Basic Hourly Rates ZONE 3	Basic Hourly Rates ZONE 3A
CLASS A	9.60	9.02	8.73	8.61	8.44
CLASS B	9.36	8.75	8.48	8.27	8.10
CLASS B-1	9.21	8.86	8.57	8.58	8.41
CLASS B-2	9.00	8.65	8.36	8.38	8.21
CLASS C	9.13	8.57	8.29	8.21	8.04
CLASS D	9.00	8.39	8.11	7.99	7.82
CLASS E	8.92	8.33	8.04	7.87	7.70
CLASS F	8.89	8.23	7.95	7.82	7.65
FRINGE BENEFITS FOR ALL ZONES AND ALL CLASSIFICATIONS					
$.65 Health & Welfare					
.35 Pension					
.65 Vacation and Holiday					
.04 Apprentice Training					

CLASS A - Line form setter for curb or pavement
CLASS B - Pipe Layers, oxygen gun
CLASS B - 1 - Asphalt Raker
CLASS B-2 Asphalt Tamper and asphalt taker helper
CLASS C - Tunnel miner (highway work only), finishers tenders, guard rail builder, highway and median barrier installer, fence erector, bottom man, powderman, wagon drill and air track operators, curb and side rail setters' helpers, diamond and core drills.
CLASS D - Mixer operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.) spreader, boxman (asphalt, stone, gravel, etc.), concrete paddler power chain saw operator, paving batch truck dumper, asphalt screed chacker, grade checker and tunnel mucker (highway work only), concrete saw (under 40 h.p.) and dry pack machine
CLASS E - Cement handler or dockman, topman, asphalt dust handler
CLASS F - Asphalt shoveler, or loader, asphalt palt misc., aze man, batch bin (no power), burlap man, carpenters helpers, subgrade labor (hand tools), yard man, guard rail builder's helper, highway and median barrier installer's helper, fence erector helper, dumper (wagon, truck, etc.), jetting labor, joint filling labor, misc. unskilled labor, powder monkey (helpers) sprinkler labor, form setting labor, pavement reinforcing, handling and placing (e.g. wire mesh, steel mats, dowell boards, etc.), masons or bricklayer tender on manholes, headwall, etc.

ZONE DEFINITIONS
ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw, & Wayne Counties
ZONE 2 - Allegan, Barry, Bay, Berrien, Branch, Clahoun, Cass, Clair, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Jackson, Kalamazoo, Lapeer, Lenawee, Livingston, Midland, Muskingum, St. Joseph Saginaw, Sanilac, Shiawassee, Tuscola, & van Buren
ZONE 2A - Ionia, Kent Montcalm, & Ottawa Counties
ZONE 3 - Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Geogebic Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, menominee, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Oscoda, Otesego, Presque Ilse, Roscommon, Schoolcraft, and Wexford Counties
ZONE 3A - Mecosta and Osceola Counties.

DECISION NO. MI78-2054

SW LAB OC

LABORERS: OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.54	.75	.60	.75	.04
CLASS 5	8.59	.75	.60	.75	.04
ZONE 2 - WASHTENAW & SOUTH EAST PART OF LIVINGSTON COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.78	.55	.35	.55	.04
CLASS 3	7.83	.55	.35	.55	.04
CLASS 4	7.88	.55	.35	.55	.04
CLASS 5	7.93	.55	.35	.55	.04
ZONE 3 - SANILAC, ST. CLAIR & MONROE COUNTIES					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.90	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04
ZONE 4 - JACKSON, HILLSDALE & LENAWEE COUNTIES					
CLASS 1	7.40	.55	.35	.55	.04
CLASS 2	7.50	.55	.35	.55	.04
CLASS 3	7.60	.55	.35	.55	.04
CLASS 4	7.65	.55	.35	.55	.04
CLASS 5	7.75	.55	.35	.55	.04
ZONE 5 - CLINTON, EATON, INGHAM, WESTERN PART OF LIVINGSTON & CITY OR PORTLAND IN IONIA COUNTY					
CLASS 1	7.00	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.20	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04

DECISION NO. MI78-2054 SW LAB OC

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OPEN CUT CONSTRUCTION ZONE 6 - GENESEE, LAPEER & SHIAWASSEE COUNTIES					
CLASS 1	7.50	.55	.55	.55	.04
CLASS 2	7.60	.55	.55	.55	.04
CLASS 3	7.70	.55	.55	.55	.04
CLASS 4	7.75	.55	.55	.55	.04
CLASS 5	7.85	.55	.55	.55	.04
ZONE 7 - SAGINAW, BAY, MIDLAND GRADITOT, TUSCOLA, ISABELLA, HURON, CLARE, GLADWIN, A RENAC, ROSCOMMON & OGEMA COUNTIES					
CLASS 1	7.65	.55	.35	.55	.04
CLASS 2	7.75	.55	.35	.55	.04
CLASS 3	7.85	.55	.35	.55	.04
CLASS 4	7.90	.55	.35	.55	.04
CLASS 5	8.00	.55	.35	.55	.04
ZONE 8 - BARRY, CALHOUN, BRNACH, ALLEGAN, KALAMAZOO, ST. JOSEPH, VAN BUREN, BERRIEN, CASS, MUSKEGON, OCEANA, NEWAGO, S.W. PART OF EATON TO CITY OF OLIVET & EASTERN PART OF LAKE COUNTY					
CLASS 1	6.65	.55	.35	.55	.04
CLASS 2	6.75	.55	.35	.55	.04
CLASS 3	6.85	.55	.35	.55	.04
CLASS 4	6.90	.55	.35	.55	.04
CLASS 5	7.00	.55	.35	.55	.04
ZONE 9 - OSCELA, MOCOSTA, KENT, MONTCALM, OTTAWA, IONIA (EXCEPT CITY OF PORTLAND) COUNTIES					
CLASS 1	6.10	.55	.35	.55	.04
CLASS 2	6.20	.55	.35	.55	.04
CLASS 3	6.30	.55	.35	.55	.04
CLASS 4	6.35	.55	.35	.55	.04
CLASS 5	6.45	.55	.35	.55	.04

DECISION NO. MI78-2054 SW LAB OC

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OPEN CUT CONSTRUCTION ZONE 10 - MANISTEE, MASON, EMMETT, CHEBOYGAN, ANTRIM, CHARLEBOIX, OTESGO, LEELANAU, BENZIE, GRAND TRAVERSE, KALKASKA, CRAWFORD, WEXFORD, MSISAUKEE, PRESQUE ISLE, MONTMORENCY, ALPENA, OSCODA, ALCONA & IOSCO COUNTIES					
CLASS 1	5.75	.55	.35	.55	.04
CLASS 2	5.85	.55	.35	.55	.04
CLASS 3	5.95	.55	.35	.55	.04
CLASS 4	6.00	.55	.35	.55	.04
CLASS 5	6.10	.55	.35	.55	.04
ZONE 11 - ENTIRE UPPER PENINSULA					
CLASS 1	6.77	.55	.35	.55	.04
CLASS 2	6.87	.55	.35	.55	.04
CLASS 3	6.97	.55	.35	.55	.04
CLASS 4	7.02	.55	.35	.55	.04
CLASS 5	7.07	.55	.35	.55	.04

LABORERS: OPEN CUT CONSTRUCTION

CLASS 1 - Construction Laborer
CLASS 2 - Mortar & Material Mixers, Concrete form man, Signal Man, Well Point Man, Manhole, Headwall & Catch Basin builder, Guard Rail Builders & Fence Erectors
CLASS 3 - Air, Gasoline, Electric Tool Opr., Vibrator Opers., Driller, Pumpman Tar Kettle Opr., Bracers, Rodder, reinforced Steel or mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench or Excavating Grade Man
CLASS 5 - Pipelayers (inclu. crock, metal pipe, multi-plate or other couduits)

DECISION NO. MI78-2054 SW LAB TSC

LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.64	.75	.60	.75	.04
CLASS 5	8.84	.75	.60	.75	.04
CLASS 6	9.09	.75	.60	.75	.04
ZONE 2 - ALL COUNTIES IN THE UPPER & LOWER PENINSULA OF MICHIGAN EXCLUDING WAYNE, OAKLAND, MACOMB, GENESEE, SHIAWASSEE & LAPEER COUNTIES					
CLASS 1	8.33	.55	.35	.55	.04
CLASS 2	8.41	.55	.35	.55	.04
CLASS 3	8.45	.55	.35	.55	.04
CLASS 4	8.61	.55	.35	.55	.04
CLASS 5	8.81	.55	.35	.55	.04
CLASS 6	9.06	.55	.35	.55	.04

DECISION NO. MI78-2054 SW LAB-TSC

LABORERS: TUNNEL, SHAFT & CIASSON CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3 - GENESEE, SHIA-WASSEE & LAPEER COUNTIES					
CLASS 1	8.13	.55	.55	.55	.04
CLASS 2	8.21	.55	.55	.55	.04
CLASS 3	8.26	.55	.55	.55	.04
CLASS 4	8.41	.55	.55	.55	.04
CLASS 5	8.61	.55	.55	.55	.04
CLASS 6	8.86	.55	.55	.55	.04

CLASS 1 - Tunnel, Shaft & Caisson Laborer, Dump Man, Shanty Man, Hog House Tender, Testing Man (on gas)

CLASS 2 - Manhole, Headwall, Catch Basin Builder, bricklayer tender, Mortar Man, Material Mixers, Fence Erector & Guard rail Builder

CLASS 3 - Air Tool Operator (Jackhammerman, brush Hammerman & Grinding Man) Forst Bottom Man, Second Bottom Man, Gage Tender, Car Pusher, Carrier Man, Concrete Man, Concreete form Man, Concrete Repair Man, Cement Invert Laborer, Cement Finisher, Concrete Shoveler, Conveyor Man, Floor Man, Gasoline & Electric Tool Operator, Gunnite Operator, Pump Man, Outside Lock tender, Scaffold Man, Top Signal Man, Switch Man, Track Man, Tugger Man, Utility Man, Winch Operator Concrete Saw Operator Under 40 H.P.)

CLASS 4 - Tunnel, Shaft & Caisson Mucker, Bracer, Man, Under plate Man, Long Haul Dinky driver & Well Point Man

CLASS 5 - Tunnel, Shaft & Caisson Miner, drill Runner, Keyboard Operator, Power Knife Operator, reinforced Steel or Mesh Man (Waire Mesh, sTeel Mats, Dowell Bars, ETc.)

CLASS 6 - dynamite Man & Powederman

DECISION NO. MI78-2054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE LABORERS:					
ZONE 1 Washtenaw, Genesee, Lapeer, Shiawassee, Oakland, Wayne, Monroe, Livingston, St. Clair & Macomb Counties					
ZONE 2 Remainder of Counties					
CLASS A Landscape Specialist, including air, gas, diesel, electric tool and/or equipment					
Zone 1	6.89				
Zone 2	6.57				
CLASS B Landscape Laborer, Truck Driver, Material Haulers & Small Power Equipment					
Zone 1	5.14				
Zone 2	4.82				

DECISION NO. MI78-2054 HWY LC Z-I & II

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - Huron, Lapeer, Macomb, Oakland, St. Clair, Sanilac, Tuscola & Wayne Counties; Ingham County - The townships of Leroy, Locke, Wheatfield, White Oak, & Williamson; Lenawee County - Townships of Clinton & Macon; Livingston County - All but the Townships of Tyrone, Cohoctah, Deerfield and Unadilla, Monroe County - all but the Townships of Bedford, Erie, Lasalle and Whiteford, Washtenaw - all but the Townships of Lyndon, Manchester, Sharon & Sylvan					
Linemen - Technician	12.59				
Cable Splicer	13.14				
Combination Equip. Operator Groundman	10.11	1.20	9%		½%
Combination Drivers - Groundman	9.72	1.20	9%		½%
Groundman	8.77	1.20	9%		½%
ZONE 2 - Remainder of State					
Linemen & Technician	11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger Operator-Tractor Operator					
1st 6 Months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment Operator; Groundman; Distribution Line Truck Driver Operator Groundman					
1st 6 Months	6.90	.45	3%	a	.5%
Over 6 Months	7.53	.45	3%	a	.5%
Combination winch Truck Driver Groundman					
1st 6 months	6.28	.45	3%	a	.5%
Over 6 Months	7.18	.45	3%	a	.5%
Combination Truck driver - Groundman	6.08	.45	3%	a	.5%

FOOTNOTE: a - 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day & Christmas Day.

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MICH-8-PEO-U-Z-1

POWER EQUIPMENT OPERATOR:
UNDERGROUND CONSTRUCTION

ZONE 1
*JURISDICTION BELOW

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power Shovel, crane (crawler, Truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging cpapcity), mechanic, endloader (over 1½ cu. yd. cap.), scraper sel-propelled or tractor drawn), dozer (9 blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equvalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant oper., concrete), backfiller tamper, well drilling rig, slip form paver, slope paver conveyor loader (euclid type) grader

CLASS II - Trencher (8' digging capacity & smaller), endloader 1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller or diesel powered or powered by generator of 300 amps or more - inclusive of other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors (600 cu. ft. per min or larger), pumpcrete machine (and similar equipment) (mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more-300 amp or larger - gas or diesel powered), pump (2 or more 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day - gas or diesel powered - ex cluding equipment, self propelled (6' wideor over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt, curing machine (self-propelled), concrete saw (40 H. P. or over)

*JURISDICTION: WAYNE, OAKLAND, MACOMB, MONROE, LENAWEE, HILLSDALE, BRANCH, CALHOUN, JACKSON, WASHTENAW, LIVINGSTON, INGHAM, EATON, CLINTON, SHIAWASSEE, GENESEE, LAPEER, ST. CLAIR, SANILAC, TUSCOLA, SAGINAW, GRATIOT, MIDLAND, BAY & HURON COUNTIES.

DECISION NO. MI78-2054

MICH-9-PEO-U Z-2

POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION
ZONE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power Shovel, crane (crawler, Truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging cpapcity), mechanic, endloader (over 1½ cu. yd. cap.), scraper sel-propelled or tractor drawn), dozer (9 blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equvalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant oper., concrete), backfiller tamper, well drilling rig, slip form paver, slope paver conveyor loader (euclid type) grader

CLASS II - Trencher (8' digging capacity & smaller), endloader 1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller or diesel powered or powered by generator of 300 amps or more - inclusive of other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors (600 cu. ft. per min or larger), pumpcrete machine (and similar equipment) (mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more-300 amp or larger - gas or diesel powered), pump (2 or more 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day - gas or diesel powered - ex cluding equipment, self propelled (6' wideor over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt, curing machine (self-propelled), concrete saw (40 H. P. or over)

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MICH-10-PEO-3

POWER EQUIPMENT OPERATORS: Wayne, Monroe, Washtenawu, Oakland, Macomb & Genesee	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
HIGHWAY CONSTRUCTION					
CLASS 1	10.26	.80	1.00	10%	.05
CLASS 2	10.04	.80	1.00	10%	.05
CLASS 3	9.58	.80	1.00	10%	.05
CLASS 4	9.45	.80	1.00	10%	.05

CLASS 1 - Asphalt plant, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile driver, roller (asphalt), blade grader, trenching mach. (ladder ro wheel), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loader (euclid type), endloader (1 yd. & over), bulldozer, hoisting Eng., tractor, finishing (asphalt), mechanic, pump (6" discharge or over, gas, diesel powered or generator 300 amp or more), shouldering or gravel dist. Mach. (self- propelled), backhoe (over 3.8 yd. bucket), side boom tractor (type D-4 or larger), tube finisher (slip form paving), gradall & similar mach., self-propelled asphalt planer, concrete batch plant, asphalt slurry Mach., self-propelled asphalt paver, concrete pump 3" and over

CLASS 2 - Sweeper (wayne type & similar equip.), screening plant, washing plant, crusher, backhoe (3/8 yd. bucket or less), side boom tractor (smaller than D-4 or equvilent

CLASS 3 - Air compressor (600 cu. ft. per min or more), air compressor (2 or more less than 600 cfm), wagon drill, concrete breaker, farm tractor w/attachments.

CLASS 4 - Oiler, firemen, Mechanic helper, Trencher (service), flecplanes, cleftpanne, graders selfpropelled fine grade form (concrete), concrete finishing Mach., boom or winch hoist truck, endloader under 1 yd. cap., roller (other than asphalt), curing equipment (self-propelled), concrete saw 40 HP up, power bin, asphalt plant driver, vibratory compaction equip., power driver guard post driver, mulching equipment, stump remover, boiler firemen, concrete pump under 3", self propelled mesh installer, farm type tractor

DECISIN NO. MI78-2054

MICH-11-PEO-3

POWER EQUIPMENT OPERATORS: Remainder of State Zone 2	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Highway Construction					
CLASS 1	10.23	.80	1.00	10%	.05
CLASS 2	9.92	.80	1.00	10%	.05
CLASS 3	9.46	.80	1.00	10%	.05
CLASS 4	9.21	.80	1.00	10%	.05

CLASS 1 - Asphalt plant, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile driver, roller (asphalt), blade grader, trenching mach. (ladder ro wheel), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loader (euclid type), endloader (1 yd. & over), bulldozer, hoisting Eng., tractor, finishing (asphalt), mechanic, pump (6" discharge or over, gas, diesel powered or generator 300 amp or more), shouldering or gravel dist. Mach. (self- propelled), backhoe (over 3.8 yd. bucket), side boom tractor (type D-4 or larger), tube finisher (slip form paving), gradall & similar mach., self-propelled asphalt planer, concrete batch plant, asphalt slurry Mach., self-propelled asphalt paver, concrete pump 3" and over

CLASS 2 - Sweeper (wayne type & similar equip.), screening plant, washing plant, crusher, backhoe (3/8 yd. bucket or less), side boom tractor (smaller than D-4 or equvilent

CLASS 3 - Air compressor (600 cu. ft. per min or more), air compressor (2 or more less than 600 cfm), wagon drill, concrete breaker, farm tractor w/attachments.

CLASS 4 - Oiler, firemen, Mechanic helper, Trencher (service), flecplanes, cleftpanne, graders selfpropelled fine grade form (concrete), concrete finishing Mach., boom or winch hoist truck, endloader under 1 yd. cap., roller (other than asphalt), curing equipment (self-propelled), concrete saw 40 HP up, power bin, asphalt plant driver, vibratory compaction equip., power driver guard post driver, mulching equipment, stump remover, boiler firemen, concrete pump under 3", self propelled mesh installer, farm type tractor

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SIGN INSTALLERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A					
Performs all necessary labor and uses all tools & equipment required to construct & set concrete forms required in the installation of highway street signs:					
ZONE 1	8.32	a20.00	a22.00	.15	
ZONE 2	7.73	a20.00	a22.00	.15	
CLASS B					
Performs all miscellanious labor, uses all hand and power tools and operates all other equipment mobile or otherwise, required for the complete installation of highway and street signs:					
ZONE 1	8.07	a20.00	a22.00	.15	
ZONE 2	7.48	a20.00	a22.00	.15	

FOOTNOTE:

a. Per week Per employee

ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw & Wayne
ZONE 2 - Remainder of State

DECISION NO. MI78-2054 MICH-SWH-TD

TRUCK DRIVERS - HIGHWAY CONST. ZONE 1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Genesee, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw & wayne					
CLASS 1	9.93	a29.50	a31.00	.45	
CLASS 2	10.03	a29.50	a31.00	.45	
CLASS 3	10.18	a29.50	a31.00	.45	
ZONE 2					
Remainder of State					
CLASS 1	9.83	a29.50	a31.00	.45	
CLASS 2	9.93	a29.50	a31.00	.45	
CLASS 3	10.08	a29.50	a31.00	.45	

TRUCK DRIVERS - ZONES 1 & 2

CLASS 1 - Truck driver (on all trucks except dump trucks of 8 cubic yds. capacity or over, tandem axle trucks, transit mix and semis, euclid type equipment, double bottoms and low boys)

CLASS 2 - Truck drivers on dump trucks of 8 cubic yards capacity or over (including tandem axle trucks, tandem axle water trucks, transit mix and semis.)

CLASS 3 - Euclid type equipment, double bottoms and low boys for hauling heavy equipment.

FOOTNOTE:
a. Per week, Per employee

DECISION NO. MI78-2054

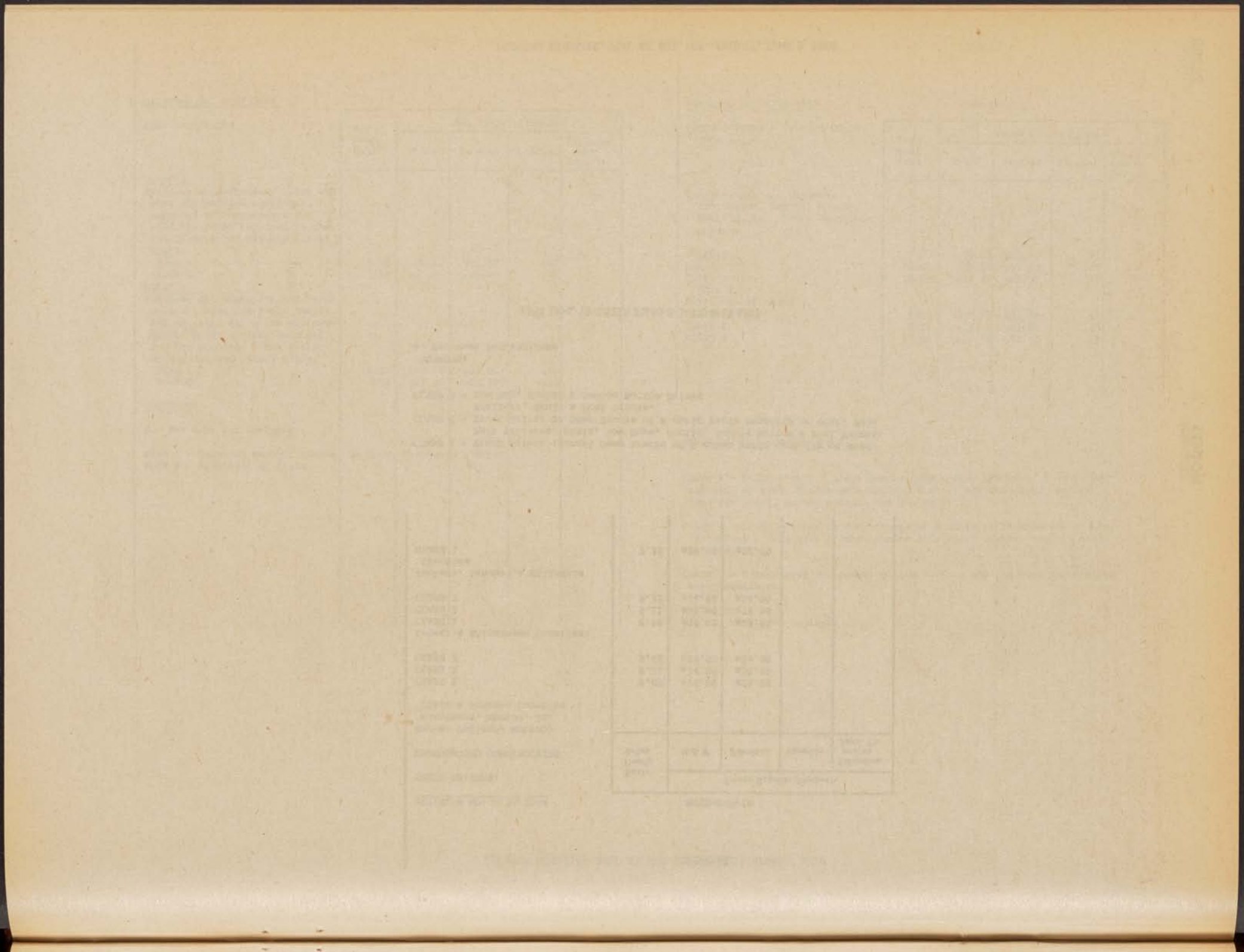
MICH-SWH-TD

TRUCK DRIVERS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne, Oakland, Macomb, Washtenaw, Monroe, St. Clair & Genesee Counties					
CLASS 1	9.08	a24.00	a28.00		
CLASS 2	9.21	a24.00	a28.00		
CLASS 3	9.41	a24.00	a28.00		
Lapeer & Shiawassee Counties:					
CLASS 1	8.98	a24.00	a28.00		
CLASS 2	9.11	a24.00	a28.00		
CLASS 3	9.31	a24.00	a28.00		
Jackson, Lenawee & Hillsdale Counties					
CLASS 1	7.30	a19.00	a22.00		

CLASS 1 - Truck driver (except dump trucks of 8 cubic yards capacity or over, Pole Trailers, Semis, Low Boys, euclid, Double Bottom & Fuel Trucks.
CLASS 2 - Truck Driver on Dump Trucks of 8 cubic yards capacity or over, Pole Trailers, Semis & Fuel Trucks.
CLASS 3 - Low Boy, Euclid & Double Bottom Driver

FOOTNOTE:
a. Per week Per employee

[FR Doc. 78-15235 Filed 6-1-78; 8:45 am]



Federal Register

FRIDAY, JUNE 2, 1978
PART III

IMPROVING GOVERNMENT REGULATIONS

Proposals for Implementing Executive Order 12044

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Office of Management and Budget 24219
Pennsylvania Avenue Development Corporation 24213

PREVIOUSLY PUBLISHED PROPOSALS

Listed below are other documents on implementation of Executive Order 12044 previously published in the FEDERAL REGISTER:

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National Credit Union Administration	May 31	23688
Transportation Department	June 1	23925

CORRECTION OF FILE LINES ON PREVIOUSLY PUBLISHED PROPOSALS

The file lines for the following agencies' documents are corrected as indicated below:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.	Correct File Line
Equal Employment Opportunity Commission.	May 25	22611	FR Doc. 78-14710 Filed 5-22-78; 5:04 pm.
Health, Education, and Welfare Department.	May 30	23169	FR Doc. 78-14597 Filed 15-22-78; 2:06 pm.
Housing and Urban Development Department.	May 25	22601	FR Doc. 78-14620 Filed 5-22-78; 2:08 pm.
Labor Department	May 26	22921	FR Doc. 78-14591 Filed 5-22-78; 12:21 pm.
Postal Service	May 25	22588	FR Doc. 78-14583 Filed 5-22-78; 10:23 am.
Renegotiation Board	May 30	23198	FR Doc. 78-14849 Filed 5-24-78; 10:34 am.
Water Resources Council.	May 30	23199	FR Doc. 78-14885 Filed 5-24-78; 2:52 pm.

[7630-01]

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

IMPROVING GOVERNMENT REGULATIONS IN ACCORDANCE WITH EXECUTIVE ORDER NO. 12044

Request For Public Comment

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Request for public comment.

SUMMARY: The Pennsylvania Avenue Development Corporation proposes these procedures for development of regulations in accordance with Executive Order No. 12044, Improving Government Regulations (43 FR 12661, March 24, 1978). The proposal establishes procedures for developing both significant and nonsignificant new regulations, for drafting a regulatory analysis, and for reviewing existing regulations. Comments are solicited on: (1) whether the proposal is easy to read and understand, and (2) whether the procedures are an effective and efficient means of complying with Executive Order No. 12044.

DATE: Submit comments by August 1, 1978.

ADDRESS: Send comments to Peter T. Meszoly, General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street NW., Suite 1148, Washington, D.C. 20004, 202-566-1078.

FOR FURTHER INFORMATION CONTACT:

Mary M. Schneider, Attorney, Office of General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004, 202-566-1078.

The proposal reads as follows:

I. Policy

It is the policy of the Pennsylvania Avenue Development Corporation to develop regulations that achieve legislative goals in an effective and efficient manner. To ensure effectiveness, regulations will be clearly and simply written. The Corporation's planning and development jurisdiction is limited to a 21-square block area in downtown Washington, D.C. The Corporation prepared and is implementing the congressionally approved "Pennsylvania Avenue Plan—1974." It is not expected that the Corporation's activities will require development of significant regulations. However, in developing any regulations, the Corporation will consider the efficiency of proposed procedures and seek to avoid unnecessary burdens on the economy and on individuals and organizations who must comply with the regulations. In addition, the Corporation recognizes the importance of public participation in the regulatory process and will maximize opportunities for public participation.

II. Procedure for Developing Regulations

A. PRELIMINARY PROCEDURES

1. Any division of the Corporation proposing a regulation shall notify the Executive Director and the General Counsel of its intent. This notification may be made orally at the weekly Senior Staff meeting, or may be in writing. The notification shall include a brief statement of the purpose for the proposed regulation.

2. The Executive Director or the General Counsel will determine whether the proposed regulation is a significant regulation that meets the criteria in section B, below. This determination shall be in writing addressed to the division supervisor proposing the regulation. Whether a regulation is significant or not will determine the procedure to be followed in developing the regulation.

3. As soon as a proposed regulation is determined to be significant, it will be placed on the Corporation's agenda of significant regulations. This agenda will be reviewed by the Executive Director and published in the Federal Register in October and April of every year.

4. The semiannual agenda will describe the significant regulations being considered, the need and legal basis for the regulations, and the status of regulations listed on any previously published agenda. The name, office address, and telephone number of the persons assigned to prepare each regulation will be included in the agenda.

B. DETERMINATION OF SIGNIFICANT REGULATIONS

A proposed regulation will be considered significant if the proposal either has a significant economic impact outside the Corporation's area, or imposes a compliance or reporting requirement on a significant number of individuals or groups outside the Corporation's area.

C. DEVELOPMENT OF SIGNIFICANT REGULATIONS

1. If a regulation is significant, the division proposing the regulation will assign at least one person to develop the regulation. This person(s) will work closely with an attorney assigned by the General Counsel.

2. This team will draft an outline of the proposed regulation, and submit it with a report to the Executive Director and the General Counsel describing: (i) Issues to be considered; (ii) alternative approaches to be explored; (iii) a proposal for obtaining public comment; and (iv) a schedule for completion of various steps in the development of the regulation.

3. The Executive Director or the General Counsel will then determine whether a regulatory analysis is required. The team will prepare a regulatory analysis in accordance with section III if one is required.

4. The Executive Director or the General Counsel will choose the alternative and make necessary policy determinations based on the outline and draft report, and any required regulatory analysis.

5. The team will draft regulations based on the Executive Director's or General Counsel's determinations, and submit a final draft for comment to the General Counsel and the supervisor of the division that had proposed the regulation. The Executive Director will approve publication of the regulation in the Federal Register.

6. Upon approval, the General Counsel will transmit the regulation to the Federal Register and will allow 60 days for public comment, or fully explain the extraordinary circumstances that require a shorter comment period. Comments will be solicited on whether the regulation is easy to read and understand as well as on the substantive content.

7. At the close of the public comment period, the team members will analyze the comments received, and revise the regulation where appropriate. The revised final regulation will be submitted for comment to the General Counsel and the supervisor of the division that had proposed the regulation.

8. The final regulation will be approved by the Executive Director and transmitted by the General Counsel to the Federal Register for publication.

D. DEVELOPMENT OF NONSIGNIFICANT REGULATIONS

1. If a regulation is not considered significant, the division proposing the regulation will assign one person to develop the regulation, and to work closely with an attorney assigned by the General Counsel.

2. This team will develop and publish the regulation in the Federal Register. The notice will provide at least 30 days for public comment and will include a statement explaining why the regulation is not considered significant.

3. At the close of the comment period, the team will analyze the comments and revise the regulation where appropriate.

4. The revised final regulation will be submitted to the General Counsel, who will transmit it to the Federal Register for publication.

III. Analysis of Regulations

1. All proposed significant regulations will be considered by the Execu-

tive Director or the General Counsel to determine if a regulatory analysis is required. The determination will include a consideration of the extent to which the proposal has a major impact on the general economy. The draft report required in section II. C. 2. will assist in making this determination.

2. If a regulatory analysis is required, it shall include:

(a) A brief statement of the problem to be addressed.

(b) A description of major alternatives considered by the agency in dealing with the problem.

(c) An analysis of the economic consequences of each of the alternatives considered.

(d) An explanation of the reasons for recommending one alternative over the others.

3. Public notice of proposed regulations will provide an explanation of the contents of any regulatory analysis and information on how the public may obtain a copy of the regulatory analysis.

IV. Review of Existing Regulations

Because the Corporation has a small body of regulations, it will review any complaints or suggestions pertaining to existing regulations in September and March each year and review the regulations that were the subject of comments to determine:

1. The continued need for the regulation.

2. The burdens on those affected by the regulation.

3. The need to clarify language used in the regulation.

4. The need to simplify or change the procedures described in the regulation.

5. The degree to which changes in technology, economic conditions, or other factors affect the regulation.

Dated: May 30, 1978.

Peter T. Meszoly,
Acting Executive Director.

[FR Doc. 78-15284 Filed 5-30-78; 10:57 am]

[3128-01]

DEPARTMENT OF ENERGY

IMPROVING ENERGY REGULATIONS

Public Meetings

AGENCY: Department of Energy.

ACTION: Request for public participation.

SUMMARY: The Department of Energy (DOE) is issuing this notice to obtain public participation in its meetings on Improving DOE Regulations.

DATES: Los Angeles, June 12, 1978; Houston, June 14, 1978; Minneapolis, June 20, 1978; Washington, D.C., June 22, 1978.

TIME: 2-5 p.m. and 7-9 p.m., all locations.

LOCATIONS: Los Angeles Convention Center, Room 207, 1201 South Figeroa, Los Angeles, Calif.; Rice University, Mechanical Lab Building, Room 254, 6100 South Main Street, Houston, Tex.; Federal Court House, 1110 South 4th Street, Room B-15, Minneapolis, Minn.; Economic Regulatory Administration, 2000 M Street NW., Room 2105, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Rue Dann (DOE Public Affairs), 1200 Pennsylvania Avenue NW., Room 3107, Washington, D.C. 20461, 202-566-9833.

Gracie Hemphill (DOE Policy and Evaluation), 1200 Pennsylvania Avenue NW., Room 4324, Washington, D.C. 20461, 202-566-3005.

Thomas B. DePriest (DOE Office of General Counsel), 1200 Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION: I. Background, II. Comments Requested, and III. Meeting Procedure.

I. Background

On April 25, 1978, the DOE issued a request for public comment (43 FR 18634, May 1, 1978) on its proposals for improving energy regulations in response to President Carter's Executive Order No. 12044, Improving Government Regulations (43 FR 12661, March 24, 1978). As we noted in the request for public comment, the Secretary of Energy supports the President's efforts, especially as they will increase public participation in DOE regulatory decisionmaking. Greater public participation in energy policymaking can lead to an increased awareness of the need for conservation and development of renewable energy resources. These meetings which we are announcing are only the DOE's initial contacts with members of the public to discuss regulatory reform issues. In this first set of meetings, we have selected four sites which we believe will provide us with a good cross-section of public opinion. We plan to schedule further discussions on future occasions as part of our continuing dialog with the public on regulatory reform.

II. Comments Requested

We are inviting anyone who is affected by our regulatory programs to participate in one of our discussions on Improving DOE Regulations. We are especially requesting the participation of the industries we regulate (including the small businesses which must comply with our regulations), State and local governments whose plans and policies relate to our regulatory programs, public institutions that are significant energy consumers like hospitals and schools, representatives of minority communities, senior citizens, and other energy consumers.

Anyone who participates in these meetings may suggest related subjects for discussion, but we would like to explore the following items at each of these meetings:

1. What do our regulations cost industry?
2. What do our regulations cost the public?
3. Which of our regulations are especially difficult to understand?
4. Which of our regulations impose a heavy compliance burden or a heavy reporting burden?
5. Which of our regulations reduce competition in industry?
6. Which of our regulations complicate the work of State or local governments?
7. Which of our regulations reduce public participation in our regulatory decisionmaking?
8. How can we expand public participation in regulatory decisionmaking?
9. Are there any special issues we should consider as we implement our 15 current regulatory reform initiatives? We discussed these initatives in our Request for Public Comment.
10. What regulatory reform initiatives should we next pursue?

III. Meeting Procedure

These public meetings will be informal discussions. A panel of DOE representatives from the Economic Regulatory Administration, the Office of Policy and Evaluation, the Office of Intergovernmental and Institutional Relations, and other interested offices will participate in each discussion. The afternoon and evening meetings at each location will follow the same agenda and will open with the prepared statements of those who wish to present them. If you want to present a statement, address your request to Regulatory Reform Public Meetings, Public Hearing Management, 2000 M Street NW., Room 2313, Box TT, Washington, D.C. 20461. In your letter, be sure you indicate the location of the meeting you will attend, whether you plan to attend in the afternoon or in the evening, and a phone number we can use to contact you through the last business day before the meeting you plan to attend. In addition, since we may have to limit the number of people who can make such presentations so that we allow time for the discussion, you should describe your interest in Improving DOE Regulations and why you are a proper representative of a group or class of persons that has such an interest. Also, you should give a concise summary of your prepared oral statement.

If we select you to present your prepared statement, we will notify you by 4:30 p.m., on the last business day before the meeting. You will not have to distribute multiple copies of your statement, but it will be helpful to the other participants if you do.

After the prepared statements, the panel members will accept questions from anyone at the meeting. You may introduce at that time any additional topic that is related to the discussion. We will forward each question that panel members cannot answer to the appropriate DOE official, who will respond by telephone. (We will include each of these responses in the transcript.)

We will prepare a transcript of each of these discussions and make it available to the public. We will accept written comments on that transcript or on our original request for public comment.

We have scheduled evening meetings at each location so that members of the public who might otherwise be unable to participate can do so. If you have any questions about the format, the agenda, or the topics under consideration at any of these meetings, you should contact Gracie Hemphill at the address listed above.

Issued in Washington, D.C., May 26, 1978.

John F. O'Leary,
Deputy Secretary,
Department of Energy.

[FR Doc. 78-15285 Filed 5-30-78; 11:02 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

IMPROVING NSF REGULATIONS

Draft Report in Response to Executive Order No. 12044, "Improving Goverment Regulations"

AGENCY: National Science Foundation.

ACTION: Request for public comment.

SUMMARY: The National Science Foundation is publishing this draft report for public comment as required by Executive Order 12044. It discusses the scope of NSF regulations, the procedure for formulating rules, and procedural changes under consideration in response to Executive Order 12044.

DATE: Please provide comments by August 31, 1978.

ADDRESS: Send comments to Office of General Counsel, Attn.: Mr. Jesse E. Lasken, National Science Foundation, Washington, D.C. 20550, 202-632-4393.

FOR FUTHER INFORMATION CONTACT:

Mr. Lasken.

Draft Report Required by Section 5 of Executive Order 12044

INTRODUCTION

Section 5 of Executive Order 12044 requires each agency to review its existing process for developing regulations and to prepare a report describing that process and any changes planned in order to comply with the criteria set forth in the Executive Order. This draft report provides this information for the National Science Foundation.

Scope of NSF Regulations and the Process By Which They Are Made

NSF is not a regulatory agency. Hence, its regulations and rules, other than those dealing with internal agency management or personnel matters, are generally concerned with the processing and administration of grants and other awards for the support of scientific research, science education programs, science policy analysis and similar activities, primarily at universities and other nonprofit organizations. Some of these are published in the Code of Federal Regulations (CFR). Most, however, are contained in the NSF Grants Policy Manual which, while published in the Federal Register, is not in CFR format. NSF also has a system of intenal issuances as set forth in NSF Circular No. 1. Most of these deal with internal matters, but some establish policies that may impact on recipients of NSF awards. Most such policies, however, are normally reflected in the Grants Policy Manual.

The Grants Policy Manual was published in the Federal Register in draft form for public comment. Drafts were also widely circulated to interested university groups. Revisions will also be made available for public comment by Federal Register publication and by other means.

Any regulations intended for publication in the Code of Federal Regulations are also published for comment in the Federal Register before they are made final.

NSF regulations and rules are normally cleared throughout the Foundation and reviewed or signed by the Director.

The National Science Foundation's policies and activities, unlike those of other Federal agencies, are subject to the review of a 25-member National Science Board appointed by the President. The Board includes persons who come from most of the groups affected by NSF programs and policies. The Board thus acts as a further check to ensure that NSF rules and regulations are reasonable.

Changes in the NSF Rule Making Process as a Result of Executive Order 12044

The Foundation believes that its rule making procedures substantially comply with the requirements of Executive Order 12044, and that no significant procedural changes are required. However, more formal documentation will be required. As part of the normal review process the Office of General Counsel and the Assistant Director for Administration will both review for compliance with specific Executive Order 12044 requirements.

NSF proposes to issue a new internal circular, as set forth in Appendix A to this draft report, to implement the Executive Order.

Proposed New Criteria for Defining Significant Agency Regulations

The Foundation believes that section 2(d) of Executive Order 12044 basically formalizes what the Foundation has generally sought to accomplish. Accordingly, rather than attempt to draw arbitrary distinctions, the draft circular includes broad definitions of "significant" and "nonsignificant" regulations and a requirement that the NSF Management Council review each proposed regulation within the scope of Executive Order 12044 to determine whether it is significant or nonsignificant.

Proposed Criteria for Identifying Regulations Requiring Regulatory Analysis

Given the nature of our programs and the recipients of NSF awards, we do not believe any of our regulations will have sufficient economic impact to require the formal regulatory analysis described in section 3 of Executive Order 12044. For example, NSF was exempted from the requirements of OMB Circular 107. Hence, we have no plans to develop formal criteria.

Review of Exisitng Regulations

Because NSF regulations are few, specific criteria for review of existing regulations seem superfluous. NSF will review all of its regulations periodically on a cycle of two to three years. Its regulations at 45 CFR Part 612 are presently under review. Its regulations at 45 CFR Parts 610, 630, and 635 will be reviewed during 1978 to see whether they are still needed.

Appendix A to NSF Draft Report—National Science Foundation, Office of the Director, Washington, D.C. 20550

NSF CIRCULAR NO.

Administration and Mangagement

Subject: Procedures for the development and approval of NSF regulations.

1. *Purpose.* This circular establishes procedures for initiating new or changing existing NSF regulations which impact on grantees, principal investigators and others outside the Government. It also implements the requirements of Executive order 12044, "Improving Government Regulations," dated March 23, 1978.

2. *Scope.* This circular applies to all NSF regulations except those dealing with NSF management or personnel or NSF procurements and those deter-

mined to fall within section 6(b) (1) or (2) of Executive Order 12044. This Circular does not apply to the publication of program brochures, announcements, program solicitations, or descriptive or informational literature that merely reflect regulations authoritatively published elsewhere.

3. *Policy.* The procedures described in paragraph 5. must be followed prior to the issuance of any NSF regulation that may affect the manner in which recipients or potential recipients of NSF awards conduct the administration of such awards. In particular, these procedures must be followed in proposing and promulgating regulations proposed for publication in the Code of Federal Regulations or the NSF Grant Policy Manual and similar issuances that apply to most NSF award Recipients.

4. *Definitions.* a. Significant regulations are those which are determined by NSF to have a major impact on NSF grantees, principal investigators and others outside the government.

b. Nonsignificant regulations are those which are determined by NSF to be merely technical amendments of an existing regulation or a regulation of minor consequence.

5. *Procedures.*—a. *Initiating a new or amending an existing NSF regulation.* When it becomes necessary to initiate a new or amend an existing regulation which is within the scope of this Circular, the initiating office should prepare a proposed draft or outline of the regulation or amendment. The draft, along with a memorandum explaining why the regulation or amendement is needed, the direct or indirect effects of the regulation and alternative approaches (if any) under consideration, should be forwarded by th appropriate Assistant Director or other offical reporting to the Director to the Chairman of the Management Council for action.

b. *Management Council action.* The Management Council will review the proposed regulation and accompanying documentation and will make an initial determination as to whether the regulation or amendment is significant or non-significant.

(1) *Significant regulation or amendment.* If the Management Council determines that the proposed regulation or amendment is significant, the initiating office will prepare a memorandum to the Director and Executive Council via the Chairman of the Management Council out-lining tentative plans for obtaining public comment on the regulation and target dates for completion of the various steps in the development of the regulation. In addition, this memorandum should include a tentative plan for evaluating the regulation after its issuance. In most cases this evaluation need not be elaborate or formal. It may consist of nothing more than a plan for staying informed of grantee reactions and experience under the regulation. The initial memorandum to the Management Council discussed in paragraph 5.a., along with any Management Council comments or suggestions, should be included in the material forwarded to the Director and Executive Council.

(2) *Nonsignificant regulations or amendment.* If the Management Council determines that the proposed regulation or amendment is non/significant, it may approve the implementation of the new or amended regulation without further review by the Director or the Executive Council.

c. *Director's initial approval and public participation.* If the Director, after reviewing the proposal and with the advice of the Executive Council, agrees with the Management Council's determination that the regulation or amendment is both necessary and significant, arrangements will be made for giving the public maningful opportunity to comment on such regulations or amendments. The proposed regulation will be published in the FEDERAL REGISTER for public comment. In the case of an unusually lengthy item, however, notice on where the complete document can be obtained may be published in the FEDERAL REGISTER. Normally, at least 60 days should be allowed for public comment. Depending on the importance and potential impact of the regulation consideration will also be given to holding open conferences or public hearings, sending notices of proposed regulations to publications likely to be read by those affected, and notifying interested parties or associations of interested parties directly.

d. *Director's final approval and issuance of significant regulations.* After receiving and considering comments received from the public on the proposed new regulation or amendment, a final draft will be prepared for the Director's approval. If the Director approves the final draft of the regulation or amendment, he will sign the following determination statement:

DETERMINATION ON NEED FOR REGULATION

I, ————————, Director of the National Science Foundation, have determined as required by Executive Order 12044 that the regulation ———————— (title of regulation) (1) is needed; (2) that its direct and indirect effects have been adequately considered; (3) that alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen; (4) that public comments have been considered and an adequate response has been prepared; (5) that the regulation is written in plain English and is understandable to those who must comply with it; (6) that an estimate has been made of the new reporting burdens or record keeping requirements (if any) necessary for compliance with the regulation; (7) that the name, address and telephone number of a knowledgeable agency official is included in the publication; and (8) that a plan for evaluating the regulation after its issuance has been developed.

Signature and date.

Once the Director has given his final approval for the issuance of significant regulations or amendments, they will be published in the appropriate publication i.e., FEDERAL REGISTER, Code of Federal Regulations, Grant Policy Manual, etc.

6. *Emergency waiver.* Procedures outlined in paragraph 5. for initiating a new or changing an existing regulation may be waived by the Director in whole or in part if he determines that a regulation is being issued in response to an emergency or under short-term statutory or judicial deadlines. Where the Director makes such a determination a statement of the reasons for it shall be published in the FEDERAL REGISTER.

7. *Periodic review of published regulations.* The Assistant Director for Administration shall be responsible for the periodic review of the need for existing published regulations of the Foundation. He shall also be responsible for the preparation of the schedule and agenda required by sec. 2(a) of Executive Order 12044.

Issued in Washington, D.C., May 22, 1978.

RICHARD C. ATKINSON,
Director.
CHARLES H. HERZ,
General Counsel,
National Science Foundation.

[FR Doc. 78-15351 Filed 5-30-78; 12:06 pm]

[4710-02]

AGENCY FOR INTERNATIONAL DEVELOPMENT

Response to Executive Order No. 12044, Improving Government Regulations

IMPROVING A.I.D. REGULATIONS

AGENCY: Agency for International Development.

ACTION: Request for public comment.

SUMMARY: The Agency for International Development (A.I.D.) is publishing this report to obtain public comment on its proposed implementation of Executive Order No. 12044, Improving Government Regulations (43 FR 12661, March 24, 1978). The report covers our process for developing regulations; criteria for defining significant regulations and identifying those which require regulatory analyses; criteria for selecting existing regulations to be reviewed; and a list of regulations to be included in the initial review.

DATE: Comments should be submitted by June 30, 1978.

ADDRESS: Send comments to: Office of Management Planning, Agency for International Development, Washington, D.C. 20523.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard F. Calhoun, Office of Management Planning, Agency for International Development, 202-632-9726.

I. Background

In response to the Executive Order, A.I.D. is adopting procedures for the development and review of its regulations which affect the public, provide for early citizen participation where appropriate, and assure that our regulations are written simply and clearly.

As a foreign affairs agency without domestic programs, A.I.D. currently maintains only 13 regulations which affect the U.S. public. All are considered to be "significant" in terms of Section 2.(e). of the Executive Order but none appears to require "Regulatory Analysis" as described in Section 3. Since A.I.D. programs are not directed to U.S. State or local governments, we do not have any regualtions or special procedures which apply to them.

II. Policy

It shall be A.I.D. policy to insure that our existing and future regulations serve a clearly established purpose, are periodically reviewed by policy officials, minimize the impact of cost and paperwork on the public, be submitted for early public comment wherever possible, and be drafted as concisely and clearly as possible.

III. Process for Developing Regulations

A.I.D. Regulations or amendments to them are drafted and cleared within A.I.D. by the office having responsibility for the subject matter concerned. After approval by the Administrator of the Agency, or duly designated official, they are published in the Federal Register, in accordance with the Administrative Procedure Act, and codified in the Code of Federal Regulations (CFR). They are also published in the A.I.D. directives system.

We plan to modify our procedures to include early solicitation of public comment in the Federal Register for proposed amendments to existing regulations and new regulations, whenever appropriate in accordance with the Executive Order. We plan to establish a schedule by which each of our regulations will be reviewed triennially. We also intend to review our internal directives to determine whether they contain any material which ought to be made more readily available to the public in the Federal Register. As indicated, the Administrator of the Agency, or the duly designated official, shall approve regulations before they are published as final rules. At a minimum, this official will determine that:

—the regulation is needed and its effect considered;

—alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

—public comments have been considered, where appropriate, and an adequate response has been prepared;

—the regulation is written in plain English and is understandable to those who must comply with it;

—an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulations;

—the name, address and telephone number of a knowledgeable Agency official are included in the publication; and

—a plan for evaluating the regulation after its issuance has been developed.

An agenda listing any proposed new or amended regulations and existing regulations under review will be published semiannually in the Federal Register. The agenda will include an explanation of the need for the action and a contact person in the Agency.

IV. Criteria for Determining Significant Regulations

Although we are defining all present A.I.D. regulations as "significant," the following preliminary criteria will be used for determining if future regulations should be so defined:

—the number of individuals, organizations, and businesses affected;

—the ease or complexity of compliance;

—the economic effects;

—overlap with regulations of other agencies/programs;

—whether the regulation does or would contain important foreign policy considerations; and

—whether it is/would be a major concern to the President, Congress, U.S. private sector.

V. Regulatory Analyses

We propose to adopt the criteria stated in Section 3(a)(1) of the Executive Order to identify which regulations require "Regulatory Analysis." None of the existing A.I.D. Regulations appears to fall within these criteria.

VI. Criteria for Selecting Existing Regulations to be Reviewed

In accord with our proposed triennial review procedure, we will initially examine five regulations, using the following criteria and any other special considerations as may develop:

—whether it is still needed;

—whether it can be shortened, simplified or clarified;

—whether reporting or other requirements are still necessary or can be modified or eliminated; and

—whether there is any inconsistency with current statutory requirements.

Regulations to be included in our initial review early in 1979 are:

(2) Overseas Shipment of Supplies by Voluntary Nonprofit Relief Agencies.

(5) Per Diem Payments to Participants in Nonmilitary Mutual Security Training Programs.

(8) Suppliers of Commodities and Commodity-related Services Ineligible for A.I.D. Financing.

(11) Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance (P.L. 480, Title II).

(14) Advisory Committee Management.

John J. Gilligan,
Administrator, Agency for International Development.

May 26, 1978.

[FR Doc. 78-15494 Filed 5-31-78; 2:44 pm]

OFFICE OF MANAGEMENT AND BUDGET

IMPROVING GOVERNMENT REGULATIONS

AGENCY: Office of Management and Budget.

ACTION: Request for public comments.

SUMMARY: This document lists agencies that have not published reports implementing Executive Order 12044 and the reasons why the agencies are not publishing reports. OMB is asking for public comment on these reasons. OMB also points out opportunities for comment on agency reports already published in the FEDERAL REGISTER.

DATES: Comments must be received: For agency reports, see comment dates in individual agency reports. For agencies not issuing a report, comments must be received on or before August 1, 1978.

ADDRESSES: For agency reports, see individual reports. For agencies not issuing a report, send comments to: Wayne Granquist, Associate Director for Management and Regulatory Policy, Room 244, Executive Office Building, Washington, D.C. 20503.

The Office of Management and Budget encourages members of the public to comment on agency plans to implement Executive Order 12044, Improving Government Regulations. A complete schedule of when agency plans were published in the FEDERAL REGISTER may be found on the inside cover of this part III. Interested members of the public have 60-days from the publication date to review and comment on the plans.

This process offers the public a unique and unprecedented opportunity to comment on the procedures by which agencies will develop their regulations. The procedures which an agency follows to develop its regulations has a substantial effect on the form and substance of a final regulation. Members of the public are not ordinarily asked to comment on agency procedures. However, because regulations play an important role in people's lives, we believe the public should be afforded the opportunity to participate in the design of new procedures governing the development and issuance of regulations.

In reviewing the agencies' plans, the public may especially wish to consider the following questions:

(1) Do the proposed procedures assure that the public will have ample opportunity for early and meaningful involvement in the development of regulations?

(2) Do the proposed procedures assure that top-level policy officials will be accountable for the agency's regulations?

(3) Will regulations which have a major economic effect be carefully identified and analyzed? Will the analyses help in deciding whether and how to regulate?

Particular attention is invited on the lists of existing regulations each agency proposes to review. The public is asked to help identify regulations that are (1) unnecessarily costly and contributing to inflation, (2) unclear and too complex, or (3) overlapping and conflicting with other regulations. This will help determine priorities the agencies' review of existing regulations.

Comments on agency reports should be directed to the responsible agency official identified in each report. Agency plans will be revised based on the comments received. Final reports will be sent to OMB for approval no later than September 15, 1978. OMB hopes to complete the approval of agency reports before September 30, 1978. As required by the Order, the first schedule of agency agendas will appear in the FEDERAL REGISTER on Monday, October 2, 1978.

Some agencies have not published reports. Section 6(b) of the Executive Order excludes from coverage:

(1) Regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557);

(2) Regulations issued with respect to a military or foreign affairs function of the United States;

(3) Matters related to agency management or personnel;

(4) Regulations related to Federal Government procurement;

(5) Regulations issued by the independent regulatory agencies; or

(6) Regulations that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines.

The agencies listed below have informed OMB that they believe they are not subject to the Order. However, several have indicated they intend to apply the policy objectives of the Order to their regulations. The list is organized according to the reasons for requesting exemptions.

(1) AGENCIES REQUESTING EXEMPTION BECAUSE THE REGULATIONS THEY ISSUE DEAL PRIMARILY WITH INTERNAL MANAGEMENT OR PERSONNEL MATTERS

Export-Import Bank of the United States.
Inter-American Foundation.
International Communication Agency.
Central Intelligence Agency.
Marine Mammal Commission.
Oversea Private Investment Corporation.
Commission on Civil Rights.
U.S. Arms Control and Disarmament.
Federal Service Impasses Panel.
Advisory Commission on Intergovernmental Relations.
U.S. Federal Labor Relations Council.

(2) AGENCIES REQUESTING EXEMPTION BECAUSE THEIR REGULATIONS DEAL WITH MILITARY OR FOREIGN AFFAIRS FUNCTIONS

National Security Agency.
Board for International Broadcasting.
Office of the Special Representative for Trade Negotiations.

(3) AGENCIES REQUESTING EXEMPTION BECAUSE THEY ISSUE SO FEW REGULATIONS OR EXPECT LITTLE SIGNIFICANT CHANGE IN THEIR REGULATIONS

Advisory Council on Historic Preservation.
Harry S. Truman Scholarship Foundation.
Foreign Claims Settlement Commission of the United States.
Panama Canal Company.
Advisory Council on Historic Preservation.
Canal Zone Government.
National Transportation Safety Board.

(4) AGENCIES REQUESTING EXEMPTION BECAUSE THEY ARE NOT EXECUTIVE AGENCIES OF THE FEDERAL GOVERNMENT AND THEREFORE NOT SUBJECT TO THE PROVISIONS OF THE ORDER

Appalachian Regional Commission.
Delaware River Basin Commission.
Susquehanna River Basin Commission.
U.S. Railway Association.

NOTE: The National Mediation Board believes that it is an independent regulatory agency and therefore not subject to the provisions of the Order.

Finally, reports have not yet been received from:

U.S. International Trade Commission.
Tennessee Valley Authority.

OMB is seeking public comment on whether or not these agencies should be exempt before OMB makes a final determination. Copies of the letters received from the agencies listed above will be made available to interested members of the public by the FEDERAL REGISTER. Comments should be sent to Wayne Granquist, Associate Director for Management and Regulatory Policy, Room 244, Executive Office Building, Washington, D.C. 20503. Comments should be received no later than August 1, 1978.

The President has also encourage the independent agencies to undertake similar programs to improve their regulations. He asked that they report progress on their efforts to him and to Congress by June 30, 1978. Since many of the regulations which affect the public are developed by the independent agencies, OMB will ask that these

reports be made public also. Reports are expected from the following independent agencies; Civil Aeronautics Board, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Reserve Board, the Federal Trade Commission, the Interstate Commerce Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, and the Securities and Exchange Commission.

WAYNE GRANQUIST,
Associate Director for Management and Regulatory Policy.

[FR Doc 78-15506 Filed 5-31-78; 3:22 pm]

federal register

FRIDAY, JUNE 2, 1978
PART IV



DEPARTMENT OF AGRICULTURE/Soil Conservation Service

DEPARTMENT OF INTERIOR/Fish and Wildlife Service

TENNESSEE VALLEY AUTHORITY

■

FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION

Implementation of Executive Orders 11988 and 11990

PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
Small Business Administration	May 24	22298
Army Department, Corps of Engineers	May 24	22306
General Services Administration, Public Buildings Service	May 24	22309
Treasury Department	May 24	22311

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 650]

COMPLIANCE WITH NEPA

Related Environmental Concerns

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Proposed rule.

SUMMARY: These proposed rule changes prescribe the policy and general guidelines for implementing the spirit and intent of Executive Order (E.O.) 11988—Floodplain Management, in Federal assistance programs administered by the Soil Conservation Service.

DATE: Comments should be received on or before July 15, 1978.

ADDRESS: Interested persons are invited to submit written comments, suggestions, etc., to: Victor H. Barry, Jr., Deputy Administrator for Programs, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, telephone 202-447-7245.

FOR FURTHER INFORMATION CONTACT:

Glen H. Loomis, Director, Environmental Services Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, telephone 202-447-3839.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the President issued a comprehensive environmental message that included E.O. 11988, Floodplain Management. The Executive order directs each Federal agency to issue or amend existing regulations and procedures within 1 year. The order links the need to protect lives and property from increasing flood losses with the need to restore and preserve the natural and beneficial values served by flood plains. The order direct Federal agencies:

* * * to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative* * *.

The order specifies that:

Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities.

The modified agency procedures are to incorporate the Water Resources Council's (WRC's) July 1976 "Unified National Program for Flood Plain Management." As directed by the order, WRC prepared the "Floodplain Management Guidelines for Implementing E.O. 11988," published as 43 FR 6030, on February 10, 1978. SCS has used the WRC guidelines in preparing its own rules and procedures (7 CFR 650.25) to comply with the Executive order.

The proposed rules are general and address all Federal assistance programs administered by SCS. Handbooks and internal guidelines of SCS are being revised and amended to give specific details for agency compliance.

Implementation of these rules will not have significant consequences for the economic and social well-being of our society. Therefore, a regulatory analysis will not be necessary in accordance with E.O. 12044, Improving Government Regulations, dated March 23, 1978.

SCS has requested the Water Resources Council to arrange a meeting with representatives of the Council on Environmental Quality, the Department of Housing and Urban Development Federal Insurance Administration, and the Water Resources Council, as required by E.O. 11988. Copies of these proposed rules have been provided to the designated representatives of these three agencies.

(7CFR 2.62; E.O. 11988.)

Dated: May 25, 1978.

VICTOR H. BARRY, Jr.,
Deputy Administrator for Programs.

A new § 650.25 is added to Subpart A, Related Environmental Concerns as follows:

§ 650.25 Flood-plain management

(a) *Policy.* (1) It is the policy of SCS to help land users achieve wise use and treatment of all their land, including flood plains. If assistance appears to include an activity in a flood plain as defined in E.O. 11988, SCS field personnel are to consult and bring to the attention of the land user Department of Housing and Urban Development's (HUD's) flood insurance maps or other more detailed flood hazard maps covering the proposed flood-plain site. In giving assistance to users of flood-plain lands SCS is to carefully consider the nature, scope, and degree of the flood hazards. Consideration is also to be given to the natural and beneficial values in the flood plain at the time assistance is provided. SCS is to discourage development (hazardous or unsafe uses) of flood-plain areas subject to inundation by the 1 percent chance flood (i.e., 100-year or *base* flood), especially if the occupancy or modification might cause significant adverse impacts within the flood plain.

(2) For undeveloped flood-plain lands not currently used for production of food, fiber, and forest products, SCS is to provide leadership in encouraging land users to leave such lands in the natural state if development might adversely affect valuable aquatic or terrestrial ecosystems or increase the risk of flooding. Technical and financial assistance provided by SCS through conservation districts and other legally authorized State and local sponsoring organizations are to be carried out in full compliance with the spirit and intent of E.O. 11988, Floodplain Management.

(3) If there are no practicable alternatives to carrying out an action on the base flood plain and the proposed or alternative actions are considered to be incompatible development of a flood plain, SCS may withdraw assistance. If further assistance is provided, SCS, within acceptable standards, may assist the land user in designing or modifying the proposed action so as to minimize potential harm within the flood plain. Such assistance is to be directed toward reducing the risk of flood loss and minimizing the impact of floods on human safety, health, and welfare and is to include associated measures which will aid in the restoration and preservation of the natural and beneficial values served by the flood plain.

(4) Lands under SCS ownership and control (Plant Materials Centers, 7 CFR 613) are to be used in accordance with the purpose and intent of the Executive order.

(5) SCS will not prepare a written finding (i.e., public notice) for assistance provided to land users on existing agricultural land when there is no change in land use.

(b) *Responsibility.* The SCS will provide technical and finanical assistance through conservation districts, special purpose districts, and other State or local subdivisions of State government to land owners or operators, groups, and communities in such a way that the impacts on valuable natural floodplain ecosystems and on human safety, health, and welfare are minimized and flood losses are not increased.

(1) *SCS national office.* The Administrator is to assign national office leadership to provide quality control in SCS Federal assistance programs to encourage the protection and preservation of existing natural and beneficial values served by flood plains and to minimize the impact on the human safety, health, and welfare of the Nation. The Administrator is to emphasize the need for environmental assessment of SCS-assisted actions to appropriately identify and evaluate proposed actions that might result in adverse effects and incompatible development in flood plains so that practicable alternatives are given consideration.

(2) *SCS technical service centers (TSC's).* Each TSC director is to designate a staff person who has broad knowledge of landforms, soils, hydrology, and related ecosystems to provide technical guidance to state conservationists to insure that SCS-assisted programs consider flood plain management and do not support flood-plain development if there is a practicable alternative.

(3) *SCS State offices.* Each SCS state conservationist is the responsible Federal official (RFO) in all assistance programs implemented within his State. He is also responsible for activities on lands owned and under control of SCS (plant materials centers). He is to designate a staff person who has basic knowledge of landforms, soils, hydrology, and related ecosystems to provide technical expertise in flood-plain management in planning and implementing actions carried out within the State. If an SCS-assisted action requires the preparation of an EIS as part of the normal EIS procedure, the RFO is to provide early notification that a proposed action is to be located in the base flood plain (Part 650, Subpart A).

(4) *SCS field offices.* District conservationists (DC) (Part 600.6) are responsible for providing technical and/or financial assistance primarily through conservation district programs, as well as through other programs that apply within field offices.

(c) *Coordination and implementation—non-Federal land.* (1) *SCS-assisted actions that do not have significant environmental impacts on the base flood plain.* Technical and financial assistance provided by SCS through conservation district programs to land users for the installation of conservation practices on base flood-plain lands currently used for agricultural production of food, fiber, and forest products are considered to be compatible development in base flood plains.

(2) *SCS assisted actions that may have a significant environmental impact on the base flood plain.* Environmental assessment (7 CFR 650.3(a) and 650.4) in the early stages of planning complex individual or group jobs or projects identifies the effects of proposed actions that will occur in a flood plain. The environmental assessment also identifies and evaluates practicable alternatives to avoid incompatible development in flood plain. If necessary, SCS is to prepare design modifications that minimize potential harm within the flood plain and restore and preserve valuable natural and beneficial values served by the flood plain, or is to withdraw assistance.

(i) *Proposed actions that do not require an EIS.* If the environmental assessment indicates that a proposed action is not a major Federal action significantly affecting the human environment but will occur in a base flood plain, the RFO is to determine if the proposed action is incompatible with existing natural and beneficial values of the flood plain. SCS may withdraw technical assistance, but if further SCS assistance is to be provided, the public is to be invited to comment. If the land user decides to carry out the proposed action in the base flood plain, the RFO in consultation with the land user is to arrange for appropriate public meetings and is to circulate a notice of finding commensurate with the significance of the effect of the proposed action. The Environmental Impact Appraisal (7 CFR 650.3(f)) for actions not requiring an EIS is to contain an explanation of why the proposed action is to be located in a flood plain. If the proposed action is located outside the flood plain, but may have effect within the base flood plain, the same procedure is to be followed.

(ii) *Proposed actions that require an EIS.* If the environmental assessment indicates that a proposed action is a major Federal action significantly affecting the human environment, the usual procedures for preparing an EIS are to comply with the spirit and intent of E.O. 11988 (7 CFR 650). The early public review (7 CFR 650.6) for projects subject to the Office of Management and Budget Circular A-95 process is to be reflected in early drafts of the EIS. Alternative actions to avoid adverse effects on flood plains are to be considered (7 CFR 650.7). The Statement of Findings (7 CFR 650.3(e)) for actions requiring an EIS is to contain an explanation of why the action is proposed to be located in a flood plain.

(d) *Coordination and implementation—federally owned property.* For real property and facilities owned and operated by SCS, the agency is to take the following actions:

(1) Require new structures and facilities that are to occur on flood plains to be consistent with the intent of E.O. 11988.

(2) Apply accepted floodproofing and other flood protection measures as needed to new construction or facilities or to existing structures or facilities when rehabilitated. To achieve flood protection, SCS, whenever practicable, is to elevate structures above the base flood level rather than fill in land.

(3) If property in flood plains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, SCS is to:

(i) Reference in the conveyance those uses that are restricted under identified Federal, State, or local flood-plain regulations,

(ii) Attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law, or

(iii) Withhold such property from conveyance.

[FR Doc. 78-15166 Filed 6-1-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

FLOODPLAINS AND WETLANDS EXECUTIVE ORDERS

Availability for Public Comment on Service Procedures for Implementation

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability for public comment on service procedures for implementation of the Floodplains and Wetlands Executive Orders.

SUMMARY: The Service is making available for public review and comment the procedures it will use to implement Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. Both orders required all Federal agencies to review their activities, procedures, and rules and regulations. The Department of the Interior's draft procedures for these orders specify that all subdivisions of the Department are to prepare procedures to guide their specific activities. Interim procedures, for implementation of the orders are now in use by Service personnel. After consideration of suggestions from the public and other Government agencies, the procedures will be finalized to aid in the Service's efforts to preserve our Nation's wetland resources and to preserve and restore the natural and beneficial fish and wildlife values in floodplains.

DATE: Comments must be received on or before July 3, 1978.

ADDRESS: All comments should be sent to U.S. Fish and Wildlife Service ES/EC, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Gene A. Whitaker, Branch of Environmental Coordination, U.S. Fish and Wildlife Service, Washington, D.C. 20240, phone 202-376-8111.

SUPPLEMENTARY INFORMATION: Executive Order 11988, Floodplain Management, affirmed that it is the policy to protect and enhance the natural and beneficial values of floodplains and to actively discourage noncompatible development. The Executive Order 11990, for Protection of Wetlands, recognized that our remaining wetlands are a valuable national resource. All Federal agencies are to do everything possible to avoid direct or indirect support on new construction in wetlands wherever there is a practical alternative.

The U.S. Water Resources Council's Floodplain Management Guidelines For Implementing E.O. 11980 (43 FR 6030, February 10, 1978) provides the basic implementation guidelines. The Service's draft procedures, based on the Department of the Interior's draft procedures, incorporate the Water Resources Council's guidelines and make them specific to the various FWS programs. The proposed Instructional memorandum described in this notice is to guide all Service employees in assuring that all their actions further the intent and purpose of both Presidential Executive orders.

The notice also contains draft changes to be made in existing Service manuals and other operational guidelines. The same concepts will be incorporated in specific instructional memoranda issued by Regional offices as necessary.

Service personnel are increasing their emphasis on identifying any apparent inconsistencies between the intents of the two Executive orders and proposed projects and other activities of other agencies. Service offices review and comment on the plans for most major activities being carried out by Federal agencies. It is hoped that their comments on proposed activities that might impact floodplains or wetlands will help improve Federal consistency with the intent and purposes of the orders.

Fish and Wildlife Service Compliance with Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands)

The Fish and Wildlife Service has examined its existing procedures, regulations and policies as required by Executive Orders 11988 and 11990. The following actions are being taken to assure that all FWS actions are in compliance with these orders.

1. A general memorandum will be issued by the Director and sent to all offices to replace interim implementation guidelines issued in September 1977. The instructional memorandum will require essentially similar treatment for proposed actions in floodplains or wetlands and will state that:

a. It is policy of the Fish and Wildlife Service to provide Federal leadership in preserving and restoring the natural and beneficial fish and wildlife values of floodplains and wetlands. Whenever there is a reasonable alternative, the Service will not undertake, support or permit activities under its authorities that would adversely impact the natural or beneficial fish and wildlife values of floodplains or wetlands. Service personnel are to be continually alert for opportunities to protect and restore fish and wildlife habitat as a natural and beneficial value of floodplains and wetlands as a part of all of their activities.

b. The planning concepts outlined in Part II—Decision-Making Process of the U.S. Water Resources Council's Floodplain Management Guidelines (43 FR 6030, February 10, 1978) will be used in planning all FWS activities irrespective of their location.

c. Environmental Assessments (EA) are to be prepared for all proposed actions in floodplains or wetlands. The EA will state direct and indirect impacts of the action on floodplains and wetlands and the alternatives considered. The EA for any activity, or element of an activity, that will result in construction in a floodplain or wetland, or otherwise affect their natural or beneficial values, will state, in addition to presently required considerations, the degree of risk present to the public investment and human health and safety and whether or not an alternate location or alternative course of action could accomplish the objectives. It will also state where applicable what steps are being taken to minimize harm to the facilities and to the natural and beneficial fish and wildlife values of flooplains or wetlands.

d. Normal maintenance and rehabilitation of existing structures or facilities require that the opportunities to restore or enhance natural values be considered. The procedural requirements are not applicable to normal maintenance. Rehabilitation of inoperative structures and rehabilitation projects incorporating significant enlargement that will result in changes in presently existing natural values associated with the wetland or floodplain area require full consideration.

e. A notice of intent to conduct, support, or allow an action to be located in a floodplain or wetland must be prepared and circulated. The notice must: (1) Explain concisely why the proposed action is to be located in the floodplain, (2) provide a list of expected environmental impacts of the action as part of a brief summary of the environmental assessments, (3) state that the action conforms to all applicable State and local floodplain protection standards and to the requirements of Executive Orders 11988 and 11990, and (4) provide a simple location map. It also must state whether an EIS or a Negative Declaration will be prepared for the project and where the environmental assessment and additional information on the project are available for inspection or can be obtained. The notice should not exceed three pages in length and may also serve as the notice for A-95 clearinghouses as required.

f. Both Executive Orders require that public comments be solicited for all projects stating that opportunity must be provided "* * * for early public review of any plans or proposals for actions * * * whose impact is not significant enough to require the preparation of an environmental impact statement * * *." The similar public

involvement is necessary, of course, when an EIS is required. Forthright solicitation of suggestions and comments from the public is part of a sound public information program. Such efforts will enhance public knowledge of all Service activities.

In cases where proposed construction is in accordance with existing plans which have already undergone documented public review, the requirement may be considered to have been fulfilled although a good public information effort might still be worthwhile, especially for those plans where considerable time has elapsed since approval. It is usually more efficient and more understandable to the public to combine associated projects for this process (i.e., cover all projects contained in a refuge master plan or all those on a particular refuge proposed for funding under a single authorization).

As a minimum, a press release should be prepared for local dissemination briefly describing the proposed action and urging the public to provide the Service with their views. The press release should also be posted in local FWS installations with personal copies sent to nearby local governmental bodies, adjacent property owners, and concerned individuals and organizations. It is suggested that field stations develop a list of names and addresses for local distribution and that area and regional offices supplement it. The list should include the Division of National Wildlife Refuges' Branch of Planning and the Division of Ecological Services' Branch of Environmental Coordination in Washington. The list should also include other regionally active Federal agencies, conservation groups, farm and taxpayers organizations.

All notices, statements of findings, and NEPA documents on proposed activities in or potentially affecting floodplains or wetlands shall at a minimum be sent to the office of the following agencies nearest the site of the proposed action: Environmental Protection Agency (EPA); Federal Insurance Administration (FIA); U.S. Geological Survey (GS); Bureau of Reclamation (BR) (western States only); Corps of Engineers (COE); and Soil Conservation Service (SCS).

For projects where substantial citizen interest is expected a public meeting should be considered in order to allow a full discussion of the issues during an early planning stage. In all cases, the draft Environmental Assessment should be completed and available for the public meeting. A record of public information efforts and a summary of comments received should be maintained in the project files.

g. All requests for new authorizations or appropriations for proposals to be located in or potentially affecting floodplains or wetlands will contain a statement that the proposal is in accord with and fully supports the intent of the Orders.

h. Step 7, Part II of the WRC Guidelines describes the post-decisional process for the statement of findings and explanation to the public of why a project will, after consideration of all alternatives, be located in a floodplain. Use of the planning process outlined in the WRC Guidelines will assure that consideration of the natural and beneficial values of floodplains and wetlands remains a pre-decisional activity. The final project documents will identify the action the FWS proposes to undertake. The Step 7 statement of findings can, therefore, be written in the final environmental impact statement or negative declaration so that it is available for public review concurrent with the required administrative waiting period.

i. To comply with Section 3(c) of the floodplains Executive Order all federally owned property managed by the Fish and Wildlife Service located in an identified flood hazard area will be conspicuously identified. Prior to May 1, 1979, signs identifying the approximate level of the highest recorded flood and the predicted level of the 100-year event will be posted where roads available for public use enter such property and at or near the entrance of all facilities available to the general public.

2. The Federal Aid Manual used by all organizations when applying for funds administered by the Fish and Wildlife Service will be amended at Section 11.25, to read:

All projects must comply with Executive Orders 11988, Floodplain Management and 11990, Protection of Wetlands, dated May 24, 1977, and with the U.S. Water Resources Council's Floodplain Management Guidelines for implementing E.O. 11980 (43 FR 6030, February 10, 1978). All projects which will alter the environment must state whether or not there will be an impact on floodplains or wetlands. Direct or indirect Federal support of floodplain development or of new construction in wetlands must be avoided where practicable alternatives exist. This also includes the rehabilitation of non-operative structures or significant enlargement of existing facilities. Normal maintenance and rehabilitation of functioning structures or facilities are not included.

When activities must be carried out in a floodplain or wetland, the work must be done in a manner which, to the extent possible, will reduce the risk of flood loss in a floodplain, minimize the destruction or degradation of wetlands, and preserve and enhance their natural and beneficial fish and wildlife values. The project documentation, preferably in the Environmental Assessment Report, must include:

a. Alternative actions and locations considered;

b. The extent of the direct and indirect impacts;

c. Measures to be taken to minimize the impacts; and

d. Acknowledgement that all State and local floodplain and wetland regulations and standards are being met.

The general public must be given the opportunity for early review of the plans or proposals for actions affecting floodplains or wetlands, even if the actions are not significant enough to require preparation of an environmental impact statement. Local press releases inviting comments are considered minimal public notifiction. Additional means for public input should be provided where substantial public interest is expected.

Approval of proposed land acquisition projects to acquire floodplains or wetlands depends on the purpose for which the land is being acquired. If the purpose is not consistent with the intent of these Executive Orders, the acquisition is not approvable, even if all subsequent actions are to be funded without Federal assistance.

Executive Order 11988 requires that appropriate State and areawide A-95 clearinghouses receive certain information when an action is to be carried out in a floodplain. The grantee should include a copy of the Environmental Assessment along with a location map when submitting project information through the clearinghouse for approval.

3. The Realty Manual sections regarding disposition of lands will be amended as follows:

a. Section 323.4, concerning selection of refuge lands available for exchange purposes, will be revised to read:

The Regional Director may recommend for exchange purposes any lands he deems unessential to the refuge or which in his opinion are best suited for exchange purposes. When such selections fall within approved purchase boundaries clearance must be obtained from the Director. Exchange agreements providing for the removal of products or the use of refuge lands must be in accordance with approved management plans. Exchange proposals should include a statement as to whether exchange lands (to be conveyed by the United States) fall within limitations contained in Executive Orders 11988, Floodplain Management and 11990, Protection of Wetlands. Conveyances of land identified as being restricted by either of these orders must contain appropriate restrictive language. Any restrictive language to be used in a deed must also be included in the exchange agreement. Further, the exchange agreement can not be accepted until the procedures for public notice have been completed.

b. Section 610.4 b.2 concerning disposal of excess property will be revised to read:

Report the property to General Services Administration as excess for disposal by

GSA (excess property). A determination should be made as to whether the land falls under the limitations of Executive Orders 11988 Floodplain Management and/or 11990, Protection of Wetlands and GSA should be notified of the determination.

c. Section 650.4 regarding right-of-way and use permits will be revised to read:

Prior to the granting of a permit or easement, a determination must be made as to whether the permit or easement area will fall within a floodplain or wetland or if the planned use may affect a floodplain or wetland area. If the area is within the floodplain or the planned use will affect the "floodplain" or a "wetland" area an appropriate notice must be published giving the nearest local jurisdictions, adjacent property owners, and the general public an opportunity to comment. An appropriate stipulation subjecting the grant to the requirements of Executive Orders 11988 and/or 11990 must also be added to the terms and conditions of the grant.

4. The Service's Engineering Handbook will be revised to require site surveys to include locations and elevations with respect to floodplains and wetlands. It will also specify that hydrological investigations include flood frequency and location with respect to floodplains.

The handbook will also state that the Office of Engineering will review all projects for compliance with orders, and discussion of location criteria (Sec. 303.2) will be revised to indicate:

Buildings should be located outside, or above, flood zones if at all practicable. When necessary to locate structures within the floodplain, the structures shall, whenever possible, be elevated above the base flood level rather than filling the land.

All other construction located in flood zones must include design features which will minimize or eliminate damages when exposed to or inundated by flood waters.

5. The Service's guidelines for the review and preparation of Environmental Impact Statements and general NEPA compliance are being updated. They will incorporate the instructions in item 1 of this notice in sections on the preparation of Environmental Assessments and Environmental Impact Statements.

The guidelines for review of environmental documents prepared by other agencies will state that potential impacts of proposed action on floodplains and wetlands should be carefully evaluated. Reviewers are to point out any unidentified impacts, suggest alternative project elements with less impact, and recommend steps that could be taken to restore or enhance natural floodplain or wetland values. If the recommended alternative or proposal does not appear to be in compliance with the orders it should be stated that such is the view of the U.S. Fish and Wildlife Service and recommendations should be made for modifying or abandoning the project.

6. Two FEDERAL REGISTER notices providing guidelines for the review of permits and licenses issued by other agencies are now being amended. Subsection F is added to Section 1.2 of Review of Fish and Wildlife Aspects of Proposals in or Affecting Navigable Waters, FR 40 No. 231, Part IV, December 1, 1975, and Subsection E is added to Section 2.1 of Oil and Gas Exploration and Development Activities in Territorial and Inland Navigable Waters and Wetlands, FR 40 No. 231, Part II, December 1, 1975. The new subsections are to read as follows:

Executive Orders 11988, Floodplain Management and 11990, Protection of Wetlands.

As part of the required reviews of applications for Federal permit or license to be issued by other agencies, Fish and Wildlife Service personnel must consider the effects of proposed actions on the natural and beneficial values of floodplains and wetlands. Personnel are to review all proposed actions in light of Executive Orders 11988 and 11990, the Water Resources Council's guidelines for implementing the Floodplain Management Order and the approved implementation guidelines of the permitting agency. If in the view of the Fish and Wildlife Service the proposed action is not in compliance with the Orders, the comments will so state and appropriate recommendations will be made.

Dated: May 25, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-15114 Filed 6-1-78; 8:45 am]

[8120-01]

TENNESSEE VALLEY AUTHORITY

IMPLEMENTATION OF EXECUTIVE ORDER NOS. 11988 AND 11990, FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

Draft Procedures

AGENCY: Tennessee Valley Authority (TVA)

ACTION: Draft procedures.

SUMMARY: The Tennessee Valley Authority proposes to adopt the following draft procedures to guide the development, coordination, and review of TVA activities. These procedures are intended to implement Executive Order Nos. 11988 and 11990, Floodplain Management and Protection of Wetlands.

DATE: Comments must be received on or before July 3, 1978.

ADDRESS: Comments should be sent to Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tenn. 37902.

FOR FURTHER INFORMATION CONTACT:

Edward H. Lesesne, Director, Division of Water Management, Tennessee Valley Authority, 448 Evans Building, Knoxville, Tenn. 37902, 615-632-3788.

SUPPLEMENTARY INFORMATION: These draft procedures were prepared recognizing the admonition of the Water Resources Council guidelines for implementing Executive Order No. 11988, to the effect that it may be impossible to anticipate the full range of individual program situations affected by the order and that an agency is responsible for tailoring its procedures to meet its legislatively prescribed missions and the requirements of the order.

As a regional resource development agency, TVA has a unique role. Under the Tennessee Valley Authority Act of 1933, 48 Stat. 58, as amended, 16 U.S.C. 831-831dd (1976), TVA has the responsibility for the advancement of the national defense and the physical, social, and economic development of the region, including responsibility for providing for flood control on the Tennessee River and improving navigation. The wide diversity and variety of TVA programs under the TVA Act make it impossible to anticipate the full range of individual situations affected by both Executive orders. Therefore, the most effective approach for implementing the Executive orders is not to attempt to adopt highly detailed procedures for each, but rather to incorporate floodplain and wetlands considerations into TVA's normal multi-disciplinary process for implementing the National Environmental Policy Act. This is consistent with the WRC guidelines, which provide that agencies should use existing processes established under CEQ's NEPA guidelines.

Under TVA's NEPA procedures, virtually every action undertaken by TVA is subjected to an interdisciplinary review utilizing all of TVA's in-house environmental expertise even where an environmental statement is not required. We feel, therefore, that the best implementation of the floodplain and wetlands Executive orders for TVA is to integrate those elements into these existing procedures. The draft procedures, coupled with our NEPA procedures, will assure that the intent of the Executive orders is achieved.

The draft procedures are as follows:

TVA CODE IX—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

PART I. PURPOSE

This code provides guidance for compliance by TVA with Executive Order Nos. 11988, Floodplain Management, and 11990, Protection of Wetlands.

PART II. DEFINITIONS

A. "Floodplain" means the lowland and relatively flat areas adjoining inland waters, including at a minimum the 100-year floodplain, that area subject to a 1 percent or greater chance of flooding in a given year. The base floodplain is the 100-year floodplain. The critical action floodplain is the 500-year floodplain, that area subject to a 0.2 percent chance of flooding in a given year.

B. "Base Flood" means that flood with a 1 percent or greater chance of occurrence in any given year.

C. "Wetlands" means those areas inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats and natural ponds.

D. "New Construction" includes draining, dredging, channelizing, filling, diking, impounding, and related activities, and any structures or facilities begun after October 1, 1977.

E. "Critical Action" means any action for which even a slight chance of flooding would be too great.

PART III. POLICY

TVA provides leadership and takes action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains. To accomplish these objectives, TVA avoids, to the extent possible, the long- and short-term impacts associated with the occupancy and modification of floodplains, and, whenever there is a practicable alternative avoids the direct or indirect support of floodplain development.

TVA provides leadership and takes action to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. To accomplish these objectives, TVA avoids, to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands, and whenever there is a practicable alternative, avoids the direct or indirect support of new construction in wetlands.

In order to obtain the views of the public, timely public information is provided to the fullest extent practicable of TVA plans for actions in floodplains or new construction in wetlands.

PART IV. FLOODPLAIN EVALUATION

A. *Application.* This part shall apply to the following actions: (1) the acquisition, management, and disposition of TVA facilities and Federal lands under TVA's control; (2) construction and improvements undertaken, financed, or assisted by TVA; and (3) TVA activities and programs affecting land use, including but not limited to water and related land resources planning and approvals under § 26a of the TVA Act.

B. *Consideration of flood hazards and floodplain management.* Flood hazards and floodplain management shall be taken into account when formulating proposals for actions. The use of resources and the construction of TVA facilities and structures shall be consistent with the flood hazard involved, and unless inappropriate to the particular facility, the regulations promulgated under the National Flood Insurance Program. Nonopen space use of land in the floodplain will be avoided to the extent practicable. Where new structures or facilities are to be located in a floodplain, floodproofing, and other flood protection measures shall be applied. Raising of structures above the base flood levels, shall, when practicable, be preferred to filling.

When Federal property in a floodplain held by TVA is proposed for lease, granting of easements, and rights of way, or disposal: (1) The uses restricted under applicable floodplain regulations shall be referenced in the conveyance; (2) restrictions appropriate to the degree of hazard involved shall be attached; or (3) such properties shall be withheld from conveyance.

C. *Procedure.* For each action or class of actions described in this part, a floodplain evaluation will be performed. This evaluation will be made part of the environmental evaluation record and any ensuing environmental impact statement.

1. At the request of, and on the basis of information provided by the initiating office or division, the Division of Water Management will determine, in accordance with the Water Resource Council's "Guidance for Floodplain Management" (42 FR 52, 590-99 (1977)), or subsequent revisions, whether a proposed action, or any part of it, will occur in the base floodplain. For critical actions, the 500-year or greater floodplain will be used. Initiating offices and divisions shall seek flood hazard information at the earliest feasible stage of planning when alternative sites are being identified and evaluated.

2. The initiating office or division, the Division of Environmental Planning, and the Division of Law will determine the feasibility of providing early public review for particular actions or classes of action to be located in a floodplain for such proposals. The Division of Navigation Development

and Regional Studies will send a notice to state and area A-95 clearinghouses for the geographical area affected.

3. If it is determined that any part of a proposed action will occur in a floodplain, offices or divisions will, in accordance with their program interests and fields of expertise, recommend, and evaluate: (a) alternatives to avoid adverse effects and incompatible development in the floodplain, and (b) measures to minimize potential harm to or within the floodplain.

4. The initiating office or division will include in the EER a preliminary determination whether the only practicable alternative(s) consistent with the law and the policy of this code requires siting in a floodplain. This determination will be made by considering the project benefits and the following factors:

(a) The risk of flood hazard to humans and property;

(b) The effect of floodplain modification or occupancy on water quality, ground water recharge, living resources, cultural resources, and agricultural resources; and

(c) The feasibility and availability of non-floodplain sites.

5. If the Director of the Division of Environmental Planning, after consultation with the Division of Law, concurs in the determination, it is a final determination. If the Director of the Division of Environmental Planning does not concur, the initiating office or division may refer the matter to the General Manager for determination.

6. If a final determination is made that the only practicable alternative requires floodplain siting, a short notice will be prepared and circulated explaining why the action is proposed to be located in a floodplain. If the action is subject to Office of Management and Budget Circular A-95 procedures, the notice shall be sent to state and areawide A-95 clearinghouses for the areas affected. For actions not subject to A-95 review, the notice will be made available in a reasonable manner to the areas affected. The notice shall include the reasons for locating in a floodplain, a statement whether the action conforms to applicable floodplain protection standards, and a list of alternatives studied. When feasible, a brief period for comment will be allowed before implementing the action, the period to be specified in the notice.

7. Requests for new appropriations submitted to the Office of Management and Budget will indicate, for actions proposed to be located in a floodplain, whether the action is in accord with Executive Order No. 11988.

8. When a class of routine or recurring actions exists and the considerations of whether to locate in a floodplain are substantially similar, a floodplain evaluation of the class may be undertaken. If the evaluation results in a final determination that normally for each action within the class the only practicable alternative(s) consistent with the law and the policy of Executive Order No. 11988 requires siting in a floodplain, then subsequent actions in the class shall not normally require a floodplain evaluation.

PART V. PROTECTION OF WETLANDS

A. *Application.* Subject to the exceptions defined below, this part applies to: (1) the acquisition, management, and disposition of TVA facilities and Federal lands under TVA's control; (2) construction and improvements undertaken, financed, or assisted by TVA; and (3) TVA activities and programs affecting the land use, including but not limited to water and related land resources planning, regulating, and licensing activities. This part does not apply to the issuance of permits, licenses, or allocations to private parties for activities involving wetlands, e.g., such as 26a permits. This part also does not apply to projects or programs under construction or in operation on May 24, 1977, or for which all of the funds have been appropriated through fiscal year 1977, or for which a draft or final environmental impact statement was filed or the environmental review was completed prior to October 1, 1977.

B. *Procedure.* For each action or class of actions described in this part, a wetlands evaluation will be performed. This evaluation will be made a part of the environmental evaluation record and any ensuing environmental impact statement.

1. At the request of, and on the basis of information provided by the initiating office or division, the Division of Forestry, Fisheries, and Wildlife Development will determine, in accordance with the "Classification of Wetlands and Deep-Water Habitats of the United States" Cowardin (1977), whether a proposed action will undertake, or provide assistance for, new construction located in a wetlands.

2. The initiating office or division, the Division of Environment Planning, and the Division of Law will determine the feasibility of providing early public review for particular actions or classes of action that will involve new construction in wetlands. For such proposals the Division of Navigation Development and Regional Studies will send a notice to state and area A-95 clearinghouses for the geographical area affected.

3. If a proposed action involves new construction in a wetlands, alternatives to such construction will be evaluated. Offices and divisions, in accordance with their program interests and fields of expertise, will recommend measures to minimize harm to the wetlands from the proposed action.

4. The initiating office or division should include in the EER a preliminary determination: (1) that there is no practicable alternative(s) consistent with the law to such construction; and (2) that the proposed action includes all practicable measures to minimize harm to wetlands. This determination will be made by considering the project benefits and the following factors: (a) Living resources; (b) cultural resources; (c) water quality; (d) agricultural and forestry resources; and (e) feasibility and availability of alternative sites.

5. If the Director of the Division of Environmental Planning, after consultation with the Division of Law, concurs in the determination, it is a final determination. If the Director of the Division of Environmental Planning does not concur, the initiating office or division may refer the matter to the General Manager for determination.

6. When a class of routine or recurring actions exists and the impacts and considerations of siting new construction in a wetlands are substantially similar, a wetlands evaluation of the class may be undertaken. If the evaluation results in a final determination that: (1) for the actions within the class there is usually not a practicable alternative, consistent with the law and the policy of this code, to new construction in wetlands; and (2) all practicable measures to minimize harm to wetlands have been included, than subsequent actions in that class shall not normally require a wetlands evaluation.

7. Any requests for new appropriations submitted to the Office of Management and Budget shall indicate whether a proposed action to be located in wetlands is in accord with Executive Order No. 11990.

8. When federally owned wetlands under TVA's control are proposed for lease, granting of easements and rights of way, or disposal to non-Federal parties: (1) the conveyance shall reference uses restricted under applicable wetlands regulations; (2) restrictions consistent with the policy of this code will be attached as allowed by law; or (3) the property will be withheld from disposal.

Dated: May 23, 1978.

H. N. STROUD, Jr.,
Acting General Manager.

[FR Doc. 78-15416 Filed 6-1-78; 8:45 am]

federal register

FRIDAY, JUNE 2, 1978
PART V



DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

■

Implementation of Statutory Changes Made by Public Law 95–176

[4810-31]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-51]

IMPLEMENTATION OF STATUTORY CHANGES MADE BY PUBLIC LAW 95-176

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: These regulations implement Pub. L. 95-176. This law provides a series of liberalizing amendments to the Internal Revenue Code relating to: (1) exportation of distilled spirits and wines; (2) mingling of distilled spirits; (3) use of distilled spirits for research, development or testing; (4) production of gin; and (5) return of bottled-in-bond spirits to bonded premises.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Linthicum, Specialist, Procedures Branch, Regulations and Procedures Division (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C., 20226, 202-566-7602.

SUPPLEMENTARY INFORMATION: Pub. L. 95-176 provides seven revisions in the Internal Revenue Code which: (1) extend to distilled spirits that are imported and then packaged or bottled in the United States for export the same tax drawback benefits given under present law to domestically produced spirits that are packaged or bottled for export; (2) allow distilled spirits to be returned to bonded premises of distilled spirits plants or to export storage facilities, with benefit of tax credit or refund, etc., for storage pending exportation and certain other preferred dispositions (e.g., use on vessels and aircraft or for transfer to foreign-trade zones); (3) allow refund or credit of tax on spirits bottled-in-bond after tax determination and returned to bonded premises pending further withdrawal; (4) allow distilled spirits bottled-in-bond, or returned to an export storage facility for export, to be transferred without payment of tax to customs bonded warehouses for storage pending exportation; (5) allow distilled spirits to be withdrawn from bonded premises without payment of tax for purposes of research, development or testing; (6) relax the conditions under which bonded distilled spirits may be mingled; and, (7) allow gin to be made with the extracted oils of juniper berries and other aromatics, as well as with the juniper berries or other aromatics themselves, without payment of the rectification tax.

Export Drawback on Imported Distilled Spirits and Wines

Previous law authorized an allowance of drawback in the amount of the taxes paid or determined upon the exportation of distilled spirits or wines manufactured or produced in the United States. Export drawback was allowed on imported distilled spirits or wines only if they were used in the production of rectified products in the United States. The new statute extends this drawback privilege to include imported distilled spirits or wines if they are bottled or packaged in the United States.

The new statute also permits exportation with benefit of drawback for "other bulk containers" (5 wine gallons, or more) in addition to packages, casks, and bottles. A definition of "bulk container" is added to § 252.11. Conforming changes are made in sections in Parts 170, 201, 231 and 252 which refer to containers.

(§§ 170.137, 170.173, 201.469, 231.100, 252.30, 252.36, 252.37, 252.171, 252.192, 252.193, 252.211, 252.216, 252.263 amended; § 252.11, new definition added)

Return of Tax-Determined Distilled Spirits to Bonded Premises

The new statute has expanded the types of transactions for which tax-determined distilled spirits may be returned to bonded premises with the benefit of abatement, remission, credit, or refund of tax on spirits returned. These various types of transactions are discussed below.

Under previous restrictions, distilled spirits could be returned to bonded premises for destruction, denaturation, redistillation, or certain types of mingling. Returning taxpaid or tax-determined distilled spirits to bonded premises for these purposes entitled the proprietor to abatement, remission or credit or refund (without interest) of distilled spirits excise tax. These provisions remain unchanged.

Return of spirits to bonded premises pending export. The new statute allows distilled spirits, which would be eligible for drawback upon exportation, to be returned to an export storage facility on the bonded premises of the distilled spirits plant where bottled or packaged for the purpose of storage pending withdrawal without payment of tax for exportation, use as supplies on certain vessels or aircraft, deposit in a foreign trade zone or transfer to a customs bonded warehouse (all of which are referred to hereafter as "exportation"). Similarly, distilled spirits may be returned to an export storage facility for withdrawal free of tax for the use of the United States. For the purpose of storage pending export, any type of distilled spirits, including rectified and foreign products, may be returned to an export storage facility. Under these regulations the proprietor may submit a claim for credit or refund (without interest) of the internal revenue tax paid or determined on the distilled spirits returned. The amount of tax claimed is the same as would be allowed for drawback on the exportation of those distilled spirits.

Establishment of export storage facilities. Distilled spirits plant proprietors who wish to return spirits to bonded premises under this provision, shall make application on Form 2607, Registration of Distilled Spirits Plant, to establish an export storage facility. The construction and security requirements for bonded export storage facilities will be the same standards normally required for bonded premises where packages are stored. The export storage facilities shall be a separate area used solely for storage of spirits returned to bonded premises pending withdrawal without payment of tax for export, or free of tax for the use of the United States. The establishment of export storage facilities may also be allowed as alternating bonded and bottling premises under the provisions of 27 CFR 201.175. Alternated export storage facilities shall be a separate room or building which conforms to the same standards normally required for bonded premises where packages are stored.

Return of spirits bottled-in-bond after tax determination. The new statute also allows distilled spirits, which are bottled-in-bond for domestic consumption under Subpart Na of Part 201, to be returned to the bonded premises of the distilled spirits plant where bottled for storage. Withdrawal from bonded premises may be for any purpose for which distilled spirits bottled-in-bond under Subpart K of Part 201 are withdrawn from bonded premises.

Withdrawals upon tax determination become additions to controlled stock and the tax liability may be assumed on the tax return, Form 4077. The proprietor may submit a claim for credit or refund (without interest) of tax on the returned spirits.

ATF F 5110.17, Return of tax-determined spirits to bonded premises. Form 2612 is revised to provide for returning tax-determined spirits to bonded premises under the new statute. The form is redesignated as ATF F 5110.17 to conform with the Bureau's standard subject classification system. The form is modified to record disposition of spirits returned to bonded premises, in a manner similar to Form 1515, Distilled Spirits Bottled in Bond. Since ATF F 5110.17 will now

serve as a warehouse record for spirits returned to bonded premises, it will not be completed until disposition of all spirits recorded on the form. In order to expedite filing claims for taxes on spirits returned to bonded premises, the original ATF F 5110.17 recording the gauge of spirits returned, will be filed with the regional regulatory administrator immediately after recording the gauge of the spirits returned, and may be referenced as a supporting document for claims filed under § 201.44. The remaining copies will not be filed until disposition of all spirits recorded on the form.

Overprinting strip stamps. Section 201.541 now requires that strip stamps on bottles of spirits to be exported be overprinted with the words "Export" or "Drawback". Since spirits may now be returned to the export storage facility for storage pending exportation, § 201.541 is amended to require that strip stamps on bottles of these spirits be similarly overprinted with the word "Export".

(§§ 170.43, 201.44, 201.132, 201.149, 201.311, 201.541, Subpart S—Return of Spirits to Bonded Premises, 201.622, 201.628, 201.629, 252.61, 252.62, 252.91, 252.173 amended; §§ 201.116a, 201.241a, 252.91a added; §§ 201.11, 252.11, new definitions added.)

Withdrawals to Customs Bonded Warehouses

Under previous law, distilled spirits could be withdrawn without payment of tax from the bonded premises of a distilled spirits plant for exportation. There was no comparable provision allowing withdrawal without payment of tax for transfer to a customs bonded warehouse for storage pending exportation. Spirits entered into a customs bonded warehouse could only be withdrawn for use in the United States by foreign embassies, legations and other specially qualified individuals. The new statute allows distilled spirits bottled-in-bond or returned to bonded export storage facilities to be transferred without payment of tax to a customs bonded warehouse for storage pending exportation.

(§§ 201.386, 252.26(a), 252.27 amended.)

Spirits Withdrawn for Research, Development or Testing

Under previous law, samples of distilled spirits could be withdrawn free of tax from the bonded premises of a distilled spirits plant as samples for use only in tests or for laboratory analyses.

The new statute recognizes that previous limitations on these withdrawals were restrictive and in need of revision. The liberalized restrictions are now consistent with those purposes allowed for withdrawal without payment of tax for beer (26 U.S.C. 5053). The new statute provides that distilled spirits may be withdrawn "without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment, relating to distilled spirits or distillery operations . . .".

The new regulations divide withdrawal of spirits without payment of tax for research, development or testing into two categories: (1) withdrawal for testing or laboratory analysis to determine the quality or character of the finished product, discussed below as "quality control" testing; and (2) withdrawals for research, development or testing of processes, systems, materials or equipment relating to distilled spirits or plant operations, discussed below as "research and development" testing.

Quality control testing will be permitted with fewer restrictions. This testing must be conducted at the proprietor's laboratory located at the same distilled spirits plant or at a laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation. The quantities withdrawn for quality control testing on a continuing basis will be subject to the approval of the assigned officer or area supervisor, and taxpayment will be required for quantities determined to be excessive. The proprietor will be required to extend the terms of the surety bond to cover the tax on spirits withdrawn without payment of tax for quality control testing.

Research and development testing will be regulated by requiring a letter application for each removal or each individual research, development or testing project. The laboratory receiving the spirits will be required to provide a written statement agreeing to keep records of receipt, use and disposition of the spirits and to permit inspection of those records and operations by ATF officers. This written statement will not be required when the testing is done at the proprietor's laboratory or the laboratory of a distilled spirits plant operated by an affiliated or subsidiary corporation. The proprietor will be required to extend the terms of the surety bond to cover the tax on spirits withdrawn without payment of tax for research and development testing.

Restrictions relating to withdrawal of samples of denatured spirits by dealers, users, applicants or prospective applicants for permits have been moved to § 201.393, which now covers all types of removals of denatured spirits from bonded premises.

ATF Form 1615, Report of Tax Due on Samples of Distilled Spirits, is now obsolete. Taxpayment of excessive quantities of spirits withdrawn for research, development or testing will be accomplished with ATF Form 179, Withdrawal of Spirits Tax-Determined, as other taxpayment. Summary records, schedules of spirits withdrawn for testing or laboratory analysis and applications relating to spirits withdrawn for research, development or testing will record the information previously shown on ATF Form 1615.

Spirits withdrawn for research, development or testing and lost prior to being used will be eligible for remission of tax.

General sections relating to termination of tax liabilities and withdrawals without payment of tax are amended by making conforming changes.

(§§ 201.25, 201.43, 201.249, 201.386, 201.393, 201.626 amended; Subpart T—Samples, §§ 201.631(c)(1), 201.631a deleted; Subpart T—Spirits Withdrawn for Research, Development or Testing, added.)

Mingling Under 26 U.S.C. 5234 (a)(2)

Under previous law, distilled spirits mingled on bonded premises under 26 U.S.C. 5234(a)(2) were required to be returned to the same packages from which removed and the mingling was required to be for the purpose of further storage in bond.

The new statute and the regulations covering this type of mingling delete the requirements for further storage in bond and repackaging. Further storage in bond is now an option and not a requirement.

A conforming change is made in the § 201.29 relating to tax-exempt rectification. ATF Form 2546, Report of Spirits Mingled under 26 U.S.C. 5234(a)(2), is obsolete and the regulatory reference to it is deleted.

(§§ 201.29(t), 201.301, 201.310 amended; § 201.634(c) deleted)

Use of Extracted Oils in Production of Gin

The previous law, 26 U.S.C. 5025(b) allowed exemption from rectification tax for production of gin on the bottling premises of a distilled spirits plant by redistillation of pure spirits over juniper berries and other natural aromatics.

The new statute allows tax-exempt rectification of gin by redistillation with the use of extracted oils of juniper berries and other natural aromatics. Gin may be produced without payment of rectification tax on either bottling premises or bonded premises.

There is no specific section of the Code which discusses production of gin on the bonded premises of a distilled spirits plant. However, based on congressional intent, § 201.29 (b) and (c) are amended to allow use of extracted oils on bonded production premises in gin production. Extracted oils of juniper berries and other natural aromatics for use in gin production are added to the list in § 201.262 of dis-

tilling materials which may be received on bonded production premises.

Proprietors who intend to produce gin on bonded premises using extracted oils of juniper berries and other natural aromatics shall file a statement of process on the plant registration, Form 2607, prior to using extracted oils. Proprietors who intend to produce gin on bottling premises using extracted oils of juniper berries and other natural aromatics shall obtain an approved formula, Form 27-B Supplemental, Formula and Process for Rectified Products, covering the use of extracted oils, prior to commencing this activity.

Conforming changes are made in § 201.29 (b) and (c) relating to tax exempt rectification of gin. Also, the word "natural" is added in § 201.441 before the word "aromatic" since it was inadvertently omitted when the section was originally written.

(§§ 201.29(b) and (c), 201.262, 201.267, 201.441, 201.619 amended)

MISCELLANEOUS AMENDMENTS

Where they appeared in amended sections, the terms "assistant regional commissioner" and "regional director" are replaced by the term "regional regulatory administrator". The terms "internal revenue officer" and "alcohol, tobacco and firearms officer" are replaced by the term "ATF officer". The terms "director of customs" and "collector of customs" are replaced by the term "district director of customs". Some sections were rewritten to clarify language. The statutory citations for amended sections are revised to conform with the style prescribed by the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of this document is John A. Linthicum, Specialist, Procedures Branch, Regulations and Procedures Division (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226. However, other officials from the Bureau and from the Treasury Department participated in developing the Treasury decision, both on matters of substance and style.

COMPLIANCE WITH EXECUTIVE ORDER 12044

These regulations are necessary to implement Pub. L. 95-176 which was effective March 1, 1978. In order to expedite issuance of regulations under that statute and to provide immediate guidance to industry members, Richard J. Davis, Assistant Secretary of the Treasury (Enforcement and Operations) has determined that compliance with Executive Order 12044 is impractical.

EFFECTIVE DATE

Because this Treasury decision is both liberalizing and clarifying in nature, operates to the benefit of the regulated taxpayers, requires no public initiative, and because there is a need for immediate implementation of Pub. L. 95-176, it is found to be impracticable, unnecessary and contrary to the public interest to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d). Accordingly this Treasury decision becomes effective on June 2, 1978. Petitions to modify provisions of this decision will be considered on an expedited basis.

AUTHORITY AND ISSUANCE

These regulations are issued under authority of 26 U.S.C. 7805 (68A Stat. 917, as amended).

In view of the above, Title 27 of the Code of Federal Regulations is amended to read as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

§ 170.43 [Amended.]

PAR. 1. Spirits bottled-in-bond after tax determination and returned to bonded premises, as authorized by the new statute, may subsequently, upon tax-determination, become additions to controlled stock. In § 170.43, the definition of "controlled stock" is amended to reflect this change by deleting from paragraph (b) the words "(prior to tax determination)".

PAR. 2. Amend §§ 170.137 and 170.173 to allow Puerto Rican and Virgin Islands distilled spirits to be exported with benefit of drawback if bottled or packaged in the United States. Paragraphs (a) and (b) are retained unchanged in each section. As amended, these sections read as follows:

§ 170.137 Exportation with benefit of drawback.

Spirits from the Virgin Islands which are bottled in bottles packed in containers, or which are packaged in casks or other bulk containers in the United States, or which are used to produce a distilled spirits product in the United States are eligible for exportation with benefit of drawback. Export drawback claims involving those spirits shall show:

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

§ 170.173 Exportation with benefit of drawback.

Spirits from Puerto Rico which are bottled in bottles packed in containers, or which are packaged in casks or other bulk containers in the United States, or which are used to produce a distilled spirits product in the United States, are eligible for exportation with benefit of drawback. Export drawback claims involving those spirits shall show:

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

PART 201—DISTILLED SPIRITS PLANTS

PAR. 3. Amend the Table of Contents to Part 201: (1) to reflect changes in titles of amended regulations; (2) to delete Subpart T—Samples, and §§ 201.587 and 201.631a; (3) to add titles of new sections and Subpart T—Spirits Withdrawn for Research, Development or Testing; and, (4) to redesignate §§ 201.584a, 201.585 and 201.586 as §§ 201.585, 201.586 and 201.587, respectively. As amended, the table of contents reads as follows:

* * * * *

Sec.

201.43 Claims on spirits lost or destroyed in bond.

201.44 Claims on spirits returned to bonded premises.

* * * * *

201.116a Export storage facilities.

* * * * *

201.241a Export storage facilities.

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201.301 Mingling under 26 U.S.C. 5234(a)(2).

* * * * *

201.583 Receipt and disposition of returned taxpaid spirits.

201.584 Return of recovered denatured spirits and recovered articles.

201.585 Articles and spirits residues received for redistillation.

201.586 Return of recovered tax-free spirits, and spirits and denatured spirits withdrawn free of tax.

201.587 Return of spirits withdrawn without payment of tax.

* * * * *

Subpart T—Spirits Withdrawn for Research, Development or Testing

201.601 Withdrawal of spirits without payment of tax.

201.602 Schedule of spirits withdrawn for testing or laboratory analysis.

201.603 Mechanical sampling devices.

201.604 Taxable withdrawals.

201.605 Labels.

201.606 Withdrawals for testing or laboratory analysis.

201.607 Withdrawals for research, development or testing.

* * * * *

Sec.

201.626 Record of withdrawals from bonded premises for research, development or testing.

* * * * *

201.631 Submission of transaction forms and reports.
201.633 Monthly reports.

* * * * *

PAR. 4. Amend § 201.11 by adding a definition of "export storage facilities". As amended, § 201.11 reads as follows:

§ 201.11 Meaning of terms.

* * * * *

Export storage facilities. The part of the bonded premises of a distilled spirits plant, established under 26 U.S.C. 5178(a)(3)(D), for the storage of distilled spirits returned under 26 U.S.C. 5215(b).

* * * * *

PAR. 5. Amend § 201.25 to reflect the withdrawal of spirits without payment of tax for research, development or testing. As amended this section reads as follows:

§ 201.25 Persons liable for tax.

(a) *Distilling.* 26 U.S.C. 5005 provides that the distiller of spirits is liable for the tax and that each proprietor or possessor of, and person in any manner interested in the use of any still, distilling apparatus, or distillery, shall be jointly and severally liable for the tax on distilled spirits produced. However, a person, not an officer or director of a corporate proprietor, owning or having the right of control of not more than 10 percent of any class of stock of that proprietor, is not liable by reason of the stock ownership or control. Persons transferring spirits in bond so liable for the tax are relieved of liability if (1) the proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and (2) no person so liable for the tax on the spirits transferred retains any interest in the spirits. Persons withdrawing spirits on determination of tax under a withdrawal bond and liable for the tax are relieved of such liability if (1) the person withdrawing the spirits and the person or persons so liable for the tax are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and (2) all persons liable for the tax have divested themselves of all interest in the spirits withdrawn.

(b) *Storage on bonded premises.* 26 U.S.C. 5005(c) provides that each person operating bonded premises shall be liable for the tax on all spirits while the spirits are stored on the premises, and on all spirits which are in transit to the premises from the time of removal from the transferor's bonded premises, pursuant to an approved application. Liability for the tax continues until the spirits are transferred or withdrawn from bonded premises as authorized by law, or until the liability for tax is relieved under the provisions of 26 U.S.C. 5008(a). Claims for relief from liability for spirits lost are provided for in § 201.43. Voluntary destruction of spirits in bond is provided for in Subpart R of this part.

(c) *Withdrawals without payment of tax.* Under 26 U.S.C. 5005(e), any person who withdraws spirits from the bonded premises of a plant without payment of tax, as provided in 26 U.S.C. 5214, shall be liable for the tax on the spirits from the time of withdrawal. The person shall be relieved of any liability at the time the spirits are exported, deposited in a foreign-trade zone, used in production of wine, deposited in a customs bonded warehouse or a customs manufacturing bonded warehouse, laden as supplies upon or used in the maintenance or repair of certain vessels or aircraft, or used for certain research, development or testing, as provided by law.

(d) *Withdrawals free of tax.* Persons liable for tax under paragraph (a) of this section, are relieved of the liability on spirits withdrawn from bonded premises free of tax under this part, at the time the spirits are withdrawn.

(e) *Withdrawals on tax determination.* Under 26 U.S.C. 5005(c)(3), any person who gives a withdrawal bond, as provided in 26 U.S.C. 5174 shall be liable for the tax on spirits withdrawn on determination of tax from bonded premises under the bond from the time of withdrawal.

(f) *Withdrawal from customs custody without payment of tax.* 26 U.S.C. 5232(a) provides that when imported distilled spirits in bulk containers are withdrawn from customs custody and transferred to the bonded premises of a distilled spirits plant without payment of the internal revenue tax imposed on imported distilled spirits by 26 U.S.C. 5001, the person operating the bonded premises of the distilled spirits plant to which spirits are transferred shall become liable for the tax on the spirits upon their release from customs custody, and the importer shall thereupon be relieved of liability for the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended (26 U.S.C. 5005); Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

PAR. 6. Amend section 201.29 to include the use of extracted oils in tax-exempt rectification of gin and to delete the term "for further storage in bond" from tax-exempt mingling on bonded premises. As amended, § 201.29 reads as follows:

§ 201.29 Exemption from rectification tax.

* * * * *

(b) Gin produced on bonded premises in the course of original and continuous distillation over juniper berries and other natural aromatics, or the extracted oils of such;

(c) Gin produced on bottling premises by redistillation of pure spirits over juniper berries and other natural aromatics, or the extracted oils of such, in the manner authorized on bonded premises;

* * * * *

(t) Spirits mingled on bonded premises as provided in 26 U.S.C. 5234(a)(2), and § 201.301 of this part;

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1328, as amended, 1338, 1356, as amended, 1381 as amended (26 U.S.C. 5021, 5022, 5023, 5025, 5082, 5201, 5363).)

PAR. 7. Amend § 201.43 to provide for claims for spirits lost after withdrawal, but before being used for research, development or testing. A new paragraph (a)(7) is added to paragraph (a), and present paragraphs (a)(7) and (a)(8) are redesignated (a)(8) and (a)(9), respectively. Paragraph (c) is redesignated (c)(1) and a new paragraph (c)(2) is added. As amended, § 201.43 reads as follows:

§ 201.43 Claims on spirits lost or destroyed in bond.

(a) *Claims for remission.* All claims for remission of tax required by this part, relating to the destruction or loss of spirits (including denatured spirits) in bond, shall be filed with the regional regulatory administrator and shall set forth the following:

* * * * *

(7) The name and address of the consignee, in the case of spirits withdrawn without payment of tax which are lost before being used for research, development or testing;

(8) If lost by theft, facts establishing that the loss did not occur as the result of any negligence, connivance, collusion or fraud on the part of the proprietor of the plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(9) In the case of a loss, by theft, whether the claimant is indemnified or recompensed for the spirits lost and if so, the amount and nature of indemnity or recompense and the actual value of the spirits, less the tax.

(b) *Claims for abatement, credit, or refund.* Claims for abatement of an as-

sessment, or for credit or refund of tax which has been paid or determined, for spirits (including denatured spirits) lost or destroyed in bond shall be filed with the regional regulatory administrator. The claims shall set forth the information required under paragraph (a) of this section and, in addition, shall set forth (1) the date of assessment or payment (or of tax determination, if the tax has not been assessed or paid) of the tax for which abatement, credit, or refund is claimed, and (2) the name, plant number, and the address of the plant where the tax was determined, paid, or assessed (or name, address and capacity of any other person who paid or was assessed the tax, if the tax was not paid by or assessed against a proprietor).

(c) *Supporting document.* (1) Claims under paragraphs (a) and (b) of this section shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss or destruction. For claims on spirits (including denatured spirits) lost while being transferred by carrier, the claim shall be supported by a copy of the bill of lading.

(2) For claims pertaining to losses of spirits withdrawn without payment of tax and lost prior to being used for research, development or testing, the claim shall be supported by a copy of the proprietor's approved application or schedule prescribed in Subpart T of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008).)

PAR. 8. Amend § 201.44 to provide for claims for credit or refund of tax on spirits returned to bonded premises. As amended, § 201.44 reads as follows:

§ 201.44 Claims on spirits returned to bonded premises.

Claims for credit or refund of tax on spirits which have been withdrawn from bonded premises on payment or determination of tax and which are returned under 26 U.S.C. 5215 shall be filed with the regional regulatory administrator and shall set forth the following:

* * * * *

(d) Except for spirits returned to an export storage facility, a statement that no alcoholic ingredients other than fully taxpaid eligible distilled spirits have been added to the product covered by the claim;

(e) The serial number of ATF F 5110.17 recording the gauge of spirits returned to bonded premises; and

(f) For spirits returned to export storage facilities, a statement of the export drawback rate applicable to the returned spirits. The rate shall be computed as provided in §§ 252.173 or 252.195a of this chapter, and shall be supported, as appropriate, by a copy of each related dump and batch record, Form 2630, Form 2637, or approved substitute record, covering the dumping and bottling or packaging of the spirits. If the spirits contain Puerto Rican or Virgin Islands spirits, the claim shall show: (1) The precise quantity (in proof gallons) of the finished product derived from Puerto Rican or Virgin Islands spirits; and, (2) The amount of tax and the applicable rate of tax imposed by 26 U.S.C. 7652, determined at the time of withdrawal from internal revenue bond on the Puerto Rican or Virgin Islands spirits contained in the product.

Claims for credit or refund of tax shall be filed by the proprietor of the plant to which the spirits were returned within six months of the date of the return. If the claim is allowed, refund (without interest) will be made or credit (without interest) will be allowed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008); Sec. 2, Pub. L. 95-176, 91 Stat. 1363 (26 U.S.C. 5215).)

PAR. 9. Add a new § 201.116a immediately following § 201.116, to provide for establishment of export storage facilities. As added, § 201.116a reads as follows:

§ 201.116a Export storage facilities.

A proprietor who has established facilities for the storage on bonded premises of distilled spirits under § 201.116 may establish a portion of the premises as an export storage facility for distilled spirits returned to bonded premises under § 201.581(b).

(Sec. 2, Pub. L. 95-176, 91 Stat. 1364; (26 U.S.C. 5178 (a)(3)(D)).)

Par. 10. Amend § 201.132 to require a description of export storage facilities in the application for registration. As amended, § 201.132 reads as follows:

§ 201.132 Data for application for registration.

* * * * *

(j) * * *

* * * * *

(2) * * *

* * * * *

(ii) Description of the system of storage, including export storage facilities, and statement of storage capacity (bulk, packages and cases).

* * * * *

(5) * * *

If any of the information required by paragraph (c) or paragraph (g) of this section is on file with the regional regulatory administrator, that information, if accurate and complete, may by incorporation by reference, be made part of the application. The applicant shall, when required by the regional regulatory administrator, furnish as a part of the application for registration, additional information as may be necessary to determine whether the application for registration should be approved.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5171, 5172).)

Par. 11. Amend § 201.149 to require a description of the export storage facilities on the bonded premises in the application for registration. As amended, § 201.149 reads as follows:

§ 201.149 Description of plant.

The application for registration shall include a description of each tract of land comprising the plant, clearly indicating the bonded premises, the bottling premises, and any other premises to be included as part of the plant. For a plant producing spirits, the premises subject to tax lien under 26 U.S.C. 5004(b) shall include the bonded premises, any building containing any part of bonded premises, and the tract of land on which any building containing any part of the bonded premises is situated. The application shall include a description of each tract of land subject to lien under 26 U.S.C. 5004(b). The description shall be by courses and distances, in feet and inches (or hundredths of feet), with the particularity required in conveyances of real estate. If any area (or areas) of the plant is to be alternated between bonded and bottling premises, as provided in § 201.175, each area shall be identified by number or letter. If any portion of the bonded premises is to be used as export storage facilities, as provided in § 201.116a, the facilities shall be described, and shall be identified by number or letter. The description of denaturing facilities (and equipment) shall show the manner of segregation of facilities from other facilities which would prevent a contamination of undenatured spirits. Each building and outside tank shall be described (location, size construction, arrangement, and means of protection and security), referring to each by its designated number or letter, and use. If a plant consists of a room or floor of a building, a description of the building in which the room or floor is situated and its location shall be given.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended (26 U.S.C. 5172).)

Par. 12. Add a new § 201.241a immediately following § 201.241. Section 201.241a reads as follows:

§ 201.241a Export storage facilities.

When authorized to return distilled spirits to bonded storage pending ex-

portation, the proprietor shall designate a specific room or building for that purpose. This room or building need not be used exclusively for the storage of returned spirits, but when used as an export storage facility the room or building may only be used for storage pending withdrawal without payment of tax under 26 U.S.C. 5214(a) (4), (7), (8) or (9), or free of tax under 26 U.S.C. 7510. The room or building shall be constructed as provided in § 201.231.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1363, 1364 (26 U.S.C. 5215, 5178(a) (3) (D)).)

Par. 13. Amend § 201.249 to reflect the fact that distilled spirits may be withdrawn by the proprietor for research, development or testing and to add a statutory authority. As amended, § 201.249 reads as follows:

§ 201.249 Sampling devices.

At each place in the production system where unfinished distilled spirits or denatured spirits are to be withdrawn for research, development or testing, the proprietor shall install a mechanical device which will: (a) Permit the spirits to be withdrawn without supervision; (b) accurately record or reflect the total quantities of spirits removed; and (c) prevent access to the closed system without detection. The regional regulatory administrator may approve the installation of sampling devices at other locations in the plant.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552).)

Par. 14. Amend § 201.262 to provide for receipt on bonded premises, of extracted oils of juniper berries and other natural aromatics for use in gin production. As amended, § 201.262 reads as follows:

§ 201.262 Receipt of materials.

The quantities of fermenting and distilling materials received on distillery premises shall be determined by the proprietor and reported as provided in Subpart U of this part. Distilling materials, as used in this section, means: spirits (including denatured spirits), articles and spirits residues, for redistillation, extracted oils of juniper berries and other natural aromatics to be used in the course of original and continuous distillation of gin and, non- potable chemical mixtures containing spirits produced in accordance with § 201.66. Fermented material (except apple cider exempt from tax under 26 U.S.C. 5042(a) (1)) to be used in the * * *

* * * * *

(Sec 201, Pub. L. 85-859, 72 Stat. 1356, as amended, 1365, as amended (26 U.S.C. 5201, 5222, 5223).)

Par. 15. Amend § 201.267 to allow use of extracted oils of juniper berries and other natural aromatics in gin production on bonded premises. As amended, § 201.267 reads as follows:

§ 201.267 Treatment during production.

Spirits may, in the production facilities in the course of original and continuous distillation or other original and continuous processing, be purified or refined through, or by use of, any material which will not remain incorporated in the finished product. Juniper berries and other natural aromatics, or the extracted oils of such, may be used in the distillation of gin. Spirits may be percolated * * *

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1328, as amended, 1338, 1356 (26 U.S.C. 5025, 5082, 5201).)

Par. 16. Amend § 201.301 to delete the requirement for repackaging and further storage of spirits mingled in bond. As amended, § 201.301 reads as follows:

§ 201.301 Mingling under 26 U.S.C. 5234(a)(2).

Within 20 years of the date of original entry for deposit, packages of spirits of the same kind, distilled by the same proprietor (under his own or any trade name), at the same distillery, and which have been stored in internal revenue bond in the same kind of cooperage for not less than 4 years (or 2 years in the case of rum or brandy) may be dumped and mingled in a tank in the storage facilities on bonded premises. The mingled spirits may be repackaged, for further storage in bond using the packages from which dumped, or using packages which last contained the same class and type of spirits. If spirits produced in different distilling seasons are mingled under this section, the mingled spirits shall consist of not less than 10 percent of spirits of each season. Spirits mingled under the provisions of this section may not again be mingled under these provisions until at least 1 year has elapsed since the last prior mingling.

(Sec. 201. Pub. L. 85-859, 72 Stat. 1328, as amended, 1367, as amended (26 U.S.C. 5025, 5234).)

Par. 17. Amend § 201.310 to replace the words "consolidation of packages" with the word "mingling" in paragraph (c). As amended, § 201.310 reads as follows:

§ 201.310 Taxable losses.

* * * * *

(c) *Applicability to packages filled after entry.* The provisions of this section apply to spirits (including denatured spirits) which are filled into casks or packages, as authorized by law, after entry and deposit in storage in internal revenue bond, whether by recasking, filling from storage tanks, mingling, or otherwise. The quantity filled into those casks or packages is considered to be the original quantity for the purpose of this section in the case of loss from those casks or packages.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended (26 U.S.C. 5006).)

§ 201.311 [Amended]

Par. 18. Amend § 201.311 to: (1) Require monthly physical inventories of all spirits stored in bonded export storage facilities; (2) replace the words "regional director" with the words "regional regulatory administrator"; and (3) to correct the statutory citation. After the sentence "Losses of spirits (including denatured spirits) sustained from the tanks and bulk conveyances in bonded warehouses shall be determined by the proprietor each time a tank or bulk conveyance is emptied and on the basis of a physical inventory at the close of each month." the following new sentence is added: A complete physical inventory of the bonded export storage facilities shall be taken at the end of each month, and shortages found by this inventory shall be taxpaid, unless a claim for remission is filed in accordance with § 201.43, and is allowed by the regional regulatory administrator. * * *

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1356, as amended (26 U.S.C. 5008, 5201).)

§ 201.346 [Amended]

Par. 19. Amend § 201.346 to change a regulatory reference from § 201.586 to § 201.587.

Par. 20. Amend § 201.386 to include as authorized withdrawals without payment of tax, withdrawals for research, development or testing, and withdrawals to customs bonded warehouses for storage pending exportation. As amended, § 201.386 reads as follows:

§ 201.386 Authorized withdrawals without payment of tax.

Spirits may be withdrawn from bonded premises, without payment of tax for: (a) Export, as authorized under 26 U.S.C. 5214(a)(4); (b) Transfer to customs manufacturing bonded warehouses, as authorized under 26 U.S.C. 5522(a); (c) Transfer to foreign-trade zones, as authorized under 19 U.S.C. 81c; (d) Supplies for certain vessels and aircraft, as authorized under 19 U.S.C. 1309; (e) transfer to customs bonded warehouses, as authorized under 26 U.S.C. 5066 or 5214(a)(9); (f) Use in wine production, as authorized under 26 U.S.C. 5373; (g) Transfer to any university, college of learning, or

institution of scientific research for experimental or research use as authorized under 26 U.S.C. 5312(a); or (h) Research, development or testing, as authorized under 26 U.S.C. 5214(a)(10).

The withdrawal of spirits as provided in paragraphs (a) through (e) of this section shall be in accordance with the regulations in Part 252 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1375, as amended, 1382, as amended, 1393 (26 U.S.C. 5214, 5312, 5373, 5522); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

Par. 21. Amend § 201.393 to provide for withdrawal of samples of denatured spirits. New paragraphs (c) and (d) are added incorporating the provisions of former §§ 201.602 and 201.607 as they related to denatured spirits. As amended, § 201.393 reads as follows:

§ 201.393 Removal of denatured spirits.

* * * * *

(c) *Samples of denatured spirits.* The proprietor may take samples of denatured spirits free of tax which may be necessary for the conduct of business. The proprietor may furnish samples of specially denatured spirits: (1) To dealers in, and users of, specially denatured spirits in advance of sales; and (2) to users and to applicants or prospective applicants for permits to use specially denatured spirits, for experimental purposes or for use in preparing samples of a finished product for submission to the Director. Samples for these purposes, in excess of 1 liter, shall be furnished only after a permit on Form 1512 is issued to the consignee. Form 1473 shall be prepared to cover shipment of samples of a size in excess of 1 liter. Form 1473 shall show the permit number of the Form 1512. The proprietor shall retain the Form 1512 on file as a part of the record of transaction.

(d) *Labels for samples of denatured spirits.* Each sample of denatured spirits withdrawn under the provisions of this paragraph shall have a label affixed showing the following information: (1) The word "Sample", and the words "Specially Denatured Alcohol", "Specially Denatured Spirits", or "Completely Denatured Alcohol", whichever is applicable; (2) The name, address, and plant number of the proprietor; (3) The formula number; and, (4) The name and address of the consignee.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5214).)

Par. 22. Amend § 201.441 to provide for use of extracted oils in the tax-exempt rectification by redistillation of gin and to reflect existing law. As amended, § 201.441 reads as follows:

§ 201.441 Gin.

Gin produced on bottling premises is exempt from the rectification tax (as provided in § 201.29(c)) only if produced by the redistillation over juniper berries and other natural aromatics, or the extracted oils of such, of spirits distilled at or above 190 degrees of proof, free from impurities, including spirits of such a nature recovered by redistillation of imperfect gin spirits. Gin produced by redistillation is subject to rectification tax if it is mixed with other spirits or treated by the addition or abstraction of any substance or material other than pure water after redistillation in a manner that would change its class and type designation. Gin produced by redistillation is subject to rectification tax if any substance or material other than juniper berries or other natural aromatics, or the extracted oils of such, or pure water is added to the spirits before or during redistillation in a manner that would change its class and type designation. The gin shall be collected in a receiving tank and shall be gauged by the proprietor. The gin may be drawn off in packages, bottled, or transferred by pipeline or bulk conveyance to other bottling premises as provided in § 201.465. Gin exempt from rectification tax may be filtered to remove materials held in suspension, but the use of filters or filter aids which remove essential oils or flavoring materials in solution which change the class and type designation will subject the product to rectification tax. The provisions of this section do not preclude the filtering and stabilizing of gin as provided in § 201.445.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1328, as amended (26 U.S.C. 5025).)

Par. 23. Amend § 201.469 to reflect the new definition of spirits eligible for export with benefit of drawback and to provide for export with benefit of drawback of spirits in other bulk containers. As amended, the section reads as follows:

§ 201.469 Spirits not originally intended for export.

Taxpaid spirits, manufactured, produced, bottled in bottles packed in containers, or which are packaged in casks or other bulk containers in the United States, originally intended for domestic use may be exported with benefit of drawback if:

(a) * * *

(b) Each case, package or other bulk container is marked as required by Part 252 of this chapter.

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1358, as amended (26 U.S.C. 5062, 5205).)

Par. 24. Amend § 201.541 to require that red strip stamps be overprinted with the word "Export" for use on bottles filled on bottling premises, but to be returned to an export storage facility. As amended, § 201.541 reads as follows:

§ 201.541 General.

(a) *Spirits bottled-in-bond.* Each bottle of spirits bottled-in-bond under Subpart Na or K of this part, except alcohol bottled under Subpart K, shall, when filled, be stamped by the proprietor with a strip stamp. Green strip stamps are prescribed for spirits bottled-in-bond for the domestic market, and blue strip stamps are prescribed for spirits bottled-in-bond for export. Blue export strip stamps, applied to bottles of spirits bottled-in-bond for export with benefit of drawback, shall be overprinted with the word "drawback".

(b) *Spirits bottled on bottling premises.* Each bottle or other container of less than 5 wine gallons of taxpaid spirits filled on bottling premises, except spirits bottled-in-bond under Subpart Na of this Part, shall be stamped when filled by the proprietor with a prescribed red strip stamp. If bottled spirits bearing red strip stamps are to be exported, the word "Export" shall be overprinted on the strip stamps.

(c) * * *

(d) *Overprinting.* The words "Export" or "Drawback", when required, shall be legibly overprinted on the strip stamp by printing, use of a rubber stamp or by another suitable method. Subject to approval by the Director, strip stamps may be similarly overprinted with the class and type of product or with an appropriate abbreviation or symbol, i.e. "Bbn" for bourbon whiskey.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1369 as amended, (26 U.S.C. 5205, 5235).)

Par. 25. Amend Subpart S to provide for returning spirits to bonded export storage facilities and returning spirits bottled-in-bond under Subpart Na to bonded premises. These amendments also provide for the expanded use of ATF F 5110.17 (formerly Form 2612) as a record of disposition of spirits returned to bonded premises. The procedural requirements contained in § 201.587 have been placed in specific sections to which they apply and § 201.587 is deleted, § 201.584a is redesignated § 201.585, § 201.585 is redesignated § 201.586, and § 201.586 is redesignated § 201.587. As amended, Subpart S reads as follows:

Subpart S—Return of Spirits to Bonded Premises

Sec.

201.581 Return of taxpaid spirits to bonded premises.

201.582 Application for return of taxpaid spirits.

Sec.
201.583 Receipt and disposition of returned taxpaid spirits.
201.584 Return of recovered denatured spirits and recovered articles.
201.585 Articles and spirits residues received for redistillation.
201.586 Return of recovered tax-free spirits, and spirits and denatured spirits withdrawn free of tax.
201.587 Return of spirits withdrawn without payment of tax.
201.588 Abandoned spirits.

Subpart S—Return of Spirits to Bonded Premises

§ 201.581 Return of taxpaid spirits to bonded premises.

(a) *Taxpaid spirits returned for destruction, denaturation, redistillation, or mingling.* Spirits withdrawn from bonded premises on payment or determination of tax (other than products to which any alcoholic ingredients other than such spirits have been added) may be returned to the bonded premises of a distilled spirits plant. Spirits returned under this paragraph, shall be: (1) Destroyed in accordance with § 201.562; (2) Denatured; (3) Redistilled; or (4) Mingled as follows:

(i) If distilled at 190 degrees or more of proof, with other spirits distilled at 190 degrees or more of proof;

(ii) If eligible for denaturation, with other spirits to be immediately denatured;

(iii) If eligible to be removed from bond for an authorized tax-free purpose, with other spirits eligible to be immediately so removed;

(iv) If eligible to be redistilled at the same or at another plant, with other spirits for immediate redistillation; or

(v) With heterogeneous spirits under the provision of § 201.298.

Prior to disposition as provided in paragraphs (1) through (4) of this paragraph, the returned spirits may be accumulated for short periods of time (but not longer than 6 months) so that the destruction, denaturation, redistillation, or mingling may be accomplished in quantities sufficiently large to make the operations economically worthwhile. Spirits so accumulated shall be kept separate and apart from other spirits and shall be identified.

(b) *Return to export storage of spirits eligible for drawback.* Spirits which would be eligible for allowance of drawback on exportation under the provisions of Part 252 of this chapter, may be returned by the bottler or packager of the distilled spirits to an export storage facility on the bonded premises of the distilled spirits plant where bottled or packaged, solely for the purpose of storage pending withdrawal without payment of tax under § 201.386 (a), (c), (d), or (e), or free of tax under § 201.389(c). Spirits returned under this paragraph shall be retained in the containers in which returned, and shall be kept separate from all other spirits on bonded premises until withdrawn, as provided above.

(c) *Return to bonded premises of distilled spirits bottled-in-bond under Subpart Na.* A proprietor of bonded premises who has bottled distilled spirits under Subpart Na of this part, which are stamped and labeled as bottled-in-bond for domestic consumption, may return the cases of the bottled distilled spirits to appropriate storage facilities on the bonded premises of the distilled spirits plant where bottled. Spirits so returned may be withdrawn for any purpose for which distilled spirits bottled-in-bond under Subpart K of this part may be withdrawn.

(d) *Restrictions.* The receipt and deposit of taxpaid spirits returned to bonded premises shall be under the direct supervision of an ATF officer. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531. When containers of spirits removed for export are returned to bond pending subsequent removal for a purpose other than export, the export marks and the stamps, if any, shall be destroyed. When spirits bottled-in-bond after tax determination and spirits which would be eligible for drawback are returned to bonded premises, the spirits shall be properly marked and stamped for the intended use.

(e) *Applicability of Chapter 51, 26 U.S.C.* All provisions of Chapter 51, 26 U.S.C., and this part, applicable to spirits in internal revenue bond shall be applicable to spirits when returned to bonded premises under this section. The provisions of this subpart do not apply to taxpaid spirits returned to the bottling-in-bond facility for rebottling, relabeling, or restamping under the provisions of Subpart K.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1363 (26 U.S.C. 5215).)

§ 201.582 Application for return of taxpaid spirits.

The proprietor of the bonded premises shall prepare an application on ATF F 5110.17 and submit it to the assigned officer, or if none is regularly assigned, the area supervisor, for approval of the return of spirits under the provisions of § 201.581. The proprietor shall furnish evidence of eligibility of the spirits for return to bonded premises as may be requested by the assigned officer or the area supervisor, as the case may be. On receipt of the approved application, the proprietor shall make arrangements for the shipment of the spirits to the bonded premises.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1363 (26 U.S.C. 5215).)

§ 201.583 Receipt and disposition of returned taxpaid spirits.

On receipt of taxpaid spirits eligible for return to bonded premises, the proprietor shall gauge the spirits under the direct supervision of the assigned officer. The proprietor shall execute a receipt for the spirits and report of gauge in wine gallons and proof gallons on all copies of the approved ATF F 5110.17. After recording the gauge of spirits returned to bonded premises, the proprietor shall file the original ATF F 5110.17 with the regional regulatory administrator and one copy with the ATF officer. The disposition of spirits returned to bonded premises shall be recorded in tax gallons on the remaining copies of the form. When all of the spirits covered by ATF F 5110.17 have been disposed of and the dispositions recorded, the remaining copies of the form shall be filed in accordance with instructions thereon.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1363 (26 U.S.C. 5215).)

§ 201.584 Return of recovered denatured spirits and recovered articles.

Recovered denatured spirits and recovered articles may be returned for restoration or redenaturation to the bonded premises of any plant authorized to denature spirits, in accordance with the provisions of Part 211 of this chapter. The receipt and deposit of recovered denatured spirits and recovered articles shall be under the general supervision of the ATF officer. When containers are emptied, the proprietor shall comply with the applicable requirements of § 201.531. If restoration requires redistillation, the recovered denatured spirits or recovered articles may be returned for that purpose to bonded premises of a plant authorized to produce spirits. When recovered denatured spirits or recovered articles are received, the proprietor shall gauge the materials and report the gauge on Form 2629. Spirits recovered by the redistillation of recovered denatured spirits and recovered articles may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller. These spirits and articles shall be kept apart from all other spirits (including denatured spirits and recovered articles) and shall be promptly redenatured and removed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended, 1372 as amended (26 U.S.C. 5223, 5273).)

§ 201.585 Articles and spirits residues received for redistillation.

Articles manufactured under Part 211 of this chapter, and spirits residues of manufacturing processes related thereto, may be received on the bonded premises of a distilled spirits

plant authorized to produce distilled spirits, for the recovery by redistillation of the distilled spirits contained in those materials. The articles and spirits residues may be so received pursuant to a letterhead application (in quadruplicate) filed with, and approved by, the regional regulatory administrator of the region in which the distilled spirits plant is located. This application shall include the name and address, and the permit number, if any, of the person from whom the articles or spirits residues will be received, and fully describe the materials to be received as to kind and quantity. On approval, the regional regulatory administrator will return two copies of the application to the proprietor of the distilled spirits plant, who will retain one copy on file and forward one copy to the person from whom the articles or spirits residues will be received. The receipt and deposit of articles and spirits residues shall be under the general supervision of the ATF officer. The proprietor shall gauge the materials when received and report the gauge on Form 2629. Spirits recovered by the redistillation of articles and spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1365, as amended (26 U.S.C. 5223).)

§ 201.586 Return of recovered tax-free spirits, and spirits and denatured spirits withdrawn free of tax.

(a) *General.* Specially denatured spirits withdrawn free of tax under the applicable provisions of Part 252 of this chapter for exportation or for deposit in a foreign-trade zone, and spirits (including denatured spirits) withdrawn free of tax under the applicable provisions of Part 211 or 213 of this chapter, may be returned: (1) To bonded premises of any plant authorized to produce distilled spirits, for redistillation; or (2) to any bonded premises for storage pending subsequent lawful withdrawal free of tax. Recovered tax-free spirits may, as provided in Part 213 of this chapter, be returned for redistillation to bonded premises of any plant authorized to produce distilled spirits or to any bonded warehouse facility for restoration (not including redistillation). The return shall be made under the applicable provisions of this part and Part 211, 213, or 252 of this chapter, as appropriate.

(b) *Bonding requirements.* Before spirits (including denatured spirits) are returned to bonded premises for storage, without redistillation, the proprietor shall file a consent of surety on Form 1533 to extend the terms of the bond, Form 2601, to cover the return and storage of spirits. The proprietor may, if desired, file one consent of surety on the bond to extend the terms thereof to cover all spirits which may be returned.

(c) *Procedure.* If the shipment was reported on a Form 1473, the proprietor shall execute the certificate of receipt on that form and forward the original to the regional regulatory administrator through the ATF officer. When recovered tax-free spirits, spirits or denatured spirits are received, they shall be gauged and the gauge shall be reported on Form 2629. However, a gauge report, Form 2629, will not be required if: (1) The spirits or denatured spirits are in the same sealed containers in which they were withdrawn from a distilled spirits plant; and (2) the proprietor intends to withdraw the spirits or denatured spirits in the same containers. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531. When containers of spirits removed for export are returned to bond pending subsequent removal for a purpose other than export, the export marks shall be destroyed. The receipt and deposit of denatured spirits, recovered tax-free spirits, and tax-free spirits shall be under the general supervision of the ATF officer.

(d) *Limitation.* Spirits recovered by the redistillation of denatured spirits may not be withdrawn from bonded premises except for industrial use or after denaturation. All spirits redistilled under the provisions of this subpart shall be treated the same as if the spirits had been originally produced by the redistiller.

(Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1365 as amended (26 U.S.C. 5223).)

§ 201.587 Return of spirits withdrawn without payment of tax.

(a) *Spirits withdrawn for export.* Spirits lawfully withdrawn without payment of tax under the provisions of Part 252 of this chapter for exportation, or for transfer to a customs bonded warehouse or a customs manufacturing bonded warehouse, or for deposit in a foreign-trade zone, or for use on vessels and aircraft, and not so exported, transferred, deposited, or used (or laden for use) on a vessel or aircraft, may be returned, under the applicable provisions of this part and Part 252 of this chapter: (1) To the bonded premises of any plant authorized to produce distilled spirits, for redistillation; or (2) to the bonded premises from which withdrawn, for storage pending subsequent removal for a lawful purpose.

(b) *Spirits withdrawn for use in wine production.* Wine spirits withdrawn under § 201.387 for use in wine production, and not so used, may be returned to the bonded premises of a plant. The consignee proprietor shall obtain approval, as provided in § 201.366. The wine spirits shall be removed from the winery in accordance with the provisions of Part 240 of this chapter.

(c) *Spirits withdrawn for research, development or testing.* Spirits withdrawn without payment of tax, under the provisions of Subpart T of this part, for research, development or testing may be returned to the bonded premises of the distilled spirits plant from which withdrawn. The proprietor shall prepare a letterhead application, in duplicate, covering the return of these spirits and the application shall state the date of the schedule or application covering the withdrawal of the spirits, the quantity to be returned in tax gallons and date on which the spirits are to be returned. After returning these spirits to bonded premises, they shall be destroyed or returned to vessels in the distilling system containing similar spirits.

(d) *Procedure.* Receipt and deposit of spirits returned to bonded premises under this section shall be under the direct supervision of an ATF officer. When spirits are received, they shall be gauged by the proprietor and the gauge shall be reported on Form 2629. However, a gauge report, Form 2629, will not be required if: (1) The spirits are in the same sealed containers in which they were withdrawn from a distilled spirits plant; and (2) the proprietor intends to withdraw the spirits in the same containers. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531. When containers of spirits removed for export are returned to bond pending subsequent removal for a purpose other than export, the export marks and the stamps, if any, shall be destroyed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended, 1382, as amended (26 U.S.C. 5214, 5223, 5373); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

§ 201.588 Abandoned spirits.

Spirits abandoned to the United States may be sold, without payment of the internal revenue tax, to a proprietor of a plant for denaturation, or for redistillation and denaturation, if the plant is authorized to denature or redistill and denature spirits. These spirits shall be kept apart from all other spirits (including denatured spirits) until denatured. The receipt, gauging, handling, and recordkeeping provisions of § 201.584 are applicable to these spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5243).)

Par. 26. Delete Subpart T—Samples, and add the following new Subpart

T—Spirits Withdrawn for Research, Development or Testing. As added, Subpart T reads as follows:

Subpart T—Spirits Withdrawn for Research, Development or Testing

§ 201.601 Withdrawal of spirits without payment of tax.

(a) *General.* Subject to the conditions prescribed in this subpart, spirits may be withdrawn from the bonded premises of a distilled spirits plant by the proprietor without payment of tax for testing or laboratory analysis, in accordance with § 201.606, or for research, development or testing, in accordance with § 201.607. Prior to withdrawal of spirits without payment of tax for either of these purposes, the proprietor shall meet the bonding requirements prescribed in paragraph (b), below.

(b) *Bonding requirements.* Withdrawal of spirits without payment of tax under this subpart shall not be permitted until the proprietor has obtained approval of:

(1) A superseding bond, Form 2601, to provide for the payment of tax, penalties and interest on spirits withdrawn under this subpart, when spirits are not used for the stated purpose, lawfully disposed of, or accounted for; or

(2) A Consent of Surety, Form 1533, extending the terms of the existing bond, Form 2601, unless the bond currently in force is so conditioned. The Consent of Surety, Form 1533, shall provide for the payment of tax, penalties and interest on spirits withdrawn under this subpart, when spirits are not used for the stated purpose, lawfully disposed of or accounted for.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended (26 U.S.C. 5005, 5214).)

§ 201.602 Schedule of spirits withdrawn for testing or laboratory analysis.

(a) *Schedule of withdrawals for testing or laboratory analysis.* The proprietor shall furnish the assigned officer, or if none is regularly assigned, the area supervisor, a schedule of all spirits to be taken on bonded premises for testing or laboratory analysis. The schedule shall be prepared for the period of time the proprietor can accurately forecast the operations and shall be furnished at least 5 days in advance of withdrawal. When unanticipated spirits are needed, the schedule may be supplemented. The schedule shall provide: (1) The name of the proprietor and the plant number; (2) If the spirits are to be tested at a laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation, as defined in § 201.490, the name, address, and plant number of that plant; (3) If the spirits are for quality or character testing by a prospective purchaser, the name, address, and plant number of the prospective purchaser; (4) The place from which the spirits are to be removed, or, in the case of a package, the package identification number or serial number, as applicable, and the location of the package and the name and plant number of the packaging proprietor, if other than the one taking the spirits; (5) The kind of spirits and the quantity in tax gallons; and (6) The approximate time the spirits will be taken.

(b) *Record of disposition.* When spirits are removed, the proprietor shall indicate on the retained copy of the schedule, or on another record, the withdrawal of the spirits and the disposition.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314 as amended, 1362 as amended, 1382 as amended (26 U.S.C. 5001, 5214, 5373).)

§ 201.603 Mechanical sampling devices.

Spirits taken from the closed distilling system shall be taken by means of mechanical sampling devices installed as provided in this part, unless it is shown that the installation of mechanical sampling devices is not justified and the necessary spirits can be taken at times that will not require increased supervision by ATF officers. Mechanical sampling devices may also be used for taking spirits from storage tanks. Spirits taken by means other than mechanical sampling devices shall be taken under the direct supervision of the ATF officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362 as amended, 1345 as amended; (26 U.S.C. 5214, 5552).)

§ 201.604 Taxable withdrawals.

Spirits withdrawn from bonded premises for research, development or testing are taxable if the quantities are determined to be excessive, as provided in §§ 201.606 or 201.607. Prior to removal, the proprietor shall prepare Form 179 covering all taxable spirits withdrawn for research, development or testing. If the proprietor is qualified to defer payment of the tax, the tax due shall be included in the proprietor's tax return on Form 2522 for the period in which the spirits were withdrawn. If a proprietor is not qualified to defer the payment of tax, the tax on spirits shall be paid by return on Form 2521.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1318, as amended, 1362 as amended, 1382, as amended (26 U.S.C. 5001, 5005, 5214, 5373).)

§ 201.605 Labels.

On each container of spirits to be withdrawn under the provisions of §§ 201.606 or 201.607, the proprietor shall affix a label showing the following information: (a) The words "Research", "Development", or "Testing", as appropriate; (b) The kind of spirits (and for imported spirits, the word "Imported"); (c) The place from which the spirits were removed, and the identity of the package, if applicable; (d) A statement of the nature of the research, development or testing to be done, identifying which process, system, material or equipment is being tested; (e) The size of the container and the proof of the spirits; (f) if the spirits are to be removed to other than the immediate or contiguous premises of the proprietor, the name, and address of the consignee; (g) The name of the proprietor and the plant number; (h) The signature of the person who removed the spirits; and (i) The date the spirits are removed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1362 as amended, 1382 as amended, (26 U.S.C. 5206, 5214, 5373).)

§ 201.606 Withdrawals for testing or laboratory analysis.

(a) *General.* Subject to the conditions prescribed in this subpart, the proprietor may withdraw spirits without payment of tax, or wine spirits or brandy free of tax, from the bonded premises, for testing or laboratory analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product. A quantity of spirits not exceeding 1 liter may be furnished to a prospective purchaser for quality testing, if a bona fide written or oral purchase agreement exists which is contingent upon quality approval by a prospective purchaser of spirits or denatured spirits.

(b) *Bonding requirements.* The proprietor is required to meet the bonding requirements prescribed by § 201.601(b), prior to withdrawal of spirits without payment of tax. The bonding requirements prescribed by § 201.601(b) do not apply, if the proprietor intends to remove only wine spirits or brandy exclusively for testing or laboratory analysis (other than consumer testing or other market analysis) to determine the quality or character of the finished product.

(c) *Limitations.* Except for spirits furnished to a prospective customer, as provided in paragraph (a) of this section, spirits withdrawn for testing or laboratory analysis shall be removed to the proprietor's laboratory located at the same distilled spirits plant or to be laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation, as defined in § 201.490. These spirits shall be withdrawn in containers not exceeding 1 liter. Taxes shall be paid when the spirits are used for any purpose other than the purpose authorized under this section.

(d) *Prior to withdrawal.* Prior to withdrawal, the proprietor shall

submit the schedule prescribed in § 201.602. The ATF officer or area supervisor will advise the proprietor when the quantities to be withdrawn are in excess of the amount necessary for the conduct of the proprietor's business. When withdrawn from bonded premises, excessive quantities must be taxpaid in accordance with § 201.604.

(e) *After withdrawal.* The proprietor shall report the total quantity of spirits withdrawn on the monthly report, Form 2730 or 2731, as appropriate. When spirits are lost prior to being used for testing or laboratory analysis, the proprietor shall file a claim for remission of tax, prescribed by § 201.43. Remnants or residues of these spirits remaining after testing or laboratory analysis may not be accumulated beyond a reasonable period of time. Accumulated spirits shall be destroyed or returned to vessels in the distilling system containing similar spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended, 1382, as amended (26 U.S.C. 5005, 5214, 5373).)

§ 201.607 Withdrawals for research, development or testing.

(a) *General.* Subject to the conditions prescribed in this subpart, spirits may be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for research, development or testing (other than consumer testing or other market analysis) of processes, systems, materials or equipment relating to distilled spirits or distilled spirits plant operations.

(b) *Application.* A proprietor who desires to remove spirits without payment of tax shall, for each removal or each individual research, development or testing project, submit a letter application, in triplicate (in quadruplicate if the consignee is in another region), to the ATF officer, or if none is regularly assigned, to the area supervisor of the area where the plant is located. The application shall specify: (1) The name, address, and plant number of the plant; (2) The name and address of the consignee; (3) The quantity in tax gallons and the kind of spirits; (4) The place from which the spirits will be removed, or, in the case of a package, the package identification or serial number, as applicable, and the location of the package and the name and plant number of the packaging proprietor, if other than the one withdrawing the spirits; (5) The nature of the research, development or testing to be conducted, identifying which processes, systems, materials, or equipment are being tested; (6) The approximate time the spirits will be withdrawn; (7) The approximate time the testing will be completed; and (8) The manner of disposing of the spirits after completion of the testing.

(c) *Limitations.* The ATF officer or area supervisor will advise the proprietor when the quantities to be withdrawn are in excess of the amount necessary for the conduct of the proprietor's business. When withdrawn from bonded premises, excessive quantities must be taxpaid in accordance with § 201.604. These spirits shall be used for the stated purpose within the time specified in the application. Quantities exceeding the stated needs shall be returned to the bonded premises or destroyed under government supervision. Taxes shall be paid when the spirits are used for any purpose other than the purpose authorized under this section.

(d) *Consignee's statement.* The proprietor shall submit a written statement, executed by the consignee under the penalties of perjury, agreeing that he will maintain records of the receipt, use, and disposition of all spirits received by him and that those records and operations will be available during regular business hours for inspection by ATF officers. However, a statement will not be required when the spirits are removed to the proprietor's laboratory located at the same plant, or to a laboratory located at the distilled spirits plant of an affiliated or subsidiary corporation, as defined in § 201.490.

(e) *Approval.* When the requirements of § 201.601(b) and paragraphs (b) and (d), above, have been met, the ATF officer or the area supervisor will approve the application and indicate the excessive quantity of spirits, if any, to be taxpaid, in accordance with § 201.604. The proprietor will receive two copies of the approved application. One copy will be forwarded by the proprietor to the consignee laboratory and one copy will be retained by the proprietor. The proprietor will report the total quantity of spirits removed for research, development or testing on the monthly report, Form 2730 or 2731, as appropriate, identifying the purpose of the research, development, or testing.

(f) *Losses.* When spirits are lost prior to being used for the authorized purpose, the proprietor shall file a claim for remission of tax, prescribed by § 201.43.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1318, as amended, 1362, as amended (26 U.S.C. 5005, 5214).)

Par. 27. Amend § 201.619: (1) by correcting the spelling of the word "gage" where it appears, to read "gauge"; (2) by redesignating paragraphs (c), (d), (e), (f), (g), (h), and (i) as (d), (e), (f), (g), (h), (i), and (j), respectively; (3) by adding a new paragraph (c) to read as follows:

§ 201.619 Daily production records.

* * * * *

"(c) The receipt and use of extracted oils of juniper berries and other natural aromatics received for use in gin production."; and (4) by correcting the statutory authority to read "(Sec. 201, Pub. L. 85-859, 72 Stat. 1361, as amended (26 U.S.C. 5207))".

Par. 28. Amend § 201.622 to require daily records of spirits returned to bonded storage. Paragraphs (a) (2), (3), and (4) are redesignated paragraphs (a) (3), (4), and (5), respectively, and a new paragraph (a)(2) is added. As amended, § 201.622 reads as follows:

§ 201.622 Daily bonded storage records.

(a) *Daily summary.* * * *

(1) * * *

(2) The spirits returned to bonded storage;

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361, as amended (26 U.S.C. 5207).)

Par. 29. Revise § 201.626 to require records of spirits withdrawn without payment of tax for research, development or testing. As revised, the section reads as follows:

§ 201.626 Record of withdrawals from bonded premises for research, development or testing.

Proprietors shall maintain daily records of spirits withdrawn from bonded premises for research, development or testing to show: (a) The date withdrawn; (b) the kind of spirits (formula number in the case of denatured spirits); (c) the quantity in tax gallons, or, in the case of denatured spirits, in wine gallons, and, if applicable, the quantity which was taxpaid; (d) the date of the applicable application or schedule; (e) the regulatory authority under which the spirits were withdrawn; (f) the name and address of the consignee; and (g) the date on which the research, development or testing was completed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361, as amended, 1362, as amended (26 U.S.C. 5207, 5214).)

§ 201.628 [Amended]

Par. 30. Amend § 201.628 to require maintenance of records of spirits returned to bonded storage. In paragraph (a), after the sentence "For the purpose of records under this section spirits produced under trade names shall be treated as being produced under the real name of the proprietor.", the following sentence is added: Separate files shall also be maintained for spirits returned to bonded storage, and further separated to identify the brand and standard export drawback rates of spirits returned to export storage facilities.

* * * * *

§ 201.629 [Amended]

Par. 31. Amend § 201.629 to require summary accounts for spirits returned to bonded storage. In paragraph (b), after the sentence "Basic accounts of spirits in packages which have been mingled under the provisions of § 201.301 shall be separately maintained from basic accounts for spirits which have not been mingled.", the following sentence is added: Separate warehouse summary accounts shall also be maintained for spirits returned to bond, and further separated to identify the brand and standard export drawback rate of spirits returned to export storage facilities.

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1361, as amended (26 U.S.C. 5207).)

§ 201.631 [Amended]

Par. 32. As stated above, ATF Forms 1615 and 2546 become obsolete. Delete § 201.631(c)(1) and redesignate § 201.631(c)(2) as § 201.631(c).

§ 201.631a [Deleted]

Delete § 201.631a.

§ 201.634 [Amended]

Delete § 201.634(c) and redesignate paragraph § 201.634(d) as § 201.634(c).

PART 231—TAXPAID WINE BOTTLING HOUSES

Par. 33. Amend § 231.100 to reflect the new definition of wines which may be exported with benefit of drawback. As amended, the section reads as follows:

§ 231.100 General.

Wine manufactured, produced, bottled in bottles packed in containers, or packaged in casks, or other bulk containers in the United States and on which the internal revenue tax has been determined or paid may be exported from a taxpaid wine bottling house. On exportation of the wine there may be allowed a drawback equal in amount to the tax found to have been paid.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended 26 U.S.C. 5062).)

PART 252—EXPORTATION OF LIQUORS

Par. 34. Amend the Table of Contents to Part 252 to reflect the change in title of an amended section and to add the title of a new section. As amended, the Table of Contents reads as follows:

* * * * *

Sec.

252.91a Export storage facilities at distilled spirits plants.

* * * * *

Sec.

252.263 Duties of customs officer to be performed by an ATF officer.

* * * * *

Par. 34. Amend § 252.11 by adding definitions for "bulk container", and "export storage facilities." As amended, § 252.11 reads as follows:

§ 252.11 Meaning of terms.

* * * * *

Bulk container. Any approved container of 5 gallons or more.

* * * * *

Export storage facilities. The part of the bonded premises of a distilled spirits plant, established under 26 U.S.C. 5178(a)(3)(D), for the storage of distilled spirits returned under 26 U.S.C. 5215(b).

* * * * *

Par. 36. Amend §§ 252.26(a) and 252.27 amended to provide for withdrawal of spirits without payment of tax to customs bonded warehouses from which they may then be exported. As amended, the sections read as follows:

§ 252.26 Entry into customs bonded warehouses.

(a) *Distilled spirits withdrawn without payment of tax.*

(1) Distilled spirits bottled-in-bond for export, and bottled distilled spirits returned to bonded premises under the provisions of § 201.581(b) of this chapter, may, subject to this part, be withdrawn from bonded premises for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry pending withdrawal as provided in § 252.27. Withdrawals from bonded premises under the provisions of this paragraph shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(4).

(2) Distilled spirits bottled-in-bond for export, and distilled spirits returned to bonded premises under the provisions of § 201.581(b) of this chapter may, subject to this part, be withdrawn from bonded premises for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported. These withdrawals shall be treated as withdrawals for exportation under the provisions of 26 U.S.C. 5214(a)(9).

* * * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

§ 252.27 Withdrawal from customs bonded warehouses.

Distilled spirits entered into customs bonded warehouses as provided in § 252.26 (a) or (b) may, under the appropriate provisions of 19 CFR Chapter I, be withdrawn from the warehouses for consumption in the United States by and for the official or family use of foreign governments, organizations, and individuals who are entitled to withdraw imported distilled spirits from a warehouse free of tax. Distilled spirits entered into customs bonded warehouses under the provisions of § 252.26(a)(2), may be withdrawn for exportation, subject to the provisions of 19 CFR, Chapter I. Distilled spirits transferred to customs bonded warehouses as provided in § 252.26 shall be entered, stored, and accounted for in such warehouses under the appropriate provisions of 19 CFR Chapter I.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

Par. 37. Amend § 252.30 to correct the description of liquors which may be deposited in a foreign-trade zone. As amended, § 252.30 reads as follows:

§ 252.30 Export status.

Distilled spirits and wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks, or other bulk containers in the United States, and beer brewed or produced in the United States may be transferred to a foreign-trade zone for the sole purpose of exportation, or storage pending exportation. Liquors deposited in a foreign-trade zone under this part are considered exported. Export status is not acquired until application on Zone Form D for admission of the liquors into the zone has been approved by the district director of customs under the appropriate provisions of 19 CFR, Chapter I, and the required certification of deposit has been made on the ATF form prescribed in this part.

(Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c).)

§ 252.36 [Amended]

Par. 38. Amend § 252.36 (1) to delete the first sentence and replace it with the following "Liquors deposited in a foreign-trade zone from the United States which have become unmerchantable or unfit for export may be destroyed. The exporter shall prepare a letter application, in duplicate, and submit it to the regional regulatory administrator of the region in which the zone is located. The application shall identify the name and address of the exporter and contain the following information:"; (2) to add, in paragraph (b) the words "bottler or packager" after the word "producer"; (3) to re-

place the term "assistant regional commissioner" with the term "regional regulatory administrator"; and (4) to replace the term "director of customs" with the term "district director of customs".

Par. 39. Amend § 252.37 to read as follows:

§ 252.37 Action by regional regulatory administrator.

The regional regulatory administrator shall carefully examine the application to see that all the required information has been furnished and shall cause an investigation to be made or require any additional evidence, including samples, to be submitted if necessary. If the regional regulatory administrator finds that the liquors were transported to and deposited in a foreign-trade zone in good faith for the purpose of exportation or storage pending exportation, and the liquors, after deposit in the zone, have become unmerchantable or unfit for export, he may approve the application and authorize the destruction of the liquor described therein under the supervision of the district director of customs. On approval or disapproval of the application, the regional regulatory administrator shall advise the district director of customs of his action.

Par. 40. Amend § 252.61 to correct a regulatory reference. As amended, § 252,61 reads as follows:

252.61 Bond, Form 2734.

If a specific lot of distilled spirits or wines is to be withdrawn without payment of tax, as authorized in § 252.91 (a)(1), (a)(2), (a)(3), (a)(5), or (b), or § 252.121 (a), (b), or (c), by a person other than the proprietor of the bonded premises, a specific bond on Form 2734 shall be filed by the exporter with the regional regulatory administrator, as provided in § 252.51. The penal sum of the bond shall be not less than the tax prescribed by law on the quantity of spirits or wines to be withdrawn. However, the maximum penal sum of the bond shall not exceed $200,000 but in no case shall the penal sum be less than $1,000.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1362, as amended, 1380, as amended (26 U.S.C. 5175, 5214, 5362); Sec. 3, Pub. L. 91-659, 84 Stat. 1964, as amended (26 U.S.C. 5066).)

Par. 41. Revise § 252.62: (1) To make a conforming change in a regulatory reference; (2) to delete the second proviso, as obsolete; and (3) to delete instructions that are incorporated in the bond Form 2735. As revised, § 252.62 reads as follows:

§ 252.62 Bond, Form 2735.

(a) *Requirement for bond.* If a person other than the proprietor of a bonded premises withdraws distilled spirits or wines without payment of tax, as authorized by § 252.91 (a)(1), (a)(2), (a)(3), (a)(5), or (b), or § 252.121 (a), (b), or (c), the exporter shall file a continuing bond, Form 2735, with the regional regulatory administrator, as provided in § 252.51.

(b) *Penal sum of bond.* The penal sum of the bond shall be sufficient to cover the tax on the maximum quantity of distilled spirits and wines that may remain unaccounted for at any one time. However, the maximum penal sum of the bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000. Distilled spirits and wines withdrawn for exportation, use on vessels or aircraft, or transfer to a foreign-trade zone, or distilled spirits withdrawal for transfer to a customs bonded warehouse shall remain unaccounted for until the evidence of exportation, use, transfer, or loss in transit has been filed with the regional regulatory administrator.

(c) *Apportioning bonds.* If the bond, Form 2735, is in less than the maximum penal sum, the principal shall apportion the bond, in accordance with the requirements on the bond form. The exporter may reapportion the bond coverage, if changing conditions make this necessary, by filing a consent of surety, Form 1533, for approval by the regional regulatory administrator.

(d) *Filing applications for withdrawal.* If the bond, Form 2735, is in less than the maximum penal sum, the exporter shall designate, in the bond, one distilled spirits plant for filing all applications for withdrawal. If the bond, Form 2735, is in the maximum penal sum, the exporter may designate one distilled spirits plant for filing all applications for withdrawal. The ATF officer at the designated plant shall approve each application, if there is sufficient bond coverage, and forward all copies of the approved application to the plant from which the spirits are to be withdrawn.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1362, as amended, 1380 as amended (26 U.S.C. 5175, 5214, 5362); Sec. 3, Pub. L. 91-659, 84 Stat. 1964, as amended (26 U.S.C. 5066).)

Par. 42. Amend § 252.91 to provide for withdrawal without payment of tax of spirits which have been returned to bonded export storage facilities. As amended, the section reads as follows:

§ 252.91 General.

(a) Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to this part, be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for: (1) Exportation; (2) Use on the vessels or aircraft described in § 252.21; (3) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation; (4) Transportation to and deposit in a manufacturing bonded warehouse; or (5) Transfer to and deposit in a customs bonded warehouse as provided for in § 252.26.

(b) Distilled spirits returned to bonded premises under the provisions of § 201.581(b) of this chapter, may be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for the purposes described above in (a) (1), (2), (3), or (5).

(c) All withdrawals shall be made under the applicable bond prescribed in Subpart D of this part.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1393 (26 U.S.C. 5214, 5522); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

PAR. 43. Add a new § 252.91a immediately after § 252.91, describing export storage facilities on bonded premises of distilled spirits plants. The new section reads as follows:

§ 252.91a Export storage facilities at distilled spirits plants.

If the proprietor of a distilled spirits plant intends to receive, store, and remove bottled or packaged distilled spirits which would be eligible for export with benefit of drawback upon exportation, but returned to bonded premises under the provisions of § 201.581(b) of this chapter, the proprietor shall provide for the storage of the spirits in the export storage facilities on the bonded premises of the distilled spirits plant. The export storage facility shall be a room or building which need not be used exclusively for the storage of distilled spirits, but when used as an export storage facility, the room or building may only be used for storage pending withdrawal without payment of tax under § 252.91(b), or free of tax under § 201.389(c) of this chapter. The records covering export storage transactions on the bonded premises provided under this section shall be maintained and reports shall be submitted in accordance with applicable provisions of Part 201 of this chapter.

(Sec. 2, Pub. L. 95-176, 91 Stat. 1364 (26 U.S.C. 5178(a)(3)(D)).)

PAR. 44. Amend § 252.171 to reflect the new definition of spirits which are eligible for exportation with benefit of drawback and to make a conforming change in a regulatory reference. As amended, the section reads as follows:

§ 252.171 General.

Distilled spirits manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue

tax has been paid or determined, and which have been stamped and marked, or restamped and marked (if in cases), or marked (if in packages), under the provisions of Part 201 of this chapter and of this part, as applicable, especially for export with benefit of drawback may be:

* * * * *

(d) Transferred to and deposited in a customs bonded warehouse as provided for in § 252.26(b).

On receipt by the regional regulatory administrator of required evidence of exportation, lading for use, or transfer, there shall be allowed to the bottler (or packager) of the spirits, drawback equal in amount to the tax found to have been paid or determined on the spirits.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

§ 252.173 [Amended]

PAR. 45. Amend § 252.173: (1) By replacing the term "assistant regional commissioner, alcohol, tobacco and firearms" with the term "regional regulatory administrator"; (2) by deleting from the first sentence, the words "fully taxpaid spirits, such as unrectified spirits and gin and vodka produced exempt from rectification tax," and inserting, in their place, the words "spirits taxpaid under 26 U.S.C. 5001 or 7652"; (3) by deleting from the second sentence, all of the words preceding the word "formulas" and inserting in their place, the words "Products which derive some of their alcoholic content from sources other than spirits taxpaid under 26 U.S.C. 5001 or 7652 and products which are subject to rectification tax may be subject to standard export drawback rates, if the rectifiers submit to the Director, Bureau of Alcohol, Tobacco, and Firearms"; and, (4) to add a statutory authority to read as follows:

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

PAR. 46. Amend § 252.192 to permit the use of "other bulk containers" for exporting spirits with benefit of drawback. As amended, the section reads as follows:

§ 252.192 Packages of distilled spirits to be gauged.

Distilled spirits in packages or other bulk containers which are to be removed for export with benefit of drawback, shall be gauged by the distilled spirits plant proprietor prior to preparation of notice on Form 1582. However, if an inspection discloses no evidence of loss and removal is made within 30 days from the time of packaging the distilled spirits, the filling gauge shall be considered the gauge at the time of removal. The ATF officer at the distilled spirits plant shall supervise the gauging of the distilled spirits by the proprietor. A report of gauge shall be made by the proprietor on Form 2630, in quadruplicate (appropriately modified), and a copy of the report of gauge shall be attached to each copy of Form 1582 and considered a part of the claim.

(Sec. 201, Pub. L. 85-859 72 Stat. 1336, as amended, (26 U.S.C. 5062).)

PAR. 47. Amend § 252.193 to require export marks on "other bulk containers" of distilled spirits to be exported. As amended, the section reads as follows:

§ 252.193 Export marks.

In addition to the marks and brands required to be placed on packages or other bulk containers and cases at the time they are filled under the provisions of Part 201 of this chapter, the exporter shall place additional marks, as required by this section, on each container before removal for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone or a customs bonded warehouse:

* * * * *

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066).)

Par. 48. Amend § 252.211 to reflect the new definition of wines which may be exported with benefit of drawback. As amended, the section reads as follows:

§ 252.211 General.

Wines manufactured, produced, bottled in bottles packed in containers, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are filled on premises qualified under this chapter to package or bottle wines, may, subject to this part, be:

* * * * *

On receipt by the regional regulatory administrator of required evidence of exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on the wines.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

Par. 49. Amend § 252.216 to require export marks on "other bulk containers" of wine to be exported. As amended, the section reads as follows:

§ 252.216 Marking of containers.

In addition to the marks and brands required to be placed on packages or other bulk containers and cases under the provisions of Parts 201, 231, or 240, of this chapter, each container removed under the provisions of this subpart shall be stenciled or otherwise marked, in durable and legible letters and figures of not less than three-fourths of an inch in height, additional information, as specified below:

* * * * *

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); Sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062).)

Par. 50. Amend § 252.263 to permit exportation with benefit of drawback of distilled spirits in bulk containers and to replace the term "internal revenue officer" with the term "ATF officer". As amended, the section reads as follows:

§ 252.263 Duties of customs officer to be performed by an ATF officer.

If authorized by the district director of customs at the interior port of entry, in the case of paragraph (a) of this section, or at the port where the manufacturing bonded warehouse is located, in the case of paragraph (b) of this section, the ATF officer at a distilled spirits plant shall perform the duties required, by this subpart, to be performed by a customs officer, in the following instances:

(a) Where distilled spirits withdrawn without payment of tax, or where distilled spirits stamped and marked, or restamped and marked (if in cases) or marked (if in packages, or other bulk containers) especially for export with benefit of drawback, are laden at an interior port for exportation through another port; and

(b) * * *

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended 1362, as amended, 1393, as amended (26 U.S.C. 5062, 5214, 5522).)

Signed: May 23, 1978.

REN D. DAVIS,
Director.

Approved: May 31, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-15499 Filed 6-1-78; 8:45 am]

federal register

FRIDAY JUNE 2, 1978
PART VI



ENVIRONMENTAL PROTECTION AGENCY

■

GRANTS FOR CONSTRUCTION OF WASTEWATER TREATMENT WORKS

Proposed Technical Amendments

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35 Subpart E]

[FRL 894-2]

GRANTS FOR CONSTRUCTION OF WASTEWATER TREATMENT WORKS

Proposed Technical Amendments

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule is a series of amendments to the regulations governing grants for construction of treatment works. These amendments are necessary to incorporate in the regulations the miscellaneous technical, administrative, and programmatic changes which have taken place in the program since the bulk of the regulations were published in 1974. They are also intended to simplify the language of the regulations where it is possible to do so without making major changes. These changes, if adopted as final rulemaking, will make administration of the program and understanding of the requirements easier.

DATES: Comments must be received on or before July 17, 1978. Public meetings for the purpose of receiving comments will be held in June and July 1978. Notice of these meetings will be published in the FEDERAL REGISTER. Regional Conferences will be held on June 5, and June 9, June 12, and June 15 through the cooperation of several environmental and special interest groups and EPA. See the discussion of these conferences below.

ADDRESSES: Written comments should be submitted to Mr. Alexander J. Greene, Director, Grants Administration Division, Attention: PM-216-P Construction Technical, Environmental Protection Agency, Washington, D.C. 20460. Comments submitted may be inspected at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. between 8 a.m. and 4:30 p.m., business days. The public meetings will be held at all EPA regional offices. In addition, four regional conferences will be held (in Chicago, San Francisco, Dallas, and Philadelphia) through the cooperation of several environmental and special interest groups and EPA. See discussion of these conferences below.

FOR FURTHER INFORMATION CONTACT:

Scott Berdine, Office of Water Program Operations (WH-546), Environmental Protection Agency, Washington, D.C. 20460, telephone 202-426-2517; or Belle Davis, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, telephone 202-755-0860.

SUPPLEMENTARY INFORMATION: Final regulations implementing the grant program for construction of wastewater treatment works authorized by Title II of the Federal Water Pollution Control Act Amendments of 1972 were promulgated on February 11, 1974 (40 CFR Part 35 Subpart E; 39 FR 5251). They were amended at various times after that, most notably December 17, 1975, September 23, 1976, and December 29, 1976. On December 27, 1977, the Clean Water Act of 1977 was enacted, further amending the Federal Water Pollution Control Act, as amended (hereafter the Clean Water Act), and requiring substantial amendments to the construction grant regulations in Subpart E. Those amendments were published in three parts on April 25, 1978. Certain of the amendments were published as proposed rulemaking (43 FR 17690); the large part of the amendments required by the new Act were published as interim final (43 FR 17697); and the State Management Assistance Grant program was implemented with the interim final publication of a new Subpart F (43 FR 17716). (See the April 25, 1978, issue of the FEDERAL REGISTER for more information about those regulations.) We intend to republish all the amendments as final rulemaking in September 1978, before the start of the new fiscal year, as part of a complete conformed version of the construction grant regulations. This means that at that time, the entire construction grant regulation, Subparts E and F, §§ 35.900 through 35.999 and 35.1000 through 35.1099, will be published in its entirety as one document, greatly facilitating ease of use by grantees, States, and the public. Therefore, it is appropriate to include in the September conformed version any other changes which appear to be necessary or desirable to ease administration of and participation in the program. The purpose of these proposed amendments is to solicit public comment on possible changes which are not related to the Clean Water Act.

The Preamble to the proposed regulations stemming from the Clean Water Act of 1977 (April 25, 1978), announced that this proposal would be made in early summer 1978. The changes being proposed are based, in part, on operating experience as reflected in Program Requirements Memoranda (PRM) issued for the construction grants program by the Office of Water Program Operations. They also reflect "deviations" which have been issued by the Director, Grants Administration Division, under the authority in 40 CFR Part 30 Subpart I. Other operational problems have been brought to our attention by the regional employees of EPA, and by grantees, States, and others who work in this program. In trying to correct these problems, a few new changes are being proposed which we believe are administratively desirable and which will assist us to better implement the purposes of the Act. In addition, some changes are being proposed for the purpose of simplifying the language and readability of the regulations, although a major restructuring is not contemplated. Additional language simplification may be made in the final regulations in September.

Comments are especially invited on the extent to which current PRM's are or ought to be addressed in the final regulations. The Agency is attempting to reflect the salient policy, legal and administrative elements of program memoranda in this subpart while also minimizing the length of these regulations.

The specific changes which are being proposed are set forth below, followed by an explanation of each one. Asterisks in the proposed text are used by the FEDERAL REGISTER to represent regulations which would not be altered by the proposed change. Five asterisks in a row show that one or more paragraphs or an entire typographical unit are not being changed. Three asterisks in a row show that text within a paragraph is not being changed.

Comments are solicited on all of these proposed changes. We would also appreciate comments on any sections which have proven difficult to understand by the users, even if we have not yet proposed that those sections be rewritten. Specific suggestions for rewriting would be most helpful. Readers are also cautioned to evaluate these proposals in light of the interim final and proposed amendments promulgated on April 25, since some sections to which we are proposing changes were previously changed (or proposed to be changed) by the April 25 amendments.

One aspect of the regulations which is proposed to be changed deserves particular mention here. There are several proposed amendments (see particularly §§ 35.905-4, 35.917 and 35.925-18) which provide for the orderly transition of projects to be administered entirely under the requirements of the 1972 and later Acts. After certain dates, the current "grandfathering" practices would be discontinued. Comments on these proposed changes are particularly encouraged.

The public meetings in June and July in Regional offices are primarily for the purpose of receiving comments on the previously published interim and proposed Clean Water Act regulatory amendments. However, comments on these proposed technical amend-

ments which are offered at those meetings will be fully considered. Likewise, areawide conferences on the Clean Water Act amendments were scheduled through the cooperation of several environmental and special interest groups. One such conference has already taken place in Atlanta. While these conferences will also focus primarily on the Clean Water Act amendments, some time will be devoted to a short briefing on the technical amendments and EPA personnel knowledgeable about the technical amendments will be available to discuss them informally. The remaining four conferences are scheduled to be held as follows: June 5—Hyatt Regency O'Hare, Chicago, Ill.; June 9—Sheraton Palace Hotel, San Francisco, Calif.; June 12—Hyatt Regency at Reunion, Dallas, Tex.; and June 14—Philadelphia Sheraton, Philadelphia, Pa.

The comment period for these proposed changes has been limited to 45 days primarily because it necessary to accelerate the normal regulatory process in order to develop the final conformed regulation which can become effective for fiscal year 1979. The comment period on the Clean Water Act amendments published on April 25, 1978 will close on June 30, 1978. Following the close of the comment period on these regulations, these two efforts will be merged to develop the final conformed version of the construction grant regulations for publication in September.

The changes which we are proposing to make are as follows:

1. We are proposing to revise § 35.900 to read as follows:

§ 35.900 Purpose and applicability.

(a) This subpart supplements the EPA general grant regulations and procedures (Part 30 of this chapter) and establishes policies and procedures for grants to assist the construction of waste treatment works in compliance with the Clean Water Act.

(b) Provisions of this subpart which contained dates prior to [the effective date of the revision of this subpart] have been deleted. However, those provisions will remain applicable to grants awarded when those provisions were in effect. The transition provisions in previously published rules under §§ 35.905-4, 35.917, and 35.925-18 remain applicable to certain grants awarded through March 31, 1980.

EXPLANATION

In paragraph (a) we propose to replace "Federal Water Pollution Control Act" with "Clean Water Act" since, under the 1977 amendments, either name of the Act may be used. See also the proposed revision of § 35.905-1. Also, the words "publicly-owned" are proposed to be deleted since, under the 1977 Act, in certain limited circumstances and with appropriate conditions, some privately-owned tretment systems may by eligible for assistance through the public body. (See new § 35.918 in the interim final amendments published on April 25, 1978.)

The addition of paragraph (b) advises the reader that provisions which contain dates prior to the effective date of these revisions have been deleted. This has been done in the interest of simplicity and brevity. However, the former rules are applicable to grants awarded when they were in effect. Also, new transition provisions are applicable for grantees. (Additional explanation is provided under the referenced sections).

2. We propose to amend § 35.903 by revising the first sentence of paragraph (j) and adding a new paragraph (p). As revised, these paragraphs would read as follows:

§ 35.903 Summary of construction grant program.

* * * * *

(j) Sections 35.937-10, 35.938-6 and 35.945 authorize prompt payment for project costs which have been incurred. The initial request for payment may cover unpaid allowable costs of work completed prior to award except as otherwise provided in § 35.925-18. All allowable costs incurred prior to initiation of project construction must be claimed in the application for grant assistance for that project prior to the award of the assistance or no subsequent claim for payment may be made for those costs. The estimated amount of any grant or grant amendment, including any prior costs, must be established in conjunction with determination of priority for the project. The Regional Administrator must determine that the project costs are resonable and allowable, in accordance with § 35.940.

* * * * *

(p) Requirements regarding the award and administration of subagreements are set forth in §§ 35.935 through 35.939.

EXPLANATION

In paragraph (j), only the first sentence is proposed to be substantively revised. That sentence is currently incorrect, since the payment provisions in §§ 35.937-10, 35.938-6 and 35.945 were revised on December 17, 1975, and December 29, 1976. This revision would correct the summary to agree with the other sections.

The addition of paragraph (p) alerts the reader of the summary to the presence of procurement requirements elsewhere in the regulations, just as other program requirements are referenced in the summary.

3. We are proposing to revise § 35.905-1 to read as follows:

§ 35.905-1 The Act.

The Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

EXPLANATION

In Pub. L. 95-217, Congress has authorized the use of either "Federal Water Pollution Control Act" or "Clean Water Act." EPA proposes to use the latter title in this subpart because it is more descriptive of the Act's objectives, shorter, and parallel with the sister statute, the Clean Air Act.

4. We are proposing to revise § 35.905-4 to read as follows:

§ 35.905-4 Construction.

Any one or more of the following: Preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items. The Phrase "initiation of construction," as used in this subpart means with reference to a project for:

(a) *Step 1:* The approval of a plan of study;

(b) *Step 2:* The award of a Step 2 grant;

(c) *Step 3:* Issuance of a notice to proceed under a construction contract for any segment of Step 3 project work or, if notice to proceed is not required, execution of the construction contract.

EXPLANATION

This proposed amendment deletes from the definition of "initiation of construction" the different definitions which were applicable for work initiated prior to November 1, 1974. This amendment, and the related amendments of §§ 35.917 and 35.925-18, provide for two related, new transition rules.

First, there would be an orderly phasing out (in most instances, prior to April 1, 1979, and in some cases, prior to April 1, 1980) of projects previously allowed to proceed, subject to reimbursement through grant award at a later date. (See § 35.925-18.) under the present rule, most projects do not receive such reimbursement. The proposed rule would require those projects presently entitled to reimbursement to obtain the reimbursement through grant award by March 31, 1979, or March 31, 1980, or be barred

from subsequently obtaining the reimbursement. This change is based upon the major program change effected by the 1972 Amendments to the Act: while Section 8 of the prior Federal Water Pollution Control Act (FWPCA) permitted funding on either a reimbursable or a concurrent basis, the 1972 Amendments limited the Agency's reimbursement authority to that reimbursement authorized by Section 206 of the FWPCA.

Secondly, there would also be a phasing out of the "grandfather" provision for planning performed prior to the enunciation of the new statutory requirements, and implementing administrative procedures, now applicable to facilities planning. (See § 35.917.) Under the present rule, facilities planning determined by the Regional Administrator to have been initiated prior to May 1, 1974, is required to comply with those facilities planning requirements determined appropriate by the Regional Administrator. The proposed rule would require compliance with all the facilities planning requirements for any Step 2 or Step 3 grant. There is an extension provided for projects initiated prior to May 1, 1974. At the time that the subpart first enunciated detailed facilities planning requirements, in 1974, the Agency did not wish to require substantial revision or abandonment of prior planning efforts, particularly since that would have entailed a dramatic slow-down in grants for apparently necessary projects and the possible loss of funds by States through the reallotment process. The Agency now desires all grantees to achieve compliance with the administrative requirements which assure attainment of the statutory objectives (such as an adequate analysis of alternatives, as required by the National Environmental Policy Act; the study of a land treatment alternative, consistent with Section 201 of the Act; and selection of cost effective alternatives in accordance with the cost effectiveness guidelines issued under Sections 212 and 217 of the Act). The fact that administrative requirements and procedures are now more thoroughly understood and streamlined should result in minimal delay to projects, particularly if States and municipalities take the necessary steps soon to assure funding for previously planned projects.

Of overriding importance in both regards is the need to bring in and complete any Step 1 work still underway, so that projects necessary to meet enforceable requirements of the Act can proceed through Steps 2 and 3 in a manner consistent with the requirements of Titles III and IV of the Act.

5. We are proposing to revise the definitions in §§ 35.905-5, 35.905-9 and 35.905-11 to read as follows:

§ 35.905-5 Excessive infiltration/inflow.

The quantities of infiltration/inflow which can be economically eliminated from a sewerage system by rehabilitation, as determined in a cost effectiveness analysis that compares the costs for correcting the infiltration/inflow conditions to the total costs for transportation and treatment of the infiltration/inflow subject to the provisons in § 35.927.

§ 35.905-9 Infiltration.

Water other than wastewater that enters a sewerage system (including sewer service connections) from the ground through such sources as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

§ 35.905-11 Inflow.

Water other than wastewater that enters a sewerage system (including sewer service connections) from such sources as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

EXPLANATION

These revisions of the definitions are not intended to make substantive changes. They are linguistic changes which are intended to improve understanding of these terms. The changes to § 35.905-5, particularly, are very minor.

6. We are proposing to revise § 35.905-14 to read as follows:

§ 35.905-14 Municipality.

A city, town, borough, county, parish, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created by or pursuant to State law, or an Indian tribe or an authorized Indian tribal organization, having jurisdiction over disposal of sewage, industrial wastes, or other waste, or a designated and approved management agency under Section 208 of the Act.

(a) This definition includes a special district created under State law such as a water district, sewer district, sanitary district, utility district, drainage district or similar entity or an integrated waste management facility, as defined in Section 201(e) of the Act, which has as one of its principal responsibilities the treatment, transport, or disposal of liquid wastes of the general public in a particular geographic area.

(b) This definition excludes the following:

(1) Any revenue producing entity which as as its principal responsibility an activity other than providing wastewater treatment services to the general public, such as an airport, turnpike, port facility or other municipal utility.

(2) Any special district, such as a school district, which does not have as one of its principal responsibilities the treatment, transport, or disposal of liquid wastes.

(3) Any special district (such as a park district) which has the responsibility to provide wastewater treatment services in support of its principal activity at specific facilities, unless the special district has the responsibility under State law to provide wastewater treatment services to the community surrounding the special district's facility and no other municipality, with concurrent jurisdiction to serve the community, serves or intends to serve the special district's facility or the surrounding community.

EXPLANATION

The current definition of the term "municipality" has raised several questions in particular cases regarding the eligibility of special districts for funding under this program. This revision clarifies the Agency's position on this issue by expanding the description of the types of special districts which are and are not eligible.

§ 35.910-3 [Deleted]

§ 35.910-4 [Deleted]

7. We are proposing to delete §§ 35.910-3 and 35.910-4 and to designate those sections "Reserved."

EXPLANATION

These sections show the allotments of funds for fiscal years 1973, 1974, and 1975. These allotments were completely utilized by the States through grant awards and no reallotments were necessary. We do not feel that it is useful to continue reprinting the obsolete allotments in each new annual edition of the Code of Federal Regulations. They are available for reference in previous editions of the CFR. Therefore, these sections are proposed to be deleted.

8. We are proposing to add the following parenthetical sentence at the end of § 35.912:

§ 35.912 Delegation to State agencies.

* * * (See also Subpart F of this part.)

EXPLANATION

In the publication of amendments based on the Clean Water Act of 1977 on April 25, 1978, a new Subpart F was

established implementing the authority in Section 216 of the Clean Water Act for State Management Assistance Grants. Under this new authority, certain construction grant management functions may be delegated to States and funded from construction grant allotments to the States. It is important to insert a cross-reference to that new subpart here, so that users will be made aware of the other authority for delegating functions.

9. We are proposing to revise § 35.917 (b), (c), (d) and (e) to read as follows:

§ 35.917 Facilities planning (Step 1).

* * * * *

(b) Facilities planning consists of those necessary plans and studies which are directly related to the construction of treatment works necessary to comply with Sections 301 and 302 of the Act. Facilities planning will demonstrate the need for the proposed facilities and, by a systematic evaluation of feasible alternatives, will also demonstrate that the selected alternative is cost-effective, i.e., is the most economical means of meeting established effluent and water quality goals recognizing environmental and social considerations.

(c) Full compliance with the facilities planning provisions of this subpart is required prior to award of Step 2 or Step 3 grant assistance. (Facilities planning initiated prior to May 1, 1974, may be entitled to some flexibility under the prior regulations published on February 11, 1974. In this event, the Step 2 or Step 3 grant must be awarded prior to April 1, 1979.)

(d) Grant assistance for Step 2 or Step 3 may be awarded prior to approval of a facilities plan for the entire geographic area to be served by the complete waste treatment system of which the proposed treatment works will be an integral part if:

(1) The Regional Administrator determines that applicable statutory requirements have been met (see §§ 35.925-7 and 35.925-8); that the facilities planning relevant to the proposed Step 2 or Step 3 project has been substantially completed; and that the Step 2 or Step 3 project for which grant assistance is made will not be significantly affected by the completion of the facilities plan and will be a component part of the complete system; and

(2) The applicant agrees to complete the facilities plan on a schedule the State accepts (subject to approval by the Regional Administrator); the schedule shall be inserted as a special condition in the grant agreement.

(e) Written approval of a plan of study (see § 35.920-3(a)(1)) must be obtained prior to initiation of facilities planning. Facilities planning may not be initiated prior to award of a Step 1 grant or approval of a plan of study accompanied by reservation of funds for a Step 1 grant (see §§ 35.925-18 and 35.905-4). After October 1, 1979, new facility planning may proceed in the absence of State water quality management outputs only if the Regional Administrator, at the request of the State, makes such a determination on a case-by-case basis.

EXPLANATION

There is a series of related changes being proposed to the § 35.917 series pertaining to the Agency's proposals for phasing out the transition for projects initiated prior to enactment of the Federal Water Pollution Control Act amendments of 1972 which are explained under § 35.905-4. Therefore, please read the explanation provided there. In these sections, the references related to facilities planning initiated prior to May 1, 1974, have been deleted or corrected to indicate that the transition period ends by March 31, 1979.

In § 35.917, in addition, two changes in language have been made for clarity. The first paragraph of the current paragraph (d) would now be revised and numbered (c), and the second paragraph of the current (d) would be revised to shorten the sentences and improve the structure, and would be designated (d).

Subsection (e) has been amended to reflect the fact that the State water quality management (WQM) program should serve as the basis for the management decision-making process for the State construction grant program. Facility planning efforts must be based on the following information contained in approved WQM plans:

(1) Facility planning area delineations.

(2) Load allocations and resultant NPDES permit effluent limitations/treatment levels for POTW's in the State.

(3) Population projection totals and disaggregations prepared in accordance with Appendix A of the Clean Water Act regulations.

(4) Identification of both local and areawide agencies responsible for doing facility plans and developing related POTW information in the coming year.

These outputs are to be available for use in construction grant decision-making as soon as possible prior to the start of fiscal year 1980. The proposed revision provides that after October 1, 1979, if the above State outputs are not contained in the approved WQM plans, new facility planning may proceed only if the Regional Administrator makes such a determination on a case-by-case basis.

These outputs are currently required in certified State WQM plans. Therefore, no new planning requirements are added by this proposed revision. Where the approved WQM plan does not contain the above outputs, the process for annual revision of the WQM plans should provide the necessary outputs.

In connection with facilities planning, readers should be aware that the Agency is developing proposed changes to its public participation requirements, including those in § 35.917-5. They will be proposed in the FEDERAL REGISTER shortly.

10. We are proposing to revise the first paragraph of § 35.917-1, and paragraphs (d), (d)(2), (d)(5), and to add a new paragraph (l) to read as follows:

§ 35.917-1 Content of facilities plan.

Facilities planning must encompass the following to the extent deemed appropriate by the Regional Administrator.

* * * * *

(d) A cost-effectiveness analysis of alternatives for the treatment works and for the waste treatment system(s) of which the treatment works is a part. The selection of the system(s) and the choice of the treatment works for which construction drawings and specifications are to be prepared shall be based on the results of the cost-effectiveness analysis. (See Appendix A to this subpart.) This analysis shall include: * * *

(2) An evaluation of alternative flow and waste reduction measures, including non-structural methods;

* * * * *

(5) An identification of, and provision for applying the best practicable waste treatment technology (BPWTT) as defined by the Administrator, based upon an evaluation of technologies included under each of the following waste treatment management techniques:

(i) Biological or physical-chemical treatment and discharge to receiving waters;

(ii) Treatment and reuse; and

(iii) Land application techniques.

All Step 2, Step 3 or Step 2+3 projects shall be based upon application of BPWTT, as a minimum. Where application of BPWTT would not meet water quality standards, the facilities plan shall provide for attaining such standards. Such provision shall consider the alternative of treating combined sewer overflows.

* * * * *

(l) An estimate of total project costs and charges to customers, in accordance with guidance issued by the Administrator.

EXPLANATION

The revision to paragraph (d) is to clarify the language and to add a reference to Appendix A in which the cost-effectiveness guidelines are found.

The revision to paragraph (d)(2) adds mention of non-structural methods. (See discussion in appendix A, Cost Effectiveness Analysis Guidelines, published on April 25, 1978).

In paragraph (d)(5) we have deleted reference to publicly owned treatment works and to the transition date of June 30, 1974.

The new paragraph (l) incorporates in the regulations the requirement for inclusion of total project costs and estimated charges to customers in the facilities plan. This requirement was established in Program Requirements Memorandum 76-3 (August 16, 1976). Based on the current guidance, the costs which are required to be shown in the facilities plan are the following:

(1) Estimated total capital costs for the recommended treatment works, a breakdown of estimated eligible and ineligible costs, and the estimated Federal, State, local and industrial shares of the capital costs;

(2) The expected method of local financing and estimated annual debt service charges or taxes (based on the expected interest rate for municipal borrowing) on the total local capital cost of the recommended treatment works;

(3) Estimated annual operation and maintenance costs and the estimated industrial and local government's shares for the recommended treatment works; and

(4) The estimated monthly charge for operation and maintenance, the estimated monthly debt service charge, the estimated connection charge, and the total monthly charge to a typical residential customer.

New paragraphs (j) and (k) were included in the amendments published on April 25, 1978.

Also see the relevant explanation under §§ 35.917 and 35.905-4.

We are proposing to revise § 35.917-2(a) to read as follows:

§ 35.917-2 State responsibilities.

(a) *Facilities planning areas.* Facilities planning should focus upon the geographic area to be served by the waste treatment system(s) of which the proposed treatment works will be an integral part. The facilities plan should include that area deemed necessary to prepare an environmental assessment and to assure that the most cost-effective means of achieving the established water quality goals can be planned for and implemented. To assure that facilities planning will include the appropriate geographic areas, the State shall:

* * * * *

EXPLANATION

This revision deletes the transition dates. See explanation under §§ 35.917 and 35.905-4.

12. We are proposing to revise § 35.917-3 (a) and (b) to read as follows, to delete paragraph (c), and redesignate paragraph (d) as (c):

§ 35.917-3 Federal assistance.

(a) *General.* Facilities planning must be developed pursuant to a plan of study (see § 35.920-3(a)(1)) approved in accordance with the requirements of this subpart prior to initiation of the facilities planning. A preapplication conference may be held in accordance with § 35.920-2.

* * * * *

(b) *Eligibility.* Only an applicant which is eligible to receive grant assistance for subsequent phases of construction (Steps 2 and 3) and which has the legal authority to subsequently construct and manage the facility may apply for grant assistance for Step 1. If the area to be covered by the facilities plan includes more than one political jurisdiction, a grant may be awarded for a Step 1 project, as appropriate, to: (1) the joint authority representing such jurisdictions, if eligible; (2) one qualified (lead agency) applicant; or (3) two or more eligible jurisdictions. After a waste treatment management agency for an area has been designated in accordance with subsection 208(c) of the Act (see Parts 130 and 131 of this chapter) the Regional Administrator shall not make any grant for construction of treatment works within the area except to the designated agency.

(c) *Reports.* Where a grant has been awarded for facilities planning the completion of which is expected to require more than one year, the grantee must submit a brief progress report to the Regional Administrator at three-month intervals. The progress report is to contain a minimum of narrative description, and is to describe progress in completing the approved schedule of specific tasks for the project.

EXPLANATION

The revision to paragraph (a) deletes the transition dates; see the explanation under §§ 35.917 and 35.905-4. In paragraph (b), we have added the statutory requirement that, after a waste treatment management agency has been designated for an area, only the designated agency may receive grants. Further mention of this requirement is also in proposed § 35.925-2 and is currently in § 35.925-19.

Paragraph (c) included payment provisions which were in conflict with the revised payment provisions in §§ 35.917-10 and 35.945. Since inclusion of payment provisions in both places is redundant, we are proposing to delete this paragraph.

13. We are proposing to amend § 35.920-2 by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 35.920-2 Procedure.

* * * * *

(b) Grant applications (and, for subsequent related projects, amendments to them) are considered received by EPA only when complete and upon official receipt of the State priority certification document (EPA Form 5700-28) in the appropriate EPA Regional Office. In a State which has been delegated Federal application processing functions under § 35.912 or under Subpart F of this part, applications are considered received by EPA on the date of State certification. Preliminary or partial submittals may be made; EPA may conduct preliminary processing of these submittals.

EXPLANATION

There have been historical problems of establishing the date of application receipt in the Regional Office. Further, under the Clean Water Act of 1977, the Buy American provision is applicable to applications received after February 1, 1978. Therefore, it is important now to clarify any existing ambiguity as to the official date of receipt. Comments are especially invited as the appropriateness of the date selected in the case of States which have been delegated Federal application processing functions. A suggestion has been made that in those States, the date of receipt of a complete application in the State Office should be the official date of receipt.

14. We are proposing to revise § 35.920-3 (b) and (c) to read as follows:

§ 35.920-3 Contents of application.

* * * * *

(b) *Step 2.* Preparation of construction drawings and specifications. Prior to the award of a grant or grant amendment for a Step 2 project, the applicant must furnish the following:

(1) A facilities plan (including the environmental assessment portion in accordance with part 6 of this chapter) in accordance with §§ 35.917 through 35.917-9;

(2) A statement regarding availability of the proposed site, if relevant;

(3) Proposed subagreements or an explanation of the intended method of awarding subagreements for performance of any substantial portion of the project work;

(4) Required comments or approvals of relevant State, local and Federal

agencies, including clearinghouse requirements of Office of Management and Budget Circular A-95, as revised (see § 30.305 of this subchapter);

(5) A value engineering (VE) proposal in compliance with § 35.926(a) for all Step 2 grant applications for projects having a projected total Step 3 grant eligible construction cost of $10 million or more excluding the cost for interceptor and collector sewers. For those projects requiring VE, the grantee may propose, subject to the Regional Administrator's approval, to exclude interceptor and collector sewers from the scope of the VE analysis;

(6) Proposed intermunicipal agreements necessary for the construction and operation of the proposed treatment works, for any treatment works serving two or more municipalities;

(7) A schedule for completion of the project work, including milestones; and

(8) Satisfactory evidence of compliance with:

(i) Sections 35.925-11, 35.929 et seq. and 35.935-13 regarding user charges;

(ii) Sections 35.925-12, 35.928 et seq. and 35.935-13, regarding industrial cost recovery, if applicable;

(iii) Section 35.925-16, regarding costs allocable to Federal facilities, if applicable;

(iv) Section 35.927-4 regarding a sewer use ordinance;

(v) Section 30.405-2 and part 4 of this chapter, regarding compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, if applicable; and,

(vi) Other applicable Federal statutory and regulatory requirements (see subpart C of part 30 of this chapter).

(c) *Step 3.* Building and erection of a treatment works. Prior to the award of a grant or grant amendment for a step 3 project, the applicant must furnish the following:

(1) Each of the items specified in paragraph (b) of this section (in compliance with paragraph (b)(6), the final intermunicipal agreements must be furnished);

(2) Construction drawings and specifications suitable for bidding purposes;

(3) A schedule for or evidence of compliance with §§ 35.925-10 and 35.935-12 concerning an operation and maintenance program, including a preliminary plan of operation; and

(4) After June 30, 1980, the items required by § 35.907 (c)(1) through (c)(9), as applicable, for grantees subject to pretreatment requirements under § 35.907(b).

EXPLANATION

Paragraph (b) has been rewritten, in part for style and to correct incorrect references, and in part to add references to the existing requirements for intermunicipal agreements, allocation of costs to Federal facilities, project schedules and sewer use ordinances. Experience has shown that there are inordinate program delays unless intermunicipal agreements are obtained prior to the award of grant assistance. Project schedules are required by several program guidance documents. Inclusion of these references here will simplify compliance for grantees.

Paragraph (c) has been rewritten to delete the numerical requirement for two sets of construction drawings; the appropriate number of copies will be determined jointly by the grantee and the Regional Office depending on the circumstances of the particular project. The preliminary plan of operation requirement from Program Requirements Memorandum 77-3 (November 29, 1976), as evidence of satisfactory compliance with the operation and maintence requirement, has been added to the regulations. The pretreatment requirement is included in the April 25, 1978, proposed Clean Water Act regulations. The entire paragraph is restructured in list form.

15. We are proposing to revise § 35.925-1 to read as follows:

§ 35.925-1 Facilities planning.

That if the award is for a Step 2, Step 3, or Step 2+3 grant, the facilities planning requirements set forth in §§ 35.917 through 35.917-9 have been met.

EXPLANATION

The addition of the references to Step 2 and Step 3 grants recognizes the fact that facilities planning requirements are inapplicable to the award of the Step 1 grant. The deletion of the second sentence is a correction to delete reference to sections which no longer exist.

16. We are proposing to revise § 35.925-2 to read as follows:

§ 35.925-2 Section 208 and 303(e): Agencies and plan.

That the project is consistent with any applicable water quality management plan approved under section 208 or section 303(e) of the act; and that the applicant is the wastewater management agency designated in any plan certified by the Governor and approved by the Regional Administrator.

EXPLANATION

By moving the substance of § 35.925-19 into § 35.925-2, we have included all the planning-related limitations in one section. Additionally, the phase water quality management plan has replaced "basin plan" in the previous § 35.925-2 in order to be consistent with current program language and policy.

17. We are proposing to revise § 35.925-5(b) to read as follows:

§ 35.925-5 Funding and other capabilities.

* * * * *

(b) The legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of the treatment works throughout the applicant's jurisdiction. (Also see § 30.340-3 of this subchapter.)

EXPLANATION

We are proposing to add a cross-reference to the section in Part 30 (General Grant Regulations) which indicates that the applicant's application constitutes his assurance that he can meet the required standards for responsibility.

18. We are proposing to revise § 35.925-6 to read as follows:

§ 35.925-6 Permits.

That the applicant has, or has applied for, the permit or permits as required by the National Pollutant Discharge Elimination System with respect to existing discharges affected by the proposed project.

EXPLANATION

The revision eliminates the requirement that the grantee provide a copy of the permit, since EPA already has a copy. Also, at the time of the promulgation of the original construction grant regulations, permits had not been issued for all applicants with existing discharges, so the requirement was secondary to the grantee's identification of the effluent discharge limitations. Since this transition has passed, it is the permit which is now required.

19. We are proposing to revise § 35.925-7(c) to read as follows:

§ 35.925-7 Design.

* * * * *

(c) The sewer system evaluation and rehabilitation requirements of § 35.927 have been met;

* * * * *

EXPLANATION

The current statement in paragraph (c) references "infiltration/inflow" rather than sewer system evaluation and rehabilitation. The latter is the proper heading describing what is in § 35.927.

20. We are proposing to revise § 35.925-8 to read as follows:

§ 35.925-8 Environmental review.

(a) That, if the award is for Step 2, Step 3 or Step 2+3, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) ap-

plicable to the project step have been met. The grantee or grant applicant must prepare an adequate assessment of expected environmental impacts, consistent with the requirements of Part 6 of this chapter, as part of facilities planning, in accordance with § 35.917-1(d)(7). The Regional Administrator must ensure that an environmental inpact statement or a negative declaration is prepared in accordance with Part 6 of this chapter (particularly §§ 6.108, 6.200, 6.212 and 6.504) in conjunction with EPA review of a facility plan and prior to any award of Step 2 or Step 3 grant assistance.

(b) The Regional Administrator may not award a Step 2 or Step 3 grant if the grantee has not made, or agreed to make, pertinent changes in the project, in accordance with determinations made in a negative declaration or environmental impact statement. He may condition a grant to ensure that the grantee will comply, or seek to obtain compliance, with such environmental review determinations. The conditions may address secondary impacts to the extent deemed appropriate by the Regional Administrator.

EXPLANATION

The revision to paragraph (a) is primarily linguistic. It deletes a reference to a date which has passed (see explanation under § 35.905-4) and references the appropriate sections of Part 6 of Title 40, published since the construction grant regulations.

The addition of paragraph (b) is intended to enforce decisions reached in the environmental review process, consistent with PRM 75-26 (formerly PG 50, June 6, 1975).

21. We are proposing to revise § 35.925-14 to read as follows:

§ 35.925-14 Compliance with environmental laws.

That the treatment works will comply with all pertinent requirements of applicable Federal, State and local environmental laws and regulations. (See § 30.101 and Subpart C of Part 30 of this chapter and the Clean Air Act.)

EXPLANATION

The reference to only one environmental law in the current version of this section seems inappropriate, in light of the large number of such statutes. Therefore, we are suggesting that references be made to the two sections which reference most of them, as well as to the one Act which makes specific reference to construction grants.

22. We are proposing to revise § 35.925-15 to read as follows:

§ 35.925-15 Treatment of industrial wastes.

That the allowable project costs do not include (1) costs of interceptor or collector lines constructed exclusively, or almost exclusively, to serve industrial users or (2) costs allocable to the treatment for control or removal of pollutants in wastewater introduced into the treatment works by industrial users, unless the applicant is required to remove such pollutants introduced from non-industrial sources. The project must be included in a waste treatment system, a principal purpose of which project (as defined by the Regional Administrator; see §§ 35.903(d) and 35.905-16) and system is the treatment of domestic wastes of the entire community, area, region or destrict concerned. A "waste treatment system," for purposes of this section, means one or more treatment works which provide integrated but not necessarily interconnected waste disposal for the community, area, region or district. See the pretreatment regulations in Part 403 of this chapter and § 35.907 of this subchapter.

EXPLANATION

The proposed revision of the first sentence clarifies the current regulation by making clear that sewer projects which are solely for the purpose of handling industrial wastes are not eligible. This would affect, for example, a project to extend an interceptor solely to an industrial park, with no transport of domestic wastes along the way. We believe that this is consistent with Congressional policy to encourage joint treatment, since, in the absence of domestic waste there is no joint aspect to the project.

The insertion of the parenthetical statement in the second sentence is to refer the reader to the definition of "project" intended in this regulation.

The references to the pretreatment regulations in the final sentence have been corrected. Part 403 will be the Agency's new pretreatment regulation, which is now in the final stages of development and should be published in the FEDERAL REGISTER within a few weeks. (The pretreatment regulations are currently in Part 128.) Section 35.907 was proposed in the April 25, 1978, package of amendments. It includes the requirements for a pretreatment program which will be a condition of wastewater treatment construction grants.

23. We are proposing to revise § 35.925-16 to read as follows:

§ 35.925-16 Federal activities.

That the allowable step 2 or step 3 project costs do not include the proportional costs allocable to the treatment of wastes from major activities of the Federal Government. A "major activity" includes any Federal facility (other than District of Columbia Government facilities or those facilities of other political jurisdictions eligible for EPA construction grant assistance and for which Federal funds are directly appropriated) which contributes either (a) 250,000 gallons or more per day or (b) 5 percent of the total design flow of waste treatment works, whichever is less.

EXPLANATION

The new second sentence of this section defines what EPA means by "major activity" in the first sentence. This definition was established in Program Requirements Memorandum 75-35 (formerly PG 62, December 29, 1975). The last sentence, which was guidance, has been deleted.

24. We are proposing to revise § 35.925-18 (a) and (b) to read as follows.

§ 35.925-18 Limitation upon project costs incurred prior to award.

That project construction has not been initiated prior to the approved date of initiation of construction (as defined in § 35.905-4), except as otherwise provided in this section.

(a) *Step 1 or Step 2*: No grant assistance is authorized for step 1 or step 2 project work performed prior to award of a step 1 or step 2 grant. However, payment is authorized, in conjunction with the first award of grant assistance, for all pregrant award allowable costs in the following cases:

(1) Step 1 work begun after the date of approval by the Regional Administrator of a plan of study, if the State requests and the Regional Administrator has reserved funds for the step 1 grant. However, the step 1 grant must be applied for and awarded within the allotment period of the reserved funds.

(2) Step 1 or Step 2 work begun after October 31, 1974, but before June 30, 1975, in accordance with an approved plan of study or an approved facilities plan, as appropriate, but only if a grant is awarded before April 1, 1980.

(3) Step 1 or Step 2 work begun before November 1, 1974, but only if a grant is awarded before April 1, 1979.

(b) *Step 3:* Except as otherwise provided in this subparagraph, no grant assistance for a Step 3 project may be awarded unless such award precedes initiation of the Step 3 construction. Preliminary Step 3 work, such as advance acquisition of major equipment items requiring long lead times, acquisition of an option for the purchase of eligible land, or advance construction of minor portions of treatment works, including associated engineering costs in emergencies or instances where delay could result in significant cost increases, may be approved by the Regional Administrator after completion of environmental review, but only (1) if the applicant submits a written and adequately substantiated request for

approval, and (2) if written approval by the Regional Administrator is obtained prior to initiation of the advance acquisition or advance construction.

* * * * *

EXPLANATION

For explanation of the deletion and revision of transition dates in paragraph (a), see the explanation under § 35.905-4.

Three changes have been made to paragraph (b). We have added reference to engineering costs associated with advance acquisition or advance construction to clarify that such costs are also allowable when proper approval has been obtained. We have added the cost of acquisition of an option for the purchase of eligible land to the advanced work which may be approved. We have clarified that the Regional Administrator may not approve such advance Step 3 work unless environmental review has been completed.

§ 35.925-19 [Deleted]

25. We are proposing to delete § 35.925-19 and designate that section "Reserved."

EXPLANATION

The substance of this section has been included in § 35.925-2. See the explanation under that section.

26. we are proposing to add a new § 35.925-23 to read as follows:

§ 35.925-23 Property.

That the applicant has demonstrated to the satisfaction of the Regional Administrator that it has met or will meet the property requirements of § 35.935-21.

EXPLANATION

The property requirements of the program are proposed to be summarized in a new § 35.935-21 (see below). This section would add reference to that new section in the series on limitations on award, consistent with the structure of the rest of the subpart.

27. We are proposing to revise §§ 35.927(b), 35.927-1 (a) and (c), 35.927-2(a), and 35.927-3 to read as follows:

§ 35.927 Sewer system evaluation and rehabilitation.

* * * * *

(b) The determination whether or not excessive infiltration/inflow exists will generally be accomplished through a sewer system evaluation consisting of: (1) certification by the State agency, as appropriate; and, when necessary, (2) an infiltration/inflow analysis; and, if appropriate, (3) a sewer system evaluation survey and rehabilitation of the sewer system to eliminate excessive infiltration/inflow defined in the sewer system evaluation. Information submitted to the Regional Administrator for such determination should be the minimum necessary to enable a judgment to be made.

* * * * *

§ 35.927-1 Infiltration/inflow analysis.

(a) The infiltration/inflow analysis shall demonstrate the nonexistence or possible existence of excessive infiltration/inflow in the sewer system. The analysis should identify the presence, flow rate, and type of infiltration/inflow conditions, which exist in the sewer system.

* * * * *

(c) If the infiltration/inflow analysis demonstrates the existence or possible existence of excessive infiltration/inflow, a detailed plan for a sewer system evaluation survey shall be included in the analysis. The plan shall outline the tasks to be performed in the survey and their estimated costs.

§ 35.927-2 Sewer system evaluation survey.

(a) The sewer system evaluation survey shall determine the location, estimated flow rate, method of rehabilitation and cost of transportation and treatment for each defined source of infiltration/inflow.

* * * * *

§ 35.927-3 Rehabilitation.

(a) Subject to State concurrence, the Regional Administrator may authorize the grantee to perform minor rehabilitation concurrently with the sewer system evaluation survey under a Step 1 grant if there is adequate funding under the grant and there is no adverse environmental impact. However, such rehabilitation work which is not accomplished with force account labor under § 35.936-14, must be procured through formal advertising in compliance with all of the applicable requirements of §§ 35.938 through 35.938-9 and 35.939, the statutory requirements referenced in §§ 30.415 through 30.415-4 of this subchapter and other applicable provisions of part 30.

(b) The scope of each treatment works project defined within the facilities plan as being required for implementation of the plan, and for which Federal assistance will be requested, shall define: (1) any necessary new treatment works construction, and (2) any rehabilitation work determined by the sewer system evaluation to be necessary for the elimination of excessive infiltration/inflow. However, rehabilitation which should be a part of the applicant's normal operation and maintenance responsibilities shall not be included within the scope of a Step 3 treatment works project.

(c) Grant assistance for a Step 3 project segment consisting of rehabilitation work may be awarded concurrently with Step 2 work for the design of the new treatment works construction.

EXPLANATION

The deletion of the specific content of the infiltration/inflow (I-I) analysis is proposed because the material is included in guidance for I/I issued by the Agency. Even in its regulatory form, it was flexible: "should include, to the extent appropriate * * *". Circumstances of a particular project may dictate more or less evaluation.

Program Requirements Memorandum 78-10, issued on March 17, 1978, established some new options to the traditional method of I/I analysis in this program. The remainder of the changes proposed in these sections are designed to implement that PRM by providing more flexibility. Paragraph (a) of § 35.937-3 is new, and provides for minor rehabilitation work to be performed during the Step 1. The old paragraphs are redesignated (b) and (c).

28. We are proposing to revise § 35.935-1 to read as follows:

§ 35.935-1 Grantee responsibilities.

(a) Review or approval of project plans and specifications by or for EPA is for administrative purposes only and does not relieve the grantee of its responsibility to design, construct, operate, and maintain the treatment works described in the grant application and agreement.

(b) By its acceptance of the grant, the grantee agrees to complete the treatment works in accordance with the plans and specifications and related grant documents approved by the Regional Administrator, and to maintain and operate the treatment works to meet the enforceable requirements of the Act for the design life of the treatment works. The Regional Administrator is authorized to seek specific enforcement or recoupment of funds from the grantee, or to take other appropriate action (see § 35.965), if he determines that the grantee has failed to make good faith efforts to meet his obligations under the grant.

(c) The grantee agrees to pay, pursuant to section 204(a)(4) of the Act, the non-Federal costs of treatment works construction associated with the project and commits itself to complete the construction of the operable treatment works (see § 35.905-15) and complete waste treatment system (see § 35.905-3) of which the project is a part.

EXPLANATION

Paragraph (a) states EPA's position that EPA review and approve of project plans and specifications, under section 203 of the Act, does not relieve the grantee of its responsibilities for the design, construction, or use of the treatment works.

Paragraph (b) provides an explicit basis for seeking specific performance or recoupment of funds from the grantee, if the grantee fails to make good faith efforts to meet its obligations under the grant.

Paragraph (c) is the same as the current text of the section.

§ 35.935-3 [Deleted]

29. We are proposing to delete § 35.935-3 and designate that section "Reserved."

EXPLANATION

Bonding and insurance requirements, currently found in § 35.935-3 are proposed to be revised and are now to be included in § 35.936-22, in the procurement series. See the revision to that section.

30. We are proposing to revise § 35.935-9 to read as follows:

§ 35.935-9 Project initiation and completion.

(a) The grantee agrees to expeditiously initiate and complete the Step 1, 2, or 3 project, or cause it to be constructed and completed, in accordance with the grant agreement and application, including any project schedule, approved by the Regional Administrator. Failure of the grantee to promptly initiate Step 1, 2, or 3 project construction may result in annulment or termination of the grant.

(b) No date reflected in the grant agreement, or in the project completion schedule, or extension of any such date, shall be deemed to modify any compliance date established in an NPDES permit. It is the grantee's obligation to request any required modification of applicable permit terms or other enforceable requirements that may be affected by an extension.

(c) The invitation for bids for Step 3 project work is expected to be issued promptly after grant award. Generally this action should occur within 90 to 120 days after award unless compliance with State or local laws requires a longer period of time. The Regional Administrator shall annul or terminate the grant of initiation of Step 3 construction, including all significant elements of project work, has not occurred within 12 months of the award of Step 3 grant assistance (or approval of plans and specifications, in the case of a Step 2+3 grant). However, the Regional Administrator may defer (in writing) the annulment or termination for not more than 6 additional months if:

(1) The grantee has applied for and justified the extension in writing to the Regional Administrator;

(2) The grantee has given written notice of the request for extension to the NPDES permit authority;

(3) The Regional Administrator determines that there is good cause for the delay in initiation of project construction; and

(4) The State agency concurs in the extension.

EXPLANATION

The revision of this section is intended to clarify EPA requirements for prompt initiation of project work and to integrate the grant requirements more closely with the NPDES permit program. The text has been broken into three paragraphs for ease of use.

The revision of paragraph (a) clarifies that the term "project" means Step 1, 2, or 3. The new second sentence applies the same sanctions to all three steps.

Paragraph (b) explains the grantee's obligations under the NPDES permit program as they relate to actions the grantee takes under the grant program.

Paragraph (c) contains the same termination requirement as the current regulation, but includes the items which the Regional Administrator must consider in making his determination. State agency concurrence is required because the State could allocate the funds resulting from any termination to other higher priority projects. This paragraph also clarifies EPA's expectations as to the time by which invitations for bids should be issued.

31. We are proposing to revise paragraphs (b) and (c) of § 35.935-12 and to add new paragraphs (d) and (e) to read as follows:

§ 35.935-12 Operation and maintenance.

* * * * *

(b) As a minimum, the plan shall include provision for:

(1) An operation and maintenance manual for each facility;

(2) An emergency operating and response program;

(3) Properly trained management, operation, and maintenance personnel;

(4) Adequate budget for operation and maintenance;

(5) Operational reports; and

(6) Provisions for laboratory testing and monitoring adequate to determine influent and effluent characteristics and removal efficiencies as specified in the terms and conditions of the NPDES permit.

(c) Except as provided in paragraphs (d) and (e) of this section, the Regional Administrator shall not pay—

(1) More than 50 percent of the Federal share of any Step 3 project unless the grantee has furnished a draft of the operation and maintenance manual for review, or adequate evidence of timely development of such a draft; or

(2) More than 90 percent of the Federal share unless the grantee has furnished a satisfactory final operation and maintenance manual.

(d) In projects where segmenting of an operable treatment works has occurred, the Regional Administrator shall not pay—

(1) More than 50 percent of the Federal share of the total of all Step 3 segments unless the grantee has furnished a draft of the operation and maintenance manual for review, or adequate evidence of timely development of such a draft, or

(2) More than 90 percent of the Federal share of the total of all Step 3 segments unless the grantee has furnished a satisfactory final operation and maintenance manual.

(e) In multiple facility projects where an element or elements of the treatment works have been completely constructed and placed in operation by the grantee, the Regional Administrator shall not make additional payment on a Step 3 grant unless the operation and maintenance manual (or those portions associated with the operating elements of the treatment works) submitted by the grantee has been approved by the Regional Administrator.

EXPLANATION

This section has been restructured in list form for clarity. Reference has been made to the NPDES permit program to indicate the relationship with that program. New paragraphs (d) and (e) implement in the regulation the class deviation which has been in effect since August 24, 1977, with respect to the operation and maintenance manual payment limitations as applied to segmented projects and multiple facility projects.

32. We are proposing to revise § 35.935-16 to read as follows:

§ 35.935-16 Sewer use ordinance and evaluation/rehabilitation program.

(a) The grantee must obtain the approval of the Regional Administrator of its sewer use ordinance, pursuant to § 35.927-4.

(b) Except as provided in paragraphs (c) and (d) of this section, the Regional Administrator shall not pay more than 80 percent of the Federal share of any Step 3 project unless he has approved the grantee's sewer use ordinance, and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement pursuant to § 35.927-5.

(c) In projects where segmenting of an operable treatment works has oc-

curred, the Regional Administrator shall not pay more than 80 percent of the Federal share of the total of all Step 3 segments unless he has approved the grantee's sewer use ordinance and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement pursuant to § 35.927-5.

(d) In multiple facility projects where an element or elements of the treatment works have been completely constructed and placed in operation by the grantee, the regional Administrator shall not make additional payment on a Step 3 grant unless he has approved the grantee's sewer use ordinance and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement pursuant to § 35.927-5.

EXPLANATION

The existing section has been broken into two paragraphs and two new paragraphs have been added. Paragraphs (c) and (d) implement in the regulation the class deviation which has been in effect since August 24, 1977, with respect to the sewer use ordinance payment limitations as applied to segmented projects and multiple facility projects.

33. We are proposing to add a new § 35.935-21 to read as follows:

§ 35.935-21 Property.

(a) The grantee must comply with the property provisions of §§ 30.810 through 30.810-9 with respect to all property (real and personal) required with project funds.

(b) With respect to real property (including easements) acquired in connection with the project, whether such property is acquired with or in anticipation of EPA grant assistance or solely with funds furnished by the grantee or others:

(1) The acquisition must be conducted in accordance with Part 4 of this chapter;

(2) Any displacement of a person by or as a result of any acquisition of the real property shall be conducted under the applicable provisions of Part 4 of this chapter; and

(3) The grantee must obtain (prior to initiation of Step 3 construction), and must thereafter retain, a fee simple or such estate or interest in the site of a Step 3 project, and rights of access, as the Regional Administrator finds sufficient to assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project. In the case of Step 3 projects serving more than one municipality, the grantee must insure that the participating municipalities have, or will have prior to the initiation of Step 3 construction, such interests or rights in land as the Regional Administrator finds sufficient to assure their undisturbed utilization of the project site for the estimated life of the project.

(c) With respect to real property acquired with EPA grant assistance, the grantee must defer acquisition of such property until approval of the Regional Administrator is obtained under § 35.940-3.

EXPLANATION

There has been some misunderstanding of the applicability of the real property acquisition regulations in Part 4 of Title 40 to this program. Questions have also been raised about other property requirements. The addition of this section does not add any new requirements; rather it clarifies those which have been in effect and summarizes them in one place. New real property acquisition provisions of the 1977 Act make this more important.

34. We are proposing to revise § 35.936-1(b) to read as follows:

§ 35.936-1 Definitions.

* * * * *

(b) *Subagreement.* A written agreement between an EPA grantee and another party (other than another public agency) and any tier of agreement thereunder for the furnishing of services, supplies, or equipment necessary to complete the project for which a grant was awarded, including contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders, but excluding employment agreements subject to state or local personnel systems. (See §§ 35.937-12 and 35.938-9 regarding subcontracts of any tier under prime contracts for architectural or engineering services or construction awarded by the grantee—generally applicable only to subcontracts in excess of $10,000.)

* * * * *

EXPLANATION

The addition of the phrases "agreements with consultants" and "but excluding employment agreements subject to State or local personnel systems" clarifies EPA's policy as to the scope of the term "subagreements." No change in policy is implied. This revised definition already has been included in the Part 33 regulations, and the definition in Part 30 will be similarly revised.

35. We are proposing to revise § 35.936-2 to read as follows:

§ 35.936-2 Grantee procurement systems; State or local law.

(a) *Grantee procurement systems.* Grantees may use their own procurement systems and procedures which meet applicable requirements of State, territorial, or local laws and ordinances to the extent that such systems and procedures do not conflict with the minimum requirements set forth in this subchapter.

(b) *State or local law.* EPA will generally rely on a grantee's determination regarding the application of state or local law to issues which are primarily determined by such law, where the grantee furnishes a written legal opinion adequately addressing any such legal issues, if the Regional Administrator determines that there is a rational basis for the determination.

(c) *Preference.* State or local laws, ordinances, regulations or procedures which are designed to or operate to give local or in-State bidders or proposers preference over other bidders or proposers shall not be employed in evaluating bids or proposals for subagreements under a grant.

EXPLANATION

We are proposing to add a new paragraph (b) which explicitly states the circumstances under which EPA relies on the grantee's counsel's legal opinion as to the application of State or local law to grantee procurements. EPA will rely on grantee's counsel's opinion where the procurement issue in question is primarily determined by the State or local law. The statement regarding the Regional Administrator's judgment as to the "rational basis" for the determination incorporates in the regulation the "rational basis" test used by GAO and EPA in determination of bid protests. The current paragraph (b) is redesignated (c).

36. We are proposing to revise paragraph (b) and add a new paragraph (c) to § 35.936-14 to read as follows:

§ 35.936-14 Force account work.

* * * * *

(b) The Project Officer's approval shall be based on the grantee's demonstration that he possesses the necessary competence required to accomplish the work and (1) the work can be accomplished more economically by the use of the force account method, or (2) emergency circumstances so dictate.

(c) Use of the force account method for Step 3 construction shall generally be limited to minor portions of a project.

EXPLANATION

Section 35.935-2(a) of the regulations published on February 11, 1974, permitted the use of force account

work only for Step 1 or Step 2 infiltration/inflow work for which the Regional Administrator had given written approval and segments of Step 3 work, the cost of which was estimated to be less than $25,000. EPA later determined that many grantees possessed the capability to perform by force account other work related to construction grant projects, including Step 3 work in excess of the $25,000 limit.

On December 17, 1975, EPA amended the regulations and established the new § 35.936-14. The new provision allowed the use of force account for any Step 1, 2, or 3 work for which the Regional Administrator had given written approval based on the grantee's certification that he possessed the necessary competence and that the work could be accomplished more economically by the use of the force account method. (This policy had previously been enunciated in a class deviation from the prior regulation.) The intent of this change was to allow those municipal authorities with substantial engineering staffs to provide technical services for construction grant projects where there would be no substantial diversion from their normal duties, where the activity would not be used to support a staff larger than the municipality would ordinarily require or maintain without the construction grant project, and where use of force account would result in an overall reduction in project costs or substantial time savings.

Similarly, a limited amount of Step 3 construction work, such as sewer system rehabilitation, minor sewer replacement or construction of small pumping stations could be an allowable use of the force account method. It was not intended, however, that force account be employed for major Step 3 construction work. Such activities are specialized and require considerable experience and expertise which are not normally within the range of municipal capabilities. Additionally, without competitive bidding, it is doubtful whether the use of force account would, in fact, be more economical.

The revisions to paragraph (b) (substitution of the word "demonstration" for "certification") and the addition of paragraph (c) are intended to clarify this position.

37. We are proposing to revise § 35.936-20(c) to read as follows:

§ 35.936-20 Allowable costs.

* * * * *

(c) Reasonable costs of compliance with the procurement and project management requirements of these regulations are allowable costs of administration under the grant. Costs of announcement, selection, negotiation, and cost review and analysis in connection with procurement of architectural or engineering services are allowable, even when conducted prior to award of the grant.

EXPLANATION

Questions have been raised as to the allowability of costs incurred by the grantee in complying with § 35.937-6, particularly when outside assistance is used, when those costs are incurred prior to grant award. This clarification makes explicit the fact that those costs are allowable.

38. We are proposing that § 35.936-21(a) be revised to read as follows:

§ 35.936-21 Delegation to State agencies; certification of procurement systems.

(a) In accordance with § 35.912 (Delegation to State agencies) and in accordance with Subpart F (State Management Assistance Grants) of this part, EPA may include in a written agreement with a State agency certification of the technical and administrative adequacy of procurement documentation required to be submitted to EPA pursuant to these sections.

* * * * *

EXPLANATION

This revision simply incorporates in paragraph (a) a reference to the new Subpart F. A cross-reference has also been proposed in § 35.912. Also see the interim final Subpart F promulgated April 25, 1978.

39. We are proposing to add a new § 35.936-22 to read as follows:

§ 35.936-22 Bonding and insurance.

(a) On contracts for the building and erection of treatment works (Step 3) exceeding $100,000, each bidder must furnish a bid guarantee equivalent to 5 percent of the bid price. In addition, the contractor awarded a construction contract for Step 3 must furnish performance and payment bonds, each of which shall be in an amount not less than 100 percent of the contract price. Contruction contracts less than $100,000 shall be subject to State and local requirements relating to bid guarantees, performance and payments bonds. For contracts or subcontracts in excess of $100,000 the Regional Administrator may authorize the grantee to use its own bonding policies and requirements if he determines, in writing, that the Government's interest is adequately protected.

(b) Contractors should obtain such construction insurance (e.g., fire and extended coverage, workmen's compensation, public liability and property damage, and "all-risk" builder's risk or installation floater coverage) as is customary and appropriate. A contractor shall purchase flood insurance to cover his risk of loss under his contract pursuant to the Flood Disaster Protection Act of 1973 where the grantee has not purchased the insurance (see § 30.405-10 of this subchapter).

EXPLANATION

Bonding and insurance requirements are currently in § 35.935-3, which we are proposing to delete. Since the establishment of the procurement regulations in § 35.936, we feel that the bonding and insurance requirements are more appropriate in this section. The existing section is restructured into two paragraphs; the substance is proposed to be revised in four ways. First, the Office of Management and Budget has revised Attachment C to OMB Circular A-102 to permit Federal agencies to authorize grantees to use their own bonding policies for contracts over $100,000 if the agency determines that the Government's interest is adequately protected. This revision authorizes the Regional Administrator to make that determination. Second, flood insurance purchase requirements, in accordance with the Flood Disaster Protection Act, already in Part 30, have been added to this section. Third, reference has been added to the "installation floater" type of insurance appropriate for sewer pipes. Fourth, reference to a design/construct contract has been deleted from paragraph (a).

40. We are proposing to revise § 35.937-2 to read as follows:

§ 35.937-2 Public notice.

(a) *Requirement.* Adequate public notice as provided in paragraphs (a)(1) or (a)(2) of this section must be given of the requirement for architectural or engineering services for all subagreements with an anticipated price in excess of $25,000 except as provided in paragraph (b) of this section. In providing public notice pursuant to paragraphs (a)(1) and (a)(2) of this section, grantees must comply with the policies enunciated in §§ 35.936-2(b), 35.936-3, and 35.936-7.

(1) *Public announcement.* A notice of request for qualifications should be published in professional journals, newspapers, or publications of general circulation over a reasonable area and, in addition, if desired, through posted public notices or written notification directed to interested persons, firms, or professional organizations inviting the submission of statements of qualifications. The announcement must clearly state the deadline and place for submission of qualification statements.

(2) *Prequalified list.* As an alternative to publishing public notice as in

paragraph (b) of this section, the grantee may secure or maintian a list of qualified candidates. Such a list must:

(i) Be developed with public notice procedures as in paragraph (a)(1) of this section;

(ii) Provide for continuous updating; and,

(iii) Be maintained by the grantee or secured from the State or from a nearby political subdivision of the State.

(b) *Exceptions.* The public notice requirement of this section and the related requirements of §§ 35.937-3 and 35.937-4 are not applicable, but may be followed, in the cases described in paragraphs (b)(1) through (b)(3) of this section. All other appropriate provisions of these sections, including cost review and negotiation of price, apply.

(1) Where the population of the grantee municipality is 25,000 or less according to the latest U.S. census.

(2) For Step 2 or Step 3 of a grant, if:

(i) The grantee is satisfied with the qualifications and performance of an engineer who performed all or any part of the Step 1 or Step 2 work;

(ii) The engineer has the capacity to perform the subsequent steps; and

(iii) The grantee desires the same engineer to provide architectural or engineering services for the subsequent steps.

(3) For subsequent segments of design work under one grant if:

(i) A single treatment works is segmented into two or more Step 3 projects;

(ii) The Step 2 work is accordingly segmented so that the initial contract for preparation of construction drawings and specifications does not cover the entire treatment works to be built under one grant; and

(iii) The grantee desires to use the same engineering firm that was selected for the initial segment of Step 2 work for subsequent segments.

EXPLANATION

This section is proposed to be restructured for clarity and in accordance with FEDERAL REGISTER format. It clearly separates the requirement from the exceptions. No substantive change is made.

41. We are proposing to revise § 35.937-5(b) to read as follows:

§ 35.937-5 Negotiation.

* * * * *

(b) Negotiations shall be conducted in accordance with State or local procedures.

* * * * *

EXPLANATION

The Office of General Counsel has advised that the April 25, 1978, decision by the United States Supreme Court in *National Society of Professional Engineers* v. *United States* (see especially footnote 21) requires deletion of the reference to the "Brooks Bill" in § 35.937-5(b) of the present regulations. The basis for this conclusion is that the agency cannot authorize or require a grantee to observe a procedure barring price competition; only Congress can authorize an exception to the antitrust laws, as it has done for direct Federal procurement (only) in the case of the statute commonly referred to as the "Brooks Bill."

Deletion of the Brooks Bill reference from the present regulation would make negotiation with the three or more selected proposers subject only to State and local procedures.

42. We are proposing to revise § 35.937-12 to read as follows:

§ 35.937-12 Subcontracts under subagreements for architectural or engineering services.

(a) The award or execution of subcontracts under a prime contract for architectural or engineering services awarded to an engineer by a grantee, and the procurement and negotiation procedures used by the engineer in awarding such subcontracts are not required to comply with any of the provisions, selection procedures, policies or principles set forth in § 35.936 or § 35.937 except as provided in paragraphs (b), (c), and (d) of this section.

(b) The award or execution of subcontracts in excess of $10,000 under a prime contract for architectural or engineering services and the procurement procedures used by the engineer in awarding such subcontracts must comply with the following:

(1) Section 35.936-2 (Grantee procurement systems; State or local law);

(2) Section 35.936-7 (Small and minority business);

(3) Section 35.936-15 (Limitations on subagreement award);

(4) Section 35.936-17 (Fraud and other unlawful or corrupt practices);

(5) Section 35.937-1 (Type of contract);

(6) Section 35.937-6 (Cost and price considerations); and

(7) Section 35.937-7 (Profit).

(c) The applicable provisions of this subpart shall apply to lower tier subagreements where an engineer acts as an agent for the grantee under a management subagreement (see § 35.936-5(b)).

(d) If an engineer procures items or services which are more appropriately procured by formal advertising or competitive negotiation procedures, the applicable procedures of § 35.938 or of Part 33 shall be observed.

EXPLANATION

The proposed revision of subparagraph (b)(3) and addition of (b)(5) clarify requirements which the engineer must comply with in awarding subcontracts. The subsequent subparagraphs have also been renumbered in the numerical order of the referenced sections.

The proposed new paragraph (c) references the requirement of § 35.936-5(b), regarding the status of subcontractors when the engineer is acting for the grantee in the role of a construction manager. The proposed new paragraph (d) indicates that when an engineer procures items which are not covered by the provisions for architectural and engineering services procurements, the appropriate procedures of § 35.938 (formal advertising) or part 33 apply. Paragraph (a) is modified to reference new (c) and (d).

43. We are proposing to amend § 35.938-4(h) by revising subparagraph (2) and by adding a new subparagraph (5) and (6) to read as follows:

§ 35.938-4 Formal advertising.

* * * * *

(h) * * *

(2) The grantee may reserve the right to reject all bids. Unless all bids are rejected for good cause, awards shall be made to the low, responsive, responsible bidder.

* * * * *

(5) If an unresolved procurement review issue or a protest relates only to award of a subcontract or procurement of a subitem under the prime contract and resolution of that issue or protest is unduly delaying performance of the prime contract, award and performance of the prime contract may be authorized by the Regional Administrator, prior to resolution of the issue or protest, if the Regional Administrator determines that such action—

(i) Will not affect the placement of the prime contract bidders;

(ii) Is in the best interest of the Government;

(iii) Will not materially affect initial performance of the prime contract; and

(iv) Is not barred by State law.

(6) A bid shall not be rejected as nonresponsive for failure to list or otherwise indicate the selection of a subcontractor(s) or equipment, unless the grantee has unambiguously stated in the solicitation documents that such failure to list shall render a bid nonresponsive and shall cause automatic rejection of a bid. However, a grantee may not waive any Federally-required listing or selection requirement (e.g., minority business enterprise identification).

EXPLANATION

The addition of the phrase "for good cause" to paragraph (h)(2) is consist-

ent with Program Requirements Memorandum 78-8, February 13, 1978, (published in the FEDERAL REGISTER, April 7, 1978, 43 FR 14725).

The proposed new paragraph (h)(5) permits award of a prime contract when there are unresolved procurement issues or protests relating only to the award of a subcontract or procurement of a subitem. This rule has been developed in the protest process. Adoption of it in the regulations will make it legally possible to use this rule in situations not involving protests, will make it easier to enforce in the protest process, and will expedite the procurement process.

The proposed paragraph (h)(6) deals with a failure to list subcontractors or suppliers. This is a major area of current bid protests; adoption of this rule would eliminate many unnecessary and frivolous bid protest actions.

44. We are proposing to revise § 35.938-6(c) to read as follows:

§ 35.938-6 Progress payments to contractors.

* * * * *

(c) *Protection of progress payments made for specifically manufactured equipment.* The grantee will assure protection of the Federal interest in progress payments made for items or equipment referred to in paragraph (b)(3) of this section. This protection must be in a manner or form acceptable to the grantee and must take the form of:

(1) Securities negotiable without recourse, condition or restrictions, a progress payment bond, or an irrevocable letter of credit provided to the grantee through the prime contractor by the subcontractor or supplier; and,

(2) For items or equipment in excess of $200,000 in value which are manufactured in a jurisdiction in which the Uniform Commercial Code is applicable, the creation and perfection of a security interest under the Uniform Commercial Code reasonably adequate to protect the interests of the grantee.

* * * * *

EXPLANATION

This proposed amendment is designed to deal with a problem which has been recently brought to our attention with regard to progress payments on specifically manufactured equipment. EPA's primary reason for encouraging progress payments to equipment manufacturers is to reduce the interest cost to the manufacturers, thereby reducing the bid price and the costs to the taxpayer.

An equipment supplier has complained about the additional labor, expense and paperwork needed to comply with the recordation requirement, and asserts that this diminishes the usefulness of progress payments to the companies and increases the cost to EPA. The primary arguments are that various components of the equipment are manufactured at different sites in different States, requiring repeated multiple recordation, and that recordation is generally not possible in foreign countries where some components are manufactured. They state that a cut-off point of $200,000 would still require recordation for the principal items of equipment (compressors, cold boxes, aerators) but would relieve them of the burden for small components where the expense and paperwork make progress payments too difficult. If public comment leads us to conclude that elimination of the recordation requirement for items valued at less than $200,000 is reasonable, we judge that considerable paperwork burden can be eliminated. Comment is particularly sought on the appropriateness of the $200,000 level.

45. We are proposing to revise § 35.938-9(b) to read as follows:

§ 35.938-9 Subcontracts under construction contracts.

* * * * *

(b) The award or execution of subcontracts by a prime contractor under a formally advertised, competitively bid, fixed price construction contract awarded to the prime contractor by the grantee, and the procurement and negotiation procedures used by such prime contractors in awarding or executing such subcontracts must comply with the following:

(1) Section 35.936-2 (Grantee procurement systems; State or local law);

(2) Section 35.936-7 (Small and minority business);

(3) Section 35.936-15 (Limitations on subagreement award);

(4) Section 35.936-17 (Fraud and other unlawful or corrupt practices); and

(5) Section 35.936-5(d) (Negotiation of contract amendments).

* * * * *

EXPLANATION

The proposed revision of subparagraph (b)(3) and addition of subparagraph (b)(5) clarify the existing regulations concerning two requirements applicable to subcontracts. Section 35.936-15 bars subagreement awards in certain cases, which are applicable to subcontracts. Section 35.938-5(d) requires cost/price review for negotiated change orders over $100,000, including subcontracts.

46. We are proposing to amend § 35.940-1 by revising paragraph (q) and adding a new paragraph (r) to read as follows:

§ 35.940-1 Allowable project costs.

* * * * *

(q) Start-up services for new treatment works, in accordance with guidance issued by the Administrator.

(r) A Plan of Operation, in accordance with guidance issued by the Administrator.

EXPLANATION

The revision to paragraph (q) deletes the reference to allowability of State agency review costs in accordance with §§ 35.912 and 35.913 because of the new authority in Subpart F, and replaces it with the eligibility of start-up services. Paragraph (r) adds the eligibility for a Plan of Operation. Both these additions are in accordance with Program Requirements Memoranda issued on November 29, 1976 (PRM 77-2 and PRM 77-3).

§ 35.940-3 [Amended]

47. We are proposing to delete § 35.940-3(d) and to redesignate paragraph (e) as (d).

EXPLANATION

Paragraph (d) of § 35.940-3 is deleted as a clarification measure since in this form, its inclusion in the regulations has led some grantees to believe that construction grants could be used to purchase existing facilities for the purpose of restructuring municipal and/or private debt. We intend to continue reviewing proposals to acquire materials from, or portions of, existing treatment works on the basis of the following criteria:

(1) The acquisition is consistent with established policy that highest priority is assigned to facilities which will reduce pollution from the existing population and municipal wastewater discharges will enhance water quality.

(2) A facility planning-type analysis unquestionably supports acquisition as the cost-effective means of reducing pollution and meeting discharge requirements of the NPDES permit.

(3) The acquisition does not merely result in a change of ownership or financial structure without additional pollution control benefits.

48. We are proposing to revise the first paragraph of § 35.945 to read as follows:

§ 35.945 Grant payments.

The grantee shall be paid the Federal share of allowable project costs incurred within the scope of an approved project and which are currently due and payable from the grantee (i.e., not including withheld or deferred amounts), subject to the limitations of §§ 35.925-18, 35.930-5, 35.930-6, and 35.965 (b) and (c), up to the grant amount set forth in the grant agreement and any amendments

thereto. Payments for engineering services for Step 1, 2 or 3 shall be made in accordance with § 35.937-10 and payments for Step 3 construction contracts shall be made in accordance with §§ 35.938-6 and 35.938-7. All allowable costs incurred prior to initiation of construction of the project must be claimed in the application for grant assistance for that project prior to the award of such assistance or no subsequent payment will be made for such costs.

* * * * *

EXPLANATION

The first sentence has been revised to clarify what we mean by "currently obligated to pay," as the current regulation reads. This policy, first issued in Program Requirements Memorandum 75-22 (formerly PG 43, November 18, 1974), has recently been misinterpreted by some grantees.

Appendix D [Amended]

49. We are proposing to add a new paragraph d to paragraph B5 of Appendix D to read as follows:

* * * * *

d. The limitations of paragraph B5 apply to all grants awarded under Subpart E except that—

(1) The limitations will not be applied to any project on which final payment had been made by the Regional Administrator prior to December 17, 1975; and

(2) For other projects on which construction for the building and erection of a treatment works was initiated prior to December 17, 1975, the limitations will not be applied to any request for engineering fee increases attributable to construction contract awards or change orders approved by the grantee prior to December 17, 1975.

EXPLANATION

The purpose of Appendix D, published in the FEDERAL REGISTER of December 17, 1975, was to provide for the orderly transition of existing grants and contracts to the new procurement regulations published on that date affecting consulting engineering agreements. While percentage-of-construction-cost (PCC) contracts were prohibited for work under new grant awards, existing PCC contracts were permitted to continue at the Step 3 stage, subject to certain limitations.

The intent of paragraph B5 of Appendix D is to limit windfall profits attributable to inflation under PCC contracts. Application of paragraph B5 to situations where there is no grant or contract action on or after December 17, 1975 (the effective date of Appendix D) has not been found to be warranted. Experience in the application of paragraph B5 has resulted in inequities, been resource intensive and not cost effective. The proposed amendment to Appendix D would clarify the intent of that section by limiting its applicability to actions taken after December 17, 1975. The same exclusion would apply equally to Pub. L. 84-660 and Pub. L. 92-500 projects.

The regulations in 40 CFR Part 35 Subpart E and these amendments are issued under the authorities contained in sections 109(b), 201 through 205, 207, 208(d), 210 through 212, 215 through 217, 501, 502 and 511 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

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

Dated: May 30, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-15530 Filed 6-1-78; 9:48 am]

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