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MONDAY, AUGUST 28, 1978



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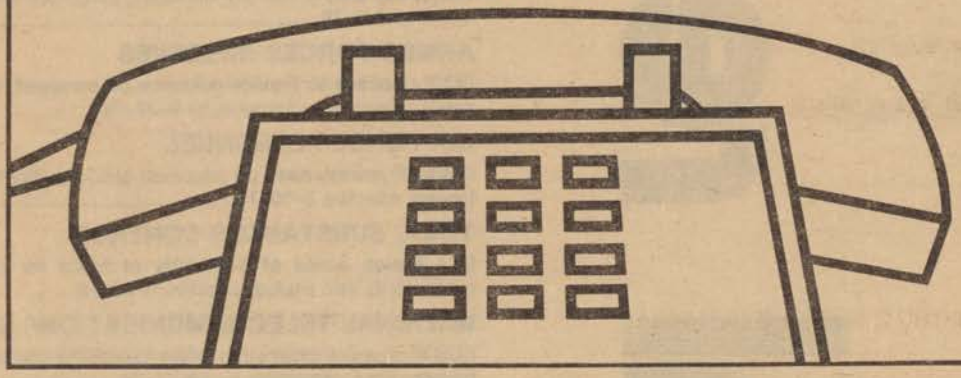
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rules and regulations

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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.

[3410-02]

Title 7—Agriculture

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

[Pear Reg. 8, Amdt. 1]

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

Grade, Size, and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through July 31, 1979, the current minimum grade, size, and container requirements for shipments of fresh California Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears. The amendment takes into consideration the marketing situation facing the California pear industry and is necessary to assure that shipments of pears will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATES: September 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Pear regulation 8 was published in the FEDERAL REGISTER on July 10, 1978 (43 FR 29563). On July 27, 1978, a proposal was issued (43 FR 32430) to extend the regulatory provisions through July 31, 1979. The notice allowed interested persons until August 11, 1978, to submit written comments pertaining to the proposed amendment. No such material was submitted.

The proposal was recommended by the Pear Commodity Committee, established under the marketing agreement, as amended, and order No. 917, as amended (7 CFR part 917). The marketing agreement and order to regulate the handling of fresh pears, plums, and peaches grown in California and are effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following amendment is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of pears are currently in progress and this amendment should be applicable to all shipments during the season in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The provisions of § 917.448 pear regulation 8 (43 FR 29563) are hereby amended to read as follows:

§ 917.448 Pear regulation 8.

(a) During the period September 1, 1978, through July 31, 1979, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165;

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

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, unless such box or container conforms to the requirements of standard pack; except, that such pears may be fairly tightly packed;

(5) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in other than a closed container, unless such pears do not vary more than ⅜ inch in their transverse diameter for counts 120 or less, and ¼ inch for counts 135 to 165, inclusive: *Provided*, That 10 percent of the containers in any lot may fail to meet the requirements of this paragraph; and

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

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

(2) "Size known commercially as size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of standard pack, with 165 pears and that one-half of the count size designated, representative of the size of the pears in the box or container, shall weigh at least 22 pounds.

(3) "Standard pear box" means the container so designated in § 1380.19 of the regulations of the California Department of Food and Agriculture.

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

(5) "Approved top pad" shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g., an 11 inch by 17 inch pad will weigh at least 21 pounds per

100 pads) or an equivalent made of material other then wood excelsior approved by the committee.

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

Dated: August 23, 1978, to become effective September 1, 1978.

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

[FR Doc. 78-24200 Filed 8-25-78; 8:45 am]

[4410-10]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Addition of Caribbean International Airways Ltd. and Montana Flugbetrieb to Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service to add two carriers to the list of transportation lines which have entered into agreements with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. These amendments are necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: These amendments to 8 CFR 238.3 are published pursuant to section 552 of title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendments contained in this order add transportation lines to the listing and are editorial in nature.

1. On May 30, 1978, the Commissioner of Immigration and Naturalization concluded an agreement with Montana Flugbetrieb to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR 238. Accordingly, 8 CFR 238.3 will be amended by adding "Montana Flugbetrieb" to the listing in alphabetical sequence.

2. On June 28, 1978, the Commissioner of Immigration and Naturalization concluded an agreement with Caribbean International Airways Ltd. to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR 238. Accordingly, 8 CFR 238.3(b) will be further amended by adding "Caribbean International Airways Ltd." to the listing in alphabetical sequence.

In the light of the foregoing, the following amendments are hereby prescribed to chapter I of title 8 of the Code of Federal Regulations.

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Caribbean International Airways Limited" and "Montana Flugbetrieb."

(Secs. 103 and 238(d), 8 U.S.C. 1103 and 1228(d).)

Effective date: The amendments contained in this order will become effective on August 28, 1978.

Dated: August 23, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-24178 Filed 8-25-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Implementation of Security Personnel Qualification Training and Equipment Requirements by Commercial Nuclear Power Reactors

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: On March 23, 1978 (43 FR 11962) the Commission published in final form amendments to 10 CFR Part 73 requiring that nuclear powerplant licensees develop contingency plans and on August 23, 1978 (43 FR 37421) amendments to require guard qualification and training plans. In this connection the Commission will hold meetings to discuss guard training and contingency planning rules.

DATES AND ADDRESSES: The meetings are scheduled to be held from 9 a.m. to 3:30 p.m. as follows:

Region II, September 27, 1978, Stadium Hotel, 450 Capitol Avenue SE., Atlanta, Ga. 30312, 404-688-1900.

Region III, October 3, 1978, Ramada O'Hare, 6600 North Mannheim Road, Des Plaines, Ill. 60018, 312-827-5131.

Regions IV and V, October 5, 1978, San Francisco Airport Hilton, P.O. 8355, San Francisco, Calif. 94128, 415-589-0770.

Region I, October 11, 1978, Valley Forge Holiday Inn, 260 Goddard Boulevard, King of Prussia, Pa. 19406, 215-265-7500.

FOR FURTHER INFORMATION CONTACT:

Frank G. Pagano, Chief, Reactor Safeguards Development Branch, Division of Operating Reactors, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-492-7846.

SUPPLEMENTAL INFORMATION: On March 23, 1978, the Commission published in final form amendments to 10 CFR Part 73 requiring that nuclear powerplant licensees develop contingency plans and on August 23, 1978, amendments to require guard qualification and training plans. The meetings will be: (1) To further explain the regulatory approach taken in the guard training rule; (2) discuss the preparation of contingency plans; and (3) provide a forum for discussion of these rules and accompanying staff guidance.

The above meetings are between the NRC staff and affected licensees. Persons other than the NRC staff and licensee representatives may observe the proceeding but cannot be permitted to participate in the discussions since only a limited time will be available for discussion. Persons other than reactor licensees desiring to attend should call the Office of the Chief,

Reactor Safeguards Development Branch, phone 301-492-7846, before September 25, 1978, for further information.

Dated at Washington, D.C., this 21st day of August 1978, for the Nuclear Regulatory Commission.

JAMES R. MILLER,
Assistant Director for Reactor Safeguards, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-24183 Filed 8-25-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-EA-42; Amdt. 39-3284]

PART 39—AIRWORTHINESS DIRECTIVES

AVCO Lycoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment (AD) revises and amends airworthiness directive 77-20-07 applicable to AVCO Lycoming 0-320-H type aircraft engines and requires replacement of the hydraulic tappets so as to prevent spalling of the tappets. Such spalling, which has been reported, results from lubrication deficiencies.

EFFECTIVE DATE: August 31, 1978. Compliance is required within the next 50 hours in service.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at AVCO Lycoming Division, Williamsport, Pa. 17701.

FOR FURTHER INFORMATION CONTACT:

E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of hydraulic valve tappet spalling continuing to occur in the AVCO Lycoming 0-320-H series engine after complying with the inspection and lubrication requirements of AD 77-20-07. Lycoming has since redesigned the hydraulic tappets to improve the lubrication to the cam lobe to correct this condition. Since this is a condition likely to exist or develop in other engines of similar type design, an amendment to AD 77-20-07 is being issued which will require replacement of the hydraulic tappets.

DRAFTING INFORMATION

The principal authors of this document are E. Manzi, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by revising and amending AD 77-20-07 to read as follows:

AVCO LYCOMING: Applies to 0-320-H series engines, Serial Number L-101-76 through L-3829-76, L-3831-76, L-3843-76 through L-3859-76, L-3864-76, L-3866-76, L-3871-76, L-3902-76 through L-3907-76 and all 0-320-H series engines overhauled (Remanufactured by Lycoming) before March 24, 1978.

Compliance required within the next 50 hours in service after the effective date of this AD unless previously accomplished.

To prevent hazards in flight associated with loose rocker arm retaining studs and failure of the hydraulic tappets, accomplish the following:

a. Remove all rocker box covers, rocker arm, fulcrums, spacer washers and push rods.

b. Inspect the fulcrum seating surface in the rocker arm for wear steps in excess of .003 inches. Replace all parts found to have such indications.

c. Remove the shroud tube springs, shroud tubes, and hydraulic tappets from engine.

d. Inspect the camshaft lobes for wear or loss of metal. Replace the camshaft found to have such indications.

e. Replace P/N LW-15168 hydraulic tappets with P/N LW-16168 or P/N LW-16585 hydraulic tappets. (AVCO Lycoming Service Bulletin No. 424 refers to this subject.)

f. On engine Serial Numbers 101-76 through 2182-76, remove all rocker arm retaining studs P/N 31-16 from cylinder head and install new oversize rocker arm retaining studs in accordance with the instruction in paragraph 3 of AVCO Lycoming Service Bulletin No. 412, dated July 8, 1977, or FAA approved equivalent.

g. Equivalent methods of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration (FAA) Eastern Region.

h. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, The Chief, Engineering and Manufacturing Branch, Federal Aviation Administration (FAA) Eastern Region may adjust the compliance time specified in this AD.

Effective Date: This amendment is effective August 31, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 17, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-23888 Filed 8-25-78; 8:45 am]

[4910-13]

[Docket No. 78-NE-18; Amdt. 39-3288]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT9D Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a repetitive inspection of all fifteenth stage compressor disks, P/N 672915 and P/N 658615, on Pratt & Whitney JT9D turbofan engines. The AD is needed to detect low cycle fatigue cracks on the disk rear face which could result in disk fracture.

DATES: Effective date, September 1, 1978. compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Daniel P. Salvano, Aerospace Engineer, Propulsion Section, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803; telephone: 617-273-7347.

SUPPLEMENTARY INFORMATION: Inspection of certain fifteenth stage compressor disks removed from Pratt & Whitney Aircraft JT9D engines has disclosed low cycle fatigue cracking in the rear face at the web-to-bore transition area. The FAA has determined that these cracks may result in a non-contained disk fracture. Since this condition is likely to exist or develop in other engines containing disks with the same part number, an airworthiness directive is being issued which requires a repetitive ultrasonic or eddy

current inspection on fifteenth stage disks, P/N 672915 and P/N 658615.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT: Applies to all Pratt & Aircraft JT9D-3, -3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, and -20B turbofan engines containing fifteenth stage compressor disk, P/N 672915 or P/N 658615.

Compliance required as indicated, unless already accomplished.

To preclude failures of fifteenth stage compressor disks due to low cycle fatigue cracking, inspect disks in accordance with the procedures specified in Pratt & Whitney Aircraft Alert Service Bulletin 4908, dated August 7, 1978, or later revision approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region, as specified below:

(a) For disks with 6500 or more cycles in service, on the effective date of this AD, inspect within the next 100 cycles in service.

(b) For disks having less than 6500 cycles in service, on the effective date of this AD, inspect prior to reaching 6600 cycles.

(c) Reinspect the disks in paragraphs (a) and (b) in accordance with the following schedule:

1. Disks inspected by the Rim Access Ultrasonic Inspection method must be reinspected within the next 600 cycles and every 600 cycles in service thereafter.

2. Disks inspected by the HPC Central Cavity Access or the Detail Access Eddy Current Inspection method must be reinspected within the next 1600 cycles and every 1600 cycles thereafter.

If any crack indications are found, the disk must be removed from service prior to further flight.

In no case shall the established life limit of the disk be exceeded.

Upon request of the operator, an equivalent method of compliance with the requirements of this AD may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, New England Region, may adjust the repetitive inspection interval specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. These documents may also be examined at the Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass., and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and the New England Region.

This amendment becomes effective September 1, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Burlington, Mass., on August 17, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

NOTE.—The incorporation by reference provisions of this document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc. 78-23882 Filed 8-25-78; 8:45 am]

[4910-13]

[Docket No. 78-EA-46; Amdt. 39-3285]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft of Canada, Ltd.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule adopts a new airworthiness directive (AD) applicable to certain Pratt & Whitney Aircraft of Canada, Ltd. (P&WAC) PT6T-3 and PT6T-6 type engines requiring replacement of the bypass valve diaphragm in the automatic fuel control unit. It will preclude a rupture of the diaphragm as has been experienced with the old part.

EFFECTIVE DATE: August 31, 1978, with compliance required within 50 hours in service after that date.

ADDRESSES: Service Bulletins may be acquired from the manufacturer at Pratt & Whitney Aircraft of Canada, Ltd., P.O. Box 10, Longueuil, Quebec, Canada J4K 4X9.

FOR FURTHER INFORMATION CONTACT:

J. Kiselica, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of failures of the fluorosilicone automatic fuel control unit bypass valve diaphragm which can result in over temperature or over torque condition. Since this condition is likely to exist or develop in other engines of similar type design, an AD is being issued which will require replacement of the diaphragm with a Buna N (elastomer) diaphragm. Since the rupture affects air safety, a situation exists which requires immediate adoption and therefore, notice and public procedure hereon are impracticial and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are J. Kiselica, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

Applies to all Pratt & Whitney Aircraft of Canada, Ltd. PT6T-3 and PT6T-6 turboshaft engines with automatic fuel control with Aviation Electric Ltd. parts list 2524381-5, 3244712-1 and -2, 3244717-1 through -5, 3244721-1 through -5, 3244735-1 through -7 and 3244737-1 through -7.

Complaince required within the next 50 hours in service, after the effective date of this AD, unless already accomplished.

To preclude rupture of the bypass valve diaphragm in the automatic fuel control unit, replace the part number 2526477 diaphragm with part number 323451 diaphragm in accordance with paragraph 2, accomplishment instructions in Pratt & Whitney Aircraft of Canada, Ltd., Alert Service Bulletin No. 5153, or approved equivalent parts and procedure.

Aircraft may be flown to a base for performance of maintenance required by this AD per FAR 21.197.

Any equivalent parts and procedure must be approved by the Chief, Engineering and Manufacturing Branch, of the Eastern Region of the Federal Aviation Adminstration (FAA).

Effective date: This amendment is effective August 31, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 17, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-23887 Filed 8-25-78; 8:45 am]

[4910-13]

[Docket No. 78-EA-47; Amdt. 39-3286]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft of Canada, Ltd., Pratt & Whitney Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Pratt & Whitney Aircraft and Pratt & Whitney Aircraft of Canada, Ltd., JT15D-4 type aircraft engines and requires replacement of the fuel manifold adapter assemblies so as to prevent fuel leakage with a potential fire hazard. Such leakages have been reported.

EFFECTIVE DATE: August 31, 1978. Compliance is required within the next 50 hours in service.

ADDRESSES: Service Bulletins may be acquired from the manufacturer at Pratt & Whitney Aircraft of Canada, Ltd., P.O. Box 10, Longueuil, Quebec, Canada J4K 4X9.

FOR FURTHER INFORMATION CONTACT:

J. Kiselica, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of leakages of the subject assembly with potential fire hazard within the cowling. Since this is a condition likely to exist or develop in other engines of similar type design, an AD is being issued which will require replacement of the fuel manifold adapter assembly. Since a situation exists that requires the immediate adoption of this amendment, it is found that notice and public procedure are impractical and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are: J. Kiselica, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive as follows:

Applies to all Pratt & Whitney Aircraft of Canada, Ltd. JT15D-4 engines prior to serial No. PCE-70111 and Pratt & Whitney Aircraft JT15D-4 engines prior to serial No. P-70111 with Part Nos. 3023031 and 3023035 fuel manifold adapter assemblies.

Compliance required within the next 50 hours in service after the effective date of this AD, unless already accomplished.

To preclude fuel leakage from the fuel adapter assemblies, replace the part Nos. 3023031 and 3023035 fuel manifold adapter assemblies with part Nos. 3021699 and 3021698 fuel manifold adapter assemblies in accordance with paragraph 2, accomplishment instructions in Pratt & Whitney Aircraft of Canada, Ltd. Service Bulletin No. 7087 as revised or approved equivalent parts.

Aircraft may be flown to a base for performance of maintenance required by this AD per FAR 21.197 or FAR 21.199.

All equivalent parts must be approved by the Chief, Engineering and Manufacturing Branch of the Eastern Region of the Federal Aviation Administration (FAA).

Effective date: This amendment is effective August 31, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 17, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-23883 Filed 8-25-78; 8:45 am]

[4910-13]

[Docket No. 78-EA-48; Amdt. 39-3287]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft of Canada, Ltd., Pratt & Whitney Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Pratt & Whitney Aircraft of Canada, Ltd. (PWAC) and Pratt & Whitney Aircraft (PWA) PT6A type aircraft engines and requires replacement of the fuel control unit bypass valve diaphragm so as to prevent auto acceleration resulting in an overtorqued engine.

EFFECTIVE DATE: August 31, 1978. Compliance is required within the next 100 hours in service.

ADDRESSES: Service Bulletins may be acquired from the manufacturer at Pratt & Whitney Aircraft of Canada, Ltd., P.O. Box 10, Longueuil, Quebec, Canada J4K 4X9.

FOR FURTHER INFORMATION CONTACT:

J. Kiselica, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of rupture of the subject diaphragm resulting in auto acceleration and an overtorqued engine. Since this is a condition likely to exist or develop in other engines of similar type design, an AD is being issued which will require replacement of the fluorosilicone diaphragm with a Buna N (elastomer) diaphragm.

DRAFTING INFORMATION

The principal authors of this document are J. Kiselica, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

Applies to all Pratt & Whitney Aircraft of Canada, Ltd. PT6A-38, PT6A-41 and PT6A-45A engines and Pratt & Whitney Aircraft PT6A-38 engines with fuel control unit aviation electric part Nos. 3244723-3 through -10, 3244738-5, 3244738-6, 3244752-6 through -10, and 3244755-7 through -11.

Compliance required within the next 100 hours in service, after the effective date of this AD, unless already accomplished.

To preclude rupture of the bypass valve diaphragm in the fuel control unit replace the part No. 2526477 diaphragm with part No. 343451 diaphragm in accordance with paragraph 2, accomplishment instructions, in Pratt & Whitney Aircraft of Canada, Ltd. Service Bulletin No. 3103 or approved equivalent parts and procedure.

Aircraft may be flown to a base for performance of maintenance required by this AD per FAR 21.197.

Any equivalent parts and procedure must be approved by the Chief, Engineering and Manufacturing Branch of the Eastern Region of the Federal Aviation Administration (FAA).

Effective date: This amendment is effective August 31, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 17, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-23884 Filed 8-25-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-GL-4]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Mount Comfort, Ind., to accommodate a new (VOR-A) instrument approach procedure into the Mount Comfort Airport established pursuant to a request from the Mount Comfort Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530 FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground to 700 feet above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 15436 of the FEDERAL REGISTER dated April 13, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Mount Comfort, Ind. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, effective November 2, 1978, as follows:

In § 71.181 (43 FR 440), the following transition area is added:

MOUNT COMFORT, IND.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of Mount Comfort Airport (lat. 39°50'26" N., long. 85°54'04"), excluding the portion within the Indianapolis Brookside transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 16, 1978.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-23880 Filed 8-25-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-GL-11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Saginaw, Mich., to accommodate a new VOR/DME instrument approach procedure into the Harry Browne Airport, established on the basis of a request from the airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground to 700 feet above ground. The development of the proposed instrument approach procedure necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DRAFTING INFORMATION

The principal authors of this document are Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 24854 of the FEDERAL REGISTER dated June 8, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which

would amend section 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Saginaw, Mich. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective November 2, 1978, as follows:

In § 71.181 (43 FR 440), the following transition area is added:

SAGINAW, MICH.

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Harry W. Browne Airport (lat. 43°25'58" N., long. 83°51'43" N.), excluding that portion presently designated the Clements Airport and the Tri-City Airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations 14 C.F.R. 11.61)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on August 16, 1978.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-23879 Filed 8-25-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Designation of Transition Area—Cassville, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a transition area at Cassville, Mo., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Cassville, Mo., Municipal Airport which is based on the Neosho, Mo. VORTAC, a navigational aid.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Cassville, Mo., Municipal Airport is being established based on the Neosho, Mo. VORTAC, a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Cassville, Mo., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Air Traffic Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

DISCUSSION OF COMMENTS

On pages 22375 and 22376 of the FEDERAL REGISTER dated May 25, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of part 71 of the Federal Aviation regulations so as to designate a transition area at Cassville, Mo. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly subpart G, section 71.181 of the Federal Aviation regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.m.t., November 2, 1978, by adding the following transition area to read:

CASSVILLE, MO.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cassville Municipal Airport (lat. 36°41'46" N., long. 93°53'56" W.); and within 2.5 miles each side of the Neosho VORTAC 108° radial, extending from 5-mile radius area to 25 miles east of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on August 15, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-23881 Filed 8-25-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-6]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area—Wichita, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Wichita, Kans., to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Cessna Aircraft Field, Wichita, Kans., utilizing the Wichita, Kans., VORTAC as a navigational aid.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Cessna Aircraft Field, Wichita, Kans., is being established utilizing the Wichita, Kans., VORTAC as a navigational aid. The establishment of a new instrument approach procedure based on the navigational aid entails the alteration of the transition area at Wichita, Kans., at and above 700 feet above the ground (AGL), within which aircraft are provided air traffic control service. The intended effect of this action is to insure additional adequate controlled airspace for aircraft executing this new instrument approach procedure.

DISCUSSION OF COMMENTS

On page 22987 of the FEDERAL REGISTER dated May 30, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of part 71 of the Federal Aviation regulations so as to alter the transition area at Wichita, Kans. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.m.t., November 2, 1978, by altering the following transition area:

WICHITA, KANS.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wichita, Kans. Mid-Continent Airport (lat. 37°39'09" N., long. 97°25'47" W.) and from 9.5 miles west of the LOC (BC) to runway 1L extending from 8.5 miles to 15 miles south of the airport to 4.5 miles east of the LOC (FC) to runway 1R to 6.5 miles east of the 176 radial of the Wichita, Kans. VORTAC facility, extending from the 8.5-mile radius to 15 miles south of the airport; within an 8.5-mile radius of the McConnell AFB (lat. 37°37'26" N., long. 97°15'51" W.); and 2 miles each side of the McConnell AFB ILS localizer south course, extending from the 8.5-mile radius to 13 miles south of the AFB within a 5-mile radius of the Comotara Airpark (lat. 37°44'45" N., long. 97°13'20" W.); and within 2 miles each side of the 344° bearing from the Comotara Airpark extending from the 5-mile radius to 6 miles north; within a 5-mile radius of the Augusta, Kans. Airport (lat. 37°40'21" N., long. 97°04'38" W.), and 3 miles each side of the 116° radial of the Wichita, Kans. VORTAC extending form the 8.5-mile radius of the AFB to 14 miles east of the Cessna Aircraft Field Airport (lat. 37°38'55" N., long. 97°15'01" W.).

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of transportation Act (49 U.S.C. 1655(c)); Sec.11.61 of the Federal Aviation regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo., on August 17, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-23886 Filed 8-25-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Designation of Transition Area—Concordia, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Concordia, Kans., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Blosser Municipal Airport, Concordia, Kans., which is based on a nondirectional radio beacon (NDB) navigational aid installed on the airport.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The city of Concordia, Kans., has installed a nondirectional radio beacon (NDB), a navigational aid, on the Blosser Municipal Airport, Concordia, Kans. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Concordia, Kans., at and above 700 feet above the ground (AGL), within which aircraft are provided air traffic control service. The intended effect of this action is to insure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

DISCUSSION OF COMMENTS

On pages 22985 and 22986 of the FEDERAL REGISTER dated May 30, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of part 71 of the Federal Aviation regulations so as to designate a transition area at Concordia, Kans. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, section 71.181 of the Federal Aviation regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.m.t. November 2, 1978, by adding the following new transition area:

CONCORDIA, KANS.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Blosser Municipal Airport (latitude 39°32'55" N., longitude 97°39'05" W.); and within 3 miles each side of the 346° bearing from Concordia NDB (latitude 39°33'12" N., longitude 97°39'03" W.) extending from the 5-mile radius area to 8-mile radius area to 8 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo., on August 17, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-23889 Filed 8-25-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area—Great Bend, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Great Bend, Kans., to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Great Bend Municipal Airport, which is based on a nondirectional radio beacon (NDB), a navigational aid, and a localizer installed on the airport.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: An additional instrument approach procedure to the Great Bend, Kans., Municipal Airport is being established utilizing an NDB and localizer installed on the airport. The establishment of a new instrument approach procedure based on these facilities entails alteration of the transition area at Great Bend, Kans., at and above 700 feet above the ground (AGL), within which aircraft are provided air traffic control service. The intended effect of this action is to insure additional adequate controlled airspace for aircraft executing this new instrument approach procedure.

DISCUSSION OF COMMENTS

On pages 22986 and 22987 of the FEDERAL REGISTER dated May 30, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of part 71 of the Federal Aviation Regulations so as to alter the transition area at Great Bend, Kans. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.m.t., November 2, 1978, by altering the following transition area:

GREAT BEND, KANS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Great Bend Municipal Airport (latitude 38°20'40" N., longitude 98°51'43" W.); and within 4.5 miles each side of the 303° bearing from the Great Bend Municipal Airport, extending from the 7-mile radius to 18 miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo., on August 17, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-23885 Filed 8-25-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area—Washington, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a transition area at Washington, Mo., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Washington, Mo., Memorial Airport which is based on the Foristell, Mo., VORTAC.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Washington, Mo., Memorial Airport is being established based on the Foristell, Mo., VORTAC, a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Washington, Mo., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

DRAFTING INFORMATION

The principal authors of this document are: Dwaine E. Hiland, Air Traffic Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

DISCUSSION OF COMMENTS

On pages 22376 and 22377 of the FEDERAL REGISTER dated May 25, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Washington, Mo. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.m.t., November 2, 1978, by adding the following transition area to read:

WASHINGTON, MO.

Washington Memorial Airport, Washington, Mo. That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Washington Memorial Airport (latitude 38°35'55" N., longitude 090°59'55" W.) and within 1½ miles each side of the Foristell, Mo., VORTAL R-193° extending from the 5-mile radius area to 7½ miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on August 15, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-23878 Filed 8-25-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Designation of Transition Area—Bowling Green, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a transition area at Bowling Green, Mo., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Bowling Green, Mo., Municipal Airport which is based on the Quincy, Ill., VORTAC.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division,

ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Bowling Green, Mo., Municipal Airport is being established based on the Quincy, Ill., VORTAC, a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Bowling Green, Mo., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating visual flight rules (VFR).

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Air Traffic Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

DISCUSSION OF COMMENTS

On page 22377 of the FEDERAL REGISTER dated May 25, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Bowling Green, Mo. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G. section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.M.T., November 2, 1978, by adding the following transition area to read:

BOWLING GREEN, MO.

Bowling Green Municipal Airport, Bowling Green, Mo. That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bowling Green Municipal Airport (latitude 39°22'15" N., longitude 091°13'30" W.) and within 2½ miles each side of the Quincy, Ill., VORTAC R-174° extending from the 5-mile radius area to 7 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on August 15, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-23877 Filed 8-25-78; 8:45 am]

[1505-01]

[Airspace Docket No. 78-SO-201]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

Correction

In FR Doc. 78-19597 appearing at page 30536, in the issue for Monday, July 17, 1978, in the boundaries for R-5302 Harvey Point, N.C., in the ninth line, 70°20'00" should be corrected to read 76°20'00".

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Docket 32160; Reg. ER-1070; Amdt. No. 4]

PART 223—FREE AND REDUCED-RATE TRANSPORTATION

Definition of "Handicapped" and "Retired" Persons for Fare Purposes

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule establishes definitions of the terms "handicapped" and "retired," for the guidance of carriers wishing to establish reduced fares for those classes of passengers, in accordance with a recent amendment to the Federal Aviation Act that allows such fares and requires the Board to define these terms.

DATES: Effective: September 27, 1978. Adopted: August 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Office of the General Counsel, Civil Aeronautics Board, 202-673-5442.

SUPPLEMENTARY INFORMATION: Section 8(a) of Pub. L. 95-163, 91 Stat. 1281, enacted on November 9, 1977, amended subsection 403(b)(1) of the Federal Aviation Act of 1958 to require the Board to allow carriers to establish space-available reduced fares for the transportation of three classes of passengers: The handicapped (and any required attendants); people who are at least 60 years old and retired; and all people who are at least 65 years old.

Section 8(a) of Pub. L. 95-163 also stated that a "handicapped person" is "any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, *as defined by the Board,*" and that "retired" means "no longer gainfully employed *as defined by the Board.*" (Emphases added.)

By notice of proposed rulemaking EDR-346, dated February 23, 1978, 43 FR 8266 (March 1, 1978), the Board sought public comment on proposed definitions of the terms "handicapped" and "retired." Approximately 900 comments were received, and, in light of those comments, we have decided to adopt the definitions contained in this final rule, for the following reasons.

"HANDICAPPED"

In EDR-346, we proposed a broad definition of the term "handicapped," taken from section 7(6) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 706(6).[1] This definition has also been used by the Department of Health, Education, and Welfare for the purposes of administering section 504 of that Act.[2] Our proposed definition differed materially from that of HEW only in that we excluded alcoholism and drug addiction, in response to a specific statement by the manager of the bill that Congress did not intend to include alcoholics and drug addicts within the class of passengers to be benefitted by Pub. L. 95-163.[3]

Most of the comments that the Board received in this proceeding advocated that the proposed definition be broadened to specifically include infant orphans traveling to the United States to be adopted, and their escorts.[4] Those advocating this course of

[1] Specifically, our proposed definition was as follows: "Physically or mentally handicapped person," as used in section 403(b)(1) of the Act, means any person who has a physical or mental impairment (other than drug addiction or alcoholism), which substantially limits one or more major life activities.

[2] Sec. 504, 29 U.S.C. 794, prohibits discrimination against otherwise qualified handicapped individuals under any federally funded or assisted program or activity. HEW's definition of "handicapped" is set out at 45 CFR 84(3)(j).

[3] 123 Cong. Rec. H 12046-7, H 12050 (Nov. 2, 1977).

[4] Comments on this question were filed by a large number of charitable agencies, by about 500 individuals, and by many Senators and Congressmen.

action pointed out that adoption costs, including travel expenses, had risen markedly in the recent past, and that many American families who wished to adopt orphan children were finding it difficult, if not impossible, to do so because of the expense involved in bringing these children (principally from the Republic of Korea) to the United States. The commenters also argued that the lack of parents is an extreme handicap for any child, and that these children are in an especially vulnerable situation, and often face lives of deprivation, both physical and psychological, if they cannot be adopted. In addition, it was argued that orphans have traditionally been given favored treatment in common law systems, both judically and by legislation, and that it would not, therefore, be anomolous for us to give them special privileges in this instance.

We are extremely sympathetic to the need, on the part of those who wish to adopt these children, for low-cost air transportation, both for the children themselves and for those who are their escorts. In fact, however, Congress did not authorize the Board in Pub. L. 95-163 to allow special fares for all those who may be in need of them: Congress only directed us to define the terms "handicapped" and "retired." And, it seems to us beyond dispute that if the Congress had intended the term "handicapped" to have such a novel definition, it would have given us some indication to that effect. It did not do so, however, and we conclude that defining the term "handicapped" to specifically include these children would be beyond the limits of our statutory authority to interpret that term.[5]

We do believe, however, that Congress intended us to include as many as possible of those who are "handicapped" (in the usual sense of the term) in our definition, in furtherance of its stated objective of making air travel more readily available to those whose physical or mental handicaps impair their earning ability or reduce their disposable income because of the need for special medical care, and so forth. Thus we have determined to adopt the broad definition that we have proposed, rather than a narrower (but more readily administrable) test such as eligibility for a Social Security Administration disability card or for a 100 percent disability rating by the Veterans' Administration. It is our view that we should do everything possible—as a regulatory matter—to allow and not to discourage generous treatment of handicapped passengers by air carriers subject to our jurisdiction, and we believe that the adoption of a broad definition of the term "handicapped" will facilitate this goal. In short, our definition of the term handicapped should not exclude groups arguably includable in the ambit of what Congress had in mind when it passed Pub. L. 95-163, unless there is some very important reason to do so.

At the same time, we recognize that, as the commenting air carriers have made clear,[6] the establishment of a tariff rule simply restating the Rehabilitation Act definition may not result in guidelines that are sufficiently precise to allow a carrier's ticketing personnel to easily determine which passengers qualify as handicapped. Therefore we will not require airlines who choose to offer reduced rates to the handicapped to also adopt our broad definition in doing so. While the agency does not want to exclude any handicapped group as a matter of law, particular carriers—which are, after all, free under the law not to offer these fares at all, if they choose—should have the freedom to adopt a definition that they believe is administrable. We will thus add a sentence to proposed § 223.11 to make it clear that the carriers may establish rules to determine eligibility for reduced fares for handicapped persons, even if those rules result in excluding some persons who literally fall within the broad definition we are adopting, if the exclusions are reasonably related to a legitimate administrative purpose.

As alternatives to adopting the proposed definition, some respondents have suggested that the Board should itself publish a complete list of qualifying impairments, or should refer the entire question to an agency with greater expertise in dealing with matters relating to the handicapped, such as HEW. The problems with the first suggestion are, however, that we believe any such lists should be developed by each carrier, consistent with its own view of how it can best administer the reduced fares that it may be offering, and, additionally, that the Board lacks the medical expertise to construct such a list. The problems with the second suggestion are, first, that Congress directed the Board, not some other agency, to develop the definition of "handicapped," and second, that HEW has recently developed the definition of the term "handicapped" for the generalized purposes of section 504 of the Rehabilitation Act, and it is probable that that definition represents that agency's views on how the term should be defined for this purpose, too.

"Required" Attendants

One commenter has asked whether the phrase "required attendant," as used in Pub. L. 95-163 in authorizing reduced fares for the handicapped and required attendants, should be interpreted to mean an attendant required by the carrier in its tariffs as a condition to the acceptance of the handicapped passenger for transportation, or whether, on the other hand, it should be interpreted more broadly. We believe that the term should be interpreted broadly, in keeping with Congress objective of increasing travel opportunities for handicapped Americans, to mean any attendant required by a handicapped passenger to enable him or her to travel. Thus an attendant would be eligible for the reduced fares offered by a carrier, even though the attendant might not be needed by the handicapped passenger during the flight itself, if the attendant were needed to complete some other part of the journey. While Pub. L. 95-163 has not authorized us to define "required attendants," we have ample power, under both subsections 204(a) and 403(a) of the Act, to define this term, and we will add the definition contained in the attached final rule in order to clarify this point.

"Retired"

Based on several of the comments we have received, we will clarify the proposed definition to make it clear that we believe that Congress intended to include only those persons who have permanently reduced their working time, or who have permanently stopped working altogether, as "retired." Beyond this, we see little to be gained by attempting to further refine the proposed definition. As many of those commenting on the proposed definition have pointed out, it will be extremely difficult to tell whether a particular passenger really is retired, or whether he or she is rather working halftime at two jobs, is seasonally unemployed, and so forth. One commenter that proposed a more elaborate definition itself conceded that it "can conceive of no administratively practical method of verifying an indi-

[5] Adoptive parents have, however, recently received the relief they sought in this case. Pan American World Airways, Inc., acting under provisions of the Act other than Pub. L. 95-163, filed a tariff, on June 26, establishing very low special fares specifically for instant orphans, their adoptive parents, and escorts, between Seoul, Korea, and Seattle, San Francisco, Los Angeles, San Diego, and New York. The Board thereafter granted Pan Am's application for permission to begin offering these fares on short notice, and they went into effect on July 19. These fares are lower than those being offered to senior citizens under Pub. L. 95-163, and have the additional advantage that seats can be reserved, so that adoptive parents or escorts can make travel arrangements in advance.

[6] Six carriers submitted comments or reply comments in response to EDR-346. Five of them opposed the proposed definition on grounds of potential administrative difficulties, and the sixth limited its comment to the term "retired."

vidual's retirement status within the proposed (or any other) definition." [7]

We agree. No matter how elaborate the test we might devise with respect to past behavior (for example, the receipt of social security retirement checks), there is no way to prevent a retired individual from reentering the labor force the day after he or she has satisfied whatever test might be established. Thus we will retain the relatively simple definition contained in EDR-346, as slightly modified in the manner discussed above, on the theory that the carriers that decide to offer reduced fares to those who are retired and 60 or over [8] may well have no alternative but to take the retired individual at his or her word on the question of retirement.

MISCELLANEOUS

We expect that carriers will file tariffs rather than issue passes to implement their authority to offer special fares for the handicapped and retired, even though the statutory authority for these discounts is phrased in terms of relief from the duty to adhere to tariffs, rather than in terms of exempting carriers from the requirements of subsection 404(b) with respect to their tariffs. We are of the view that Congress intended these fares to be reflected in regularly established tariffs, rather than being effectuated by offering passes or special fares outside the context of carriers' tariffs, and we also expect that the administration and monitoring of these fares will be made easier, both for us and for the carriers, if the fares are contained in filed tariffs.

Second, we will correct the final rule to make it clear that the definition of "retired" that we are adopting relates only to the reduced fares authorized by Pub. L. 95-163. Although Congress characterized our definition here as being "for the purposes of this subsection," it is clear that Congress did not intend its action in adopting Pub. L. 95-163, or ours here, to affect the word "retired" as it is also used in subsection 403(b)(1) in connection with passes for retired carrier employees.

Accordingly, part 223 of the Board's Economic Regulations (14 CFR Part 223) is amended as follows:

1. Amend the table of contents by adding a new § 223.11, "Space-available reduced fares for ministers of religion and for elderly, retired, and handicapped passengers."

§ 223.1 [Amended]

2. In § 223.1, "Definitions," after the definition of the term "air carrier," add the following new definition:

* * * * *

"Attendant," as used in subsection 403(b)(1) of the Act, means any attendant required by a handicapped passenger in order to travel, whether or not the attendant's services are required while the handicapped passenger is in an aircraft.

* * * * *

3. In § 223.1, "Definitions," after the definition of the term "Free transportation," add the following new definition:

* * * * *

"No longer gainfully employed," or "retired," as those terms are used in subsection 403(b)(1) of the Act, means not regularly working at a full-time paying job, and not intending to do so in the future.

* * * * *

4. In § 223.1, "Definitions," after the definition of the term "Pass," add the following new definitions:

* * * * *

"Physically or mentally handicapped person," as used in subsection 403(b)(1) of the Act for the purpose of the space-available reduced fares authorized by Pub. L. 95-163, means any person who has a physical or mental impairment (other than drug addiction or alcoholism), which substantially limits one or more major life activities.

* * * * *

5. Add the following new § 223.11:

§ 223.11 Space-available reduced fares for ministers of religion and for elderly, retired, and handicapped passengers.

Carriers offering reduced fares on a space-available basis to ministers of religion and to elderly, retired, and handicapped passengers (and to attendants required by handicapped passengers), pursuant to subsection 403(b)(1) of the Act, as amended by Pub. L. 95-163, shall file tariffs, for such fares. Carriers may establish reasonable tariff rules to assist in identifying those who qualify for transportation. A carrier's rules need not entitle all passengers falling within the Board's definition of "handicapped" to reduced fares, if the differences between the Board's definition and the scope of the carrier's rules are reasonably related to the carrier's administrative needs.

(Secs. 204 and 403 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 (as amended by 91 Stat. 1281) (49 U.S.C. 1324, 1373).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24196 Filed 8-25-78; 8:45 am]

[7] Comment of Southern Airways, Inc., at p. 2.

[8] Several commenters expressed dissatisfaction with the age-60 limit. This limit, however, like the space-available condition for these fares, was written into Pub. L. 95-163 itself by Congress, and we therefore cannot eliminate either of these features by rule.

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9060]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Driver Training Institute, Inc., Et Al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This consent order, among other things, requires a Brooklyn, N.Y., truck and tractor-trailer training school to cease misrepresenting job opportunities, potential earnings, and employment demands for their graduates; and the effectiveness of their job placement activities. Further, firm is required to make timely, prescribed disclosures regarding cooling-off periods, cancellation rights, and job success of former trainees. Additionally, the order requires that firm establish a $50,000 restitution fund to provide refunds to eligible former students, and maintain a surveillance program designed to insure proper compliance with the terms of the order.

DATES: Complaint issued October 3, 1975. Final order issued July 27, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Leroy Richie, Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1200.

SUPPLEMENTARY INFORMATION: On Wednesday, February 8, 1978, there was published in the FEDERAL REGISTER, 43 FR 5383, a proposed consent agreement with analysis in the matter of Driver Training Institute, Inc., a corporation, Drivers Unlimited, Inc., a corporation, Ran-Lynn Rental & Service Corp., a corporation, and Herbert Gruen, a.k.a. Herbert Gruenstein, individually and as an officer of said corporations, for the purpose of soliciting public comment. Interested

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

parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, 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 part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; § 13.15-20 Business methods and policies; § 13.15-245 Prospects; § 13.15-255 Reputation, success, or standing; § 13.15-265 Service; § 13.50 Dealer or seller assistance; § 13.55 Demand, business or other opportunities; § 13.60 Earnings and profits; § 13.115 Jobs and employment service; § 13.143 Opportunities; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.225 Services; § 13.250 Success, use or standing. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-55 Refunds, rebates and/or credits. Subpart—Failing to Maintain Records: § 13.1051 Failing to maintain records; § 13.1051-20 Adequate. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices; § 13.1540 Reputation, success or standing; § 13.1553 Services—Goods: § 13.1608 Dealer or seller assistance; § 13.1610 Demand for or business opportunities; § 13.1615 Earnings and profits; § 13.1670 Jobs and employment; § 13.1697 Opportunities in product or service; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use, or standing. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; § 13.1905-50 Sales contract. Subpart—Offering Unfair, Improper, and Deceptive Inducements To Purchase or Deal: § 13.1935 Earnings and profits; § 13.1960 Free service; § 13.1995 Job guarantee and employment; § 13.2063 Scientific or other relevant facts.

(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).)

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-24104 Filed 8-25-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-298]

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF MERCHANDISE THEREIN

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

Warehousing of Distilled Spirits

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs regulations relating to the entry into and withdrawal from Customs bonded warehouses of distilled spirits for export. The amended regulations will allow distilled spirits to be transferred, without the payment of internal revenue tax, (1) from a distilled spirits plant to a Customs bonded ware- house for storage until the distilled spirits are exported, and (2) between Customs bonded warehouses for storage pending exportation. These changes will conform the regulations to the provisions of Pub. L. 95-176, which amended the Internal Revenue Code as it relates to the warehousing of distilled spirits in Customs bonded warehouses.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert F. Seely, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5856.

SUPPLEMENTARY INFORMATION:

BACKGROUND

To encourage the exportation of domestic distilled spirits, and to permit more flexible use of Customs bonded warehouses in the storage of distilled spirits for export, Pub. L. 95-176, approved November 14, 1977, amended the Internal Revenue Code as it relates to the storage in Customs bonded warehouses of distilled spirits on which internal revenue tax has not been paid. The statute authorizes distilled spirits bottled in bond or returned to an export storage facility for export to be transferred, without the payment of internal revenue tax, to a Customs bonded warehouse for storage until exported and permits the movement of distilled spirits, without the payment of internal revenue tax, between Customs bonded storage warehouses for rewarehousing pending export.

Before enactment of Pub. L. 95-176, if a distiller stored spirits on the bonded premises of his own plant, he could withdraw the merchandise for immediate export without the payment of internal revenue tax. However, he could not transfer the merchandise from his plant to a Customs bonded warehouse for storage until exportation. Spirits entered into a Customs bonded warehouse could be withdrawn only for use in the United States by foreign embassies, legations, diplomats, foreign military personnel and other specially qualified individuals.

It is necessary to amend parts 19 and 144 of the Customs Regulations (19 CFR Parts 19, 144), as they relate to the entry into and withdrawal from Customs bonded warehouses of distilled spirits, to conform to the statutory changes made by Pub. L. 95-176. Because distilled spirits now may be transferred to any Customs bonded warehouse for storage until exported, § 19.15(g)(2), Customs Regulations, is being amended to refer to the new procedures for the entry into and withdrawal of distilled spirits from Customs warehouses incorporated in § 144.15 of the Customs Regulations, as amended.

Section 144.15 is being amended by adding a new paragraph (c) to allow distilled spirits to be entered into a Customs bonded warehouse for storage until exportation without the payment of internal revenue tax and to allow the transfer of distilled spirits between Customs bonded warehouses for export. Section 144.15(a)(3), which reflected the former procedures, is being deleted. A new paragraph (d) is being added to § 144.15 to modify the language of the warehouse entry bond, the general term bond, or other appropriate bond form, to include a reference to § 5214(a)(9) of the Internal Revenue Code of 1954, as amended by Pub. L. 95-176 (26 U.S.C. 5214(a)(9)), and to provide that the modified bond also is applicable to distilled spirits entered into a Customs bonded storage warehouse for export.

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because these amendments merely conform the Customs Regulations to Pub. L. 95-176, notice and public procedure thereon are impracticable and unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

Parts 19 and 144 of the Customs Regulations (19 CFR Parts 19, 144) are amended in the following manner:

Section 19.15(g)(2) of the Customs Regulations (19 CFR 19.15(g)(2)) is amended to read as follows:

§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts for consumption.

* * * * *

(g) * * *

(2) Domestic distilled spirits transferred from a Customs bonded manufacturing warehouse, class 6, to a Customs bonded storage warehouse, class 2 or 3, in accordance with section 5521 of the Internal Revenue Code, as amended (26 U.S.C. 5521), and section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), shall be rewarehoused in accordance with the procedure for withdrawal and rewarehousing set forth in subparagraph (1) of this section. For other regulations concerning the entry and withdrawal of distilled spirits, see § 144.15 of this chapter.

(R.S. 251, as amended, secs. 311, 624, 46 Stat. 691, as amended, 759, Pub. L. 95-176, 91 Stat. 1363 (19 U.S.C. 66, 1311, 1624; 26 U.S.C. 5214).)

The heading to § 144.15 of the Customs Regulations (19 CFR 144.15) is modified, and the section is amended by deleting paragraph (a)(3) and by adding new paragraphs (c) and (d), as follows:

§ 144.15 Entry and withdrawal from Customs bonded warehouses of distilled spirits.

(a) *Distilled spirits entered in warehouse under section 5066(a), Internal Revenue Code—*

* * * * *

(3) [Deleted]

(b) *Distilled spirits transferred from a manufacturing warehouse to a storage warehouse under section 5521 of the Internal Revenue Code—*

* * * * *

(c) *Distilled spirits entered under section 5214(a)(9), Internal Revenue Code—*

(1) *General rule.* Distilled spirits may be entered into a Customs bonded storage warehouse under section 5214(a)(9), Internal Revenue Code, as amended (26 U.S.C. 5214(a)(9)), in the same manner as any other merchandise is entered for warehouse, unless otherwise provided in this section.

(2) *Withdrawal only for exportation.* Distilled spirits warehoused under section 5214(a)(9), Internal Revenue Code, may be withdrawn only for the purpose of exportation, either directly or after rewarehousing at the same or another port. The distilled spirits may not be withdrawn for domestic consumption.

(d) *Modification of warehouse entry bond.* The recital clause of the warehouse entry bond, Customs form 7555, the general term bond, Customs form 7595, or other appropriate bond form, shall be modified prior to its approval by the addition of the following condition: "Or, if said articles shall be withdrawn in accordance with section 5066(b), 5066(c), or 5214(a)(9), Internal Revenue Code of 1954, as amended (26 U.S.C. 5066(b), 5066(c), or 5214(a)(9)), there shall be compliance with these and all other applicable statutes and regulations, or in default thereof, if the obligors shall pay to the appropriate customs officer as liquidated damages an amount equal to the aggregate sum of double the duties plus the internal revenue tax assessable on the merchandise not so withdrawn."

(R.S. 251, as amended, sec. 624, 46 Stat. 759, Pub. L. 95-176, 91 Stat. 1363 (19 U.S.C. 66, 1624; 26 U.S.C. 5214).)

R. E. CHASEN,
Commissioner of Customs.

Approved: August 18, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-21473 Filed 8-25-78; 8:45 am]

[4410-09]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Preparations Containing Difenoxin in Combination With Atropine Sulfate Into Schedules IV and V

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This rule requires that the manufacture, distribution, dispensing, importation, and exportation of preparations combining 1 mg. difenoxin with 0.025 mg. atropine sulfate by subject to the controls applicable to narcotic substances in schedule IV of the Controlled Substances Act and that preparations combining 0.5 mg. difenoxin with 0.025 mg. atropine sulfate be subject to the controls applicable to schedule V narcotic substances. This rule results from a request of the Assistant Secretary for Health, Department of Health, Education, and Welfare, in behalf of the Secretary, review thereof by the Drug Enforcement Administration (DEA), review of the current drug control obligations of the United States under the United Nations Single Convention on Narcotic Drugs, 1961, as amended, subsequent publication in the FEDERAL REGISTER of a notice of proposed rulemaking (43 FR 27560) and review of comments submitted in response to the published notice.

EFFECTIVE DATE: Schedules IV and V control: September 27, 1978, except as otherwise provided in the supplementary information section of this order.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER on Monday, June 26, 1978 (43 FR 27560) which proposed to amend title 21 of the Code of Federal Regulations (CFR), §§ 1308.14 (schedule IV) and 1308.15 (schedule V) to include combination drug products which contain 1 mg. difenoxin combined with 0.025 mg. atropine sulfate, in schedule IV, and 0.5 mg. difenoxin combined with 0.025 mg. atropine, in schedule V, should the Food and Drug Administration approve these combination products for marketing under the respective trade names Motofen, and Motofen Half-Strength. All interested persons were given until July 26, 1978, to submit their comments or objections in writing regarding this proposal.

Two comments were received. The State of Rhode Island and Providence Plantations, Department of Health, Division of Drug Control, supported the proposed action. The second comment questioned the trade names assigned to the two products, and was forwarded to the Food and Drug Administration for their appropriate consideration. No other comments or objections were received, nor were there any requests for a hearing. In view thereof, and based upon the investigations and review of the Drug Enforcement Administration, and the July 14, 1978, Food and Drug Administration approval of the new drug application

for the products Motofen and Motofen Half-Strength, and upon the request of the Assistant Secretary in behalf of the Secretary of Health, Education, and Welfare, the Administrator of the Drug Enforcement Administration finds, pursuant to the authority delegated to him by the Act and regulations of the Department of Justice, that:

1. Preparations containing up to and including 1 mg. difenoxin in combination with at least 0.025 mg. atropine sulfate have a low potential for abuse.

2. Such difenoxin-atropine sulfate combination products have an accepted medical use in treatment in the United States.

3. The current drug control obligations of the United States under the United Nations Single Convention on Narcotic Drugs, 1961, as amended, can be met: (a) By the placement into schedule IV of the Act of combination drug products containing 1 mg. difenoxin and at least 0.025 mg. atropine sulfate, (b) by the placement into schedule V of the Act of combination drug products containing 0.5 mg. difenoxin with at least 0.025 mg. atropine sulfate.

Therefore, pursuant to section 201(d) of the Controlled Substances Act (21 U.S.C. 811(d)) and the regulations of the Drug Enforcement Administration and of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that §§ 1308.14 and 1308.15 to title 21, Code of Federal Regulations be amended to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(b) *Narcotic drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1 milligram of difenoxin (DEA Drug Code No. 9618) and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) *Depressants* * * *

(d) *Fenfluramine* * * *

(e) *Stimulants* * * *

(f) *Other substances* * * *

§ 1308.15 Schedule V.

(b) *Narcotic drugs containing nonnarcotic active medicinal ingredients.* Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic alone:

* * * * *

(6) Not more than 0.5 milligram of difenoxin (DEA Drug Code No. 9618) and not less than 25 micrograms of atropine sulfate per dosage unit.

* * * * *

EFFECTIVE DATES

As to preparations containing difenoxin 1 mg. or 0.5 mg., each in combination with at least 0.025 mg. atropine sulfate:

1. *Registration.* Any person who manufactures, distributes, dispenses, imports, or exports such substances or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with parts 1301 and 1311 of title 21 of the Code of Federal regulations on or before September 27, 1978.

2. *Security.* Such substances must be manufactured, distributed, and stored in accordance with §§ 1301.71 (b), (c), and (d), 1301.72(b), 1301.73, 1301.74 (a)-(f), 1301.75 (b) and (c), and 1301.76 of title 21 of the Code of Federal Regulations on or before September 27, 1978. From now until the effective date of this provision, manufacturers and distributors of such substances shall initiate whatever preparations are necessary in order to provide adequate security in accordance with DEA regulations so that substantial compliance with this provision can be met by September 27, 1978. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and packaging.* From and after September 27, 1978, all labels on commercial containers of, and all labeling of such substances shall comply with the requirements of §§ 1302.03-1302.05 and 1302.08 of title 21 of the Code of Federal Regulations. In addition, all labeling of the 1 mg. difenoxin-atropine sulfate combination shall comply with the requirements of § 1302.07.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of such substances shall take an inventory pursuant to §§ 1304.11-1304.19 of title 21 of the Code of Federal Regulations, of all stocks of substances on hand on September 27, 1978.

5. *Records.* All registrants required to keep records pursuant to part 1304 of title 21 of the Code of Federal Regulations shall do so regarding such substances commencing on the date on which the inventory of such substances is taken.

6. *Reports.* International Treaty obligations of the United States under the Single Convention on Narcotic Drugs, 1961, as amended, requires among other things that the United States annually report particular information as to the manufacture and distribution of narcotic drugs. To gather the necessary information to fulfill these annual reporting requirements as they relate to the difenoxin-atropin sulfate combination products which are the subject of today's rulemaking, DEA needs to amend its existing regulations to extend current narcotic reporting requirements to those manufacturers of narcotic-controlled substances in schedule IV. Presently, the pertinent DEA regulation concerning these reporting requirements is 21 CFR § 1308.38 and it currently does not require manufacturers of narcotic-controlled substances to report on such substances in schedule IV. DEA is preparing for publication in the FEDERAL REGISTER a notice of proposed rulemaking to amend § 1308.38 to include schedule IV narcotic controlled substances in the reporting requirements for that section. Pending such rulemaking, reporting requirements as set forth in § 1304.38 for schedule V narcotic-controlled substances shall also apply to schedule IV narcotic-controlled substances, i.e. each person who is registered to manufacture a schedule IV narcotic preparation and whom manufactures such preparation in bulk or dosage form shall report the amount of such preparation thus manufactured in bulk or dosage form. The report shall include data presented in such a manner as to identify the particular form, strength, and trade name, if any, of the schedule IV product. For this purpose, persons filing reports shall utilize the national drug code number assigned to the product under the national drug code system of the Food and Drug Administration.

7. *Prescriptions.* Preparations containing difenoxin 1 mg., or 0.5 mg., each combined with 0.025 mg. atropine sulfate, are required by the Food and Drug Administration to be dispensed pursuant to a prescription. All products containing 1 mg. difenoxin in combination with at least 0.025 mg. of atropine sulfate shall comply with the prescription requirements of §§ 1306.01-1306.07 and §§ 1306.21-1306.25 of title 21 of the Code of Federal Regulations beginning September 27, 1978. All products containing 0.5 mg. difenoxin in combination with at least 0.025 mg. atropine sulfate shall comply with the prescription requirements of § 1306.31 beginning September 27, 1978.

8. *Importation and exportation.* All importation and exportation of such substances shall, on or after September 27, 1978, be required to be in com-

pliance with the Controlled Substances Import and Export Act (21 U.S.C. 951-966) and part 1312 of title 21 of the Code of Federal Regulations.

9. *Criminal liability.* From and after September 27, 1978, any activity involving difenoxin 1 mg. or difenoxin 0.5 mg., each when combined with at least 0.025 mg. atropine sulfate, not authorized by or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act, is unlawful activity as to a narcotic controlled substance in schedule IV. or schedule V, respectively, *Provided however,* That any person who is entitled to registration under such Acts may continue to conduct normal business, research, or professional practice with such substances between the date on which he obtains or is denied registration and September 27, 1978, provided that application for such registration is submitted on or before September 27, 1978.

9. *Other.* In all other respects, this order is effective September 27, 1978.

Dated: August 21, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-24177 Filed 8-25-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER E—PLANNING

PART 470—HIGHWAY SYSTEMS

Federal-Aid Highway Systems; Technical Amendments

AGENCY: Federal Highway Administration, DOT.

ACTION: Technical amendments to final rule.

SUMMARY: This document updates internal references in subpart A of part 470, which are necessary as a result of a redesignation appearing at 41 FR 51396, November 22, 1976.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Calhoun, Office of the Chief Counsel, 202-426-0762, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

Part 470, subpart A of chapter I, title 23 of the Code of Federal Regulations is amended as follows:

§ 470.107 [Amended]

1. In § 470.107(a)(1), change the citation reading "§ 470.2(b) (1) and (2)" to read "§ 470.103(b) (1) and (2)";

2. In § 470.107(a)(2), delete the words "23 CFR part 470, subpart B and with";

3. In § 470.107(d)(2), the reference "§ 470.3 (b), (c), and (d)" is corrected to read "§ 470.105 (b), (c), and (d)";

4. In § 470.107(e)(1), the reference to "§ 470.4(f)" is corrected to read "§ 470.107(f)"; and

§ 470.109 [Amended]

5. In § 470.109 (a)(2), (b)(2), (c)(2), (d)(2), the references to "§ 470.4(h)" are corrected each time to read "§ 470.107(h)."

(23 U.S.C. 315; 49 CFR 1.48(b).)

Issued on August 15, 1978.

LORENZO CASANOVA,
Chief Counsel, Federal Highway Administration.

[FR Doc. 78-23653 Filed 8-25-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

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

[Docket No. R-78-565]

HOME AND PROJECT MORTGAGES AND LOANS UNDER THE NATIONAL HOUSING ACT

Debenture Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule change provides for an increased debenture interest rate applicable to all home and project mortgages and loans under the National Housing Act (the "Act"), as amended, except for those loans or mortgages insured under the Act's section 221(g)(4) provision, committed or endorsed on or after July 1, 1978. The Secretary of the Treasury determines debenture interest rates in accordance with established procedure and the Act. The intended effect of this rule change is to increase debenture interest rates for appropriate mortgages.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Linda F. Brothers, Accounting Systems and Procedures Division Office of Finance and Accounting, Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-5300.

SUPPLEMENTARY INFORMATION: The Secretary of the Treasury has determined in accordance with the provisions of section 224 of the National Housing Act, as amended, that the interest rate for the month of May 1978 is 7¾ percent and has approved the establishment of debenture interest rates at 7¾ percent to be effective as of July 1, 1978.

The Secretary has determined that advance publication and notice and public procedure are unnecessary since the debenture interest rate is set by the Secretary of the Treaury in accordance with a procedure established by statute.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the office of the rules docket clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart B—Contract Rights and Obligations

1. Section 203.405 is amended to read as follows:

§ 203.105 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the day the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is higher.

The following interest rates are effective for the dates listed:

	On or after—	Prior to—
Effective rate (percent):		
6⅛	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	Jan. 1, 1972
5¾	Jan. 1, 1972	July 1, 1972
5½	July 1, 1972	Jan. 1, 1973
5¼	Jan. 1, 1973	July 1, 1973
6	July 1, 1973	Jan. 1, 1974
6¼	Jan. 1, 1974	July 1, 1974
6⅜	July 1, 1974	July 1, 1975
7	July 1, 1975	Jan. 1, 1976

	On or after—	Prior to—
7⅛	Jan. 1, 1976	July 1, 1976
7	July 1, 1976	Jan. 1, 1977
6⅞	Jan. 1, 1977	July 1, 1977
7¼	July 1, 1977	Jan. 1, 1978
7⅛	Jan. 1, 1978	July 1, 1978
7¾	July 1, 1978	

(Sec. 211, 52 Stat. 23; (12 U.S.C. 1715b). Interprets or applies sec. 203, 52 Stat. 10, as amended; (12 U.S.C. 1709).)

2. Section 203.479 is amended to read as follows:

§ 203.479 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

	On or after—	Prior to—
Effective rate (percent):		
6⅛	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	Jan. 1, 1972
5⅜	Jan. 1, 1972	July 1, 1972
5½	July 1, 1972	Jan. 1, 1973
5¼	Jan. 1, 1973	July 1, 1973
6	July 1, 1973	Jan. 1, 1974
6¼	Jan. 1, 1974	July 1, 1974
6⅛	July 1, 1974	July 1, 1975
7	July 1, 1975	Jan. 1, 1976
7⅛	Jan. 1, 1976	July 1, 1976
7	July 1, 1976	Jan. 1, 1977
6⅝	Jan. 1, 1977	July 1, 1977
7¼	July 1, 1977	Jan. 1, 1978
7⅛	Jan. 1, 1978	July 1, 1978
7¾	July 1, 1978	

(Sec. 211, 52 Stat. 23; (12 U.S.C. 1715b). Interprets or applies sec. 203, 52 Stat. 10 as amended; (12 U.S.C. 1709).)

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart B—Contract Rights and Obligations

3. In § 207.259 paragraph (e)(6) is amended to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(e) *Issuance of debentures.* * * *

(6) Bear interest from the date of issue, payable semiannually on the first day of January and first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

	On or after—	Prior to—
Effective rate (percent):		
6⅛	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	Jan. 1, 1972
5⅜	Jan. 1, 1972	July 1, 1972
5½	July 1, 1972	Jan. 1, 1973
5¼	Jan. 1, 1973	July 1, 1973
6	July 1, 1973	Jan. 1, 1974
6¼	Jan. 1, 1974	July 1, 1974
6⅛	July 1, 1974	July 1, 1975
7	July 1, 1975	Jan. 1, 1976
7⅛	Jan. 1, 1976	July 1, 1976
7	July 1, 1976	Jan. 1, 1977
6⅝	Jan. 1, 1977	July 1, 1977
7¼	July 1, 1977	Jan. 1, 1978
7⅛	Jan. 1, 1978	July 1, 1978
7¾	July 1, 1978	

(Sec. 211, 52 Stat. 23; (12 U.S.C. 1715b). Interprets or applies sec. 207, 52 Stat. 16, as amended; (12 U.S.C. 1713).)

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart D—Contract Rights and Obligations—Projects

4. Section 220.830 is amended to read as follows:

§ 220.830 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and first day of July of each year at the rate in effect as of the date the commitment was issued or as of the date the loan was endorsed for insurance, whichever rate is higher. The following interest rates are effective for the dates listed:

	On or after—	Prior to—
Effective rate (percent):		
6⅛	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	Jan. 1, 1972
5⅜	Jan. 1, 1972	July 1, 1972
5½	July 1, 1972	Jan. 1, 1973
5¼	Jan. 1, 1973	July 1, 1973
6	July 1, 1973	Jan. 1, 1974
6¼	Jan. 1, 1974	July 1, 1974
6⅛	July 1, 1974	July 1, 1975
7	July 1, 1975	Jan. 1, 1976
7⅛	Jan. 1, 1976	July 1, 1976
7	July 1, 1976	Jan. 1, 1977
6⅝	Jan. 1, 1977	July 1, 1977
7¼	July 1, 1977	Jan. 1, 1978
7⅛	Jan. 1, 1978	July 1, 1978
7¾	July 1, 1978	

(Sec. 211, 52 Stat. 23; (12 U.S.C. 1715b). Interprets or applies sec. 220, 68 Stat. 596, as amended; (12 U.S.C. 1715k).)

Issued at Washington, D.C., August 16, 1978.

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

[FR Doc. 78-24009 Filed 8-25-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[AAG/A Order No. 11-78]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart E—Exemption of Records Systems Under the Privacy Act

FINAL RULE

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department is exempting a new system of records entitled "Tax Disclosure Index File and Associated Records" (JUSTICE/CRM-025) from certain provisions of the Privacy Act. The purpose of the exemption is to maintain confidentiality and security of tax information obtained from the Internal Revenue Service for those purposes authorized under 26 U.S.C. 6103 (h) and (i).

DATE: The rule will be effective August 28, 1978.

ADDRESSES: Legal and Legislative Group, Office of Management and Finance, Department of Justice 10th and Consititution Avenue NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Bronson E. Clayton, 202-739-4165.

SUPPLEMENTARY INFORMATION: On May 22, 1978, 43 FR 21901, pursuant to 5 U.S.C. 552a(j)(2), the Department of Justice, Criminal Division, issued proposed regulations exempting a new system of records entitled "Tax Disclosure Index File and Associated Records" (JUSTICE/CRM-025) from the provisions of subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G), (H), and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a. On the same day the Department published a notice in the notice section of the FEDERAL REGISTER establishing the system.

The prinicipal function of the Criminal Division pertains to the enforcement of criminal laws. The purpose of these exemptions is to maintain the confidentiality and security of tax information obtained from the Internal Revenue Service for those purposes authorized under 26 U.S.C. 6103 (h) and (i), as well as information based on such material, or reports compiled from such material at any stage of the process of enforcement of the criminal laws for which such material is obtained. The exemptions also serve to maintain in a broader sense the confi-

dentiality and security of information compiled for criminal investigation and law enforcement purposes at all stages of the law enforcement process and to maintain the confidentiality and security of the identity of witnesses, informants, and others protected in witness security programs. The exemptions may not apply to all records contained in this system of records. A determination will be made as to the exemption of a specific record at the time a request for notification or access is made.

The exemption of this system of records pursuant to the Privacy Act of 1974 is accomplished by the amendment of existing 28 CFR 16.91 (i) and (j) by adding JUSTICE/CRM-025, Tax Disclosure Index File and Associated Records, to the systems exempted by subsection (i) and by utilizing the reasons set forth in existing subsection (j) which are equally applicable to this system. No comments were received regarding the proposed regulations published on May 22, 1978. However, minor editorial and grammatical changes have been made.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a(j) and delegated to me by Attorney General Order No. 793-78, the proposed regulations published in the FEDERAL REGISTER on May 22, 1978, are adopted without change as set forth below.

Dated: August 18, 1978.

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

Section 16.91, subsections (i) and (j) of title 28, Code of Federal Regulations, is revised to read as follows:

§ 16.91 Exemption of Criminal Division Systems—Limited access as indicated.

* * * * *

(i) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G), (H), and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a:

(1) Information File on Individuals and Commercial Entities Known or Suspected of Being Involved in Fraudulent Activities System of Records (JUSTICE/CRM-006).

(2) The Stocks and Bonds Intelligence Control Card File System of Records (JUSTICE/CRM-021).

(3) Tax Disclosure Index File and Associated Records (JUSTICE/CRM-025).

These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(j) The systems of records listed in paragraphs (i)(1), (i)(2), and (i)(3) of this section are exempted, for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

(1)(c)(3) The release of the disclosure accounting for disclosures made pursuant to subsection (b) of the act, including those permitted under the routine uses published for these systems of records, would permit the subject of an investigation of an actual or potential criminal violation to determine whether he is the subject of a criminal investigation, to obtain valuable information concerning the nature of that investigation, and the information obtained, or the identity of witnesses and informants, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record; such notice requirement under subsection (f)(1) is specifically exempted for this system of records.

(2)(c)(4) Since an exemption is being claimed for subsection (d) of the act (access to records), this section is inapplicable to the extent that these systems of records are exempted from subsection (d).

(3)(d) Access to the records contained in these systems would inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of witnesses and informants, or would provide information that could enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement because they could prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(4) Exemption is claimed from subsections (e) (1), (2), and (3), (e)(4) (G), (H), and (I), (e)(5) and (e)(8) for the reasons stated in subsections (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), (b)(9), and (b)(10) of this section.

(5)(f) Procedures for notice to an individual pursuant to subsection (f)(1) as to the existence of records pertaining to him dealing with an actual or potential criminal investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or prosecution pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since an exemption is being claimed for subsection (d) of the act (access to records), the rules required pursuant to subsection (f) (2) through (5) are inapplicable to these systems of records.

(6)(g) Since an exemption is being claimed for subsections (d) (access to records) and (f) (Agency rules), this section is inapplicable and is exempted for the reasons set forth for those subsections.

* * * * *

[FR Doc. 78-24069 Filed 8-25-78; 8:45 am]

[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER I—MILITARY PERSONNEL

PART 887—ISSUING CERTIFICATES IN LIEU OF LOST OR DESTROYED CERTIFICATES OF SEPARATION

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on applying for certificates of separation from the Air Force. This revision was made to add the Privacy Act statement, amend definitions of terms, and clarify for better understanding by the public.

EFFECTIVE DATE: July 15, 1976.

FOR FURTHER INFORMATION CONTACT:

Mr. R. Roussin, Air Force Manpower and Personnel Center (MPCDQI), Randolph Air Force Base, Tex. 78148; phone 512-652-2089.

SUPPLEMENTARY INFORMATION: Part 887 of chapter VII, title 32 of the Code of Federal Regulations is revised to add the Privacy Act statement required by part 806b of this chapter. The revision amends definitions of terms and updates procedure for issuing a copy of report of separation in lieu of a lost or destroyed undesirable, bad conduct, or dishonorable discharge.

This part is issued under authority of Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; DOD Instruction 1332.13, December 23, 1968.

The revised part will read as follows:

Sec.
887.1 Purpose.
887.2 Explanation of terms.
887.3 Safeguarding certificates.
887.4 Persons authorized CIL's.
887.5 Required application form.
887.6 Certificates issued.
887.7 Persons separated under other than honorable conditions (undesirable, bad conduct, or dishonorable discharge).
887.8 Where to apply.
887.9 Photocopies of documents.

AUTHORITY: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; DOD Instruction 1332.13, December 23, 1968.

NOTE.—This part is derived from Air Force Regulation 35-96, July 15, 1976. Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 887.1 Purpose.

This part tells who may apply for a certificate in lieu of a lost or destroyed certificate of separation and where and how to apply. It implements 10 U.S.C. 1040 and DOD Instruction 1332.13, December 23, 1968. This part is affected by the Privacy Act of 1974. The system of records prescribed by this part is authorized by 44 U.S.C. 3101. Each form that is subject to the provisions of part 806b of this chapter and required by this part contains a Privacy Act statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

§ 887.2 Explanation of terms.

(a) *Certificate in lieu (CIL).* A certificate issued in lieu of a lost or destroyed certificate of service, discharge, or retirement.

(b) *Service person.* One who:

(1) Currently is serving as a member of the Air Force, or

(2) Formerly served in the active military service as a member of the Air Force and all military affiliation was terminated after September 25, 1947.

(c) *Surviving spouse.* A survivor who was legally married to a service person at the time of the person's death.

(d) *Guardian.* The judicially appointed committee or guardian of a service person adjudicated mentally incompetent.

§ 887.3 Safeguarding certificates.

Certificates of separation are important personal documents. Processing applications for CIL's is costly to the Air Force. To keep requests for CIL's at a minimum:

(a) Personnel officers will caution members concerning the importance of properly safeguarding original certificates.

(b) Authorities issuing CIL's (§ 887.8) will type or stamp across the lower margin the following words in capital letters (if not preprinted on the certificate): "THIS IS AN IMPORTANT RECORD—SAFEGUARD IT."

§ 887.4 Persons authorized CIL's.

Only the following persons may be issued a CIL:

(a) A service person whose character of service was honorable or under honorable conditions.

(b) A surviving spouse.

(c) A guardian, provided a duly certified or otherwise authenticated copy of the court order of appointment is submitted with the application.

§ 887.5 Required application form.

(a) Persons indicated in § 887.4(a) should use Standard Form (SF) 180, Request Pertaining to Military Records. However, a letter request will be honored if the applicant supplies sufficient identifying data and satisfactory proof that the original certificate of separation has been lost or destroyed. Otherwise, the applicant may be required to complete SF 180. Members on active duty forward their applications through their unit commander.

(b) Persons indicated in § 887.4 (b) and (c) and § 887.7 submit SF 180 or any similar form used by agencies outside the Department of Defense.

§ 887.6 Certificates issued.

The issuing authority verifies that the proper CIL form is issued, particularly if the service person has had both Army and Air Force service. The person's assignment status as of September 26, 1947, determines whether a person was in the Army or Air Force at the time of discharge or release from active duty. Separations before September 26, 1947, are considered Army separations. Separations on or after that date are considered Air Force separations unless the records clearly show the person actually served as a member of the Army during the period of service for which the CIL is requested. Individuals indicated in § 887.4 may be issued CIL's prepared on one of the following forms, as applicable:

(a) DD form 303AF, Certificate in Lieu of Lost or Destroyed Discharge, to replace any lost or destroyed certificate of discharge from the Air Force.

(b) DD form 363AF, Certificate of Retirement, to replace any lost or destroyed certificate of retirement from the Air Force.

(c) AF Form 386, Certificate in Lieu of Lost or Destroyed Discharge (AUS), to replace any lost or destroyed certificate of discharge from the Army.

(d) AF Form 681, Certificate in Lieu of Lost or Destroyed Certificate of Service (AUS), to replace any lost or destroyed certificate of service, or subsequent like form, issued on release from extended active duty in the Army.

(e) AF Form 682, Certificate in Lieu of Lost or Destroyed Certificate of Service (USAF), to replace any lost or destroyed certificate of service, or like form, issued on release from extended active duty in the Air Force.

§ 887.7 Persons separated under other than honorable conditions (undesirable, bad conduct, or dishonorable discharge).

Service persons whose character of service was under other than honorable conditions or dishonorable are not eligible for CIL's. Such persons, on application for replacement of a separation document, may be issued an official photocopy of the pertinent report of separation, if available. The "authority and reason" and "reenlistment code" items must be masked out before photocopying the document and those items must be filled with a dashed line on the photocopy.

(a) If a report of separation is not available, provide a brief official statement of military service, on letterhead stationery of the issuing records custodian. File a copy of the statement in the Master Personnel Record.

(b) A $3 fee is charged for issuing a document under this section.

§ 887.8 Where to apply.

(a) DD Form 363AF. AFMPC/DPMDR, Randolph AFB Tex. 78148. Applicant must attach a copy of the retirement order to SF 180.

(b) All other certificates:

(1) AFMPC/DPMDR, Randolph AFB, Tex. 78148, for:

(i) Officers and airmen on extended active duty or on the temporary disability retired list.

(ii) General officers in a retired pay status.

(2) NPRC/MPR-AF, 9700 Page Boulevard, St. Louis, Mo. 63132, for officers and airmen:

(i) Completely separated from the Air Force or Air National Guard.

(ii) In a retired pay status, except general officers.

(iii) In the Retired Reserve who cannot become eligible for retired pay.

(3) ARPC/DPFSB, 3800 York Street, Denver, Colo. 80205, for Air National Guard and Air Force Reserve officers and Air Force Reserve airmen not on extended active duty, including retired Reserve who will be eligible for retired pay at age 60.

(4) Adjutants General of the States, District of Columbia, or the Commonwealth of Puerto Rico, for Air National Guard airmen not on extended active duty (see AFM 10-4, Air Force Directory of Unclassified Addresses).

§ 887.9 Photocopies of documents.

This part does not prohibit authorities (§ 887.8) from supplying photocopies of certificates of service, reports of separation, or similar documents.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-24106 Filed 8-25-78; 8:45 am]

[3910-01]

PART 889—DESERTION AND UNAUTHORIZED ABSENTEEISM

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on desertion and unauthorized absenteeism to reduce the length, improve, and simplify the regulatory language, and implement the revised DOD Directive 1325.2, February 10, 1977.

EFFECTIVE DATE: August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Major John C. B. Rayko, Chief, Airman Separations, Directorate of Personnel Program Actions, Air Force Manpower and Personnel Center, Randolph Air Force Base, Texas; phone 512-652-4545.

SUPPLEMENTARY INFORMATION: Part 889 of Chapter VII, title 32 of the Code of Federal Regulations is revised to reduce its length, and improve and simplify the regulatory language. It implements DOD Directive 1325.2, February 10, 1977.

This revision is issued under authority of 10 U.S.C. 8012.

The revised part will read as follows:

Sec.

889.1 Purpose.
889.2 Criteria for administrative classification of deserters.
889.3 Apprehension of absentees and deserters.
889.4 Authority to apprehend.
889.5 Return to military control.
889.6 Rewards and reimbursements.
889.7 Cooperation of armed forces and civil law enforcement agencies.
889.8 General responsibilities.
889.9 Transfer from civilian to military jurisdiction.

AUTHORITY: 10 U.S.C. 8012.

NOTE.—This part is derived from Air Force Regulation 35-73, May 3, 1976, and change 1, August 10, 1977.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 889.1 Purpose.

This part establishes uniform policies and standard procedures for the management of desertion and unauthorized absenteeism to: (a) Minimize the occurrence of desertion and unauthorized absenteeism, (b) foster the development of effective deterrent programs, (c) enhance apprehension efforts, and (d) provide for accurate and timely reporting of cases of desertion and unauthorized absenteeism. This part applies to all military personnel serving on or ordered to report to active duty in the U.S. Air Force and members of Reserve components serving on, or ordered to, active duty or active duty for training (ADT). It implements DOD Directive 1325.2, February 10, 1977. This part is affected by the Privacy Act of 1974. The system of records required is authorized by 10 U.S.C. 885, 886, and 887.

§ 889.2 Criteria for administrative classification of deserters.

For administrative purposes, an absentee will be classified as a deserter and a DD Form 553, Absentee Wanted by the Armed Forces, will be prepared and a message (includes MINIMIZE) dispatched when a member:

(a) Is absent without authority, regardless of the length of absence, and the facts and circumstances include:

(1) Duty or travel restrictions which have been imposed under AFR 205-32, USAF personnel security program, or

(2) Access within the past 12 months to top secret information or to secret or confidential information for which special access authority and procedures have been established.

(b) Has been absent without leave (AWOL) for 30 consecutive days. (For administrative purposes, date of departure is first day of AWOL and AWOL status continues through midnight on the 30th day of continued absence. Desertion starts at 12:01 a.m. on the 31st day of continued absence.)

(c) Has been absent without authority without regard to length of absence and has gone to, or remains in, any foreign country and while in such foreign country has requested or applied for, or accepted any type of, asylum or residence permit from such country or any governmental agency thereof.

(d) Becomes absent without leave or escapes from custody before appropriate action is taken as a result of previous unauthorized absence.

(e) Who is a prisoner and escapes.

(f) Has been charged under the Uniform Code of Military Justice (UCMJ) for a serious offense in addition to being AWOL.

§ 889.3 Apprehension of absentees and deserters.

Every practicable effort will be made to apprehend absentees and deserters as expeditiously as possible. To achieve this end, vigorous efforts will be made at the unit level and other appropriate levels to investigate the facts and circumstances surrounding absences, to initiate apprehension actions, and to expedite appropriate notification procedures.

§ 889.4 Authority to apprehend.

Apprehension of absentees and deserters may be accomplished by the following personnel as specified below:

(a) *Members of Armed Forces.* Absentees and deserters may be apprehended by members of the Armed Forces under the circumstances prescribed by article 7(b) of the UCMJ and paragraph 19 of Manual for Courts-Martial, 1969 (revised edition).

(b) *Civil officers.* Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, territory, Commonwealth, possession, or the District of Columbia may summarily apprehend and deliver a deserter into the custody of the Air Force.

(c) *U.S. authorities.* U.S. authorities may apprehend absentees and deserters in foreign countries only when authorized by an international agreement with the country concerned or by agreement with appropriate local authorities when such an agreement is within the purview of an existing international agreement. In these cases, careful consideration must be given to possible international implications and adverse foreign reaction. Where apprehension cannot be accomplished under these circumstances, or in any case where doubt exists, as to apprehension authority, a report of the facts will be made to HQ USAF/SP, with an information copy to the major command, for submission through channels to the Assistant Secretary of Defense (M. & R.A.) for resolution.

§ 889.5 Return to military control.

This return may be effected as follows:

(a) *Within the jurisdiction of the United States.* Absentees and deserters will be received at any military installation which is manned by active duty personnel. Immediate action will be taken to transfer an individual to the nearest installation of his or her branch of service having facilities to process absentees and deserters.

(b) *Outside the jurisdiction of the United States.* Military attaches or mission chiefs in foreign countries will not accept the offer of a deserter or absentee to return to military control unless the United States is directly responsible for the presence of the individual in the country where assistance is requested.

(1) Normally, such deserters and absentees will be advised and assisted to report, at their own expense, to an appropriate U.S. military installation within the United States or overseas.

(2) Unless they are citizens of the country in which assistance is requested, absentees and deserters will be reported to the appropriate authorities of such foreign country with a view toward deportation.

(3) If the individual departs the foreign country or is deported, the military attache or mission chief will make arrangements, if possible, when such departure is known, to have the individual taken into custody on arrival within a territory where U.S. military officers have authority to apprehend.

§ 889.6 Rewards and reimbursements.

(a) Any authorized communication, oral or written, from a military or Federal law enforcement official or agency, requesting active cooperation in the apprehension or delivery to military control of an absentee or deserter wanted by the Air Force, will constitute the basis for a reward. Subsequent to such communication, persons or agencies apprehending, detaining, or delivering absentees, deserters, or escaped military prisoners to military control will be rewarded or reimbursed (but not both) as follows:

(1) Payment of a reward of $15 for the apprehension and detention of absentees, deserters, or escaped military prisoners until the military authorities take them under control.

(2) Payment of a reward of $25 for the apprehension and delivery to military control of absentees, deserters, or escaped military prisoners.

(3) Under circumstances where persons or agencies who apprehend or return absentees and deserters to military control may not be paid a reward, reimbursement for reasonable and actual expenses may be made not to exceed $25 for any one case.

(b) Payments authorized by paragraph (a) of this section and cost of travel of guards assigned to the absentees or deserters will be charged to the military personnel appropriation of the Air Force. These costs will not be reimbursed by the absentee or deserter. Costs associated with an absentee's or deserter's own transportation for return to military control will be charged to the pay accounts of the individual member as prescribed in the joint travel regulation, volume I, chapter 5.

§ 889.7 Cooperation of Armed Forces and civil law enforcement agencies.

(a) Notices about members wanted for unauthorized absence or desertion from a command located in the jurisdiction of the United States will be given expeditious selective circulation among Armed Forces and civil law enforcement agencies deemed most useful in apprehending a particular absentee. Notification to the Federal Bureau of Investigation (FBI) and Department of State (in the case of noncitizen deserters) is made only by AFMPC/DPMAKE. The standard format of this notice will be the DD Form 553.

(b) Major commands located outside the jurisdiction of the United States will take initial actions as warranted by the local situation, within the primacy of international agreements, to secure cooperation in apprehension of members absent without leave.

(c) In the absence of other specific prearrangements among military service commands, when one of the military services makes a pickup of absentees or deserters from civil authorities anywhere in the continental United States, all such individuals—regardless of the military service to which they belong—will be picked up when practicable, at the same time and delivered to the nearest military installation having facilities to process absentees or deserters. When such pickup is not accomplished, the apprehending authorities will notify the military service(s) of the individuals remaining in civilian custody preferably prior to these authorities' departure from the civilian confinement facility.

(d) Apprehension of absentees who seek sanctuary in a church or other public building:

(1) After AFMPC/DPMAKE has furnished the FBI with a request to locate a deserter (DD Form 553), for return to military control, the FBI assumes responsibility and apprehends the deserter.

(2) If a number of airmen are involved, some of whom are absent without leave and some in a deserter status, responsibility remains with the U.S. Air Force since it has the authority to apprehend both categories of personnel.

(3) In all other situations, the U.S. Air Force assumes responsibility for apprehending its absentees.

(4) Maximum cooperation is solicited from local civil authorities in apprehending absentees not falling under FBI jurisdiction. If civil authorities decline to apprehend a U.S. Air Force absentee seeking sanctuary in a church or public building, all facts are reported to HQ USAF/SP, via OPREP 3 report, according to JCSPUB 6, volume V, before military apprehension is attempted.

NOTE.—This does not preclude the U.S. Air Force from continuing to exercise its responsibility in "nonsanctuary" situation. For example, it does not preclude Air Force personnel from entering a building to apprehend an absentee in a "hot pursuit" situation or in other instances in which an absentee happens to be in a church or public building but is making no claim of sanctuary.

§ 889.8 General responsibilities.

It is the responsibility of all members to fully support the mission of the Air Force by being present for duty at the time and place prescribed. Positive action must be taken by supervisors and commanders at all echelons to insure that this responsibility is understood and assumed by all personnel and that prompt action is taken when a member is not present for duty as required.

(a) *HQ USAF responsibilities.* (1) HQ USAF, Directorate of Personnel Plans (HQ USAF/DPX) as the focal point for personnel policy is responsible for initiating and fostering those policies that will minimize the occurrence of unauthorized absence and desertion.

(1) HQ USAF, Chief of Security Police (HQ USAF/SP) is the focal point for apprehension of absentees and deserters, HQ USAF/SP:

(i) Maintains direct liaison with law enforcement agencies;

(ii) Develops and disseminates policies and procedures for apprehension of absentees; and

(iii) Establishes guidelines and monitors use of escorts in moving members returned to military control.

(3) The Inspector General of the Air Force, Office of Special Investigations (AFOSI/IVG):

(i) Makes entries in the NCIC; and

(ii) When requested by commanders, makes inquiries into the circumstances of unauthorized absences involving security considerations.

(4) Air Force Military Personnel Center, Directorate Of Personnel Program Actions (AFMPC/DPMAK):

(i) Coordinates and disseminates procedures for managment of unauthorized absences;

(ii) Monitors disposition of absentees returned to military control and provides necessary guidance in unusual cases;

(iii) Is the Air Force deserter information point; and

(iv) Maintains statistical data concerning unauthorized absences.

(b) *Base commanders and higher echelon commanders.* Commanders at all echelons will insure that continuing emphasis is placed on the Air Force position regarding unauthorized absenteeism and desertion. Development of management practices and programs to deter and minimize absenteeism and desertion is necessary. MAJCOM's will insure that CBPO's and units comply with this part.

§ 889.9 Transfer from civilian to military jurisdiction.

(a) Absentees and deserters being detained temporarily in the hands of civil authorities will be returned to military control as soon as possible after responsible military officials are informed of their whereabouts and the civil authorities are ready to release them. After receiving notification of the absentee or deserter's whereabouts, military authorities must make every reasonable effort to accomplish return to military control within 48 hours. Apprehension and de-

tention of absent members by civil authorities are accomplished as a service to the military departments. Continuation of this essential support from civil authorities requires mutual cooperation.

(b) The commander of the unit to which the individual was assigned prior to the unauthorized absence is responsible for completing the required action when report of arrest is received. If an absentee is arrested by civilian authorities for an offense which may be a basis for administrative action, refer to AFR 36-12, Administration Separation of Commissioned Officers and Warrant Officers of the Air Force (for officers) or AFM 39-12, Separation of Unsuitability, Unfitness or Misconduct; Resignation or Request for Discharge for the Good of the Service, and procedures for the rehabilitation program (for airmen). The commander is also responsible for lodging a detainer with civil authorities and preparing AF Form 2098 to reflect the changed status. If member is under suspended sentence to punitive discharge which has been affirmed, general court-martial (GCM) authority should make a determination to:

(1) Vacate the suspension and execute the discharge; or

(2) Have member returned to military control for disposition of AWOL or DFR, or any other pending charges (see AFM 39-12, chapter 2).

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-24105 Filed 8-25-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-159; RM-3050]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Station in Seaford, Del.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns and reserves television channel 64 for noncommercial educational use at Seaford, Del., and deletes the reservation of channel 38 there for educational use. This action will bring the first commercial television station to the State of Delaware, and bring a first local television service to the residents of Seaford, Del.

EFFECTIVE DATE: September 28, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Adopted: August 15, 1978.

Released: August 18, 1978.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Seaford, Del.). Report and Order proceeding terminated [43 FR 24715].

1. The Commission has before it the notice of proposed rulemaking, adopted May 25, 1978, 43 FR 24715, in response to a petition filed by John R. Powley ("petitioner"). The notice proposed the assignment and reservation of TV channel 64 for noncommercial educational use and deletion of the reservation of TV channel 38 at Seaford, Del., for educational use only. Supporting comments were filed by the Citizens Committee for the Expansion of Commercial Television to the State of Delaware ("CCETD"), Public Broadcasting Service ("PBS"), and petitioner who reaffirmed his intention to file for channel 38 at Seaford, if it were made available for commercial use.

2. Seaford (pop. 5,537), in Sussex County (pop. 80,356),[1] is located in western Delaware, approximately 32 kilometers (20 miles) north of Salisbury, Md., and approximately 129 kilometers (80 miles) east of Washington, D.C. Seaford is currently assigned UHF channel 38 which is reserved for noncommercial educational use. The channel is unoccupied and unapplied for.

3. Petitioner, in supporting comments, asserts that deleting the educational reservation on the channel 38 assignment would permit the establishment of the first commercial television station in the State of Delaware. Petitioner states that he has a complete channel 38 UHF television transmitter plant available which would permit an economical and early establishment of a station in Seaford.

4. CCETD supports the proposal, stating that a commercial television station in Seaford would afford the people of lower Delaware, as well as the Eastern Shore of Maryland and Virginia, program diversity, and bring a much needed competition to the entire market.

5. PBS states that since an alternate channel is available for noncommercial educational use at Seaford, it has no objection to the use of channel 38 for commercial use. PBS notes that petitioner has expressed a strong desire for the inauguration of both commercial and public local television in the State of Delaware and adds that petitioner has indicated, if he is granted a construction permit to operate a commercial station on channel 38, he would make space available on his tower for a noncommercial educational translator on channel 64, if an interest is expressed.

6. We have carefully considered the record in this proceeding and conclude that it would be in the public interest to make channel 38 available for commercial use at Seaford, Del. Since channel 64 is available for noncommercial educational use if an interest is expressed, we are assigning the channel to Seaford for that purpose. A demand has been shown for the use of channel 38 as a commercial channel. It would provide for a first local television service to the residents of Seaford, and a first commercial television station in the State of Delaware.

7. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules, it is ordered, that effective September 28, 1978, the television table of assignments, section 73.606(b) of the Commission's rules, is amended for the city listed below, as follows:

City and Channel No.

Seaford, Del.—38, *64-.

8. It is further ordered, that this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

[FR Doc. 78-24171 Filed 8-25-78; 8:45 am]

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

[6712-01]

[FCC 78-619]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

9-Month Extension of the Date of Compliance

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule extends the date that remote pickup broadcast stations must comply with authorized bandwidth, maximum frequency deviation specifications, and frequency tolerance specifications contained in

§§ 74.462 and 74.464. The compliance date is extended from August 31, 1978 to May 31, 1979. This action is taken to allow the broadcast stations time to make modifications to their equipment necessary to comply with the regulations contained in §§ 74.462, and 74.464.

EFFECTIVE DATE: June 1, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Frank Lucia, Office of Executive Director, 202-632-7232 or John Reiser, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: August 14, 1978.

Released: August 16, 1978.

By the Commission: Commissioner Washburn absent.

Order. In the matter of 9-month extension of the date of compliance with §§ 74.462 and 74.464 of part 74, subpart D.

1. On June 29, 1976, the Commission adopted a report and order in docket 20189 (RM-1735, FCC 76-624), amending part 74, subpart D of the rules. The report and order required that remote pickup broadcast stations, regardless of the date of original licensing must meet the authorized bandwidth and maximum frequency deviation specifications contained in § 74.462 by August 31, 1978.

2. A subsequent order, adopted December 21, 1976, required that remote pickup broadcast stations, regardless of the date of original licensing must meet the frequency tolerance specifications contained in § 74.464 by August 31, 1978.

3. The Commission, in cooperation with the Defense Civil Preparedness Agency (DCPA) administers the broadcast station protection program (BSPP). The BSPP involves the loan of Federal Government equipment to selected broadcast stations throughout the United States. The equipment includes remote pickup units, some of which were purchased several years ago, and many of these need to be modified or replaced in order to comply with the provisions in paragraphs 1 and 2 above. The purpose of the equipment is to provide a radio link between a broadcast station and a local emergency operating center manned by civil defense personnel during a local, State or national emergency.

4. Due to the present limited funding available to the BSPP and the large number of units to be modified, it is not possible to bring all the equipment into compliance by August 31, 1978.

5. The 9-month extension of the effective date will allow for funds budgeted for fiscal 1979 beginning October 1, 1978, to be used to upgrade the equipment. This order will permit the broadcast station to use the equipment until May 31, 1979.

6. We conclude that, for the reasons set forth above, adoption of this order will serve the public interest and promote the safety of life and property. Because this extension herein ordered imposes no new substantive requirements or reflects or clarifies existing policy, the public notice provisions of the Administrative Procedure Act (5 U.S.C. 553) are inapplicable.

7. *Accordingly, it is ordered,* That the notes to §§ 74.462 and 74.464 of subpart D of part 74 of the rules are amended to show the effective date for compliance with these sections as June 1, 1979.

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

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 74 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

A. In § 74.462, note following paragraph (e) is amended to read as follows:

§ 74.462 Authorized bandwidth and emissions.

* * * * *

(e) * * *

* * * * *

NOTE.—All stations, regardless of date of original licensing must meet the authorized bandwidth and maximum frequency deviation specification contained in paragraph (b) by June 1, 1979.

B. In § 74.464, note is amended to read as follows:

§ 74.464 Frequency tolerance.

* * * * *

NOTE.—All stations, regardless of date of original licensing must meet the frequency tolerance specifications contained in this section by June 1, 1979.

[FR Doc. 78-24028 Filed 8-25-78; 8:45 am]

[6712-01]

[Docket No. 19995; RM-2275; FCC 78-597]

PART 76—CABLE TELEVISION SERVICE

Network Program Exclusivity Protection by Cable Television Systems; Memorandum Opinion and Order, Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order—reconsideration of rule amendment.

SUMMARY: The Commission recently amended its rules to provide that a cable television system no longer need black out the duplicating network programing of a broadcast television station if that station is viewed off the air by a certain percentage of the population of the cable community. See 43 FR 16337. The Commission now denies the petitions for reconsideration of that decision. The contention that the Commission did not follow proper procedures in adopting this rule change is rejected. Further, the Commission held that the petitions did not raise any new substantive matters that were not already considered in the original decision.

EFFECTIVE DATE: The amendment to the rules previously adopted (47 CFR 76.92(g)) will become effective on October 5, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Gary Hurvitz, Cable Television Bureau, 202-632-6468.

In the matter of amendment of subpart F of part 76 of the Commission's rules and regulations with respect to network program exclusivity protection by cable television systems; petitions for reconsideration (docket No. 19995, RM-2275); previously published at 43 FR 26022.

Adopted: August 8, 1978.

Released: August 28, 1978.

By the Commission: Commissioner Lee dissenting and issuing a statement; Commissioner Washburn absent; Commissioner White concurring in the result.

INTRODUCTION

1. In Memorandum Opinion and Order in Docket 19995, FCC 78-217, —— FCC 2d —— (released April 17, 1978), the Commission amended § 76.92 of its rules. Under the revised rule network nonduplication blackouts

no longer apply to programs on television stations which are "significantly viewed" [1] in the community of a cable system. The decision constituted a modification of the Commission's decision in the Third Report and Order in Docket 19995, FCC 76-1076, 62 FCC 2d 99 (1976), and was stayed by the Commission in a Memorandum Opinion and Order in Docket 19995, FCC 78-331, —— FCC 2d —— (released May 30, 1978). The Commission now has before it 21 petitions for reconsideration of this decision, 7 pleadings in support of those petitions, and 23 oppositions to the petitions. A complete list of the petitioning parties and those replying is attached.

2. This proceeding has followed a long and involved course since the original Notice of Inquiry and Proposed Rule Making was issued in 1974.[2] The First Report and Order in Docket 19995, FCC 75-413, 52 FCC 2d 519 (1975) did not resolve the issue presently under consideration, but presaged further proceedings in this matter. In the Further Notice of Proposed Rule Making in Docket 19995, FCC 75-922, 40 FR 34395 (1975) issued a few months later, the Commission requested comments on its proposal to develop a standard to exempt network signals widely viewed in noncable homes in a community from being blacked out in favor of other local signals. In our initial decision on this question, we declined to adopt a rule of general applicability because of our fear that no one standard would resolve all the anomalies we sought to remedy. Instead, we decided to retain the nonduplication rules as previously adopted, while simultaneously proposing to grant special relief in situations presenting unusual circumstances.

3. After two cable operators requested reconsideration of this decision, the Commission reassessed the issue and concluded that this question was more properly viewed as a balancing of the competing interests of two local stations, than as protecting a local station's audience from fractionalization by a distant station. Recognizing that there may be some situations in which the "priority" station may need nonduplication protection, we specifically left open the possibility of protection being granted through our established special relief procedures. The burden of seeking such relief seemed to us properly placed on the television station alleging the need for additional protection.

PLEADINGS

4. The petitions for reconsideration filed by individual broadcasting companies as well as the National Association of Broadcasters (NAB) present several reasons why the latest decision should not be allowed to stand. Two procedural points are raised. The broadcasters claim that the decision must be overturned because the notice of proposed rule making given in this proceeding was inadequate to meet the requirements of section 553(b)(3) of the Administrative Procedure Act, 5 U.S.C. § 553(b)(3) which requires such a notice to include "either the terms or substance of the proposed rule or a description of the subjects and issues involved." The claim also is made that by granting relief beyond the scope of that requested in the petitions for reconsideration of the Third Report and order, supra, the Commission violated section 405 of the Communications Act, 47 U.S.C. § 405, and § 1.429 of its own rules.

5. Additionally, these parties suggest that the Commission failed to take into account several important substantive points which require it to reconsider its actions. Many broadcasters suggest that the Commission was not aware of the potential adverse impact this change in the rules will have on UHF and smaller market television stations. For example, NAB estimates that nearly half of the stations included in their random sample would lose protection in three quarters of the counties in which they now receive protection. More particularly, NAB found that: (a) For non-ADI stations, 10 of 15 stations analyzed will lose all protection, while stations will lose protection in 75 of 84, or 80 percent of the counties in these markets; (b) In single station markets, 11 of 32 stations analyzed will lose all protection, and 185 of 255, or 73 percent of the counties will be lost; (c) For hundred plus market stations, 20 percent of the stations will lose all protection, and approximately one-third of all counties involved will be lost; (d) For major market UHF stations, loss of protection will occur in 41 percent of the counties where protection was previously provided. It therefore concludes that special relief does not make sense when so many stations will be affected.

6. Another argument found in almost all the petitions is that the Commission erred in treating these significantly viewed signals as "local" and, therefore, not subject to deletion in favor of a signal being received inside its specified zone. These parties indicate that these significantly viewed signals are not generally licensed to serve the cable community, nor are they generally required to undertake ascertainment studies in these areas. In fact, it is claimed, the supposedly significantly viewed signal might not be viewed at all in the individual cable community, since the significantly viewed test is applied on a county-wide basis. In seeking to highlight its view of the generous nature of the present standard, Amaturo Group, Inc., et al., point out that a signal could meet the test while 75 percent of the homes in the county do not even view the station for 5 minutes per week.

7. Several parties would like the Commission to reconsider its decision in light of their perception that the rule adopted will actually decrease the diversity of programing available to cable subscribers. They point out that some saturated cable systems presently use the blackout time engendered by the operation of the former rule to present programs from other authorized broadcast stations, access sources, or for local origination. In fact, one cable operator, Cable Associates, Inc., who is now making such substitutions, has requested that the Commission partially reconsider its decision and "* * * create either grandfather rights or a specific exception to the rule which will allow cable systems to substitute programing for the simultaneously duplicating programing of significantly viewed out-of-market network stations."

8. If the Commission declines to alter its decision, NAB has suggested three proposals which it believes will "ameliorate the impact" if the petitions for reconsideration are denied. First, they suggest that special relief should be granted without any additional showing if a station, pursuant to the survey procedures established in § 76.54(b) of the rules, demonstrates that a duplicative network station is not in fact significantly viewed in the cable community. Second, the Commission should maintain protection for stations which file for special relief within a time specified by the Commission (e.g., 15 days) following action on the petitions for reconsideration. Finally, the Commission should not put the amended rule into effect until it has ascertained whether the current significant viewing standard is really an appropriate standard.

9. Numerous cable companies, as well as the National Cable Television Association (NCTA) and the Community Antenna Television Association (CATA), have filed oppositions to the petitions for reconsideration. These parties generally agree that the petitions do not raise any new matters not

[1] Under our rules, a television station may demand carriage on a cable system operating within a community in which it is significantly viewed. See sections 76.57(a)(4), 76.59(a)(6), and 76.61(a)(5) of the rules. A network affiliate is considered to be significantly viewed if it receives a 3 percent share of total viewing hours and a net weekly circulation of 25 percent in the noncable homes in the community. See section 76.5(k).

[2] Notice of Inquiry and Proposed Rule Making in Docket 19995, FCC 74-335, 46 FCC 2d 1164 (1974).

previously before the Commission, nor do they identify any defects in the procedures culminating in the adoption of the decision that would invalidate the order. They therefore conclude that the petitions should be denied.

10. Turning first to the procedural questions, the cable interests believe that the notice given in this proceeding was clearly adequate under the standard of section 553(b) of the APA. They note that the question of network nonduplication protection against significantly viewed signals was clearly raised in the original Notice of Inquiry and Proposed Rulemaking in Docket 19995, supra, and was equally clearly specified in the further notice that preceded our initial decision on this issue. They further note that the Commission did not exceed the scope of the relief requested by the petition for reconsideration of the Third Report and Order filed by Moscow Cable TV Co. and Pullman Cable TV Co., since those parties had requested reconsideration of the full decision as well as, in the alternative, requesting partial modification of the decision to take into account the narrower question of removing protection from satellite broadcast stations.[3]

11. The cable interests also take issue with the broadcaster's claim that the rule change will have a disastrous effect on the revenues of affected television stations. NCTA, for example, criticizes NAB's attempt to demonstrate this impact by listing all the counties in which network affiliates will lose the protection to which they were previously entitled. They note that this listing fails to take into account many relevant factors, such as which of the noted counties have any cable; if there is cable in the county, whether protection is now required; the number of television households in each county; and the off-air shares of the duplicative significantly viewed signals. They further suggest that a number of studies have shown that cable carriage has actually helped UHF television stations by giving them technical parity with VHF stations. NCTA also notes that every attempt by the Commission to simplify or reduce its nonduplication rules has been met by claims of disastrous consequences. To date there is no evidence that any of the previous changes have harmed any broadcaster, let alone reduced service to the public. It believes the same is true in this proceeding.

12. To rebut the argument that many "significantly viewed" signals are not even available in some cable communities, NCTA submitted a study of the markets of 25 of the stations that either themselves filed petitions or were discussed in petitions filed by other parties. They found that a majority of the significantly viewed stations formerly required to be deleted have off-air viewing levels of over 10 percent. The blacking out of these stations, it therefore claims, provides completely artificial protection.

13. Finally, NCTA objects to all three of NAB's "compromise" proposals. First, they do not believe that special relief should be granted to those who provide a survey that indicates that a station is not significantly viewed even though that station appears on the Commission's county list because this would greatly increase the Commission's administrative burden for no good reason. Second, they reject the suggestion that the Commission should grant automatic stays of the rule change for those broadcasters who file for special relief. They compare this to the situation in the Rocky Mountain nonduplication cases in which such stays were granted, when it later turned out that the special relief requested was not justified in the vast majority of cases. Finally, it urges the Commission not to delay putting the rule into effect until after the significantly viewed standard is reevaluated. They submit that there is no justification for this "thinly disguised attempt to further delay the effect of the Commission's decision."

Discussion

14. Before discussing the substantive issues of policy raised by the petitioners seeking reconsideration, we must initially address the contention that the procedures which culminated in the adoption of the final order were legally deficient. We note that the Administrative Procedure Act does not require advance notice be given of the exact policy alternative that eventually is adopted,[4] but only of the subject matter and issues involved in the rulemaking.[5] In fact, the U.S. Court of Appeals for the Third Circuit recently stated, "We agree with the court in *International Harvester Co.*, v. *Ruckelshaus*, 155 U.S. App. D.C. 411, 428, 478 F2d 615, 632 n.51 (1973), that the submission of a proposed rule for comment does not of necessity bind an agency to undertake a new round of notice and comment before it adopts a rule which is different—even substantially different—from the proposed rule." [6]

15. In commencing this rulemaking proceeding in 1974, the Commission specifically requested comment on the following question:

> Can the network program exclusivity rules be modified so as to better reflect actual viewing patterns of television signals off-the-air in cable communities and, thereby, be made more consistent with the Commission's signal carriage rules? [7]

In the First Report and Order in this proceeding the Commission concluded that it was unable to resolve this question, noted a number of drawbacks related to the use of the significant viewing standard in this regard, and indicated an intention to continue its efforts to find a solution to the problem of signals available over-the-air having to be deleted.[8]

Thereupon the Commission issued the further notice in this proceeding, which it is claimed failed to properly apprise commenting parties that the rule ultimately adopted was among the possible outcomes. In our view the scope of the matter involved in the further notice was clearly set forth in the last sentence of paragraph 3 which stated:

> The purpose of this further notice of proposed rulemaking is to set a standard which will prevent those television signals, commonly viewed in non-cable households of a cable community, from being blacked out because of the mileage priorities.

We, therefore, do not believe that any parties were not fairly apprised of the subjects and issues at stake in these proceedings or that the A.P.A. was violated simply because, after review of the comments, the Commission returned to a standard that had not been accepted at an earlier time.

16. Moreover, we do not regard our compliance with the Administrative Procedure Act as merely technical.

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[3] Moscow and Pullman, in their "Opposition to Reconsideration," state:

> Speculation over what the petitioners intended by their pleading may be laid to rest—Moscow TV Cable and Pullman TV Cable were without question seeking relief from having to black out a significantly viewed signal * * *.

The ensuing Moscow/Pullman "Petition for Reconsideration," at paragraph 19, specifically expressed the desire that the Commission reconsider its:

> * * * unwillingness to treat the designation of 'significantly viewed' as itself adequate to exempt a signal from the nonduplication rules * * *.

The same petition, at paragraph 21, asserts that:

> The petitioner believes that the Third Report and Order should be reconsidered * * *.

[4] *California Citizens Band Association* v. *U.S.*, 375 F.2d 43 (9th Cir. 1967).

[5] *Logansport Broadcasting Corp.* v. *U.S.*, 210 F.2d 24 (D.C. Cir. 1954).

[6] *American Iron and Steel Inst.* v. *EPA*, 568 F.2d 284 (3d Cir. 1977).

[7] Para. 17, *Notice of Inquiry and Proposed Rulemaking in Docket 19995*, FCC 74-335, 46 FCC 2d 1164, 1169 (1974).

[8] It is also important to note that when petitions for reconsideration of the First Report and Order in this respect were filed by several parties the Commission declined to issue a definitive ruling on the merits, stating that the matter would be resolved upon completion of further proceedings. Memorandum Opinion and Order in Docket 19995, FCC 75-1143, 56 FCC 2d 210, para. 23 (1975).

Parties had a full opportunity to respond to the initial request for rulemaking which preceded the commencement of Docket 19995, as well as four subsequent opportunities to debate the issue here involved.[9] Further, not only was the question put in issue by the notices of rulemaking but the type of rule finally adopted was clearly "foreshadowed in proposals and comments advanced during the rulemaking." [10]

17. Similarly, the fact that the final rule was adopted upon reconsideration of an earlier action does not indicate that the Commission exceeded the scope of its authority. Review of the petition for reconsideration filed by Moscow and Pullman, as well as the comments in support thereof filed by NCTA, shows that the parties did request reconsideration of the Third Report and Order on broad grounds. In any case, section 405 of the Communications Act, as interpreted by the courts, permits the Commission to retain jurisdiction over the entire proceeding once a petition for reconsideration has been filed.[11] Accordingly, we believe our actions were properly taken, and no further proceedings are required or desirable.

18. With respect to the substance of our decision, we find no new arguments or facts in the petitions before us that would cause us to reconsider the rule changes adopted. A considerable amount of the argument is intended to suggest that the nature of the change was not well understood by the Commission or that it was "arbitrary and capricious" in view of the reasons expressed as contrasted with prior history. The NAB, for example, states that the decision "may well constitute the most capricious and unwise decision the Commission has ever reached with respect to carriage of broadcast signals by cable systems" and that the change was adopted "without rational explanation or any consideration of the effect of its decision."

19. Although stated somewhat briefly in the Commission's Memorandum Opinion and Order, the rationale for the rule change should be quite clear. The signals in question are subject to mandatory carriage under our rules and, except perhaps in some unusual circumstances, are available to be received by television viewers generally even without cable television. In the absence of some concrete indication that allowing television viewers full access to these signals would adversely impact on television broadcast service in the area, we cannot justify regulatory intervention. Although, as we stated in our decision, it appears that there may be some stations that will be so impacted, on a further review of the issues in this proceeding we concluded that there was basis for a general requirement that such signals be subject to deletion and that it appeared to us that those stations needing protection would be in a distinct minority and could appropriately be provided special relief upon a showing of need, with the burden of demonstrating that need on the party with access to the relevant financial data. Nothing in the reconsideration petitions persuades us that a rule of general application is needed nor is there any apparent recognition in these petitions that some alternative to the prior unsatisfactory situation is required. Parties suggesting that the implications of this change were not understood are incorrect. The materials submitted in this docket were carefully considered, as were the results of a study we undertook of the audience share data for each of the counties identified in the NAB's submission as affected by the rule change. Also incorrect are statements that the Commission misunderstood the meaning of the term "local" when it applied the word to the significantly viewed signals here at issue. We fully recognize that in some instances the areas involved are areas where the significantly viewed stations do not undertake ascertainment studies.[12] When, on reconsideration, we stated that the proper view was a balancing of the interest of two local stations, rather than of a distant station versus a local station, we were merely referring to the fact that both of the signals were local in the sense that they are both available off-the-air in the cable community. The question thus framed is whether our network nonduplication rules should be drafted so as to reflect the over-the-air realities of this situation and our answer was in the affirmative.

20. A number of the reconsideration petitions have argued that the "significant viewing" standard is simply not up to the task of being used to determine rights under the nonduplication rules. We have acknowledged since this standard was adopted that there are certain problems with it either inherent in the art of taking audience surveys or in using county-wide data to represent the viewing of any particular community within the county. However, in the absence of a superior alternative, we believe these difficulties are more than outweighed by the certainty the standard provides and by the extremely high cost that would be entailed in a more refined test. As we have noted in the past, this is the type of data which the industries themselves rely on in making business decisions.[13] More importantly, however, those who would have us adopt a different standard or those (such as NAB) who would allow additional rebuttal surveys are, it seems to us, directing their attention to the wrong point.[14] We do not believe there is any serious dispute that, with very few exceptions, the signals in question are available over-the-air to individuals with roof top antennas. If parts of these signals are to be deleted from cable carriage, that action should be taken, either in a general rulemaking or in response to a particular special relief request, only upon a showing of some need for regulatory intervention in order to preserve local television broadcast service. A review of the relevant audience data suggests to us that there is little use in tinkering with the established viewing standard in an effort to identify stations that may have a greater need for protection.

21. Two examples may help to make the point. In its reconsideration petition the National Association of Broadcasters referenced a study it submitted in this proceeding and which it resubmitted with its petition for stay of the rules. This study attempts to identify counties where the application of the nonduplication rules to significantly viewed signals is an issue. For each of the counties identified by NAB we obtained the relevant audience data in order to study the conse-

[9] A total of 12 sets of pleadings were involved, including the initial rulemaking request, comments responsive to that, comments and replies in response to the initial notice, requests for reconsideration of the First Report and comments and replies in response to those requests, comments and replies in response to the further notice, requests for reconsideration of the Third Report and comments and replies in response to those requests. Moreover, the instant action affords interested parties yet another opportunity to express their opinion—clearly with knowledge of the issues at stake.

[10] *South Terminal Corp.* v. *Environmental Protection Agency*, 504 F.2d 646, 658 (1st Cir. 1974).

[11] *See Enterprise Co.* v. *FCC*, 231 F.2d 708 (D.C. Cir. 1955), cert. denied, 351 US 920 (1956); *Black River Broadcasts* v. *McNinch*, 101 F.2d 235 (D.C. Cir. 1938), cert. denied, 307 US 623 (1939).

[12] It is also true that some stations were subject to deletion under prior rules in areas where they had ascertained the needs and interests of the local community (see, for example, the comments of Scripps-Howard Broadcasting Company filed in this proceeding on October 15, 1975) and that the community may be outside the ascertainment area of the "priority" station.

[13] Paras. 84-86, Cable Television Report and Order, FCC 72-108, 36 FCC 2d 141, 175-76, (1972); para. 53 Reconsideration of Cable Television Report and Order, FCC 72-530, 36 FCC 2d 326, 345-46 (1972).

[14] In general, rebuttal studies do not seem to us to be useful. See, for example, the discussion at paragraph 59 in *Mission Cable TV, Inc.* (San Diego, Calif.), FCC 73-395, 40 FCC 2d 705, 724-25 (1973). Such studies, when undertaken in accordance with section 76.54 of the rules, will, however, be considered in resolving the question of how the cable television service in issue impacts on television broadcast service to the public.

quences of various rule change proposals. The very first entry shows a county in which the "priority" station, which allegedly needs additional protection, has a share of 2 (based on the data available when this study was undertaken). The non-priority station had a share of 26.[15] As this example illustrates, once those stations actually receivable are identified, a change in the viewing level cannot usefully be used to separate out whether a station needs protection or not, so that suggestions for altering the standard for purposes of this proceeding are not useful. This first entry, moreover, is not an isolated example. Of the first 94 counties listed in the NAB chart,[16] in 66 the non-priority stations had higher audience shares than the priority stations. The same point is revealed in the National Cable Television Association's petition opposing reconsideration. NCTA examined 25 of the stations that filed reconsideration petitions or were discussed in petitions. In 39 affected counties it was found that the majority of the significantly viewed (non-priority) stations had off-air audience viewing levels of over 10 percent. Although other parties have responded, pointing out that this study was not complete, it does serve to make clear that minor alterations in the viewing level would not resolve the complaints that have been leveled against the rule change or aid in determining in a more definitive manner where additional protections may be needed. If there are independent reasons why changes should be made in the significant viewing rules, that is a matter appropriately considered in a separate rulemaking proceeding.

22. In sum, we find no reason to reconsider our decision. It seems clear to us that signals available over the air and subject to required cable carriage should be considered as local signals without regard to the general mileage zones contained in the nonduplication rules, that there is no evidence of a general need for the protection formerly provided to all network affiliated stations, and that it is appropriate to provide such protection only upon individualized showings of need and not to all stations in the class regardless of whether the protection is needed or not.

23. Copyright. A number of additional points directed to particular aspects of our decision also warrant some discussion. The Klix Corp. argues that in adopting this rule change, the Commission arbitrarily has affected broadcasters' property rights. The argument appears to be that the Commission's action will no longer permit a station to enforce the "First Call" provision of its network affiliation agreement against a significantly viewed network affiliate presented on a cable system as a copyright infringement, since carriage of the signal will now be in accordance with the FCC's Rules.[17] The simple response to this claim is that the Commission's action is not arbitrary, but is a result of considered evaluation of those matters properly within our jurisdiction. Further, the legislative history of the Copyright Act of 1976 clearly demonstrates that Congress, in adopting this legislation, did not intend to interfere with the Commission's ability to modify its own rules,[18] and, in fact, specifically included in the copyright laws provision for allowing the Copyright Royalty Tribunal to consider the effect of changes in FCC Rules on royalty payments in certain specific instances.[19]

24. Retention of protection pending action on special relief petitions. The NAB has suggested that a station now receiving protection but who will lose it under the amended rules should continue to receive that protection during the pendency of any special relief proceeding if an appropriate notice of intention to request such relief is filed. What is requested is, in effect, an automatic continuation of the stay we granted pending action on the reconsideration petitions. We do not believe the record warrants any provisions of this type. The traditional tests discussed in our earlier stay decision have not been met and the rules, having been changed for what we believe are good reasons, should be allowed to go into effect as soon as posible. At the same time, operation in the absence of the former protection may allow a record to be developed documenting the consequences of operation without the rules which will provide a much firmer base for deciding waiver cases.

25. Grandfathering of prior decisions. Henson Aviation, Inc. and Central Coast Broadcasters, Inc. suggest that if the Commission does not alter its decision, it should at least grant a continued exemption from the new rule to those stations which have been specifically found in the past to need nonduplication protection beyond that provided by the rules. Because of the exceptional nature of the relief granted in these cases, petitioners appear to be correct that this rule change should not terminate the additional protections granted.

26. Saturated cable systems. Cable Associates, Inc., has suggested that the rules be amended to specifically allow cable operators to delete duplicative significantly viewed signals in order to substitute otherwise unavailable programing during periods of duplication. The most desirable solution to this problem would, of course, be for the saturated system to rebuild its plant to allow for the channel capacity to carry this alternate programing at all times. Short of this, however, we will leave this question to be dealt with through our normal waiver procedures.

27. Effective date. Since, after careful consideration of all relevant factors, we are herein denying the petitions for reconsideration, and in light of our previous treatment of stay requests in Memorandum, Opinion and Order in Docket 19995, FCC 78-331, supra, no further stay of this rule change appears warranted. However, in order to provide some additional time for judicial consideration of any further stay requests, we will allow the stay previously granted to continue in effect until October 5, 1978. On that date, in the absence of any contrary judicial decision, the previously adopted rule change will go into effect.

Accordingly, it is ordered, that the petitions for reconsideration filed by the parties listed below are denied.

It is further ordered, That the amendments to part 76 of the Commission's rules and regulations previously adopted in Memorandum, Opinion and Order in Docket 19995, FCC 78-217,——FCC 2d——(April 17, 1978) are effective October 5, 1978.

FEDERAL COMMUNICATIONS COMMISSION,[20]
WILLIAM J. TRICARICO,
Secretary.

PETITIONS FOR RECONSIDERATION

Southeastern Ohio Television System (WHIZ-TV, Zanesville, Ohio).
Ponderosa Television, Inc. (KTVZ, Bend, Oreg.).
Poole Broadcasting (WJRT-TV, Flint, Mich. and WPRI-TV, Providence, R.I.) and Capital Cities Communications, Inc. (WTNH-TV, New Haven, Conn.).
Henson Aviation, Inc. (WHAG-TV, Hagerstown, Md.) and Central Coast Broadcasters, Inc. (KCOY-TV, Santa Maria, Calif.).
Gill Industries (KNTV).
WBRE-TV, Inc.
WBOC, Inc.
Broadcasting Telecasting Services, Inc. (WBBH-TV).
The Klix Corp. (KMVT, Twin Falls, Idaho).
National Association of Broadcasters.
Nine UHF licensees (WBMG, Birmingham, Ala.; WRAU-TV, Peoria, Ill.; WMTV,

[15] According to later data contained in an NCTA submission this off-air audience share has since increased to 32 percent.

[16] These 94 counties are those contained in the first section of the NAB study which contains information on all stations listed as having no separate ADI area and which presumably have a greater need for protection than the average station.

[17] 17 U.S.C. § 111(c)(2)(A).

[18] House Committee On The Judiciary, Copyright Law Revision, H.R. Rep. No. 1476, 94th Cong., 2d Sess. 88 (1976) at 98.

[19] 17 U.S.C. § 801(b)(2)

[20] See attached Dissenting Statement of Commissioner Lee.

Madison, Wis.; WICS, Springfield, Ill.; WICD, Champaign, Ill.; WTVU, New Haven, Conn.; WUTR, Utica, N.Y.; KTSB, Topeka, Kans.; WAKR-TV, Akron, Ohio; WTVO, Rockford, Ill.).

Amercian Broadcasting Cos., Inc.

Great Lakes Communications, Inc. (WICU-TV, Erie, Pa.).

Key Television, Inc. (KEYT, Santa Barbara, Calif.).

D. H. Overmyer Telecasting Co., Inc. (WDHO-TV, Toledo, Ohio).

Wyneco Communications, Inc. (KYCU-TV, Cheyenne, Wyo.).

RJN Broadcasting, Inc. (WLFI-TV, Lafayette, Ind.).

Bibb Television, Inc. (WCWB-TV, Macon, Ga.).

Virginia Broadcasting Corp. (WVIR-TV, Charlottesville, Va.).

Amaturo Group, Inc. (KQTV, St. Joseph, Mo.), KCST, Inc. (KCST, San Diego, Calif.), McGraw-Hill Broadcasting Co., Inc. (KERO-TV, Bakerfield, Calif.) and NEP Communications, Inc. (WNEP-TV, Scranton, Pa.).

PETITION FOR PARTIAL RECONSIDERATION

Cable Associates, Inc.

ADDITIONAL PARTIES FILING COMMENTS, OPPOSITIONS, OR REPLIES

Oregon Cable Communications Association.

Tele-Communications, Inc.

Springfield Television Corp. (WKEF, Dayton, Ohio and WWLP, Springfield, Mass.).

PMA Communications, Inc. (WTAP, Parkersburg, W. Va.).

Thomas Television, Inc. (WATR-TV, Waterbury, Conn.).

WBOY-TV, Inc. (WBOY-TV, Clarksburg, W. Va.).

Arizona Cable Television Association.

Moscow TV Cable Co. and Pullman TV Cable Co.

Cablecom-General, Inc.

Pacific Northwest Cable Association.

New England Cable Television Association.

Community Antenna Television Association.

Sixty-eight CATV companies.

Communications Services, Inc.

Televents, Inc.

Raystay Co.

Warner Cable Corp.

Pennsylvania Cable Television Association.

NBC Television Affiliates.

Sammons Communications, Inc.

Spartan Radiocasting Co.

National Cable Television Association.

Continental Cablevision of Ohio, Inc.

Teleprompter Corp.

Jefferson Cable Division of Multi-Channel TV Cable Co. of Mansfield, Inc.

Teleview Cable, Inc.

South Jersey Broadcasting Corp. (proposed assignee of WCMC-TV, Wildwood, N.J.).

California Community Television Association.

Communications Properties, Inc. (CPI).

Montana Cable Television Association.

DISSENTING STATEMENT OF COMMISSIONER ROBERT E. LEE

IN RE: D. 19995

I continue to believe that the Commission should leave the nonduplication rule alone for the time being. The rule for significantly viewed signals was'nt perfect, but I do not see any improvement with the change; just a shuffling of the imperfections.

For the sake of "logic" alone, the majority have shifted the burden of proof, changed the nature of that burden, and substituted a presumption of no harm for the presumption of harm underlying the nonduplication rule. This strikes me as overkill when there is no Commission analysis of the impact this rule change will have in a large number of markets.

I am particularly disturbed because these burden of proof changes apply even if a signal included in the Commission's 1972 county-wide list of significantly viewed signals [1] is actually not significantly viewed in the particular CATV community. The majority's only concession on this point is footnote 14 which sets forth the Commission's intention to allow introduction of evidence on this point as part of a broader impact showing. Yet, I fail to see the logic of treating signals as significantly viewed when, in fact, they are not. I fail to see the public interest in requiring an impact study at all under these circumstances. If a signal is not significantly viewed, why should a party file—and the Commission review—reasons for treating it like a signal which is not significantly viewed?

The majority say this is "the wrong point" because some of these signals may be available over-the-air, even if not viewed in the CATV community. But, the majority miss the point when they use an undocumented assumption of over-the-air availability in individual CATV communities to support their position. Over-the-air availability is one of the standards rejected during an earlier stage of this docket. The issue here is significant viewing.

I dissent.

[FR Doc. 78-24181 Filed 8-25-78; 8:45 am]

[6712-01]

[Docket No. 20846; FCC 78-622]

INTERCONNECTION OF PRIVATE LAND MOBILE RADIO SYSTEMS WITH THE PUBLIC, SWITCHED, TELEPHONE NETWORK

Policies and Regulations

AGENCY: Federal Communications Commission.

ACTION: First report and order (final rule).

SUMMARY: The Federal Communications Commission is adopting final regulations to provide for the interconnection of private land mobile radio stations licensed in the public safety, industrial, and land transportation radio services (47 CFR Parts 89, 91, and 93) with the facilities of the public telephone companies. The Commission initiated this proceeding to develop policies and rules to regulate the use of the telephone system in conjunction with the operation of private land mobile radio stations. The intended effect is to resolve doubts and uncertainties as to the approaches and possibilities for joining public telephone facilities with private land mobile operations for more effective radio communications.

EFFECTIVE DATE: October 16, 1978.

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

FOR FURTHER INFORMATION CONTACT:

John B. Letterman, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

SUPPLEMENTARY INFORMATION: In the matter of amendment of parts 89, 91, 93, and 95 (general mobile radio service, only) of the Commission's rules to prescribe policies and regulations to govern interconnection of private land mobile radio systems with the public, switched, telephone network. First report and order.

Adopted: August 17, 1978.

Released: August 23, 1978.

By the Commission:

I. INTRODUCTION

1. We initiated this proceeding to develop policies and rules to regulate the use of the telephone system in conjunction with the operation of private land mobile radio stations.[1] The rules proposed defined permissible arrangements for interconnected service.[2] They also provided for the regulation of internal systems of communication [3] and for the use of dial-up circuits for transmitter control.[4]

2. Comments and replies were filed. They have been considered;[5] and based upon the record new rules covering the subjects mentioned are being adopted.[6]

3. The new rules permit interconnection of private land mobile radio sys-

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[1] Appendix B, Reconsideration of Cable Television Report and Order, 36 FCC 2d 326, 378 (1972).

[1] Notice of inquiry and notice of proposed rulemaking, docket No. 20846, 41 FR 28540 (July 12, 1976). Hereafter, we refer to these notices as the "Interconnection Notice."

[2] Interconnection notice, app., secs. 89.3 and 89.162.

[3] Interconnection notice, app., sec. 89.113(d)(1).

[4] Interconnection notice, app., sec. 89.113(b)(4).

[5] Appendix A, "Parties filing comments and reply comments."

[6] Appendix B, "Regulations governing licensee responsibility for control of authorized radio systems and the use and operation of radio systems employing special design configurations."

tems (PLMRS) with the facilities of the public, switched, telephone network (the PSTN) under varying conditions and restrictions. More specifically, in the 806–821 MHz and 851–866 MHz bands, pending further rulemaking,[7] interconnection will be limited in accordance with the provisions of sections 89.653 and 89.951(a).[8] In the bands below 800 MHz, interconnection will be permitted on a somewhat broader basis, but still only in accordance with express limitations set out in the new rules.[9]

4. Also, we have restricted interconnection based on service classifications. Thus, it will not be allowed in the general mobile or industrial radiolocation radio services.[10] Further, we have adopted geographic limitations on the use of interconnected systems in the automobile emergency, business, special emergency, special industrial, and taxicab radio services. In these services, in the bands below 800 MHz, it will be permitted only where the base station site of the interconnected facility is located 75 miles or more from the centers of the 25 urbanized areas identified in the new rules.[11] There is one exception to this. Interconnection will be permitted in all areas for emergency communications in medical service systems licensed under section 89.503 of this subpart for operation in the special emergency radio service on frequencies allocated in that service in the 450–470 MHz band.[12]

5. Additionally, we are adopting special rule provisions covering, first, the use of internal systems of communication in conjunction with the operation of private land mobile radio stations and, second, the use of dial-up circuits for transmitter control.[13] Further, the regulations that are to apply to paging operations have been separated out from those relating to two-way voice and data communications.[14] And our rules relative to transmitter control have been clarified and expanded somewhat so as to be consistent with the overall regulatory plan being adopted.[15] We note as a final point that our policy will be to permit licensees of existing interconnected systems to continue to use them until January 1, 1984. On or prior to this date, however, all of these systems must be brought into compliance with the new rule provisions and all license renewals are issued subject to the condition of compliance with this requirement.

6. We believe our decision on interconnection, which follows, achieves the stated objectives of this rulemaking and provides reasonably in this regard for the communication requirements of licensees in the private services. We believe further that the regulatory plan adopted meets the major objectives and concerns advanced by the parties to our original proposal.[16]

II. Matters Pertaining to Transmitter Control, Dial-Up Circuits, Internal Communication Systems and Paging Operations

A. Transmitter Control

7. We have said the key to permissible interconnection arrangements in the private services is positive control by licensees of the radio facilities authorized for their use.[17] On this point, in the context of the proposed plan for interconnected service, several parties suggested that we clarify and expand applicable transmitter control requirements; and we have done so.[18] The rules adopted affirm that licensees are directly responsible for each transmitter licensed for their use and that they must exercise such control as is reasonably necessary to assure that their facilities are employed only for permissible purposes; only in a permissible manner; and only by duly authorized persons.[19] In this connection, it was recommended that all authorizations for interconnected private systems be specially conditioned in order to assure positive licensee control.[20] However, in light of the rule revisions mentioned, we do not find this necessary.

B. Dial-Up Circuits

8. The comments favored permissible use of dial-up circuits for transmitter control. The parties confirm that this method of operation is both economical and efficient, pointing out that mandatory use of dedicated leased lines (reserved 24 hours a day, 7 days a week for the exclusive use of a particular customer) is not necessary and in fact would be wasteful of telephone company resources.

9. As to arrangements of this type, A.T. & T. did voice some concern. It felt, for example, that should a given PSTN line be used continuously, not just on a temporary basis for transmitter control, this would work to the disadvantage of the wire line carrier. However, A.T. & T. acknowledged that should abuses of this kind occur (in violation of applicable tariff provisions), the company affected could take remedial action under procedures available to it. Also, NARS questioned whether licensees using dial-up links for transmitter operation could maintain proper licensee control over their radio systems. On this point, we have modified the rules to make certain that such circuits will be used only to link "licensed transmitter control points" and "transmitters being controlled."[21] Further, we will require design features to preclude operation from any fixed position other than from licensed control points;[22] and, additionally, special equipment will have to be employed to prevent associated mobiles of the licensee (operating in systems of this type) from reaching points in the PSTN other than licensed control points of the stations being controlled.[23]

10. The rules as now written also provide that dial-up circuits may not be used for control in any system which is interconnected with the PSTN (within the meaning of sections 89.950 through 89.954, appendix B);[24] that such circuits may not be employed in internal systems of communications;[25] and, finally, that facilities using dial-up circuits may not be operated from dispatch points.[26] With the addenda mentioned, control of authorized private radio systems by licensees is assured; and we conclude that the use of dial-up circuits is consistent with the public interest and should be allowed. Rules for this purpose are therefore adopted.

C. Internal Systems of Communication

11. Our proposal concerning interfacing internal systems (such as private wireline/microwave/PBX facilities) with mobile radio systems of licensees was well received. Accordingly, we will provide for the special requirements of licensees to transmit messages from fixed operating positions (located within a private or closed system of communication) to personnel operating associated mobile stations. Requirements of this kind are often found in systems licensed in the railroad, power, and petroleum ser-

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[7] Further notice of proposed rulemaking, docket No. 20846, FR ( ).
[8] See referenced rules secs., at app. B.
[9] Secs. 89.953–89.954, app. B.
[10] See secs. 89.951(b) and 95.68, app. B.
[11] Sec. 89.951(c), app. B.
[12] Sec. 89.951(c), app. B.
[13] Internal systems, secs. 89.925–89.928, app. B; and dial-up transmitter control circuits, sec. 89.901(c), app. B.
[14] Secs. 89.975–89.976, app. B.
[15] Secs. 89.900–89.908, app. B.
[16] As to proposed limits to operations in the business service, see comments of CMRA, EIA, and NABER. On broader matters in controversy, see particularly the comments of the carrier interests, namely, AARU, A.T. & T., GTE, NARS, NARUC, and NPSE. All parties are identified fully at app. A.
[17] *Interconnection Notice*, cited *supra fn.* 1, at para. 10.
[18] Subpt. T, part 89, "general provisions relating to transmitter control," secs. 89.900 through 89.908, app. B.
[19] Sec. 89.900, app. B. See also, sec. 89.954, app. B.
[20] Comments and reply of A.T. & T., and comments of GTE.
[21] Sec. 89.901(c)(1), app. B.
[22] Sec. 89.901(c)(2), app. B.
[23] Sec. 89.901(c)(3), app. B.
[24] See note, sec. 89.901, app. B.
[25] Sec. 89.928(a)(2), app. B.
[26] Sec. 89.901(c)(2), app. B.

vices and in systems in use in hospital complexes and manufacturing plants. In such situations, it is not always possible to equip each operating position as a control point; and the question we sought to resolve was whether, with state-of-the-art equipment, design, and operating parameters could be worked out to assure: First, positive control on the part of the licensees over their radio facilities (by limiting access to these radio facilities only to employees of the licensee and only from telephone positions within the private system or from mobile stations of the licensee). Second, sufficient safeguards to protect reasonably against interference to licensed stations sharing cochannel assignments in common operating areas.

12. The record demonstrates that these objectives can be met. To accomplish this, we have refined the definition of what constitutes an internal system. In doing so we have stressed that in such systems all operating positions must be located on or at premises owned or controlled by the licensee; and that the flow of traffic must be between employees or agents of the licensee positioned at fixed points and at associated mobile stations.[27] Further, we have made clear that operating positions in internal systems are not synonymous with dispatch points, and are not equated with telephone positions in the PSTN.[28] Additionally, express provisions have been added to give assurance that these systems will be under the control of the licensee at all times.[29] Also, the rules have been modified to include affirmative measures to eliminate concern over cochannel interference potentials.[30] With the design features mentioned, we are confident that licensees will be able to exercise effective control over such facilities and that harmful interference will not be caused to others sharing assignments in common operating areas. Accordingly, on the bases stated, rules are being adopted to permit operation of this type.

D. SPECIAL RULES RELATIVE TO PAGING OPERATIONS

13. Overall, the comments of the parties verify that paging serves important needs and requirements of eligibles in the private services. There was general support for the use of dial-up circuits for paging and also for paging through internal system configurations. As to this, there was some concern that operations of these types might result in interference to two-way communications, that is, unless steps were taken to require the use of special monitoring equipment. Also, request was made for authorization of the use of automatic paging terminals, particularly in emergency medical systems, with access through public telephone facilities. Finally, a number of parties urged that we separate out the regulatory measures applicable to paging from those that concern two-way communications.

14. Weighing the comments, it appears to us that our major objectives can be met better through adoption of a somewhat modified plan. First, we are persuaded to adopt separate rules to govern paging operations.[31] We think this approach is best in light of the basic differences in the operational characteristics of paging and two-way voice systems. Next, we understand the concern expressed as to interference potentials of paging signals generated within internal systems of communication; and we have added design requirements for such systems to curtail or eliminate these potentials.[32]

15. As to paging calls originating at dispatch points and from control points employing dial-up links, special rules have been adopted to assure licensee control.[33] However, we have decided to reject the recommendation to permit the use of automatic paging terminals with direct access from the PSTN, even in emergency medical systems.[34] If allowed, licensees could "secure" their stations only thgrough the use of so-called "secret telephone numbers" or by employing elaborate portable equipment, and we do not feel that these measures are practical for the purpose. In overall balance, then, while the rules adopted are restrictive, they allow reasonably for licensees of private systems to meet their more important needs for paging communications.

III. MATTERS RELATING TO INTERCONNECTION OF PRIVATE RADIO SYSTEMS WITH THE PUBLIC TELEPHONE NETWORK

A. ARRANGEMENTS AND EQUIPMENT

16. We asked for data and information on arrangements and equipment used or available for interconnected service. As to possible arrangements, it appears they vary in almost infinite detail. The connection or patch between private radio and public telephone systems may be accomplished manually or automatically, depending mainly upon the choice of equipment; and calls may originate in the PSTN or from mobiles of the licensee with equal facility.

17. As to interconnect devices, the comments show that a wide selection of equipment for both manual and automatic interconnection is available. Thus, systems may be designed for operation in automatic mode, with automatic dialers and with the patch accomplished either at the licensee's base station or at a licensed transmitter control position. Further, this equipment permits control of a radio system from either a mobile unit or from a fixed position. Also, "timers" are available to limit the length of a call; or to close down the radio system when "RF" signals are not being generated; or to close it down in the event of malfunction.

18. Special equipment is obtainable, too, which will allow a licensee to "channel monitor" automatically, thus preventing interference to ongoing traffic of cochannel users. There are other devices which will inhibit the transmission of voice communications (base to mobile) until such time as the mobile station operator activates the base station. Additionally, there is equipment which will restrict dialing to predetermined telephone numbers, permitting calls to be directed specifically to particular mobiles in a licensee's fleet or to designated control points in the licensee's communication system.

19. Further, systems can be designed to operate full duplex; half duplex; or in simplex mode; and features can be built into simplex systems to enable mobile station operators to fully control the operation and use of associated base stations. In the more elaborate systems, such as those designed for medical emergency systems and Dial-A-Ride transportation facilities, as examples, automatic equipment is available permitting great operational flexibility, so that practically every conceivable need of licensees of such systems can be accommodated. The comments are most explicit on this point.

20. We conclude, on the basis of these comments, that interconnected systems can be designed to function in manual mode or automatically. That they can be controlled from fixed control positions or mobile stations. That interconnection can be accomplished easily at the base station site or at operating positions in the licensed system; and that the points between which interconnected communication is possible can be electronically or mechanically controlled. Thus, technology is not a limiting factor; and, depending upon the desired regulatory purpose and objectives, rules can be fashioned in a multiplicity of ways to either provide for broad or restricted access to the PSTN by licensees of private radio systems.

B. THE NATURE OF THE PRIVATE SERVICES

21. As a further factor, we inquired into the nature of the private services

[27] Secs. 89.925 and 89.926, app. B.
[28] Sec. 89.926, app. B.
[29] Secs. 89.927-89.928, app. B.
[30] Sec. 89.928(a)(5), app. B.
[31] Secs. 89.975-89.976, app. B.
[32] Secs. 89.926-89.928, and 89.976(a)(2), app. B.
[33] Secs. 89.976(a)(3) and 89.976(b), app. B.
[34] Sec. 89.976(c), app. B.

in terms of whether interconnected service would affect it in some basic way so that the purposes for which those services were established or the manner in which private radio systems are employed would be altered to the detriment of the private services. We conclude there will be no such result.

22. In the *Carterfone* case,[35] we examined broadly into the significant needs and requirements of eligibles in the private services for interconnected facilities. We found that such needs and requirements existed, and that use of interconnected circuits was important in meeting them. It is now some 10 years later, and it is most apparent from the comments that licensees of private radio systems use interconnected circuits to enable them to employ their private radio facilities in effective ways. This has not changed the nature of the private services. Further, the comments of private radio system licensees and of their representatives argue strongly that while interconnection is and will continue to be an important feature of their systems, it will not result in basic changes in the character, design, or use of the type of radio systems operated by police departments, petroleum and power companies, and railroads, and other like users.

23. In light of this, we conclude that interconnection need not change the basic character of the private radio services. Indeed, current technology and equipment can provide the traditional safeguards as to licensee control and channel monitoring to promote channel sharing. Further, automatic cutoffs may be employed to enforce brevity of messages. These requirements are emphasized in the rules adopted; and with them we are further assured that the nature of the private services will not be altered in a material way to the detriment of these services.

C. INTER-SYSTEM COMPATIBILITY

24. While we conclude that there is no factor arising out of the nature of the private services to cause us to bar interconnected operation, we also inquired into whether for practical reasons systems used primarily for dispatching could be employed effectively in the same areas in which licensees used interconnected circuits.[36]

25. There was much discussion of this point. API, FIT, and SIRSA said that our seeming characterization of the private services as total dispatch operations was erroneous. They contend that we have failed to recognize appropriately the natural evolution in the communication requirements of licensees; and further that we have improperly drawn parallels between what might be a representative pattern of traffic in some services with what are common and essential methods of operation in many other private radio services.

26. In contrast, CMRA, EIA, and NABER express concern on behalf of business users. Their view is that frequency congestion in the business service will be intensified if telephone-type transmissions are permitted. But SIRSA argues that while dispatch-type traffic is perhaps the most prevalent form of communication in the private services, it does not follow that licensees have no significant need for "informational or conversational exchanges," venturing that not all land mobile radio service licensee's restrict their communications to dispatching. FIT agrees, stating that in the forest products radio service the messages transmitted are not just of the dispatch-type, but include many "essay" communications, like weather reports, location descriptions, descriptions of equipment breakdowns, and accident details. API views the matter in the same way, and others commenting on this point are in full accord.

27. The matter these parties stress is that message length and content are not necessarily a function of whether a particular radio system is interconnected or not. The type of message and its duration, they say, depend upon many factors, none of which are tied in any essential way to PSTN interconnection. We agree. Clearly an interconnected call may be shorter than one transmitted exclusively over the radio facilities of a licensee. Or it might be equal in length, or in some cases longer. This will vary, it would appear, depending upon the subject matter; upon what circuit discipline is being observed; and upon a host of other factors, just as these parties say.

28. In these circumstances, we are persuaded that if would be error to predicate our scheme of regulation on the premise that traffic over interconnected circuits has characteristics necessarily incompatible with dispatch radio communications. The parties show this is not necessarily so, and that the two methods of operation may and do work well and effectively together. Where frequency congestion obtains, restrictions on interconnection may be desirable; but we are convinced that the same rules need not apply to all classes of use and users and to all systems, and our plan of regulation has been formulated accordingly.

D. SPECTRUM IMPACT POTENTIALS

29. We further evaluated our regulatory plan in terms of the potentials for impact on the radio spectrum available in the private radio services. While it is conceivable that the availability of interconnection could stimulate the growth of private land mobile systems, there is no basis in the record of this proceeding or in our experience so far which would indicate that such increase would be so substantial as to have an adverse impact on the allocations of spectrum in the private services. Certainly the comments filed by representatives of licensees and users in the public safety, railroad, power, petroleum, and forest products and other of the older radio services indicate that this would not be the case. As to allocations available to licensees in these services, we conclude that interconnection will have no significant spectrum impact. On the other hand in those services where frequencies are used more intensively, a different approach appears to be in order. In this connection, we have taken into account the comments filed by CMRA, EIA, and NABER. These parties urge that interconnection be prohibited in the business radio service in the more densely populated urban centers. Their argument is based principally on frequency congestion considerations; and it does appear that in the business service the available radio channels below 512 MHz are so heavily used in the urban centers that the addition of interconnected service might not be accommodated reasonably. This seems to be a valid contention.

30. Giving weight to these views, we have adopted rules prohibiting interconnection in the bands below 800 MHz in the business service in areas where frequency congestion is present.[37] We also believe that like congestion is present in certain other services, too; and this has caused us to follow the same regulatory plan in the automobile emergency, special industrial, and taxicab radio services. In special emergency, a similar plan will be followed, but with the exception noted below.[38]

31. In this connection, we looked for a standard which would reasonably bring into balance congestion factors and the need and desirability for interconnected service. We have concluded that in the services mentioned, congestion basically follows population density patterns, and that if the right to interconnect in these services were limited to areas 75 miles or more from the centers of the most densely populated urbanized areas, the potential for adverse results would be eliminated. Accordingly, we have decided as an interim norm to permit interconnection in all services (except those in which it is prohibited entirely) in all bands below 800 MHz under all of the options provided by our rules when the base station site of the interconnected facility is at a distance of 75 miles or more

[35] *Carterfone*, 13 FCC 2d 420 (1968).
[36] *Interconnection notice*, para. 9.
[37] Sec. 89.951(c), app. B.
[38] Sec. 89.951(c), app. B.

from the centers of the 25 urbanized areas set out in the rules.[39]

32. Additionally, interconnection in the industrial radiolocation radio service will not be provided for, simply because it has no place in that service.[40] Further, in the general mobile radio service, we find, particularly in light of the explosive growth of GMRS systems in recent years and the limited number of frequencies available, that interconnection of GMRS facilities with the PSTN is not feasible. There were arguments for interconnection of personal use systems, but we do not see any practical way to accommodate a potentially large demand for such service with merely eight pairs of frequencies. Accordingly, we have decided to bar interconnection in this service.[41]

E. COMMUNICATION EFFICIENCY CONSIDERATIONS

33. Associated with the spectrum impact issue was the further question of whether interconnection would achieve or impede the efficient communications in the private services. The majority view was that interconnection will improve operating efficiencies, particularly where modern, automatic equipment is employed. In certain instances, it was pointed out, interconnected circuits eliminate the need to "relay" messages through a dispatcher, permitting direct communication with the person being instructed or querried, and allowing a continuity of thought not otherwise possible. Thus, interconnection provides an inherently quicker method of communicating and one in which the message is less likely being misunderstood. Overall, the opinion was that interconnection in contrast to possible alternatives improves the general efficiency of communications, especially in those cases in which equipment of advanced design is employed. We see no reason to disagree with these views.

F. MANUAL PATCH, OFF-HOURS, AND OTHER LIMITATIONS PROPOSED FOR INTERCONNECTED SYSTEMS

34. Our original plan required manual interconnection of all calls originating in the PSTN during normal business hours. This limitation was questioned, the parties arguing that it would serve no legitimate regulatory purpose and would impose operating restrictions on licensees which would impede effective and efficient radio operations.

35. In this connection, it was pointed out that the needs and requirements of all users are not identical, and that while manual interconnection techniques might work satisfactorily for some, they would lead to hardships for others. These considerations in mind, interested parties ask for adjustments in the plan to permit a greater degree of flexibility in permissible arrangements for interconnected service.

36. Similarly, arguments were made in opposition to the off-hours limitation. This permitted calls from the PSTN to be patched through automatically only during evening hours, over weekends, and on holidays. As to this limitation, it was said that it would not be feasible for all licensees to meet the condition and still use their facilities in a reasonable manner. In this regard, AAR contended that radio systems in the railroad radio service must operate 24 hours a day, 7 days a week, because railroads do not stop service at night, or on holidays and over weekends; and that automatic interconnect capabilities were required at all times on a uniform basis, not manually part of the time and automatically at others. Also, it was contended that the limit made little sense in police and other emergency operations, because it is based on the premise that interconnection is acceptable in automatic mode only during those times when radio circuits are not being heavily used, in theory during "off-hours." But in emergency-type operations (police, fire, and rescue), it was pointed out, there are no predictable "off-hour" periods. That, in fact, in the public safety services, peak traffic load periods generally do not fall between 7 a.m. and 5 p.m., rather, they come at night, over weekends, and on holidays, just the reverse of the time periods specified in the rule.

37. A further aspect of this argument on the restrictions embodied in the proposed rules was directed to the emphasis placed on system control through an operator positioned at a fixed control point. On this subject, it was contended that while proper "control" might be the "key to permissible arrangements," as we had said, this function could be performed as well by supervisory personnel in the field using equipment of proper design, and that there was little advantage to be gained, if any, in designing the rules to make "policing" responsibilities the duty of fixed control point operators. Often, these parties pointed out, such duties could be better and more effectively performed by employees of the licensee directly involved in communicating. AAR, APCO, N.W., and API, and other parties as well, share this view, stating that while our concern seemed to be to insure that unauthorized persons not have access to licensed transmitters and that private systems be used only in permissible ways for permissible purposes, such problems can be met through appropriate rules and through use of present technology, because devices are available which afford licensees effective means of security and of control over their systems, even when such supervisory functions are performed solely in the field by personnel at mobile stations.

38. Further on this point, it was stated that in certain types of systems, such as emergency medical operations, it is very important to permit "mobiles" to serve as control points. Thus, it is vital for medical personnel in emergency mobiles to be able to directly communicate with doctors and with hospital and other personnel serving as parts of the total emergency effort. Similar arguments were advanced in conjunction with planned Dial-A-Ride bus operations. These systems are to be operated under municipal or State auspices. Their function will be to provide transportation service to the public; and with trained personnel and properly designed equipment, there will be no need to retain the fixed control point requirement. These parties make convincing arguments in support of their position.

39. Based on these comments, it is evident that over the years important communication needs have evolved which do not necessarily involve dispatching from fixed transmitter control positions. Further, a variety of new equipment has been developed, and through technical innovation and inventiveness this equipment permits licensees flexibility in the way system control is exercised. Moreover, the comments make clear that the communication requirements of all classes of licensees are not identical, and that facilities meeting the needs of one licensee may be useless to others. In these circumstances, then, it seems that if at all possible the plan of regulation governing interconnection should afford users flexibility and versatility in system design, so they will be able to perfect their radio facilities in ways to meet their individual needs. Additionally, it is quite apparent to us that with modern equipment and technology, licensee control will not be lost where automatic interconnection is supervised either by a fixed control operator or field personnel. The comments, in fact, demonstrate that manual control at a fixed position is not necessarily more effective. Moreover, it appears that with state-of-the-art equipment, automatic systems can be designed to operate even more efficiently than manual ones in preventing cochannel interference. These factors in mind, we have decided to modify our approach and afford licensees in the private services the greater degree of flexibility asked for. But in doing so, we have been careful to allow only those options for operation which retain those elements essential for licensing in the private services.

[39] Sec. 89.951(c), app. B.
[40] Sec. 89.951(c), app. B.
[41] Sec. 95.3 and 95.68, app. B.

40. Specifically, following the announced philosophy, we have adoptive rules which permit systems to be operated in manual mode, with calls to and from the PSTN patched through manually by a control operator stationed at a fixed transmitter control point.[42] This follows the traditional approach and gives licensees a choice to interconnect in this fashion. Second, we will allow automatic interconnection under supervision by the licensee's control operator.[43] In both instances we have added express requirements for monitoring of all calls or transmissions, regardless of their point of origin, and our rules now carry the express requirement that the control operator must be assured that the system is being used in permissible ways; for permissible purposes; by persons having a need to communicate on the business of the licensee.[44] Also, we have adopted a new requirement making it mandatory to use devices to prevent cochannel interference in certain circumstances,[45] giving assurance that overall operating conditions will not be aggravated through interconnected usage. Finally, we have provided for automatic access to and from the PSTN. In doing so, we impose more stringent requirements to preserve operational control of authorized facilities.[46] We believe the communications requirements of licensees of private systems can be reasonably met with these options, and that our plan is now flexible enough to serve even those special and specifc requirements of the types brought out in the comments.

C. LIMITATIONS ON INTERCONNECTION IN TERMS OF FREQUENCY BANDS

41. In developing our rules as to permissible interconnection, we considered whether a different approach should apply in the several bands allocated to the private services. It was suggested that such arrangements be limited to bands in which channels are normally allocated in pairs, that is, in the 450-512-MHz and the 800-MHz bands. Duplex operation is feasible there and special equipment would not be needed to permit control by mobile station operators. However, many systems are licensed in the bands below 450 MHz, and the need for interconnected service in those bands is evident. Further, the record demonstrates that equipment is available for use in simplex systems which will permit full control from both mobiles and fixed positions. In these circumstances, we see no reason to limit interconnection in those bands on the basis of control considerations. However, we have adopted special requirements to assure such licensee control when the system is operated in simplex mode.[47] Therefore, in the bands below 800 MHz, except in the services and geographic areas previously identified, interconnection is to be permitted under the options set out at § 89.953 of the rules. There is one exception. Upon review of the plans for emergency medical we conclude there will be no problem with congestion in the 450-470-MHz band. Accordingly, special emergency, emergency-medical operating in this band may be interconnected under all options in all areas.[48]

42. As to the 800-MHz bands, the views of the parties conflict. EIA suggests that some form of interconnection may well be feasible even in urban areas in the business service. This follows from the fact that at 800 MHz there are loading criteria and channel spacing standards. NABER expresses a similar view, that is, at 800 MHz business licensees could interconnect their facilities without significant impact on the more conventional, base/mobile business operations.

43. In opposition, NARS argues that there is no way to logically reconcile permissive interconnection of 800 MHz private systems with the result reached in the proceeding in docket No. 18262. There, NARS says, it was decided that the need for "radiotelephone" service should be met through development of "cellular" systems; that 40 MHz of spectrum was set aside for this purpose; and that to maintain the integrity of the 800-MHz decision, no provision should be made for interconnected service for private systems in this band.

44. These arguments aside, we have determined to consider further the scope of interconnection of private radio systems in the 800-MHz bands and our decision on this matter will be announced in a further action in the near future.

45. In the interim, interconnection under existing rules at 800 MHz will be permitted. However, to make certain what arrangements will be allowed pending decision in this matter, we have clarified the provisions of § 89.653 which presently govern interconnection at 800 MHz.[49]

VI. LEGAL CONSIDERATIONS AND THE IMPACT ISSUES

46. Certain carrier interests (AARU, NARS, NARUC, and NPSC) question the legality of certain types of arrangements for equipment made by licensees in the private services. Their arguments are directed principally to sharing arrangements most common in the business service. This and related matters were debated at some length in the proceedings in docket No. 18262. There, a new class of eligible, the specialized mobile radio system entrepreneur (SMRS), was created to provide shared radio facilities for use by persons eligible in the public safety, industrial, and land transportation radio services; and the major thrust of the present allegations is that if interconnection of these of other shared systems is permitted, there will be no way to distinguish such arrangement from services provided by common carriers.

47. On this point, in *Carterfone*, supra, we held that members of the public may lawfully interconnect their private radio facilities with those of the telephone companies, where such interconnection is privately beneficial without being publicly detrimental. Subsequently, in docket No. 19528, we ruled that such interconnection may lawfully be accomplished without recourse to carrier-provided "connecting arrangements," provided the consumer facilities to be interconnected are properly registered or used with registered protective circuitry pursuant to part 68 of the FCC's rules. We find nothing in the record of this proceeding which would warrant or justify any change in these Carterfone-related policies. However, we want to be clear that in this proceeding we are not creating or imposing any new obligations on telephone carriers. Existing exchange, intrastate and interstate tariffs and existing FCC rules and policies will continue to govern such arrangements. Additionally, we will require that each subscriber make his (or her) own arrangements with the telephone carrier for exclusive telephone service pursuant to applicable tariffs. Nevertheless, we believe a substantial issue has been raised as to whether interconnection of shared common or multiply-licensed radio systems, where third parties provide the facilities or services, may constitute a form of common carriage or might raise resale or shared use of common carrier services issues. Accordingly, while we will authorize interconnection of such shared, common, or multiply-licensed systems at other than the location of the shared radio equipment (generally, at the licensee's or authorized user's principal office or place of business), we will defer adoption of new rules directed to interconnection which is accomplished at the location of the shared radio equipment pending resolution of the proper regulatory status of a number of similar third-party arrangements in a further action. Thus, the new rules would not provide for interconnection at a common location of

[42] Sec. 89.954(a), app. B.
[43] Sec. 89.954(b), app. B.
[44] Secs. 89.954 (a)(3) and (b)(2), app.B.
[45] Secs. 89.954(b)(3) and (c)(1), app. B.
[46] Sec. 89.954(c), app. B. 1
[47] Sec. 89.954(c)(3), app. B.
[48] Sec. 89.951(c), app. B.
[49] See sec. 89.653, app. B.

shared, common, or multiple licensed land mobile systems which are furnished by a third party. However, the new rules will apply to systems which are not shared and to systems which are shared by eligibles under cooperative, cost-sharing, nonprofit arrangements under which the costs are prorated on an equitable basis among the users and where third-party involvement is limited to the sale or lease of the equipment and to incidental maintenance. Under this approach, interconnection at a common location under the new rules would not be provided for such popular sharing arrangements where third parties are involved as the so-called community repeater arrangements.

48. We also inquired into the potential for impact on common carrier and private operations that might arise out of interconnection of private systems. The showing made under these issues by those opposing the notice plan was minimal and was based principally on speculation. Moreover, our plan does not permit interconnection on the broad basis suggested by NARS and other opponents. Therefore, the premises for some of their contentions are not well founded. Moreover, experience shows that carrier operations continue to grow in the face of parallel growth and development of private facilities. This has been so regardless of whether the private systems were shared, or interconnected, or both.

49. Further on the impact question, the wire line carriers express no absolute objection to the plan. A.T. & T. and GTE do suggest that stronger measures than those proposed be adopted to guard against possible inefficient use of the available radio channels and to assure that private sytems are employed in full accord with applicable regulations. But neither conclude that interconnection of private systems with wire line facilities, as such, will impact in a significant or substantial way on their offering of public telephone service.

50. Accordingly, we find no grounds for restricting interconnection on the basis of impact considerations. We foresee no adverse economic or business consequences either as to miscellaneous or wire line carriers or as to private radio system operations, and there is no evidence upon which to reach a different conclusion. As to automatic interconnected access to and from the PSTN, we reach the same conclusions. We find no public interest reasons for limiting such arrangements to manual systems and no adverse consequences in terms of economic impact.

V. Summary

A. Options for interconnected service

51. In summary, then, we find no bar in law or policy to cause us to bar interconnection in the private services. There are, in contrast, strong public interest considerations for allowing this method of operation, and we plan to permit it, but with the restrictions and limitations we have discussed.

52. Thus, under one option, the connection or patch may be made manually by a control operator at a fixed control point in the licensee's system of communication. When this method is employed, the rules require that the calls be directed to and be received by the control operator, and that this operator interconnect the private radio system with the public, switched, telephone network using a "manual switching device." Also, the control operator must monitor the circuit to assure that it is being used properly.

53. A second option would permit the use of automatic devices to accomplish the interconnection. This would be allowed where there was "supervision and control" by a control operator stationed at a fixed control point. In this case, the same requirements would apply as in the case of manual interconnection, except that the manual patch sequence would not be necessary. But the circuit would have to be monitored, and the control operator would have to have the means of overriding any physical connection accomplished through the use of the automatic interconnect devices. Further, we would require automatic channel monitoring equipment. This would be installed at the base station and would be employed to prevent interruption to ongoing communications of other licensees sharing the channel.

54. The third alternative allows calls to be automatically patched where system operation is supervised by mobile station operators. For this, special equipment would be required. First, equipment to monitor the channel to guard against interference to ongoing, cochannel traffic. Second, equipment to prevent operation of the base station to permit communications to flow between persons at the telephone positions and the licensee's employee operating mobile stations. In this arrangement, all calls will be limited to 3 minutes and a timer must also be used to close the system down in the event of malfunction.

B. Dial-up circuits

55. Under the plan, the use of "dial-up" circuits for transmitter control would be allowed. This is to be permitted where: (a) Each such dial-up operating position is licensed and equipped as a control point; and (b) circuitry is employed so that the licensee's transmitter may be accessed only from that control position, and so that the mobile units in the system may only reach these control points in the licensee's system of communication.

C. Interal systems

56. We have also provided for interfacing of internal systems of communication with licensed mobile radio systems. This will permit base station operation from points within the licensee's system, but our rules limit use of such facilities to the licensee and persons directly associated with the licensee. Further, technical safeguards must be employed to prevent interference to cochannel operations and to assure positive means of control by the licensee.

D. Paging operations

57. Finally, we have separated out paging operations from those pertaining to two-way communications, and separate regulations for paging have been devised. The new rules would permit licensees to "page" only from positions within a private PBX or other "internal" system and from licensed control points. General use of the public telephone system in private paging operations would not be allowed.

VI. Miscellaneous Matters

A. New subpart T

58. New subpart T is being added to part 89 and not reproduced as rule provisions in parts 91 and 93. This is being done in light of our planned revision of the rules to include those now set out in parts 89, 91, and 93 under the new subpart 90. However, it should be understood that the rules set out in subpart T are to apply to licensing of all systems of communication included under parts 89, 91, and 93. As to all existing systems, including those authorized under part 95, they are, for the present, to be governed and controlled by the rules and policies in force at the time they were authorized.

B. General accounting office requirements

59. Our new rules will require applicants and licensees to submit certain information and data in addition to that now furnished by them. This requirement, of course, is subject to approval by the General Accounting Office (GAO). Steps will be taken to obtain the necessary clearance. When GAO passes on this matter, a public notice will be issued. Until that time, applications for operation under the new rules may not be filed.

C. CONCLUSION

60. Accordingly, *it is ordered*, effective October 16, 1978, That parts 89, 91, 93, and 95 of the rules are amended as set forth below. The authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended.

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

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

NOTE.—Appendix A, "Parties filing comments and reply comments" has been deleted. For information, contact George Petrutsas, Safety and Special Bureau, Room 5120, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

Parts 89, 91, 93, and 95 of chapter 1 of title 47 of the Code of Federal Regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

1. In part 89, § 89.113 is deleted, and a new Subpart T is added to read as follows:

Subpart T—Regulations Governing Licensee Responsibility for Control of Authorized Radio Systems and the Use and Operation of Radio Systems Employing Special Design Configurations

GENERAL PROVISIONS RELATING TO TRANSMITTER CONTROL

Sec.
89.900 Responsibility of licensees for radio transmitters licensed for their use.
89.901 Direct and remote control of transmitters.
89.902 Transmitter control points.
89.903 Fixed tranmitter control points.
89.904 Specification of location of fixed transmitter control points.
89.905 Control of mobile transmitters.
89.906 Control of systems of communication.
89.907 Dispatch points.
89.908 Unattended operation.

OPERATION AND CONTROL OF RADIO SYSTEMS EMPLOYING SPECIAL DESIGN CONFIGURATIONS

INTERNAL SYSTEMS

89.925 Definition.
89.926 Points of operation in internal systems.
89.927 Operation of internal systems through licensed fixed control points.
89.928 Operation of internal systems in specially equipped systems.

INTERCONNECTED SYSTEMS

89.950 Definition.
89.951 Restrictions on interconnection of private radio systems in the 806-826 MHz and 851-866 MHz bands and in bands below 800 MHz.
89.952 Interconnection of private radio systems with the facilities of public telephone companies.
89.953 Permissible methods for interconnecting private and public systems of communication.
89.954 Special requirements pertaining to the methods of interconnection.

PAGING OPERATIONS

89.975 One-way paging operations in the 806-821 MHz and 851-866 MHz bands.
89.976 One-way paging operations in the bands below 512 MHz.

Subpart T—Regulations Governing Licensee Responsibility for Control of Authorized Radio Systems and the Use and Operation of Radio Systems Employing Special Design Configurations

GENERAL PROVISIONS RELATING TO TRANSMITTER CONTROL

§ 89.900 Responsibility of licensees for radio transmitters licensed for their use.

(a) Licensees of radio stations in the private land mobile radio services shall be directly responsible for the proper operation and use of each transmitter for which they are licensed. In this connection, licensees shall exercise such direction and control as is necessary to assure that all authorized facilities are employed.

(1) Only for permissible purposes;

(2) Only in a permissible manner; and

(3) Only by persons with authority to use and operate such equipment.

(b) In carrying out their responsibilities under § 89.900(a), licensees shall be bound by the provisions of the Communications Act of 1934, as amended, and by the rules and regulations of the Commission governing the radio service in which their facilties are licensed; and licensees may not, through written or oral agreements or otherwise, relieve themselves of any duty or obligation imposed upon them, by law, as licensees.

§ 89.901 Direct and remote control of transmitters.

(a) *In general.* Radio transmitters may be operated and controlled directly (as when the operating position for the transmitter and the transmitter being operated are at the same location), or remotely (as when the transmitter being operated and the position from which it is being operated are at different locations).

(b) *Control of transmitters at remote locations.* Radio transmitters at remote locations may be operated and controlled through the use of wire line or radio links; or through dial-up circuits, as provided in subparagraph (c) of this section. Such control links or circuits may be either those of the licensee or they may be provided by common carriers authorized by law to furnish such service.

(c) *Dial-up circuits.* Dial-up circuits may be provided by wire line telephone companies under appropriate tariffs, and they may be used by licensees for purposes of transmitter control, *Provided:*

(1) The dail-up circuits serve only to link licensed transmitter control points and the transmitters being controlled;

(2) The dial-up circuits are so designed that the transmitters being controlled cannot be operated from any fixed position other than the licensed control points for those transmitters;

(3) Equipment used to provide the transmitter/dial-up-circuit interface is designed to preclude associated mobile units of the licensee from reaching any point(s) served by the wire line telephone facilities other than the control point(s) of the station(s) controlled; and

(4) Any direct electrical connection to the telephone network shall comply with applicable tariffs and with part 68 of the Commission's rules.

NOTE.—Dial-up, transmitter control circuits may not be employed in any system of communication which is interconnected with the public, switched, telephone network within the meaning of §§ 89.950 through 89.954.

§ 89.902 Transmitter control points.

(a) A transmitter control point is defined broadly as an operating position at which a control operator is stationed.

(b) A control operator is any person designated by the licensee to exercise supervision and control over the operation and use of the licensee's facilities. The control operator may be the licensee, himself; or an employee of the licensee; or the agent of the licensee, appointed by the licensee to act as the control operator; or a third-party contractor, engaged by the licensee to serve as the control operator: *Provided, however,* In no case, through appointment or designation of any person to serve as control operator may the licensee delegate any of the duties and responsibilities the licensee may have in his capacity as licensee.

(c) Each station or licensed system of communication shall normally have a control point, or control points, at which the control operator or operators are stationed and at or from which the licensee may exercise supervision and control over the authorized facilities, as required by the provisions of § 89.901: *Provided, however,* Control point requirements may vary from one system to another, depending upon the nature of the radio operation; the way and by whom the facilities are employed; and other factors, as set out

in other rule sections under this subpart.

§ 89.903 Fixed transmitter control points.

(a) A transmitter control point may be located at a fixed position in a system of communication at or from which the control operator exercises supervision and control over the operation and use of the licensed facilities.

(b) Each fixed transmitter control point shall have equipment and facilities to permit the control operator:

(1) To determine when the transmitter or transmitters controlled are either radiating "RF" energy, or when the transmitter circuits have been placed in a condition to produce such radiation.

NOTE.—This may be accomplished either through the use of a carrier operated device which provides a visual indication when the transmitter(s) are radiating or a pilot lamp or meter which provides a visual indication when the transmitter circuits have been placed in a condition to produce radiation. Further, where a local transmitter is used to activate a remote transmitter or transmitters in the licensee's system of communication, a single pilot lamp or meter may be employed to indicate the activation of both the local and the remote transmitter(s).

(2) To turn the carrier of the transmitter on and off at will, or to close the system down completely, when circumstances warrant such action.

(c) Where the licensee's transmitting facilities may be operated from dispatch points, the fixed control point shall have equipment to permit the control operator:

(1) To aurally monitor all transmissions originating at those dispatch points which are under the supervision of the control operator; and

(2) To either disconnect the dispatch point circuits from the transmitter(s) or to render the transmitter(s) inoperative from any dispatch point being supervised.

(d) Where the system is interconnected with public communication facilities, as provided at §§ 89.950 through 89.954, and where those rules so require, the fixed control point shall be equipped to permit the control operator:

(1) To monitor cochannel facilities of other licensees sharing an assigned channel or channels with the licensee in the licensee's area of operation; and

(2) To either terminate any transmissions or communication(s) between points in the public communication system and points in the private system of communication.

§ 89.904 Specification of location of fixed transmitter control points.

(a) In urban areas, the location of fixed transmitter control points will be specified, "same as transmitter," unless the control point is at a street address which is different from that of the transmitter(s) controlled.

(b) In rural areas, the location of fixed transmitter control points will be specified, "same as transmitter," unless the control point is more than 500 feet from the transmitter(s) controlled. In the latter case, the approximate location of the control point will be specified in distance and direction from the transmitter(s) controlled in terms of feet and geopgraphical quadrant, respectively.

(c) It will be assumed that the location of a fixed control point is the same as the location of the transmitter(s) controlled, unless the applicant includes a request for a different location described in appropriate terms as indicated in subparagraphs (a) and (b) of this section.

(d) Authority must be obtained from the Commission for the installation of additional fixed control points, and until such authority is granted, transmitters may not be controlled from such points.

§ 89.905 Control of mobile transmitters.

(a) Mobile transmitters shall be assumed to be under the immediate control of the mobile operator: *Provided, however,* Overall supervision and control of the operation and use of a communication system may be the responsibility of a fixed control point operator.

(b) In general, mobile transmitters shall be equipped to permit the operator to determine when they are radiating "RF" energy or when the transmitter circuits have been placed in a condition to produce such radiation. This may be accomplished either through the use of a carrier operated device or of a pilot lamp or meter which will provide a visual indication when the transmitter is radiating or has been placed in a condition to produce radiation.

(c) Hand-carried or pack-carried transmitters and transmitters installed on motorcycles need not be equipped as provided at subparagraph (b) of this section.

§ 89.906 Control of systems of communication.

(a) Depending on design considerations, control of a system of communication may be exercised in varying ways. In general, in simplex, base/mobile operations, control may be exercised by the control operator at the fixed control point. In mobile relay systems, where there is an associated control point or control station, control may be exercised by the operator at the control point or control station. In mobile only systems, control may be exercised by the mobile operator; however, in communication systems involving multiple base stations, or fixed relays, or repeaters, control of the system may result from a combination of factors and considerations, including control by a fixed control point operator at some point within the system of communication or control by the mobile station operator of the licensee.

(b) In internal systems, as defined at § 89.925, control may be maintained by conforming the system to the requirements of §§ 89.926 through 89.928.

(c) In interconnected systems, as defined at § 89.950, control may be maintained by conforming operation and system design to that permitted at §§ 89.951 through 89.954.

(d) In paging operations, as provided for at § 89.975 et seq., system and operating control may be effected through meeting the conditions and limitations set out at § 89.976.

(e) In mobile relay, fixed relay, repeater, and mobile repeater operations, control, in part, is maintained by meeting the respective requirements of §§ 89.12, 91.7, 93.10, or 93.355 of the rules, whichever is applicable in the circumstances at hand.

§ 89.907 Dispatch points.

(a) A dispatch point is any operating position within a system of communication which is controlled and supervised by a control operator at a fixed control point within the system.

(b) A dispatch point may be linked to the transmitter(s) being operated by private or leased wire line of fixed radio circuits, provided the requirements of § 89.903 (a), (b), and (c) are met.

(c) No telephone position in the public, switched, telephone network will be treated as a dispatch point within the meaning or intent of this section.

(d) Operation of transmitting facilities from dispatch points is permitted only when the control operator at a fixed control point in the system is on duty and at no other time.

(e) Dispatch points meeting the requirements of this section need not be specifically authorized: *Provided, however,* That the licensee of any radio station operated from a dispatch point or points shall assume full responsibility for the use and operation of the authorized facilities in compliance with all applicable provisions of law or rule.

§ 89.908 Unattended operation.

(a) Subject to the provisions of §§ 89.12, 91.7, 93.10, and 93.355, mobile relay, fixed relay, repeater, and mobile repeater stations are authorized for unattended operation; and the transmitter control point requirements set out at §§ 89.902 through 89.906 shall not apply directly.

(b) Self-activated transmitters may be authorized for unattended operation where they are activated by either electrical or mechanical devices: *Provided,* The licensee adopts reasonable means to guard against malfunctions and harmful interference to other users.

OPERATION AND CONTROL OF RADIO SYSTEMS EMPLOYING SPECIAL DESIGN CONFIGURATIONS

INTERNAL SYSTEMS

§ 89.925 Definition.

An internal system of communication is one in which all messages or traffic are transmitted between fixed operating positions located on or at premises owned or controlled by the licensee and associated mobile stations or paging receivers of the licensee.

§ 89.926 Points of operation in internal systems.

The transmitting facilities of the licensee may be operated from fixed positions which are located on or at premises owned or controlled by the licensee. The fixed position may be part of a private telephone exchange or it may be any position in a closed or limited access communication facility designed and used by employees of the licensee for internal communication purposes. Operating positions in internal systems are not synonymous with dispatch points (see § 89.907) nor with telephone positions which are part of the public, switched, telephone network; and the scheme of regulation is to be considered and treated as being different. See §§ 89.950 through 89.954.

§ 89.927 Operation of internal systems through licensed fixed control points.

An internal system may be operated under the control and supervision of a control operator stationed at a fixed control point in the system. In such case, the control point must be equipped to permit the control operator to monitor all traffic to and from fixed positions and mobile stations or paging units of the licensee; and the system must be so designed to permit the control operator to either disconnect any operating position in the internal system from the transmitter control circuit or to close the system down entirely at will.

§ 89.928 Operation of internal systems in specially equipped systems.

(a) An internal system need not be designed to meet the requirements of § 89.927. As an alternative, the licensee may meet the following requirements:

(1) All operating positions must be located at or on premises owned or controlled by the licensee.

(2) Dial-up circuits (in the public, switched, telephone network) may not be employed for transmitter control; and the radio system must be so designed that it may not be accessed from telephone positions within the public, switched, telephone network.

(3) The system must be designed so that upon completion of a call or transmission, the base station transmitter(s) will close down automatically within 3 seconds.

(4) To guard against malfunctions, the system must also be designed so that the base station(s) will be deactivated by an automatic timing device when a modulated signal is not transmitted for a period of three (3) consecutive minutes.

(5) The system must include automatic monitoring equipment, installed at the base station transmitter site(s), which will prevent the activation of the system when signals of other cochannel stations are present.

INTERCONNECTED SYSTEMS

§ 89.950 Definition.

Interconnection is defined as the connection, either through automatic or manual means, of private systems of radio communication with the facilities of the public, switched, telephone network to permit the transmission of messages or signals between points in the public, telephone network and persons or points served by the private radio system. This definition and the associated rules governing interconnection shall apply to all systems licensed in the part 89, Public Safety Services; the part 91, Industrial Radio Services; and the part 93, Land Transportation Radio Services, except as expressly noted in the rules under this subpart.

NOTE.—Wire line or radio links furnished by common carriers and used by licensees for transmitter control, including dial-up circuits, are not included within the definition of interconnected systems. Such facilities are treated as separate and distinct from interconnected systems; and they are regulated under the provisions of § 89.901.

§ 89.951 Restrictions on and requirements as to interconnection of private radio systems.

(a) As an interim measure, pending further decision in docket No. 20846, interconnection of private radio systems licensed in the 806–821 MHz and 851–866 MHz bands will be permitted only in accordance with provisions of § 89.653 of part 89.

(b) Interconnection of facilities in the part 91, Industrial Radiolocation Radio Service is not permitted.

(c) In the bands below 800 MHz, interconnection of facilities licensed in the part 89, Special Emergency Radio Service; the part 91, Business and Special Industrial Radio Services; and the part 93, Automobile Emergency and Taxicab Radio Services will be permitted only where the base station site or sites of proposed stations are located 75 miles or more from the designated centers of the following urbanized areas; *Provided,* This limitation shall not apply to medical emergency systems licensed in the special emergency radio service in the 450–470 MHz bands.

Urbanized area	North latitude	West longitude
New York, N.Y.-northeastern New Jersey	40°45'06"	73°59'39"
Los Angeles-Long Beach, Calif	34°03'15"	118°14'28"
Chicago, Ill	41°52'28"	87°38'22"
Philadelphia, Pa.-New Jersey	39°56'58"	75°09'21"
Detroit, Mich	42°19'48"	83°02'57"
San Francisco-Oakland, Calif	37°46'39"	122°24'40"
Boston, Mass	42°21'24"	71°03'25"
Washington, D.C.-Maryland-Virginia	38°53'51"	77°00'33"
Cleveland, Ohio	41°29'51"	81°41'50"
St. Louis, Mo.-Illinois	38°37'45"	90°12'22"
Pittsburgh, Pa	40°26'19"	80°00'00"
Minneapolis-St. Paul, Minn	44°58'57"	93°15'43"
Houston, Tex	29°45'26"	95°21'37"
Baltimore, Md	39°17'26"	76°36'45"
Dallas, Tex	32°47'09"	96°47'37"
Milwaukee, Wis	43°02'19"	87°54'15"
Seattle-Everett, Wash	47°36'32"	122°20'12"
Miami, Fla	25°46'37"	80°11'32"
San Diego, Calif	32°42'53"	117°09'21"
Atlanta, Ga	33°45'10"	84°23'37"
Cincinnati, Ohio-Kentucky	39°06'07"	84°30'35"
Kansas City, Mo.-Kansas	39°04'56"	94°35'20"
Buffalo, N.Y	42°52'52"	78°52'21"
Denver, Colo	39°44'58"	104°59'22"
San Jose, Calif	37°20'16"	121°53'24"

(d) Additional frequency or frequencies shall not be assigned to enable any licensee to employ any preferred method of interconnection, such as the use of full or half duplex (in contrast to simplex) operating methodologies.

(e) All applications for new stations to be interconnected with the facilities of wire line common carriers shall include a complete description of the equipment, devices and techniques to be used to accomplish interconnection to show compliance with applicable provisions of the rules included in this subpart. The Commission expressly reserves the right to request additional information should that initially submitted by the applicant prove insufficient to permit proper processing of the tendered proposal.

(f) The rules governing interconnection included in this subpart shall be controlling as to proposals filed for new facilities on the day following the effective date of this subpart, October 16, 1978. Licensees of existing systems shall bring their facilities into compliance with the provisions of this subpart by January 1, 1984.

§ 89.952 Interconnection of radio systems with the facilities of telephone companies.

Subject to the limitations set out at § 89.951, stations authorized under parts 89, 91, or 93 of this chapter may

be interconnected with facilities of common carriers, subject to applicable tariffs. Such arrangements must be made by the licensee or the user of the radio facility directly with the common carrier or carriers involved, in accordance with applicable tariffs.

§ 89.953 Permissible methods of interconnecting private and public systems of communications.

Subject to the requirements of § 89.954, interconnection may be accomplished either manually; by a control operator stationed at a fixed control point; or automatically, under supervision of a control operator stationed at a fixed control point; or automatically, not under supervision of a control operator at a fixed control point, but meeting the conditions set out at § 89.954. *Provided, however,* That until further action in docket 20846, shared, common, or multiple-licensed radio systems, where the facilities are provided by third parties, may not be interconnected under these rules at the location of the shared or common radio facility or at any other common location. However, interconnection may be accomplished under these rules at common locations where systems are not shared, or where systems are shared by eligibles under a cooperative, cost-sharing, nonprofit arrangement, with the costs prorated on an equitable basis among the users, and where third party involvement is limited to the sale or lease of the equipment and to incidental maintenance. Interconnection at a common location under these rules is not permitted for such popular sharing arrangements where third parties are involved as the so-called community repeater arrangements. *Provided further,* That any direct electrical connection to the telephone network shall comply with applicable tariffs and with part 68 of the Commission's rules.

§ 89.954 Special requirements pertaining to the methods of interconnection.

(a) Where the system is interconnected manually, all calls or transmissions, regardless of their point of origin, must be:

(1) Directed to, and received and processed by, a control operator stationed at a fixed control point in the licensee's system of communication;

(2) Manually patched through initially by the control point operator using some form of manual switching device or circuitry; and,

(3) Monitored by the control operator to assure that the message or transmission is permissible and that the system is used for purposes and in ways consistent with the service in which the licensee's system of communication is authorized.

(b) Where the system is interconnected automatically, but under supervision by the licensee's control operator, the following conditions must be met:

(1) The control operator must be stationed at a fixed control point in the licensee's system of communication.

(2) All calls or transmissions, regardless of their point of origin, must be monitored by the control operator to assure that the licensed system is being used in permissible ways; for permissible purposes; by persons having a need to communicate on the business of the licensee or in carrying out functions or activities of the licensee.

(3) The system must include automatic monitoring equipment, installed at the base station transmitter site(s), which will prevent the activation of the system when signals of other co-channel stations are present.

(c) Where the system is interconnected automatically, but is not under supervision by the licensee's control operator, as in subparagraph(b), above, the following conditions must be met:

(1) The system shall include automatic monitoring equipment, installed at the base station transmitter site(s), which will prevent the activation of the system when signals of other co-channel stations are present.

(2) The system shall be so designed that initial access to it from points within the public, switched telephone network will result solely in the transmission of an alerting signal. The alerting signal shall not exceed three (3) seconds in duration after which the base station transmitter(s) shall close down. Further transmissions of signals over the licensee's system shall not take place until it is activated by an acknowledgement signal from a mobile station of the licensee.

(3) The operator of the mobile station must have the ability to control the system in accordance with the following criteria:

(i) Where duplex capability is provided at the base station(s), the mobile operator must have the ability to terminate communications from points within the public, switched, telephone network at will; and the mobile equipment must be designed to permit this.

(ii) Where simplex operation is employed, equipment shall be installed at the base station(s) which will limit any single transmission from within the public, switched, telephone network to 30 seconds and which, in turn, will activate the base station receiver(s) which will monitor the operating frequency for a period of not less than 3 seconds. The mobile station shall be so equipped to permit the mobile operator to terminate communications during the three (3) second monitoring period, if such termination is necessary.

(4) A timer shall be installed at the base station transmitter(s) which will limit communications to three (3) minutes. After the three (3) minutes, the system shall close down, with all circuits between the base station and the public, switched, telephone network disconnected.

PAGING OPERATIONS

§ 89.975 One-way paging operations in the 806–821 MHz and 851–866 MHz bands.

Except as provided at § 89.655(c) of the rules, systems of communication licensed in the 806–821 MHz and 851–866 MHz bands may not be employed for either tone only or tone and voice paging operations.

§ 89.976 One-way paging operations in the bands below 512 MHz.

(a) Subject to specific prohibition or restriction by rule provisions governing the radio service in which a licensee's radio system is authorized, tone only and tone and voice paging operations are permitted:

(1) Where the signals and messages are transmitted by a control operator of the licensee stationed at a licensed control point in the licensee's system of communication.

(2) Where the signals and messages are transmitted from an operating position within an internal system of communication which meets the tests of §§ 89.925 through 89.928 of the rules.

(3) Where the signals and messages are transmitted from a dispatch point within the licensee's system of communication, as defined at and subject to the limitations set out at § 89.907.

(b) Systems employing dial-up circuits (§ 89.901(c)) may be used in one-way paging operations, but only where the paging signals are transmitted as provided at subparagraph (a)(1) of this section.

(c) Paging signals, as such, may not be transmitted from telephone positions in the public, switched, telephone network, notwithstanding the fact that the radio system employed may be interconnected with the public telephone network and meet the conditions set out at §§ 89.950–89.954: *Provided, however:* Signaling employed to initiate or maintain communications in an interconnected system or to alert a mobile unit that it is being called, or for any like purpose, except for one-way paging signaling as such, are permissible and are not excluded by the provision of this section.

2. Section 89.653 is amended to read as follows:

§ 89.653 Restriction on interconnection.

Radio systems licensed under this subpart may be interconnected with wire line facilities of any telephone company: *Provided, however,* Such interconnection is accomplished at a control point or control station, which is situated at a fixed location (not in a mobile unit), licensed to the user, where a person directly responsible for the operation of the base station or stations is on duty, and where all of the applicable requirements set out at §§ 89.900 through 89.908 are met. Such interconnection may not be accomplished at the base station site or sites; nor may it be accomplished at any location other than the licensee's principal office or place of business. This shall be construed to bar interconnection at a common location, used for dispatching or for control, by the licensee together with other licensees or users, such as, a telephone answering service: *Provided further, however,* This provision shall not be interpreted to preclude common dispatching from such a location nor the relaying of messages through to mobiles of the licensee by such a dispatcher.

PART 91—INDUSTRIAL RADIO SERVICES

1. Section 91.107 is amended to read as follows:

§ 91.107 Transmitter control requirements.

The requirements for transmitter control for facilities licensed under this part are set out at §§ 89.900 through 89.908 of subpart T of part 89.

PART 93—LAND TRANSPORTATION RADIO SERVICES

1. Section 93.107 is amended to read as follows:

§ 93.107 Transmitter control requirements.

The requirements for transmitter control for facilities licensed under this part are set out at §§ 89.900 through 89.908 of subpart T of part 89.

PART 95—PERSONAL RADIO SERVICES

1. Section 95.3(b) is amended to add a new definition of interconnection as follows:

§ 95.3 Definitions.

* * * * *

(b) * * *

Harmful interference. Any emission, radiation, or induction which endangers the functioning of a radio-navigation service or other safety service or seriously degrades, obstructs, or repeatedly interrupts a radio-communication service operating in accordance with applicable laws, treaties, and regulations.

Interconnection. The connection of any facility of a general mobile radio service station to the facilities of a wire line common carrier (i.e., the public switched telephone network).

Manmade structure. A manmade structure is any construction other than a tower, mast, or pole.

* * * * *

2. A new § 95.68 is added as follows:

§ 95.68 Telephone interconnection.

Interconnection is prohibited in the general mobile radio service. This provision shall not be construed to preclude the use of telephone circuits for purposes of transmitter control.

NOTE.—Notwithstanding the provisions of § 95.68, any station licensed in the general mobile radio service prior to October 16, 1978, may be interconnected with the facilities of a wire line common carrier until the end of the current license term if:

(1) The interconnection is not of facilities which are licensed to more than one person or are shared by more than one user; or

(2)(a) The interconnection is of facilities which are shared by more than one user; and

(b) Such interconnection is accomplished manually by employees of each licensee or user at his office or place of business.

[FR Doc. 78-24195 Filed 8-25-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1334]

PART 1033—CAR SERVICE

RICHMOND, FREDERICKSBURG & POTOMAC RAILROAD CO. AUTHORIZED TO OPERATE OVER TRACKS FORMERLY OPERATED BY VIRGINIA CENTRAL RAILWAY

AUGUST 23, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (service order No. 1334).

SUMMARY: The Virginia Central Railway has been forced to discontinue operations because of a lack of operating funds, thus leaving numerous shippers without essential railroad service. Service order No. 1334 authorizes the Richmond, Fredericksburg & Potomac Railroad Co. to operate over tracks formerly operated by the Virginia Central Railway in order to restore railroad service to these shippers.

DATES: Effective 8 a.m., August 23, 1978. Expires 11:59 p.m., February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Virginia Central Railway (VC) is unable to transport traffic offered to it because of lack of operating funds and has discontinued operations. The cessation of operations by the VC has deprived numerous shippers of essential railroad service and will result in the closing of certain industries, reduce employment, and cause serious economic hardship in the area served by the VC. The Richmond, Fredericksburg & Potomac Railroad Co. (RFP) has consented to operate over tracks formerly operated by VC subject to terms and conditions mutually agreed upon between the parties. The VC has consented to use of its tracks by the RFP. It is the opinion of the Commission that operation by the RFP over the aforementioned tracks of the VC is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered:

§ 1033.1334 Service order No. 1334.

(a) *Richmond, Fredericksburg & Potomac Railroad Co. authorized to operate over tracks formerly operated by Virginia Central Railway.* The Richmond, Fredericksburg & Potomac Railroad Co. (RFP) is authorized to operate over tracks formerly operated by the Virginia Central Railway (VC) subject to such terms and conditions as have been mutually agreed to by the RFP and the VC.

(b) As compensation for its service in transporting cars over the tracks of the VC, the RFP shall assess and collect and retain all lawful transportation and accessorial charges due under the applicable tariffs of the VC, until tariffs providing rates and charges applicable via the RFP become effective.

(c) *Rates applicable.* Inasmuch as this operation by the RFP over tracks formerly operated by the VC is deemed to be due to carrier's disability, the rates applicable to traffic moved by the RFP over the tracks formerly operated by the VC shall be the

rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(e) *Effective date.* This order shall become effective at 8 a.m., August 23, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1979.

(49 U.S.C. 1(10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Robert S. Turkington not participating.

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

[FR Doc. 78-24176 Filed 8-25-78; 8:45 am]

[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC-98]

PART 1051—INFORMATION REQUIRED ON RECEIPTS AND BILLS

PART 1104—PROCEDURES TO BE FOLLOWED IN MOTOR CARRIER REVENUE PROCEEDINGS

SUBCHAPTER D—TARIFFS AND SCHEDULES

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATION OF MOTOR CARRIERS

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

New Procedures in Motor Carrier Restructuring Proceedings, Notice of Stay

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; stay of effective date.

SUMMARY: The effective date of the rules adopted in this proceeding and published in the April 7, 1978 FEDERAL REGISTER (43 FR 14670-14671) has been stayed. The reason for the stay is the possibility of revision in response to comments by the public now before us.

DATE: This stay is effective from August 18, 1978 until further notice.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693.

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

[FR Doc. 78-24129 Filed 8-25-78; 8:45 am]

[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC-111]

PART 1132—TRANSFER OF OPERATING RIGHTS

Final regulation concerning the cessation of operations by the transferor under the Motor Carrier Transfer Rules.

AGENCY: Interstate Commerce Commission.

ACTION: Final regulation.

SUMMARY: This document amends the regulations in part 1132 by deleting paragraph (b) from § 1132.5 which concerns the motor carrier transfer rule relating to cessation of operations. In response to the comments received, the Commission decided that it would be in the public interest if § 1132.5(b) were eliminated as there is a clear relationship between the elimination of the rule and the regulatory scheme of section 212(b) of the Interstate Commerce Act.

EFFECTIVE DATE: August 16, 1978.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, Assistant Deputy Director, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7564.

SUPPLEMENTARY INFORMATION: The transfer rule governing cessation of operations which is being deleted by this notice was published in the October 25, 1977 issue of the FEDERAL REGISTER (42 FR 56333). When we adopted the former rule we dispensed with the notice and comment procedure pursuant to 5 U.S.C 553(b)(3)(B). However, as a matter of discretion we allowed comments. As a result of those comments, we have deleted the new rule adopted in the prior notice.

APPENDIX A

Parties who filed comments in this proceeding.
Herbert M. Canter
Thomas R. Kingsley
Alleghany Corp. d.b.a. Jones Motor
Jones Transfer Co.
Kenneth F. Dudley
Frank J. Weiner
Chemical Leaman Tank Lines, Inc.
Pilot Freight Carriers, Inc.

APPENDIX B

49 CFR 1132.5(b) is deleted in its entirety.

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

[FR Doc. 78-24291 Filed 8-25-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Opening of Bombay Hook National Wildlife Refuge, Delaware, to hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1978 through March 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Don Perkuchin, Bombay Hook National Wildlife Refuge, R.D. No. 1, Box 147, Smyrna, Del. 19977, telephone, 302-653-9345.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots is permitted on areas designated by signs as open to hunting including the South Waterfowlers Hunting Area, the West Waterfowl Hunting Area, the Young Waterfowlers Area, and the South Upland Hunting Area.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of ducks, geese, and

coots subject to the following special conditions:

1. Hunting is permitted on the West Waterfowl Hunting Area from one-half hour before sunrise to 12 noon local standard time, Tuesdays, Thursdays, and Saturdays (except November 11) during the goose season.

2. Hunting in the South and West Waterfowl Areas and Young Waterfowlers Area shall be only from existing numbered blinds. The possession of an uncased gun or shooting while outside of a blind is prohibited on these areas except when in active pursuit of crippled waterfowl. In such cases the hunter may fire at only the crippled bird.

3. Hunting is permitted in the South Waterfowl Hunting Area only on Monday, Wednesday, Friday, and Saturday, during the State duck season.

4. The necessary permit to enter the South Waterfowl Hunting Area will be issued each hunting day by a ticket-lottery system at one and one-half hours before legal shooting time at the checking station at Port Mahon. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis. Permits will be surrendered at the checking station within one-half hour after sunset. The necessary permit to enter the West Waterfowl Hunting Area may be obtained by applying to the refuge manager for advance reservation. The permits for advance reservations will be cancelled if the holder is not present one hour prior to the start of legal shooting time on the date of his reservation. These forfeited permits and permits not reserved by advance reservation will be awarded to other hunters by lottery on the morning of the hunt. All hunters will check out through the headquarters checking station prior to leaving the refuge.

5. Each hunting permittee using the West Waterfowl Hunting Area will pay a recreation fee of $10 prior to entrance into the hunting area. A recreation fee of $2 per hunter will be charged on the South Waterfowl Hunting Area prior to entrance into the hunting area. Nonambulatory individuals using the Young Waterfowl Hunting Area will pay a recreation fee of $10 per blind prior to entrance into the hunting area.

6. Not more than four persons may occupy a blind at any one time on the West Waterfowl Hunting Area nor more than three on the South Waterfowl Hunting Area.

7. The Young Waterfowlers Area will be open from one-half hour before sunrise to 12 noon local standard time on Saturdays and holidays to young hunters who present evidence of having completed the prescribed training program. Two youths, accompanied by an instructor who may not possess ammunition or possess or discharge a firearm, may use one blind. Two blinds within the Young Waterfowlers Area will also be utilized on Tuesdays by nonambulatory individuals. These individuals will be selected in cooperation with the Delaware Division of Vocational Rehabilitation. Two hunters accompanied by an assistant who may not possess ammunition or possess or discharge a firearm may use each blind.

8. Hunters on all four areas are required to use steel shotshells in 12-gauge shotguns. Hunters using 12-gauge shotguns may not have in their possession lead shotshells. Lead shotshells may be used in shotguns other than 12-gauge. No hunter may have in his possession or use in one day more than 12 shells on the West Waterfowl Hunting Area or 15 shells on the Young Waterfowlers Hunting Area.

9. Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

Public hunting of rails and gallinules, mourning doves, woodcock, crows, and common snipe on the 169 acre South Upland Hunting Area is permitted during the regular State seasons.

Hunting shall be in accordance with all Federal and State regulations covering the hunting of rails and gallinules, mourning doves, woodcock and common snipe.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game on the 169 acre South Upland Hunting Area is permitted during the regular State season in accordance with all Federal and State regulations covering upland game hunting.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on designated areas. Hunting shall be in accordance with all State regulations subject to the following special conditions:

1. Season: (a) Archery—Hunting by bow and arrow on the regular deer hunting area is permitted on the first four Saturdays of the season from September 16 through October 7. Hunting by bow and arrow on the South Upland Hunting Area is permitted during the entire season.

(b) Shotgun—Hunting with shotguns on the regular deer hunting area is permitted only on November 10, 11, 13, and 15, 1978. Hunting with shotguns on the South Upland Hunting Area is permitted during the entire State season. Hunting with shotguns by nonambulatory individuals on the special deer hunting area is permitted on November 13, and 17, 1978.

(c) Primitive firearms—Hunting with primitive firearms on the regular deer hunting area is permitted on October 13 and 14, 1978. Hunting with primitive firearms on the South Upland Hunting Area is permitted during the entire State season.

2. Hunter qualification requirements: All deer hunters are required to show proof of completion of hunter qualification test and possess a valid hunter qualification card. Qualification tests are required every three years to maintain a valid card. Tests must be completed and passed with the weapon which the individual uses during the hunt. Qualification requirements for each weapon are as follows:

(a) Archery—The hunter must place three out of five arrows in the 9x14 inch chest area of standard size deer target at 25 yards.

(b) Shotgun—The hunter must place three consecutive slugs in a 12-inch circle at 30 yards from the standing position.

(c) Primitive firearms—The hunter must place three consecutive rounds in a 12-inch circle at 50 yards, firing from the offhand position.

3. Permit requirements: All deer hunters, regardless of type of weapon, are required to obtain a daily permit prior to hunting on the regular deer hunting area. Daily permits are not required on the South Upland Area. Procedures for obtaining daily permits are as follows:

(a) Archery permits are issued at the Dutch Neck Gate Refuge entrance on a first-come, first-served basis one hour before shooting time on the days of the hunt. The maximum number of hunters admitted to the regular deer hunting area at any one time will be 80.

(b) Shotgun permits are obtained by applying to the refuge manager in writing for an advance reservation. Successful applicants are selected by public lottery. Individuals who have been selected for advance reservation must appear at refuge headquarters prior to one hour before legal shooting time on the day of the hunt to be issued a permit. Failure to appear will result in forfeiture of the reservation. Forfeited permits and permits not reserved by advance reservations will be awarded to standby hunters by lottery one hour before the start of legal shooting time. The maximum of hunters admitted to the regular deer hunting area at any one time will be 50.

Shotgun hunters utilizing the special deer hunting area will be restricted to non-ambulatory individuals as selected in cooperation with the Delaware Division of Vocational Rehabilitation. The maximum number of hunters admitted to the special deer hunting area at one time will be ten.

(c) Primitive weapon-permits are issued at the Dutch Neck Gate Refuge entrance on a first-come, first-served basis one hour before shooting time on the days of the hunt. The maximum number of hunters admitted to the deer hunting area at any one time will be 50.

4. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

5. Target practice or the test firing of any weapon is not permitted.

All the refuge hunting areas are shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

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

Administrative needs require that the Bombay Hook Refuge hunting seasons be held concurrent with the Delaware State hunting season dates. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

WILLIAM C. ASHE,

Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 17, 1978.

[FR Doc. 78-24102 Filed 8-25-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Missisquoi National Wildlife Refuge, Vermont, to Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Missisquoi National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas Mountain, Missisquoi National Wildlife Refuge, Swanton, Vt. 05488, telephone 802-868-4781.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

The public hunting of migratory game birds on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable Federal and State regulations covering the hunting of migratory game birds. On those areas open to the public hunting of migratory game birds for which a permit is not required, stake blinds may be constructed in accordance with State regulations. Blinds must be removed by May 15, 1979.

That portion of the refuge, known as the Webb Marsh, which includes Long Marsh Bay and channel, Brush Creek, and Metcalfe Island, will be reserved for young waterfowl hunters only. Hunting by youths who have completed a Federal waterfowl hunter training program is permitted on Saturdays, Sundays, and legal State holidays from the beginning of the State waterfowl hunting season through November 5, 1978. Shooting is permitted from designated blinds from legal shooting time until 11 a.m. local time. Youth waterfowl hunters will be limited to the use and possession of 25 shot shells each.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

The public hunting of upland game on the Missisquoi National Wildlife Refuge, Vermont, is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State regulations covering the hunting of upland game, subject to the following special condition: Rifles may not be used on that portion of the refuge lying east of the Missisquoi River.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

The public hunting of deer on the Missisquoi National Wildlife Refuge, Vermont is permitted only on the areas shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer, subject to the following special condition:

During the regular season, only shotguns may be used on that part of the refuge lying east of the Missisquoi River.

Regulations and maps on all refuge hunting areas are available at refuge headquarters, RD No. 2, Swanton, Vt. 05488, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700 Newton Corner, Mass. 02158.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

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

WILLIAM C. ASHE,

Acting Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 17, 1978.

[FR Doc. 78-24103 Filed 8-25-78; 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

[3410-08]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 401]

[Amdt. No. 97]

FEDERAL CROP INSURANCE

Regulations for 1969 and Succeeding Crop Years

FLUE-CURED TOBACCO POUNDAGE QUOTA ENDORSEMENT

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation proposed to amend the Flue-cured tobacco poundage quota endorsement to provide that the Flue-cured tobacco support price per pound for the previous crop year be used to establish the amount of insurance, rather than the support price for the current crop year, starting with the 1979 crop year.

EFFECTIVE DATE: Written comments, views, and data must be postmarked not later than October 27, 1978, to be sure of consideration.

ADDRESS: Written comments, views, and data may be submitted to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096-S, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: The proposed change in the Flue-cured tobacco poundage quota crop insurance regulations involves using the previous crop year support price per pound for Flue-cured tobacco instead of the current crop support price as the regulations now provide.

This change will allow the Corporation to disregard the bottom four leaves of Flue-cured tobacco in determining the production to count in loss adjustment procedures when such four leaves of Flue-cured tobacco is allowable, beginning with the 1978 crop year, due to the changes in the provisions of the Flue-cured tobacco poundage quota marketing regulations of the Agricultural Stabilization and Conservation Service. In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), regarding the procedure for notice and public participation, the Federal Crop Insurance Corporation invites the public to submit written comments, views, and data in connection with the proposed amendment to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

All written submissions must be delivered or postmarked not later than October 27, 1978, to be sure of consideration. All written submissions made pursuant to this notice will be available for public inspection in the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday (7 CFR 1.27(b)).

PROPOSED RULE

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation proposes to amend the Flue-cured tobacco poundage quota endorsement (7 CFR § 401.150) as appearing in the FEDERAL REGISTER on December 10, 1976 (41 FR 53969), by amending 7 CFR Part 401.150(4)(b) to read as follows:

§ 401.150 The Flue-cured tobacco poundage quota endorsement.

* * * * *

4. *Applicable poundage, amount of insurance, and premium for a unit.* * * *

(b) The amount of insurance for a unit shall be the dollar amount determined by multiplying the applicable poundage for the unit as determined in subsection (a) or (c) of this section by the applicable percentage of guarantee for the tobacco farm shown on the actuarial table for this purpose and the result by the previous year's Flue-cured tobacco support price per pound (rounded to the nearest cent) less 3 cents for warehouse charges.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.)

Dated: August 14, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

[FR Doc. 78-23626 Filed 8-25-78; 8:45 am]

[3410-02]

Agricultural Marketing Service

[7 CFR Part 910]

LEMONS GROWN IN CALIFORNIA AND ARIZONA

Proposed Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comment on a proposed minimum size regulation of 1.82 inches in diameter for shipments of lemons grown in California and Arizona to become effective September 24, 1978. This proposed regulation is the same as the one currently in effect, and is needed to provide for orderly marketing in the interest of producers and consumers.

DATES: Comments must be received on or before September 7, 1978. Proposed effective dates: September 24, 1978, through September 22, 1979.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposed regulation was recommended by the Lemon Administrative Committee, established under 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).

Shipments of lemons from the production area are now in progress, and such shipments are regulated by size through September 23, 1978, under lemon regulation 111 (42 FR 48869), which requires such lemons to be at least 1.82 inches in diameter. The proposed regulation, which would become effective September 24, 1978, would continue in effect this size requirement. The volume and size composition of the lemon crop in California and Arizona is such that ample sup-

plies of the more desirable sizes are available to satisfy the demand in domestic fresh markets. The proposed regulation is designed to permit shipment of ample supplies of lemons of acceptable sizes, maturity, and juice content in the interest of both growers and consumers, and is necessary to maintain orderly marketing conditions and provide consumer satisfaction. Sales opportunities for very small fresh lemons in domestic markets are quite limited, as they have relatively low juice yields. Lemons failing to meet this minimum size requirement could be shipped to fresh export markets, left on the trees to attain further growth, or utilized in processing. The proposed regulation is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

The proposed regulation reads as follows:

Order. (a) From September 24, 1978, through September 22, 1979, no handler shall handle any lemons grown in district 1, district 2, or district 3 which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section, "handle," "handler," "district 1," "district 2," and "district 3" each shall have the same meaning as when used in said amended marketing agreement and order.

Dated: August 23, 1978.

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

[FR Doc. 78-24201 Filed 8-25-78; 8:45 am]

[3410-02]

[7 CFR Part 926]

TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIF.

Proposed Extension of Effective Period for Regulation of the Grade and Container Markings

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes to continue through November 30, 1978, the currently effective minimum grade and container marking requirements for Tokay grapes. These requirements are designed to assure that the grapes shipped will be of suitable quality in the interest of consumers and producers.

DATE: Comments must be received by September 16, 1978.

ADDRESS: Send comments to: Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposed regulation was recommended by the Industry Committee, established pursuant to the marketing agreement, as amended, and order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, Calif. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Tokay Grape regulation 14 (§ 926.315; 43 FR 35259), which sets forth the currently effective grade and container marking requirements, will expire September 30, 1978, unless extended. This proposal would continue the requirements through November 30, 1978. Under the regulation, Tokay grapes must meet the grade and size specifications of U.S. No. 1 Table Grapes and at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color; and each container of such grapes must bear a Federal-State Inspection Service lot number in plain letters and figures on one outside end. The grade and container requirements are designed to prevent the handling of fresh Tokay grapes of lesser quality then specified and to provide ample supplies of good quality fruit in the interest of producers and consumers.

Comments for consideration in connection with this proposed amendment shall be filed, in duplicate, with the Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, not later than September 16, 1978, where they will be available for public inspection during regular hours of business (7 CFR 1.27(b)).

Under the proposal, Tokay Grape Regulation 14 (§ 926.315; 43 FR 35259) would be amended to read as follows:

§ 926.315 Tokay Grape Regulation 14.

(a) During the period August 10, 1978, through November 30, 1978, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 table grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definition.* As used herein, the terms "handler", "ship", and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 table grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 51.880—51.912).

Dated: August 23, 1978.

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

[FR Doc. 78-24198 Filed 8-25-78; 8:45 am]

[3410-02]

[7 CFR Part 1011]

[Docket No. AO-251-A21]

MILK IN THE TENNESSEE VALLEY MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rules.

SUMMARY: This hearing is being held to consider order changes proposed by Kraft, Inc. The proposals would permit diversions between pool plants and would include milk diverted from a supply plant to a pool distributing plant as qualifying shipments for determining the pool status of the supply plant. Proponent contends that the proposed changes are needed to reduce the amount of transportation involved in the marketing of milk in its operation.

DATE: September 13, 1978.

ADDRESS: Ramada Inn, Interstate Highway 40 West, Exit 380, Knoxville, Tenn. 37919.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Ramada Inn, Interstate Highway 40 West, Exit 380, Knoxville, Tenn., beginning at 9 a.m. on September 13, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Tennessee Valley marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 1

Amend § 1011.7(b) by—

(i) Adding a paragraph (b)(1), as follows:

* * * * *

"(b)(1) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers:"

* * * * *

(ii) Adding a paragraph (b)(2), as follows:

* * * * *

(b) * * *

(2) A proprietary handler may include as qualifying shipments milk diverted pursuant to § 1011.13(c) to pool distributing plants:

PROPOSAL NO. 2

Amend § 1011.13 by striking the present language therein and replacing it with the following:

§ 1011.13 **Producer milk.**

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1011.9(c); or

(c) Diverted by the operator of a pool plant or a cooperative association from a pool plant to another pool plant or to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) In any month of April through July, such milk may be diverted on any number of days;

(2) In any month of August through March, not less than 2 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) In any month of August through March, the total quantity of milk so diverted during the month to nonpool plants by a cooperative association shall not exceed one-third of the producer milk that the cooperative association caused to be delivered to or diverted from pool plants during the month;

(4) In any month of August through March, the operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. The total quantity of milk so diverted during the month to nonpool plants shall not exceed one-third of the producer milk physically received at such plant and of the milk diverted from such plant that is eligible to be diverted by the plant operator.

(5) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(6) Any milk diverted in excess of the limits prescribed in paragraph (c)(3) and (4) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk, otherwise the milk last diverted—in lots of an entire days' production—shall be excluded first in determining which milk should not be producer milk; and

(7) Diverted milk shall be priced at the location of the plant to which diverted.

PROPOSAL NO. 3

In § 1011.41(b)(2) replace the words "except that—" with the words "and in milk diverted to such plant from another pool plant, except that in either case—".

PROPOSAL NO. 4

In § 1011.42(a) revise the heading of the introductory paragraph "Transfers to pool plants", to "Transfers and diversions to pool plants"; and add the words "or diverted" after the word "transferred" to make the beginning of said introductory paragraph read "Skim milk or butterfat transferred or diverted—".

PROPOSAL NO. 5

In § 1011.42(a)(2) add the phrase "or divertor-plant" to make the opening phrase in said paragraph read—"(2) If the transferor plant or divertor-plant—".

PROPOSAL NO. 6

In § 1011.42(a)(3) strike the opening phrase "If the transferor-handler", and replace it with the phrase "If the transferor-handler or the divertor-handler—".

PROPOSAL NO. 7

At the end of paragraph § 1011.42(a)(3) add the words "or divertee-plant".

PROPOSAL NO. 8

Revise the present § 1011.42(c)(1) to read"

* * * * *

(c) * * *

(1) As Class I milk, if transferred or diverted in the form of a fluid milk product; and

* * * * *

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 9

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 10508, Knoxville, Tenn. 37919 or from the Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Tennessee Valley Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on August 23, 1978.

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

[FR Doc. 78-24199 Filed 8-25-78; 8:45 am]

[4410-10]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 214]

ADMISSION OF NONIMMIGRANT STUDENTS FOR DURATION OF STATUS

Extension of Comment Period

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule, extension of period for public comments.

SUMMARY: This notice responds to requests made by a number of individuals and groups to extend the period for receiving public comments on the Service's proposed regulations relating to the admission of nonimmigrant students for duration of status.

DATE: Comments must be received on or before September 25, 1978.

ADDRESS: Please address comments to: Commissioner of Immigration and Naturalization, 425 Eye Street NW., Room 7100, Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536 telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking in this matter was published in the FEDERAL REGISTER on July 26, 1978, at 43 FR 32306. The closing date for public comment was August 25, 1978. a number of individuals and groups which have responded to date have asked for additional time to permit them to study the proposal and submit their comments. The Service will grant these requests and permit 30 additional days for comment.

In order to afford interested persons additional time to submit comments, the comment period is hereby extended to September 25, 1978. All relevant comments received on or before that date will be considered.

Dated: August 23, 1978.

LEONEL J. CASTILLO,
Commissioner of
Immigration and Naturalization.

[FR Doc. 78-24179 Filed 8-25-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 78-WE-12-AD]

AIRWORTHINESS DIRECTIVES

AiResearch Model TPD 331-1, -2, -3, -5, -6, and TSE 331-3 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) which will require incorporation of a modified engine fuel control drive gear train in the main reduction gearbox of the TSE331-3 and TPE331-1, -2, -3, -5, and -6 series engines. Incorporation of this modified fuel control drive system, commonly referred to as the "direct drive fuel control", provides the engine with protection against a destructive overspeed of the turbine rotor in the event of any one of several single failures in the drive line between the turbine and the planetary reduction gearing.

DATES: Comments must be received on or before October 25, 1978.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

AiResearch Service Bulletin TPE331-72-0061, dated February 1, 1974, may be obtained from: AiResearch Manufacturing Co. of Arizona, P.O. Box 5217, Phoenix, Ariz., 85010. Telephone: 602-267-3011.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the rules docket.

The FAA has been made aware of three occurrences of destructive overspeed of the engine turbine rotor resulting from failures of the reduction gear drive system in the main reduction gearbox common to the TSE331-3 and TPE331-1, -2, -3, -5, and -6 engines. Since this condition is likely to occur in other engines of the same type design, an airworthiness directive (AD) is being proposed to require the incorporation of a modified engine fuel control drive gear train.

The TPE331/TSE331 series single rotor turboprop/turboshaft engine design is such that any one of several single failures in the drive line between the turbine and the planetary reduction gearing can result in a destructive overspeed of the engine rotor assembly. This can occur since the engine fuel pump and control are not driven directly by the compressor/turbine rotor. Thus, a drive failure which decouples the propeller load at, or upstream of, the torsion shaft, results in the fuel control and pump being driven by the planetary gear system and not the compressor/turbine rotor. The control interprets the resulting condition as an underspeed and responds by increasing fuel flow. This further aggravates the inherent tendency of the compressor and turbine to overspeed from the loss of propeller load. Should this occur, the sequence of events described above occurs within approximately 150 milliseconds.

During the early 1970s, there were several failures of the high speed pinion (HSP) bearing and associated hardware which resulted in destructive rotor overspeed. To reduce the likelihood of failure, four airworthiness directives (AD's 70-4-4, 70-16-9, 7-19-2 and 71-5-7) were issued to require interim inspections and to incorporate an improved HSP bearing assembly design. Due to the lack of a viable design change providing for the direct drive of the fuel control, the corrective actions required by these AD's were considered appropriate even though they only reduced, rather than eliminated, the possibility of an overspeed. Since the implementation of the above mentioned AD's and until September, 1975, there had been no reported decouplings of the power train. Since September, 1975, there have been three unrelated failures in the main reduction gearbox, two involving "bullgear" failures and one involving a planet gear/bearing assembly failure. In each of these occur-

rences, the aircraft sustained considerable impact damage from uncontained turbine wheel debris and in two cases an aircraft fire resulted.

After 1971 the manufacturer designed and started incorporating into all new engines a "direct drive fuel control" system. In February, 1974, AiResearch Service Bulletin TPE331-72-0061 made available this same "direct drive fuel control" on a retrofit basis to provide protection against a destructive overspeed of the engine rotor in the event of a failure in the drive line between the turbine and the planetary reduction gearing.

The FAA has determined that the lack of adequate overspeed protection constitutes a safety problem. In consideration of the above, the FAA proposes to make the incorporation of the "direct drive fuel control" modification authorized in AiResearch Service Bulletin TPE331-72-0061 mandatory at next engine overhaul or within the next 3,100 operating hours, but not later than January 1, 1984, whichever comes first. Inclusion of this modification provides a final solution to the potential hazard associated with a decoupling since it protects against overspeed in the event of all probable drive failures in the main reduction gear box, including gears and bearings, which are inherently susceptible to failure.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of part 39 of the Federal Aviation Regulation (14 CFR 39.13) by adding the following new airworthiness directive:

AIRESEARCH MANUFACTURING CO. OF ARIZONA: Applies to AiResearch Model TSE331-3 and TPE331-1, -2, -3, -5, and -6 series engines.

Compliance required as indicated.

To prevent destructive overspeed of the turbine rotor in the event of any one of several single failures in the main reduction gear drive accomplish the following:

(a) Within the next 3,100 hours time in service after the effective date of this airworthiness directive, or prior to January 1, 1984, or at next engine overhaul, whichever comes first, unless already accomplished, incorporate the modified engine fuel control drive gear train in the main reduction gear box of the TSE331-3 and TPE331-1, -2, -3, -5 and -6 series engines in accordance with AiResearch Service Bulletin TPE331-72-0061, dated February 1, 1974.

(b) Equivalent procedures may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued per FAR 21.197 and 21.199 to authorize operation of aircraft to a base where this modification required by this AD may be performed.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation guidelines.

Issued in Los Angeles, Calif., on August 15, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-23890 Filed 8-25-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-18]

CONTROL ZONE AND TRANSITION AREA, KANSAS CITY, MO.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the control zone and the transition area at Kansas City, Mo., Downtown Airport, since the airport name has been changed from Kansas City Municipal Airport, to update the description of the control zone and to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Kansas City, Mo., Downtown Airport, utilizing a VOR, a navigational aid.

DATE: Comments must be received on or before November 1, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMAITON CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before November 1, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering amendments to subpart F, section 71.171 of the Federal Aviation Regulations (14 CFR 71.171) and subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the control zone and transition area at Kansas City, Mo., Downtown Airport. The city of Kansas City, Mo., has changed the name of the airport from Kansas City Municipal Airport to Kansas City, Mo., Downtown Airport. In addition, the existing control zone description needs to be updated. Finally, to enhance airport usage by providing additional instrument approach capability to the airport, a new instrument approach procedure has been developed utilizing a VOR, a navigational aid. These conditions require alteration of the control zone and transition area at Kansas City, Mo., Downtown Airport. The intended effect of the control zone action is as stated above. The intended effect of the transition area action is to ensure segregaton of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend subpart F, section 71.171 of the Feder-

al Aviation Regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355), by altering the following control zone:

KANSAS CITY, MO.

Within a 5-mile radius of the Kansas City Downtown Airport (latitude 39°07'20.7" N., longitude 94°35'30" W.), within 1.5 miles each side of the Riverside, Mo. VOR 043° radial extending from the 5-mile radius zone to 6 miles northeast of the VOR, within 1.5 miles each side of the Riverside, Mo. VOR 219° radial extending from the 5-mile radius zone to 6 miles southwest of the VOR, and within 2 miles each side of the Riverside, Mo. VOR 013° radial extending from the 5-mile radius zone to 10.5 miles north of the VOR, excluding that area which overlies the Kansas City, Mo. International Airport control zone.

Additionally, subpart G, section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by altering the following transition area:

KANSAS CITY, MO.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Kansas City Downtown Airport (latitude 39°07'20.7" N. longitude 94°35'30" W.), within 4.5 miles each side of the Riverside VOR 212° radial extending from the 10-mile radius area to 12.5 miles southwest of the Downtown Airport, within 9.5-mile radius of the Sherman AAF (latitude 39°22'15" N., longitude 94°54'45" W.), within an 8.5-mile radius of the Kansas City International Airport (latitude 30°17'50.8" N., longitude 94°42'54.6" W.), within 5 miles each side of the runway 19 ILS localizer north course extending from the 8.5-mile radius area to 25 miles north of the Wyandotte LOM, within 5 miles each side of the Kansas City VORTAC 096° radial extending from the 8.5-mile radius area to 11.5 miles east of the VORTAC, and within 5 miles each side of the runway 1 ILS localizer south course extending from the 8.5-mile radius area to 11 miles south of the Wyandotte LOM.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., August 15, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-23892 Filed 8-25-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-21]

TRANSITION AREA, KIRKSVILLE, MO.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Kirksville, Mo., to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Clarence Cannon Memorial Airport, which is based on a new localizer and outer marker being installed at the airport.

DATE: Comments must be received on or before October 1, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo., 64106, telephone 816-374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before November 1, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Prodecures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to subpart C, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Kirksville, Mo. To enhance airport usage, a new instrument approach procedure to the Clarence Cannon Memorial Airport, Kirksville, Mo., is being established based on a localizer and outer marker, navigational aids, being installed at the airport. The establishment of an instrument approach procedure based on these navigational aids entails alteration of the transition area at and above 700-feet above ground level (AGL) within which aircraft will be provided additional controlled airspace protection. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend subpart G, section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by altering the following transition area:

KIRKSVILLE, MO.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Clarence Cannon Memorial Airport (latitude 40°05'33" N., longitude 92°32'41" W.), within 3 miles each side of the Kirksville, Mo., VORTAC 320° radial extending from the 6½-mile radius area to 8 miles northwest of the VORTAC, and within 5 miles each side of the 180° bearing from the Clarence Cannon Memorial Airport extending from the 6½-mile radius area to 13½ miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61.))

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as

amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on August 15, 1978.

C. R. MELUGIN, Jr.
Director, Central Region.

[FR Doc. 78-23893 Filed 8-25-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 235]

[Docket No. R-78-564]

MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Elimination of Requirement for Release of Federal Income Tax Returns to the Secretary on Request

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: The Department proposes to eliminate the requirement that mortgagors receiving mortgage assistance payments under section 235 authorize the Internal Revenue Service to release Federal income tax returns to the Secretary on request. The purpose of the requirement was to permit verification of income reported by the mortgagor for purposes of computing the amount of assistance payments. Elimination of the requirement is necessary because of a recent amendment to internal revenue regulations which imposes a time limit on the effective life of the authorization and thus limits its utility to the Deaprtment.

COMMENTS DUE: September 27, 1978.

ADDRESS: Interested persons may participate in this rulemaking by submitting written data, views, or arguments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Julius Williams, Director, Single-Family Housing Division, Office of Loan Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5752.

SUPPLEMENTARY INFORMATION: Section 235.350(d) of the regulations relating to assistance payments under section 235 of the National Housing Act requires that each mortgagor execute a letter authorizing the Internal Revenue Service to release Federal income tax returns for the most recent 3 years to the Secretary on request. The purpose of the requirement was to permit verification of income reported by the mortgagor for purposes of computing the amount of assistance payments.

A recent amendment to 26 CFR 404.6103(c)-1 by Internal Revenue Service provides that no disclosure of a return authorized by a consent to such disclosure shall be make "unless such request or consent is received by the Service within 60 days following the date upon which the request or consent was signed and dated by the taxpayer."

The 60-day effective life of a consent limits its utility to the Department. Income tax returns would be disclosed only when requested within 60 days of the mortgagor's recertification. Under this limitation it is not practical to require and maintain in the Department files a consent executed by every mortgagor under a section 235 mortgage. It is, therefore, proposed to delete the requirement.

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

Accordingly, it is proposed that 24 CFR 235.350(d) be deleted.

Issued at Washington, D.C., August 11, 1978.

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

[FR Doc. 78-24358 Filed 8-25-78; 8:45 am]

[4210-01]

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4395]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Russellville, Franklin County, Ala.

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 Russellville, Franklin County, Ala. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, P.O. Box 1148, Russellville, Ala. 35653. Send comments to: Mayor John Burns or Mr. Richard Williams, City Clerk, City Hall, P.O. Box 1148, Russellville, Ala. 35653.

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 the proposed determinations of base (100-year) flood elevations for the city of Russellville, Franklin County, Ala., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Branch	Just upstream Walnut Gate Rd.	677
	Just upstream Alabama Highway 24.	712
	Just downstream Lawrence St.	757
Garman Branch	Approximately 100 ft upstream U.S. Highway 43.	739
	Just downstream Jackson Ave.	786
Pain Creek	Just upstream Courtland Rd.	726
	Just upstream Underwood Rd.	742
Mud Creek	Just upstream Water Plant Rd.	659
	Confluence of Town Branch.	663

(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, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23918 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4396]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination City of Needles, San Bernardino County, Calif.

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 Needles, San Bernardino County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Department of Public Works, 1111 Bailey Avenue, Needles, Calif. Send comments to: Hon. Huey M. O'Dell, Mayor, City of Needles, P.O. Box 887, Needles, Calif. 92363

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 the proposed determinations of base (100-year) flood elevations for the city of Needles, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Colorado River	Bridge Rd., 30 ft. upstream of centerline.	478
	North K St. extended	481
		Depth, feet
Road Runner Wash.	U.S. Highway 40	3*
	Atchison, Topeka & Santa Fe RR.	2*
Eagle Pass Wash	J St. extended	2*
Wash B	U.S. 95	2*
Needles flood channel.	Front St	1*
Lillyhill Wash	U.S. Highway 40 (downstream).	1*
	U.S. Highway 40 (upstream).	3*
	U.S. Highway 40 (500 ft upstream).	1*
Wash A	U.S. Highway 40 (100 ft upstream).	3*
	U.S. Highway 40 (500 ft upstream).	1*

* Shallow flooding.

(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, 43 FR 7719.)

Issued: August 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23919 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4397]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Waterford, Stanislaus County, Calif.

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 Waterford, Stanislaus County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Waterford, Calif. Send comments to: Mr. Gene Robirds, City Manager, City of Waterford, P.O. Box 199, Waterford, Calif. 95486.

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 the proposed determinations of base (100-year) flood elevations for the city of Waterford, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tuolumne River....	Reinway Ave. extended—50 ft*.	82
	Southern Pacific RR. Bridge—100 ft*.	86
	Hickman Road Bridge—50 ft*.	86

* Upstream of centerline.

(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, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23920 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4398]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Dacona, Weld County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Dacona, Weld County, Colo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 512 Cherry Street, Dacona, Colo.

Send comments to: Hon. Joe Garding, Mayor, Town of Dacona, Town Hall, 512 Cherry Street, Dacona, Colo. 80514.

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 the proposed determinations of base (100-year) flood elevations for the town of Dacona, Colo. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Triarea drainageway.	8th St.....	5,012
Unnamed tributary of triarea drainageway.	Confluence with triarea drainageway.	5,012

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23921 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4399]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Firestone, Weld County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Firestone, Weld County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 150 Buchanan Avenue, Firestone, Colo. Send comments to: Hon. L. Becker, mayor, town of Firestone, Town Hall, 150 Buchanan Avenue, Firestone, Colo. 80520.

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 the proposed determinations of base (100-year) flood elevations for the town of Firestone, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Triarea Drainageway.	County Rd	4947
	Downstream corporate limits.	4948
	Union Pacific Railroad	4950
	Upstream corporate limits.	4958

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-23922 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4400]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Frederick, Weld County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Frederick, Weld County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 the Town Hall, 333 Fifth Street, Frederick, Colo. Send comments to: Hon. Holly William Hall, mayor, town of Frederick, Town Hall, 333 Fifth Street, Frederick, Colo. 80530.

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 the proposed determinations of base (100-year) flood elevations for the town of Frederick, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tri-Area Drainageway.	First St	4870
	Frederick Levee	4987

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23923 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4401]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Nederland, Boulder County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Nederland, Boulder County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the pro-

posed base (100-year) flood elevations are available for review at the Town Hall, Clerk's Office, Nederland, Colo. Send comments to: Hon. John Workman, mayor, town of Nederland, P.O. Box 396, Nederland, Colo. 80466.

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 the proposed determinations of base (100-year) flood elevations for the town of Nederland, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Boulder Creek.	Confluence with Barker Reservoir.	8185
	State Highway 119—30 ft*.	8226
	At upstream corporate limits.	8319
North Beaver Creek.	First St—20 ft*	8201
	State Highway 119—centerline.	8230
	Third St—20 ft*	8262
	State Highway 72—40 ft*.	8278

* Upstream of centerline.

(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, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-23924 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4402]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations the Town of Superior, Boulder County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Superior, Boulder County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, 211 South 4th Avenue, Louisville, Colo.

Send comments to: Honorable John D. Kupfner, Mayor, Town of Superior, Town Hall, 211 South 4th Avenue, Superior Route, Louisville, Colo. 80027.

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 the proposed determinations of base (100-year) flood elevations for the Town of Superior, Colo. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coal Creek	First Ave (downstream corporate limits).	5,486
	Most upstream corporate limits.	5,500

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23925 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4403]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Brookfield, Fairfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain

qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Brookfield Center, Brookfield, Conn. Send comments to: The Hon. Norman Brown, First Selectman, Town of Brookfield, Town Hall, Brookfield Center, Conn. 06805.

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 the proposed determinations of base (100-year) flood elevations for the Town of Brookfield 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 also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Still River	620 ft upstream from corporate limits with New Milford.	231
	2,250 ft upstream from Aldrich Rd.	232
	Just upstream of confluence with Limekiln Brook.	235
	2,040 ft upstream from confluence with Limekiln Brook.	239
	100 ft downstream from second dam downstream from Station Rd.	250
	Just upstream of second dam downstream from Station Rd.	257
	180 ft upstream from first dam downstream from Station Rd.	266
	Just upstream of Station Rd (route 25).	272
	Silvermine Rd	277
	Upstream of Route 7 (1,000 ft upstream from Silvermine Rd).	278
	450 ft upstream from route 133.	279
	900 ft upstream from route 7 (downstream of Grays Rd).	282
	Just upstream of relocated Grays Ridge Rd.	283
	660 ft upstream from route 7 (upstream of Grays Bridge Rd).	284
	Upsteam of East Brook confluence.	286
	470 ft upstream from White Turkey Rd.	287
	At the upstream corporate limits with Danbury.	287
Limekiln Brook	At the confluence with Still River.	235
	70 ft upstream from route 7.	236
	Just upstream of North Mountain Rd.	240
	At upstream limit of study near Hillside Court.	241
East Brook	At the confluence with Still River.	286
	100 ft upstream from private drive (460 ft upstream from U.S. 208).	288
	40 ft downstream from private drive (1,050 ft upstream from U.S. 202).	303
	165 ft upstream from private drive.	305
	Downstream end of culvert.	310
	Upstream end of culvert	316
	120 ft upstream from third driveway upstream from the culvert.	320
	125 ft upstream from the second dam downstream from Rocky Rd.	345
	Just downstream of first dam downstream of Rocky Rd.	355
	Upstream of the first dam downstream of Rocky Rd.	359
	30 ft downstream from Rocky Rd.	378
	Upstream side of Rocky Rd.	380
	570 ft upstream from Rocky Rd.	383
	1,370 ft upstream from Rocky Rd.	405
	2,680 ft upstream from Rocky Rd.	429
	30 ft downstream from Huckleberry Hill Rd.	480
	Upstream side of Huckleberry Hill Rd.	485
	Just upstream of a driveway, 830 ft upstream of Huckleberry Hill Rd.	519[01]

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-23926 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4404]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Hamden, New Haven County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Hamden, New Haven County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the planning office, Hamden, Conn. Send comments to: Hon. Lucien DiMeo, Mayor, town of Hamden, Memorial Town Hall, Hamden, Conn. 06514.

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 the proposed determinations of base (100-year) flood elevations for the town of Hamden, New Haven County, Conn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mill River	100 ft downstream of Connolly Parkway.	40
	1,200 ft downstream of Skiff St.	45
	150 ft upstream of Skiff St.	48
	500 ft downstream of Whitney Ave.	53
	100 ft downstream of Dixwell Ave.	56
	100 ft upstream of Wilbur Cross Parkway.	59
	3,300 ft upstream of Wilbur Cross Parkway.	62
	100 ft downstream of Ives St.	71
	500 ft downstream of Clarks Pond dam and bridge.	76
	400 ft upstream of Clarks Pond dam and bridge.	81
	1,000 ft downstream of Mount Carmel Ave.	85
	100 ft upstream of Mount Carmel Ave.	89
	250 ft downstream of Axelshop Pond dam.	94
	400 ft upstream of Axelshop Pond dam.	97
	500 ft downstream of Tuttle Ave.	100
	200 ft upstream of Tuttle Ave.	103
	1,500 ft downstream of confluence with Butterworth Brook.	106
	200 ft downstream of River Rd.	106
	100 ft upstream of River Rd.	109
	750 ft downstream of confluence with Willow Brook.	111
	450 ft upstream of confluence with Willow Brook.	116
	2,150 ft upstream of confluence with Willow Brook.	123
	3,850 ft upstream of confluence with Willow Brook.	128
Shepard Brook	100 ft downstream of Wilbur Cross Parkway.	49
	50 ft upstream of Wilbur Cross Parkway.	56
	250 ft downstream of Dixwell Ave.	63
	120 ft downstream of Dixwell Ave.	73
	50 ft upstream of Dixwell Ave.	83
	1,000 ft downstream of Sanford St.	85
	200 ft downstream of Sanford St.	89
	100 ft upstream of Sanford St.	95
	50 ft downstream of ConRail.	100
	Just upstream of ConRail.	106
	250 ft downstream of dam (dam located 550 ft downstream of Meyer Wire Co.).	111
	100 ft downstream of dam (dam located 550 ft downstream of Meyer Wire Co.).	115
	400 ft upstream of dam (dam located 550 ft downstream of Meyer Wire Co.).	120
	300 ft upstream of Meyer Co. entrance.	125
	60 ft downstream of Sherman Ave.	130
	150 ft upstream of Sherman Ave.	135
	500 ft upstream of Sherman Ave.	140
	1,000 ft upstream of Sherman Ave.	147
Eaton Brook	80 ft downstream of Whitney Ave.	99
	450 ft upstream of Whitney Ave.	101
	80 ft downstream of ConRail.	103
	Just upstream of ConRail.	113
	30 ft upstream of dam 590 ft downstream of Todd St.	114
	300 ft downstream of Todd St.	115
	40 ft upstream of Todd St.	120
	200 ft upstream of Todd St.	125
	550 ft upstream of Todd St.	135
	900 ft upstream of Todd St.	145
	1,230 ft upstream of Todd St.	155
	1,560 ft upstream of Todd St.	165
	1,900 ft upstream of Todd St.	175
	2,200 ft upstream of Todd St.	185
	2,500 ft upstream of Todd St.	195
	2,850 ft upstream of Todd St.	205
	3,220 ft upstream of Todd St.	215
	50 ft downstream of Shepard Ave.	220
	Upstream face of Shepard Ave.	223
	160 ft upstream face of Shepard Ave.	225
	640 ft upstream face of Shepard Ave.	235
	1,150 ft upstream face of Shepard Ave.	245
	100 ft downstream of Hill Field Rd.	255
	30 ft downstream of Hill Field Rd.	258
	80 ft below confluence with Brookdale Stream.	273
	130 ft above confluence with Brookdale Stream.	278
	330 ft above confluence with Brookdale Stream.	283
	100 ft downstream of Johnson Rd.	287
	100 ft upstream of Johnson Rd.	293
	250 ft upstream of Johnson Rd.	295
	900 ft upstream of Johnson Rd.	305
	80 ft downstream of Choate Rd.	315
	20 ft downstream of Choate Rd.	320
	100 ft upstream of Choate Rd.	322
	300 ft downstream of Westwood Rd.	330
	100 ft downstream of Westwood Rd.	335
	30 ft downstream of Westwood Rd.	340
	50 ft upstream of Westwood Rd.	343
Brookdale Stream	At confluence with Eaton Brook.	275
	270 ft downstream of Johnson Rd.	285
	120 ft downstream of Johnson Rd.	287
	130 ft upstream of Johnson Rd.	292
	80 ft downstream of Still Hill Rd.	296
	40 ft downstream of Still Hill Rd.	300
	20 ft upstream of Still Hill Rd.	304
Willow Brook	At confluence with Mill River.	114
	70 ft upstream of Willow St.	115
Jepp Brook	At Confluence with Willow Brook.	116
	590 ft upstream of confluence with Willow Brook.	120
	900 ft upstream of confluence with Willow Brook.	123
	350 ft downstream of ConRail.	127
	20 ft downstream of Brookdale Ave.	131

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	1,100 ft upstream of Dale Ave.	137
	80 ft downstream of River Rd.	145
	100 ft upstream of River Rd.	150
	420 ft upstream of River Rd.	160
	750 ft upstream of River Rd.	170
	1,050 ft upstream of River Rd.	180
	100 ft downstream of Jepp Pond dam.	185
	75 ft downstream of Jepp Pond dam.	190
	50 ft downstream of Jepp Pond dam.	195
	20 ft downstream of Jepp Pond dam.	200
	1,300 ft upstream of Jepp Pond dam.	205
	100 ft downstream of a dam, 200 ft downstream of Chatterton Way.	208
	60 ft downstream of a dam, 200 ft downstream of Chatterton Way.	213
	40 ft downstream of a dam, 200 ft downstream of Chatterton Way.	218
	Just downstream of a dam, 200 ft downstream of Chatterton Way.	223
	100 ft upstream of a dam, 200 ft downstream of Chatterton Way.	229
	120 ft upstream of Chatterton Way.	234
	550 ft upstream of Chatterton Way.	240
	900 ft upstream of Chatterton Way.	245
	950 ft downstream of Still Hill Rd.	250
	550 ft downstream of Still Hill Rd.	255
	250 ft downstream of Still Hill Rd.	260
	120 ft upstream of Still Hill Rd.	265
Farm Brook	200 ft above corporate limit.	35
	100 ft downstream of Woodin St.	38
	100 ft upstream of Woodin St.	41
	1,100 ft upstream of Woodin St.	43
	850 ft downstream of Brook St.	45
	300 ft downstream of Brook St.	49
	100 ft downstream of Brook St.	51
	500 ft upstream of Brook St.	55
	150 ft downstream of footbridge.	59
	200 ft upstream of footbridge.	64
	300 ft downstream of Gilbert Ave.	68
	Just upstream of Gilbert Ave.	70
	100 ft upstream of Wilbur Cross Parkway.	72
	3,500 ft upstream of Lane St.	74
West Branch Farm Brook.	At confluence with Farm Brook.	72
	700 ft upstream of Morgan Dr.	73
	20 ft upstream of Clover Circle.	73
	At Leonard Dr	74
	250 ft upstream of Sanquist Circle.	75
	500 ft upstream of Sanquist Circle.	76

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23927 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4405]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Newtown, Fairfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Newtown, Fairfield County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Newtown, Conn. Send comments to: The Honorable Jack Rosenthal, First Selectman, Town of Newtown, Town Hall, Newtown, Conn. 06470.

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 the proposed determinations of base (100-year) flood elevations for the town of Newtown, 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 also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Housatonic River	Interstate 84	109
	Glen Rd	109
	Downstream of Shepaug Dam.	109
Pootatuck River	Walnut Tree Hill Rd	110
	Upstream of Rocky Glen Dam No. 1.	179
	Upstream of Black Bridge Rd.	181
	Upstream of Rocky Glen Dam No. 2.	207
	Foot bridge 1,430 ft downstream of Main St.	221
	Main St	236
	250 ft upstream of Interstate 84 culvert at confluence with Tom Brook.	248
	Mile Hill Rd	258
	Gauging station bridge	276
	Pecks Turkey Hill Rd	317
	ConRail	338
	Route 25	340
	Weir 670 ft downstream from Cold Spring Rd.	400
	100 ft upstream of Cold Spring Rd.	404
	Meadow Brook Rd	405
	Huntingtown Rd	432
	Southern corporate limit.	461
Halfway River	Route 34	126
	Jordan Hill Rd	213

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep Brook	Access road to sewage treatment plant.	265
	ConRail	326
	150 ft upstream of Mile Hill Rd.	366
	50 ft upstream of Route 25.	391
	Elm Dr	396
	Deep Brook Rd	410
	Boggs Hill Rd	449
Lewis Brook	Huntingtown Rd	429
	Maltbie Rd	469
	Upstream of Hattertown Pond Dam.	523
	Barlow Rd	540
	Upstream of dam 620 ft downstream of Hattertown Rd.	622
	Hundred Acres Rd	629

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

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23928 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4406]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Douglas, Coffee County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Douglas, Coffee County, Ga. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Douglas, Ga. Send comments to: Hon. J. C. Adams, Mayor, City of Douglas, P.O. Box 470, Douglas, Ga. 31533.

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 the proposed determinations of base (100-year) flood elevations for the city of Douglas, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Seventeen Mile River.	Georgia Highway 135—U.S. 221—50 ft*.	187
Twenty Mile Creed.	Georgia Highway 31—U.S. 441—50 ft*.	194
	Central of Georgia RR.—200 ft*.	196
	Rocky Pond RD.—50 ft*.	207
	Georgia Highway 353—50 ft*.	211
	West Ward St.—30 ft*	215
Tributary TM1	Georgia Highway 353—50 ft*.	229
	1st day upstream of confluence with Twenty Mile Creek—50 ft*.	235
Stream A	Waldrop Ave.—30 ft*	211
	Georgia Highway 158—50 ft*.	218
	McDonald Rd.—30 ft*	227
	Georgia Highway 135—50 ft*.	246
	College Park Dr.—30 ft*.	250
Tributary A1	Earth dam—100 ft**	223
	Earth dam—20 ft*	233
Stream B	Lupo Lane—30 ft*	224
	Earth dam—100 ft**	225
	Earth dam—20 ft*	234
	Bell Lake Rd.—250 ft**	240
	Bell Lake Rd.—80 ft*	246
	Coffee St.—30 ft*	248
	South Pearl Ave.—50 ft*	249
Tributary B1	Georgia Highway 158—50 ft*.	230
Tributary B2	East Mitchell St.—30 ft*	249
Stream C	East Baker St.—30 ft*	246
	Cherry St.—30 ft*	249
	Pearl Ave.—30 ft*	250
Stream D	Pine St.—30 ft*	238
	East College Park Dr.—30 ft*.	244
	Martin Luther King Jr. Dr.—30 ft*.	245
Stream F	Chester Ave.—25 Ft*	195
	North St.—20 ft*	200
	North Peachtree St.—30 ft*.	223
	West Irwin St.—30 ft*	229
	Seaboard Coastline RR.—50 ft**.	244
	Seaboard Coastline RR.—50 ft*.	250
Tributary F1	U.S. Highway 441—50 ft*.	199
	Madison Ave.—50 ft*	202
Tributary F2	U.S. Highway 441—50 ft*.	216
Stream G	Jefferson St.—30 ft*	214
	Central of Georgia RR.—50 ft*.	217
	North Daughtry Ave.—30 ft*.	219
Stream H	South College St.—100 ft**.	230
	South College St.—30 ft*.	236
	South Letitia Ave.—50 ft**.	245
	West Bryan St.—30 ft*	252
Stream J	North Madison Ave.—30 ft*.	219
Tributary J1	Franklin St.—50 ft**	220
	Franklin St.—30 ft*	224
Stream K	Fram Rd.—30 ft*	187
	East Walker St.—30 ft*	196
	Jackson St.—30 ft*	213
	Georgia Highway 32—Ward St.—50 ft*.	221
	Ethel St.—30 ft*	223
Stream L	1st on Campus Rd. above convluence with stream A—30 ft*.	248
	Wheeler St.—100 ft*	255

* Upstream.
** Downstream.

(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, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-23929 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4407]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Jacksonville, Morgan County, Ill.

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 Jacksonville, Morgan County, Ill.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Jacksonville, Ill. Send comments to: Hon. Milton F. Hocking, Mayor, city of Jacksonville, 200 West Douglas, Jacksonville, Ill. 62650.

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 the proposed determinations of base (100-year) flood elevations for the city of Jacksonville, 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 also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mauvaisterre Creek.	At Diamond St	568
	At Oak St	570
	75 ft upstream of Myrtle St.	574
	60 ft downstream of State St.	575
	50 ft upstream of Norfolk & Western Ry.	578
	At Henry St	583
	50 ft upstream of Brooklyn St.	586
	50 ft downstream of spillway.	587
	50 ft upstream of spillway.	595
	Eastern corporate limit (State Route 104).	597
Town Brook	Confluence with Mauvaisterre Creek.	579
	50 ft upstream of East St.	581
	Just downstream of West St.	584
	100 ft downstream of Lincoln Ave.	587
	65 ft upstream of Lincoln Ave.	592
	65 ft upstream of Morton Ave.	594
	Massey Lane	601
Tributary No. 1	50 ft upstream of Sandusky St.	570
	2,750 ft upstream of Sandusky St.	578
	500 ft downstream of West Walnut St.	579
	140 ft downstream of West Walnut St.	583
	100 ft upstream of West Walnut St.	592
	50 ft downstream of Norfolk & Western Ry.	594
	75 ft upstream of Norfolk & Western Ry.	602
	950 ft upstream of Harmony Dr.	614
Tributary No. 2	Just downstream of Township Rd. No. 2200.	596
	Eastern corporate limit	598

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23930 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4408]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Albany, Delaware County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Albany, Delaware County, Ind.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Albany, Ind. Send comments to: Mr. Robert Clark, Town Board President, town of Albany, 700 Liberty, Albany, Ind. 47302, Attention: Ms. Carolyn Miller, Town Clerk.

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 the proposed determinations of base (100-year) flood elevations for the town of Albany, 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 also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississinewa River.	Upstream side of Dowden Ave.	931
	Just upstream of Norfolk & Western Ry.	932
	Confluence with Halfway Creek.	932
Halfway Creek.....	Confluence with Mississinewa River.	932
	At Water St.....	932
	At State St.....	932
	Just upstream of Norfold & Western Ry.	933
	Just upstream of State Highway 67.	934
	Northern corporate limit.	934

(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, 43 FR 7719.)

Issued: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23931 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4409]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Eaton, Delaware County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Eaton, Delaware County, Ind. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Town Clerk's Office, Eaton, Ind. Send comments to: Mr. Ron Haggard, Town Board President, Town of Eaton, Community Hall, 110 North Hartford Street, Eaton, Ind. 47338.

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 the proposed determinations of base (100-year) flood elevations for the town of Eaton, 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)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississinewa River.	1,880 ft downstream of ConRail.	885
	Upstream side of Romy St. at corporate limit.	889
	1,500 ft upstream of Romy St.	891
	4,500 ft upstream of Romy St. near intersection of Albany Pike and Pine St.	894
Swearengen Ditch	Upstream side of Strawboard Rd.	890
	Downstream side of ConRail.	891
	At Romy St.....	892

(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 the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23932 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4410]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Cascade, Dubuque County, Iowa

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 Cascade, Dubuque County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 320 1st Avenue West, Cascade, Iowa. Send comments to: The Hon. Roland Greenwood, Mayor, City of Cascade, 320 1st Avenue West, Cascade, Iowa 52033.

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 the proposed determinations of base (100-year) flood elevations for the city of Cascade 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)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Fork Maquoketa River.	3,050 ft downstream of U.S. Highway 151.	814
	325 ft downstream of U.S. Highway 151.	815
	Northern corporate limits.	822
	1,200 ft upstream of northern corporate limits.	823

(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, 43 FR 7719.)

Issued: August 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23933 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4411]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Urbandale, Polk County, Iowa

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 Urbandale, Polk County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 3315 70th Street, Urbandale, Iowa. Send comments to: Mr. Nile McDonald, City Manager, City of Urbandale, City Hall, 3315 70th Street, Urbandale, Iowa 50322.

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 the proposed determinations of base (100-year) flood elevations for the city of Urbandale, 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 also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Walnut Creek.	At southern corporate limits of Urbandale.	848
	At confluence of Karen Acres Creek.	849
	900 ft upstream of the confluence of Karen Acres Creek.	850
	200 ft downstream of 86th St.	860
	75 ft upstream of 86th St.	865
	1,250 ft downstream of Douglas Ave.	865
	70 ft downstream of Douglas Ave.	868
	100 ft upstream of Douglas Ave.	871
	4,500 ft upstream of Douglas Ave.	879
	At northern corporate limit.	890

(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 the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-23934 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4412]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Windsor Heights, Polk County, Iowa

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 Windsor Heights, Polk County Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to

either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 1133 66th Street, Windsor Heights, Iowa. Send comments to: Mr. Robert Schmidt, City Administrator, City of Windsor Heights, City Hall, 1133 66th Street, Windsor Heights, Iowa 50311.

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 the proposed determinations of base (100-year) flood elevations for the city of Windsor Heights, 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 also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Walnut Creek	500 ft upstream of Center St.	825
	150 ft downstream of 73d St.	829
North Walnut Creek.	Just upstream of University Ave.	834
	2,350 ft upstream of University Ave.	836
	150 ft downstream of College Ave.	838
	Just upstream of College Ave.	842
	At northern corporate limits.	847

(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, 43 FR 7719.)

Issued: August 8, 1978.

GLORIA M. JIMINEZ
Federal Insurance Administrator.

[FR Doc. 78-23935 Filed 8-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4292]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Wheatland, Platte County, Wyo.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 30827 of the FEDERAL REGISTER of July 18, 1978.

EFFECTIVE DATE: July 18, 1978.

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.

That following elevation should read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wheatland Creek..	U.S. Highway 87—40 ft upstream of centerline.	4696

(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, 43 FR 7719)

Issued: August 9, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-24008 Filed 8-25-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-100-78]

REGULATIONS PROJECT RELATING TO THE REQUIREMENTS FOR CREDITABLE FOREIGN TAXES

Invitation for Public Comments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Invitation for public comments.

SUMMARY: This document contains an invitation for public comments on the requirements for creditable foreign taxes. The Internal Revenue Service has established a reguations project to provide rules setting forth the criteria for determining whether a tax imposed by a foreign county is a creditable foreign tax under the Internal Revenue Code. The Service invites interested members of the public to submit written comments (preferably six copies) pertaining to the subject of the regulations project prior to publicatin of a notice of proposed rulemaking. All comments will be available for public inspection.

DATES: Written comments must be delivered or mailed by October 27, 1978.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-100-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David Dolan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION: The Internal Revenue Service recently established a regulations project to provide rules setting forth the criteria for determining whether a tax imposed by a foreign country is a creditable foreign tax for purposes of sec-

tions 901 through 908 of the Internal Revenue Code. During the course of the regulations project, the Service expects to examine various issues relating to the language "income, war profits, and excess profits taxes paid or accrued" as used in section 901(b). In addition, the Service will examine various issues relating to section 903, which provides for the creditability of foreign taxes paid in lieu of income, war profits, or excess profits taxes.

The Service invites public comment on sections 901(b) and 903, the case authorities, rulings, and regulations thereunder, as well as on any other issues or matters which may be pertinent to the regulations project.

JEROME KURTZ,
Commisioner of Internal Revenue.

[FR Doc. 78-24289 Filed 8-25-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 44]

SCREENING THE READY RESERVE

Policies and Procedures

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes Department of Defense policies and procedures in accordance with 10 U.S.C. 271, regarding the screening requirements for the Ready Reserve. The requirements provide for a system of continuous screening of the Ready Reserve to insure that there will be no significant attrition during a mobilization and that a proper balance of military skills is maintained.

DATES: Comments must be received on or before September 27, 1978.

ADDRESSES: Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), The Pentagon, Room 3C980, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Major Donald L. McCabe, USAF, Telephone, 202-697-4334 or 202-697-0624.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

AUGUST 23, 1978.

Accordingly, it is proposed to amend 32 CFR Chapter I by adding a new part 44, reading as follows:

Sec.
44.1 Purpose.
44.2 Applicability.
44.3 Policies.
44.4 Responsibilities.
44.5 Screening Requirements.
44.6 Definitions.
44.7 Procedures for Preparation and Revision of DOD List of Critical Military Skills for Use in Screening the Ready Reserve.
44.8 Suggested Format for Ready Reserve Screening Determination.
44.9 Ready Reserve Screening Centers.

AUTHORITY: Title 10 U.S.C. and Executive Order 11190.

§ 44.1 Purpose.

This Part is issued to establish policies, and provide guidance to the Armed Forces in screening Ready Reserve personnel in accordance with 10 U.S.C. and E.O. 11190, to insure that a Ready Reserve force composed of a proper balance of qualified individuals will be available immediately during any national emergency.

§ 44.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Armed Forces and their Reserve components. Additionally, through the authority delegated to the Federal Preparedness Agency (FPA), provides guidance to nonmilitary Federal Departments and Agencies, State, Commonwealth, Territory and local governments and defense supporting industries on determining positions which are key to national defense.

§ 44.3 Policies.

(a) *Annual screening.* (1) Members of the Selected Reserve and other members of the Ready Reserve who are not on active duty shall be screened at least annually in order to provide a Ready Reserve force composed of individuals who:

(i) Meet armed force wartime standards of mental, moral, professional and physical fitness, and possess the required military qualifications in the various ranks, grades, ratings, and specialties.

(ii) Possess a critical military skill for which there is an overriding military requirement.

(iii) Are immediately available for military service during any national emergency.

(2) The development and maintenance of current information pertaining to the mobilization availability or nonavailability of Ready Reservists shall be the responsibility of the armed force concerned, and shall not be assigned to the individual.

(3) Each member of the Ready Reserve (who is not a member of the Selected Reserve) is obligated to notify the Secretary of the Military Department concerned of any change of address, marital status, number of dependents, civilian employment and of any change of physical condition which would prevent the individual from meeting the physical or mental standards prescribed by the members' armed force (10 U.S.C. 652).

(4) Determinations as to mobilization availability or nonavailability shall be made by the Armed Forces on a case-by-case basis consistent with the facts and the policies, guidelines and criteria of this part, and not by class or group determinations.

(b) *Transfer of members of the Ready Reserve.* (1) Subject to the personnel and length of service requirements of the Armed Force concerned, members of the Ready Reserve who are eligible for transfer to the Standby Reserve in accordance with 10 U.S.C. 269 and who desire to transfer to the Standby Reserve will execute a transfer request as follows:

(i) Officers will submit a written request to the appropriate authority.

(ii) Enlisted personnel:

(A) Obligors eligible for transfer to the Standby Reserve will submit a written request to the appropriate authority.

(B) Nonobligors lacking a valid Ready Reserve service agreement will be handled under the provisions of subsections (a)(2) or (3), of 32 CFR 115, as appropriate.

(2) In accordance with 10 U.S.C. 269(g), a member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the Governor or other appropriate authority of the State, Puerto Rico, the District of Columbia, or Virgin Islands, whichever is concerned.

(c) *Retention of members of the Ready Reserve.*

(1) All members of the Ready Reserve will be retained in the Ready Reserve throughout the period of their statutory military obligation except as otherwise defined in this part. All members who have fulfilled their statutory military obligations (nonobligors) and who desire to remain in the Ready Reserve will execute a Ready Reserve service agreement as follows:

(i) Officers will execute a written agreement to be a member of the Ready Reserve for a stated period of time, but not less than 1 year.

(ii) Enlisted personnel will be reenlisted for a specified period of time but not less than 1 year. The following statement will be added to the enlistment contract, DD form 4[1], Section 53(a): "I agree to remain a member of the Ready Reserve during the period of the enlistment unless relieved earlier by proper authority." This statement may replace a separate Ready Reserve service agreement.

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[1] Copies available from Armed Forces distribution channels.

(2) In selecting members of the Ready Reserve to be retained in the Ready Reserve, the armed force concerned shall accord preference for retention to those who are considered best qualified and possess the highest potential for career service in the Ready Reserve.

(d) *Physical examinations and annual certificates of physical condition.* Pursuant to 10 U.S.C. 1004(a), each member of the Ready Reserve who is not on active duty shall be examined as to physical fitness at least once every 4 years, or more often as the Secretary of the military department concerned considers necessary, and shall execute and submit annually a certificate of physical condition. In a year that an actual physical examination occurs, the completed physical forms satisfy the requirement for the annual certificate of physical conditions.

(e) *Satisfactory participation.* (1) Members of the Ready Reserve who do not participate satisfactorily will be ordered to active duty, transferred to the Standby Reserve, retired or discharged, as appropriate, in accordance with 32 CFR 100 and 115.

(2) It is the responsibility of each Secretary to ensure to the maximum extent practicable, that the members of their Reserve components understand their obligations for satisfactory participation and for active service in the event of mobilization.

(f) *Notification of civilian employer.* It is the responsibility of every Ready Reservist to inform his employer of his Reserve obligations.

(g) *Transfer from Standby Reserve to Ready Reserve.* Pursuant to 10 U.S.C. 272 ——— any member of the Standby Reserve who has not completed an obligated period of military service in the Ready Reserve may be transferred to the Ready Reserve whenever the reason for the individuals' transfer to the Standby Reserve no longer exists. Similarly, a nonobligor may be transferred back to the Ready Reserve when the reason for his transfer to the Standby Reserve no longer exists.

(h) *Critical military skills.* The Secretary of the military department concerned may retain those Reserve personnel in a Ready Reserve status who (1) possess a critical military skill as shown on the current DOD List of Critical Military Skills[2], or (2) ——— are essential to the support of contingency or war plans even though under the provisions of this part ——— they normally would be screened and transferred to the Standby Reserve.

(i) *Civilian employment.* No deferment from mobilization will be granted members of the Ready Reserve by virtue of their civilian employment. However, it is the responsibility of the Secretary concerned to establish adequate procedures for publicizing the obligations of the Ready Reserve in event of mobilization. This publicity should be directed toward Ready Reservists and their civilian employers and would be limited only by the internal capability of the Armed Forces. Publicity of this nature should emphasize the following areas:

(1) Members of the Selected Reserve are immediately available for mobilization in a national emergency in accordance with 32 CFR 76 ——— or when otherwise authorized by law.

(2) Members of the Ready Reserve may be called into active military service in event of a national emergency.

(3) Members of the Ready Reserve are not exempt from mobilization by virtue of their civilian employment.

§ 44.4 Responsibilities.

(a) Department of Defense (DOD). The responsibilities of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) for screening the Ready Reserve are as follows:

(1) Overall program management/control as delegated by Executive Order 11190.

(2) Publication of the DOD List of Critical Military Skills.[2]

This report is used primarily as an information tool for monitoring critical skills in the Reserve components. It is updated annually from Armed Forces input submitted under reports control symbol DD-M(A) 579. Specific procedures for submission of the report may be found at § 44.7.

(3) Provide to the nonmilitary Federal departments and Federal agencies (in coordination with the FPA) a listing of all Federal employees who are also members of the Ready Reserve. It is intended this listing will support the responsibilities of the organizations defined in § 44.4(b). Responses from Federal departments and agencies should be reported under Interagency Reports Clearance Number: 0912-DOD-AN.

(b) Federal Preparedness Agency (FPA). The responsibility of the (FPA) in the screening of the Ready Reserve (DOD and OEP statement of understanding[3] is summarized as follows:

(1) The FPA will provide to the nonmilitary Federal departments, Federal agencies, State, Commonwealth, territory, and local governments and Defense supporting industries the policy and procedures required for screening their employees filling key positions who are in the Ready Reserve.

(2) The FPA will resolve conflicts arising between military and essential civilian manpower needs.

(c) Federal departments and agencies (including the Armed Forces) States, Commonwealth, territory and local governments and defense supporting industries shall in accordance with a statement of understanding between the Department of Defense and the Office of Emergency Planning and Federal Preparedness Bulletin-3 "Screening of the Military Ready Reserve," shall:

(1) Identify key positions as defined in § 44.6.

(2) Ensure a member of the Ready Reserve is not hired into or transferred to a key position unless simultaneously reported to the appropriate armed force for a screening determination. This action should be initiated at the time of the individual's assignment to a key position and must occur prior to mobilization.

(3) Identify Ready Reservists who are currently holding key positions and either transfer them from their key positions or report them to the appropriate armed force for a screening determination.

(4) See § 44.8 and 9 ——— for a suggested letter format and Armed Forces mailing addresses used for screening determinations.

§ 44.5 Screening requirements.

The policies, guidelines and procedures set forth herein will be used by the Armed Forces in screening the Ready Reserve:

(a) *General.* The Armed Forces shall

(1) Conduct the screening for key positions as required by subsection § 44.4(b).

(2) Screen (on an annual basis) all unmobilized Ready Reserve members under their jurisdiction to assure their immediate availability for military service during an emergency (for reasons other than defined under § 44.4(b). Reports of this action shall be submitted semiannually in accordance with DOD Instruction 7730.16(DD-M(SA)604).)[4]

(3) Insure that personnel records systems incorporate information which would negatively impact on the mobilization availability of a Ready reservist.

(b) *Key positions (except Federal Government officials).* (1) The Armed Forces will process individuals identified by their civilian employers as filling key positions as follows (10 U.S.C. 269(f)):

(i) Individuals who possess military skills for which there is an overriding requirement will be retained in the Ready Reserve until completion of their statutory or other military obli-

[2] Can be obtained by contacting action officer.

[3] Filed as part of original.

[4] Filed as part or original. Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120 Attention Code 301.

gation, at which time they will be transferred to the Standby Reserve, the Retired Reserve, the Retired Reserve, or discharged, as appropriate.

(ii) Individuals who have completed their statutory obligation, but who are obligated to participate in the Ready Reserve under an enlistment contract or other written agreement, will be transferred to the Standby Reserve or discharged as appropriate, provided they do not possess a military skill for which there is an overriding requirement.

(iii) Individuals who have not completed their statutory obligation and do not possess a critical military skill normally will be retained in the Ready Reserve until completion of such obligation. However, upon application an individual in this category may be transferred to the Standby Reserve or discharged as considered appropriate on the approval of the Secretary of the Military Department concerned provided (A) military skill is excess to the requirements of the Reserve Component concerned (§ 44.5(e)(4)) and (B) the individual was identified as filling a key position by the employer.

(iv) Before transferring any member of the Ready Reserve to the Standby Reserve by reason of the individual's identification as filling a key position, the Secretary concerned will inform the member of right to apply for transfer to the Standby Reserve Active Status List and allow a reasonable period of time for the member to make such application in accordance with 32 CFR 102. Members who do not so apply will be transferred to the Standby Reserve Inactive Status List.

(2) After the screening decision is made the Armed Forces will:

(i) Transmit to each reservist's employer and the reservist concerned the results of their screening determination by completing the action endorsement specified on the suggested format at ———.

(ii) Periodically (at least annually) verify the continuing necessity for removal of an individual from the Ready Reserve by reason of the individual's designation as a key employee.

(c) Federal Government officials. The Armed Forces shall screen Government officials as follows:

(1) The Vice President of the United States, or any of those specified in the order of Presidential succession as set forth in 3 U.S.C. 19, ——— who are members of the Ready Reserve, will be transferred to the Standby Reserve, the Retired Reserve, or discharged, as appropriate.

(2) Elected members of the legislative and appointed members, judicial branches of the Government who are members of the Ready Reserve will be transferred to the Standby Reserve, the Retired Reserve, or discharged, as appropriate. Pursuant to *Palmore* v. *United States* the Superior Courts of the District of Columbia and the District of Columbia Court of Appeals are to be considered State courts.

(3) Federal officials and employees of the executive branch who have (i) completed their statutory Ready Reserve obligation and (ii) who are filling key positions will be transferred to the Standby Reserve, the Retired Reserve, or be discharged, as appropriate. Persons filling key positions who have not completed their statutory Ready Reserve obligation normally will be retained in the Ready Reserve until the completion of such obligation. However, such obligated members may be transferred to the Standby Reserve, or be discharged under the provisions of paragraph § 44.5(b)(1)(iii).

(4) Members defined in paragraphs § 44.5(c) (2) and (3) may apply for transfer to the Standby Reserve Active Status List for their tenure or for the period they are designated in a key position. Members desiring transfer will apply to the Armed Force concerned through the Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(d) *Extreme hardship.* The Armed Forces shall screen extreme hardship cases (10 U.S.C. 271(5)), as follows:

(1) Nonobligated members of the Ready Reserve whose immediate recall to active duty in an emergency would create an extreme personal or community hardship, as defined in § 44.6, as determined/approved by the Secretary of the Military Department concerned, will be transferred to the Standby Reserve, the Retired Reserve, or discharged, as appropriate.

(2) Obligated members of the Ready Reserve whose immediate recall to active duty in an emergency would create an extreme personal or community hardship, as defined in § 44.6 and determined/approved by the Secretary concerned, may, upon their individual request, be discharged, if disqualified for further Reserve service or transferred to the Standby Reserve.

(e) *Miscellaneous screening requirements.* Ready reservists identified in the following categories will be screened as specified:

(1) *Health professions graduate study.* Individuals who are enrolled in a course of graduate study in one of the health professions will be screened in accordance with DOD Directive 1200.14.[4]

(2) *Mobilization augmentee/designees.* Members of the Ready Reserve who are also DOD civilian employees may not hold a mobilization assignment within the same general organizational or operational area of the department or agency in which the member is employed. Individuals in this situation will be reassigned or transferred, as appropriate. Guard/Reserve unit technicians as members of units are excluded from this provision.

(3) *Theological students.* Members of the Ready Reserve who are preparing for the ministry in a recognized theological or divinity school may participate voluntarily in inactive duty training and active duty training. Such members who do not wish to participate in training duty will be transferred to the Standby Reserve, since these individuals may not be required to serve on active duty or participate in inactive duty training under 10 U.S.C. 685. Once such a member terminates his training at the theological or divinity school, he may be transferred back to the Ready Reserve under the provisions of subsection § 44.3(g).

(4) *Excess personnel.* Members of the Ready Reserve who are in excess of mobilization requirements will be transferred to the Standby Reserve, retired or discharged, as appropriate, as follows:

(i) Individuals who have completed their Ready Reserve obligation and who possess military skills in excess of requirements to maintain a proper balance of such skills in the Ready Reserve.

(ii) Individuals who have completed their Ready Reserve obligation for reasons not otherwise specified herein, as determined by the Secretary concerned.

(iii) Individuals who have completed 20 years of satisfactory service and are eligible for retirement with pay in accordance with 10 U.S.C. 1331.

(iv) Before action is taken in conjunction with this paragraph § 44.5(e)(4), due consideration should be given to maintaining a proper distribution within the grade, rank and skill structure of the Ready Reserve.

(5) *Standards of fitness.* Members of the Ready Reserve who do not meet age limitation requirements or standards of fitness prescribed for active duty assignments by the Armed Forces shall, unless otherwise prohibited by law:

(i) Be transferred to the Standby Reserve, or

(ii) Upon application, be placed in the Retired Reserve if qualified, or

(iii) Be discharged, as appropriate.

§ 44.6 Definitions.

(a) *Ready Reserve:* Units and individual reservists liable for active duty as outlined in 10 U.S.C. 672 and 673, title 10, U.S.C. 268 provides for an authorized strength of 2,900,000 in the Ready Reserve which includes members of the Reserve components on active duty.

(b) *Selected Reserve:* Part of the Ready Reserve of each Reserve com-

ponent consisting of units and individuals who actively participate in drills or training periods each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) each year.

(c) *Standby Reserve:* Units or members, or both, of the Reserve components other than those in the Ready Reserve or Retired Reserve who are liable for active duty on as provided in 10 U.S.C. 672 or 674.

(d) *Key Position.* A direct hire or statutory civilian position which requires a minimum of 90 days of specialized training or experience in a Federal, State, Commonwealth, territory, or local government agency or defense supporting industry having a current shortage of qualified personnel and which position is:

(1) Necessary to the mobilization or emergency functions of such agency or industry, or

(2) Essential to the continuity of operations or the leadership of such agency or industry.

(e) *Key employee.* Any civilian employee of a Federal, State, Commonwealth, territory, or local government agency or defense supporting industry who occupies a key position for whom no qualified and immediate replacement exists and whose duties cannot be reassigned to other employees, or has a civilian mobilization assignment, and whose immediate recall to military active duty during an emergency would seriously impair the effective functioning and continuity of such agency or industry with regard to:

(1) Production and research vital to the national defense effort; or

(2) Activities necessary to the maintenance of the national health, safety or interest.

(f) *Critical military skill.* A skill which is on the "DOD List of Critical Military Skills for Use in Screening the Ready Reserve"[2] published by the Department of Defense. This list is subject to periodic revision by the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) pursuant to the procedures outlined in § 44.7.

(g) *Government agency.* The head of any department, agency, or office of the Federal Government. Requests for a Ready Reserve screening determination (§ 44.8) must be signed by this individual or a designated representative.

(h) *State, Commonwealth, territory, and local governments.* The head of any department, agency, or office of a State, Commonwealth, territory, or local government. Requests for a Ready Reserve screening determination (§ 44.8) must be signed by this individual or a designated representative.

(i) *Defense-supporting industry.* The chief personnel officer of any business or corporation determined by FPA to be defense-supporting. Requests for a Ready Reserve screening determination (§ 44.8) must be signed by this individual or his/her designated representative.

(j) *Extreme community hardship.* A situation which would result from the recall to active duty of a reservist in an emergency, in that the individual's withdrawal from a particular community would have a substantially adverse affect on the health, safety, or welfare of that community. (Any request for a determination of such hardship will be initiated by the reservist, and must be supported by documentary evidence as deemed necessary by the secretary of the military department concerned.)

(k) *Extreme personal hardship.* A situation which would result from the recall to active duty of a reservist in an emergency, in that his/her absence would cause extreme hardship to the individual's dependents substantially greater than that which dependents of other reservists can be expected to experience from their recall to active duty. (Any request for a determination of such hardship will be initiated by the reservist, and must be supported by documentary evidence as deemed necessary by the secretary of the military department concerned. In order to insure a uniform standard, the criteria for such evidence should conform generally to the current service regulations on determining cases of extreme hardship.)

(l) *Statutory military obligation (obligor).* All persons who become a member of an armed force before 26th birthday shall serve in the Armed Forces for a total of 6 years unless they are sooner discharged because of personal hardship by an appropriate authority. Any part of such service that is not active duty or active duty for training shall be performed in a Reserve component.

§ 44.7 Procedures for preparation and revision of DOD list of critical military skills for use in screening the Ready Reserve.

Preparation of critical military skills lists. (a) Each armed force will update and revise as necessary its list of military skills annually, as of September 30, using the following criteria:

(1) The military skill must be indispensable to the success of the Ready Reserve mobilization mission; and

(2) A long period of mobilization-accelerated training in the reservist's individual military specialty to include prerequisite specialty training (totaling at least 6 months) must be needed to develop the degree of skill required; and

(3) An appreciable shortage (at least 10 percent of Ready Reserve requirements) of available personnel with the skill exists or is anticipated.

(b) Newly developed military specialties which meet all three of the above DOD criteria for designation as critical skills, shall be added to the military service's list of critical military skills. Previously designated critical specialties which no longer meet the DOD criteria shall be deleted from the service list.

(c) Each service's complete list as revised should be compiled in accordance with formats A and B (attachments 1 and 2, respectively), and two copies thereof transmitted to arrive in the office of the Deputy Assistant Secretary of Defense (Reserve Affairs) no later than November 30 of each year.

(d) The updated and revised service lists will be reviewed and consolidated by the Deputy Assistant Secretary of Defense (Reserve Affairs) and issued as the current "DOD List of Critical Military Skills for Use in Screening the Ready Reserve."

Attachment 1

FORMAT A.—*Service list of critical military skills*

[Civilian-type]

[List officer and enlisted skills separately in alphabetical order of skill code]

Military service..... For period ending.....

Total Ready Reserve personnel	Total Reserve personnel requirements	Career subdivision title	Speciality MOS, AFS, or ES rating	Service occupational code number	Relatable civilian job (DOT)		Months required to produce the speciality by mobilization accelerated training
					Title	DOT code	

Attachment 2

FORMAT B.—*Service list of critical military skills*

[No civilian counterpart]

[List officer and enlisted skills separately in alphabetical order of skill code]

Military service..... For period ending.....

Total Ready Reserve personnel	Total Ready Reserve personnel	Career field subdivision title	Speciality title (MOS, AFS, or ES rating)	Service occupational code number	Months required to produce the specialty by mobilization accelerated training

§ 44.8 Suggested format for Ready Reserve screening determination.

(a) *Form letter request.*

(Date) ————————

From: (Agency or firm, name, and address, include ZIP code.)

To: (Appropriate military center—see enclosure (4).)

Subject: Request for a screening determination.

Reference: (a) DOD Directive 1200.7; Subject: Screening the Ready Reserve.

1. This is to certify that the employee identified below occupies a key position requiring a minimum of 90 days of specialized training or experience and which: (a) Is necessary to the mobilization or emergency functions of this agency or firm; or (b) is essential to the continuity of operations or the leadership of this agency or firm. There is a current shortage of qualified personnel within this agency or firm to the extent that, no adequate replacement exists for this employee and individual's duties cannot be reassigned to other employees. It is therefore recommended that this individual be considered not available for active military duty in a national emergency under the provisions pertaining to key employees contained in title 10, U.S.C. section 268, 269 (f) and (g), 271(5), 272, 652, 672, 673, 685, 1004 (a), and 1331.

2. Pertinent data as to the employee is as follows:

Name of employee: (Last, first, middle) ————————.

Military grade and component: ——.

Social security number: ——.

Current home address: (Include ZIP code) ————————.

Military unit to which assigned: (Include address and ZIP code) ————————.

Title of employee's civilian position: ————.

Grade or salary level of civilian position: ————.

Data hired or assigned to position: ————.

Signature ————————

Typed name and title of Head of Department, Agency, or office of Chief Personnel Officer of Defense-Supporting Industry (or Designated Representative).

(b) *Action endorsement by service.*

(Date) ————————

1. As a result of the screening of Ready reservists, as required by 32 CFR 44, the above-named individual has been:

(Removed from) (Retained in) the Ready Reserve.

Typed name and title of authorized official.

Copy to: Reservist-Employee (Home address, include ZIP code).

(c) *Instructions for preparation.* (1) The employer should prepare and submit the basic letter to the appropriate military center as listed in 32 CFR 44.9. (2) The applicable service will screen and complete the action endorsement. One copy should be sent to the employer, one copy to the reservist-employee, and the original retained for personnel files and future screenings.

§ 44.9 Ready Reserve screening centers.

U.S. ARMY

(1) U.S. Army Reserve Units

Headquarters: Commanding General, First U.S. Army, Fort George G. Meade, Maryland 20755.

Area covered: Alabama, Florida, Maryland, New Jersey, Pennsylvania, Tennessee, West Virginia, Connecticut, Georgia, Massachusetts, New York, Rhode Island, Vermont, Puerto Rico, Delaware, Maine, Mississippi, North Carolina, South Carolina, Virginia, New Hampshire, and District of Columbia.

Headquarters: Commanding General, Fifth U.S. Army, Fort Sam Houston, Texas 78234.

Area covered: Arkansas, Iowa, Michigan, Ohio, Wisconsin, Illinois, Kentucky, Minnesota, Oklahoma, Indiana, Louisiana, Missouri, and Texas.

Headquarters: Commanding General, Sixth U.S. Army, Presidio of San Francisco, California 94129.

Area covered: Arizona, Idaho, Nebraska North Dakota, Utah, California, Kansas, Nevada, Oregon, Washington, Colorado, Montana, New Mexico, South Dakota, and Wyoming.

Headquarters: Commanding General, U.S. Army Forces Command, Fort McPherson, Georgia 30330.

Area covered: Alaska and Hawaii.

(2) Army National Guard Units

Submit requests to the State Adjutant General for the appropriate State, Puerto Rico, Virgin Islands or the District of Columbia.

ALL OTHER ARMY RESERVISTS (NOT IN UNITS)

Commander, U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, Mo. 63132.

U.S. NAVY (ALL READY RESERVISTS)

Officers: Chief of Naval Personnel (Attention: Pers R-61), Navy Department, Washington, D.C. 20370.

Enlisted: Commanding Officer, Naval Reserve Personnel Center, New Orleans, La. 70149.

U.S. MARINE CORPS

Officer in Charge, Marine Corps Reserve Forces Administrative Activity, 1500 East Bannister Road, Kansas City, Mo. 64131.

U.S. AIR FORCE (ALL READY RESERVISTS)

U.S. Air Force Reserve: Commander, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colo. 80280.

Air National Guard Units: Submit requests to the State Adjutant General of the appropriate State, Puerto Rico, or the District of Columbia.

U.S. COAST GUARD (ALL READY RESERVISTS)

Commandant, (GRA/82), U.S. Coast Guard, 400 7th Street SW., Washington, D.C. 20590.

[FR Doc. 78-24182 Filed 8-25-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 78-89]

DRAWBRIDGE OPERATION REGULATIONS

Miami River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Dade County Department of Transportation, the Coast Guard is considering changing the regulations governing the drawbridges across the Miami River to exclude the present restricted period on Saturday (i.e., the draws

would open on signal). This change is being considered to reflect decreased vehicular congestion on Saturday. This action would result in less restriction on Saturdays for vessel traffic through the bridges.

DATE: Comments must be received on or before September 29, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the Office of the Commander (oan), Seventh Coast Guard District, 51 SW. First Avenue, Miami, Fla. 33130.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The Marine Council of Miami submitted this request to the Dade County Department of Transportation. That department reviewed its traffic volume count data and concluded that allowing unrestricted openings on Saturday would not create traffic problems. The department recommended approval of this request.

In consideration of the foregoing, it is proposed that part 117 of title 33 of the Code of Federal Regulations be amended by revising § 117.448(a) to read as follows:

§ 117.448 Miami River, Fla.; highway bridges from mouth to and including city of Miami bridge at Northwest 27th Avenue, Miami.

(a) Except as otherwise provided in paragraphs (b), (c), and (d) of this section, the owners of or agencies controlling these bridges shall not be required to open the drawspans for the passage of vessels from 7:30 to 9 a.m. and from 4:30 to 6 p.m., on all days other than Saturdays, Sundays, and the following legal holidays: New Year's Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

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

Dated: August 22, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-24174 Filed 8-25-78; 8:45 am]

[4910-14]

[33 CFR Part 117]

[CGD 78-91]

DRAWBRIDGE OPERATION REGULATIONS

Matanzas River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the city of St. Augustine, the Coast Guard is considering amending the regulations governing the Bridge of Lions across the Matanzas River that will have the effect of changing the 1-hour closed period in the afternoon from 5 to 6 p.m. to 4:30 to 5:30 p.m. This proposal reflects new vehicular traffic patterns that peak at approximately 5 p.m. rather than 5:30 p.m. This action will accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before September 29, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the Office of the Commander (oan), Seventh Coast Guard District, 51 SW. First Avenue, Miami, Fla. 33130

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

Discussion of Proposed Rule

Current regulations require the Bridge of Lions, Matanzas River to open on the hour and the half-hour if there are vessels waiting to pass. In order to accommodate peak vehicular traffic flow across the bridge, the regulations provide that on Monday through Friday the draw need not open at 8 a.m., 12 noon , and 5:30 p.m. Due to change in the afternoon traffic pattern it is proposed to amend the regulations by changing the 5:30 p.m. exception to 5 p.m. This will result in a 1-hour closed period petween 4:30 and 5:30 p.m. in place of the current closed period of 5 to 6 p.m.

In consideration of the foregoing, it is proposed that part 117 of title 33 of the Code of Federal Regulations be amended by revising the last line of § 117.432(a)(1) to read as follows:

§ 117.432 Matanzas River (Intracoastal Waterway), Fla.; Bridge of Lions (State Road No. A-1-A), St. Augustine, Fla.

(a) * * *

(1) From 7 a.m. to 6 p.m., Monday through Friday, except legal holidays, the draw shall open only on the hour and half-hour if any vessels are waiting to pass. However, the draw need not open at 8 a.m., 12 noon, and 5 p.m.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—the Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: August 22, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-24175 Filed 8-25-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 74]

[BC Docket No. 78-253; FCC 78-604]

NATIONAL TELECOMMUNICATIONS SYSTEM

Future Role of Low-Power Television Broadcasting and Television Translators; Inquiry; National Telecommunications System

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Communications Commission today initiates a broad inquiry into the role of low-power television broadcasting, including television translators, in the overall national telecommunications system, with a view toward increasing diversity of programming to both rural and urban areas. As part of our general desire to improve television diversity, we also believe there is a need for a coherent, long-range plan for the use of TV translator stations, with traditional and, perhaps, altered functions, and, more generally, for the use of low-power, origination-capable television stations. A number of study reports, petitions, and suggestions all urging a greater role for such devices support our finding of a need for this inquiry. Changes in applicable statutory law and significant development and reliability of solid-state, low-power transmission gear also have been factors pointing toward the desirability of this inquiry.

DATES: Initial comments must be received on or before December 11, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Barry D. Umansky, Broadcast Bureau, 202-632-7213.

SUPPLEMENTARY INFORMATION:

INQUIRY

Adopted: August 8, 1978.

Released: August 24, 1978.

By the Commission: Commissioner Washburn absent.

In the matter of an inquiry into the future role of low-power television broadcasting and television translators in the national telecommunications system, BC Docket No. 78-253.

1. The Commission today initiates a broad inquiry into the role of low-power television broadcasting, including television translators, in the overall[1] national telecommunications system, with a view toward increasing diversity of programming to both rural and urban areas. As part of our general desire to improve television diversity, we also believe there is a need for a coherent, long-range plan for the use of TV translator stations, with traditional and, perhaps, altered functions, and, more generally, for the use of low-power, origination-capable television stations. A number of study reports, petitions, and suggestions all urging a greater role for such devices support our finding of a need for this inquiry. Changes in applicable statutory law and significant development and reliability of solid-state, low-power transmission gear also have been factors pointing toward the desirability of this inquiry.

2. Originally, television translators, one form of low-power television, were envisioned as facilities useful to provide TV service to areas that had difficulty receiving broadcast television stations. In this rebroadcast, supplemental role as passive rebroadcast devices, translators were allowed to use only very low-power transmitters, operate only on UHF channels, rebroadcast only the programing of another station, and were forbidden to obtain revenue through subscription fees or the presentation of advertising matter. Though translators traditionally have had technical and practical problems in delivering a high-quality broadcast picture to their communities, recent technological advances and regulatory changes have ameliorated these difficulties. As discussed in greater detail, infra, translators now can operate on VHF as well as UHF output channels, higher transmission power levels are allowed, and more efficient FM microwave technology now can be used for delivering a broadcast signal to a translator.[1] In addition, we have allowed UHF translators to broadcast local announcements, for 30 seconds per hour, to seek or acknowledge financial support.[2] It may be that, in the course of this proceeding, the current translator service may be viewed as the evolutionary basis of a larger and more flexible low-power service. A chronology of commission and judicial actions related to translators is found in appendix "A" to this notice of inquiry. This chronology is not meant to be exhaustive but, rather, is illustrative of those decisions made by the Commission and the courts over the years. Appendix "B" contains a report entitled "Television Translators—A Historical Perspective," prepared by the Broadcast Facilities Division of the Broadcast Bureau. Parties may find these background information documents useful in the preparation of comments.

3. During the last several months and years there have been several study reports suggesting the need for this overall inquiry. The authors of the Denver Research Institute's (DRI) 1973 "Broadband Communications in Rural Areas" report to the Office of Telecommunications Policy (OTP) urged a larger role for translators in providing television service to less densely populated areas. A report entitled "The Feasibility and Value of Broadband Communications in Rural Areas," issued in April 1976 by the U.S. Congress, Office of Technology Assessment, came to a similar conclusion as to the need for increased translator activity in rural areas. Most recently, a "Rural Communications" report, issued in December 1977 by the Interagency Committee on Rural Communications (formed by the OTP), suggested, inter alia, increased service from translators and the use of program-originating low-power television stations operating under minimal Commission regulatory burdens. In its comments in the Commission's VHF drop-in proceeding (in docket 20418), the Corporation for Public Broadcasting (CPB) proposed a new class of television stations capable of providing television service to smaller geographic areas through limited power output and specialized antenna configuration. Congressional hearings held during the summer of 1977 include testimony supporting a larger rural service role for translators.

4. The potential for increased translator origination activity has been augmented by a recent amendment, sought by the Commission, to section 318 of the Communications Act.[3] With

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[1] See *Report and Order* in docket 20539, FCC 77-836, 67 FCC 2d 209 (1977).

[2] Today the Commission has adopted a *Notice of Proposed Rule Making* in BC docket 78-252, FCC 78-603, —— FCC 2d —— (1978), looking toward the authorization of FM and TV translators' origination of emergency announcements and VHF television translators' origination of announcements seeking or acknowledging financial support.

[3] Section 318, as is pertinent here, provides as follows:

Section 318. The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license * * * *Provided, however,* That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may

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respect to translators, the amended statutory provision empowers the Commission to sanction unattended performance of a "hybrid" function—a mix of traidional rebroadcast activity and the limited origination of the other programing. We believe that the technical considerations which in the past had been an impediment to significant origination by translators[4] may have been resolved[5] to the extent that a reevaluation of such origination by translators, and more extensive origination by low-power stations using similar transmission equipment, is now appropriate.

5. As we initiate this inquiry we wish to make it clear that, regardless of the descriptive terms used herein, this inquiry goes to the entire concept of low-power television broadcasting. Moreover, it goes to questions of public needs and how these needs could best be satisfied. Finally, it goes to urban as well as rural areas, although we recognize that spectrum availability problems are generally far more severe in urban areas. Our goal here is to use these over-the-air-broadcast mechanisms to help meet service needs and to expand the diversity of programing available to the public. Our concepts of program diversity and of service needs, however, do not focus necessarily on a paucity of conventional over-the-air or cable-relayed signals available in the community. Rather, they go to whether identifiable service needs of communities in general, or specific population groups in particular, are being met by existing television sources. Such service needs, as stated above, may exist in urban as well as rural areas. The subject matter of this inquiry extends to all forms of lower-powered television broadcasting. Certain of these forms may be called "translators," because of their continued full or part-time rebroadcast of television stations. Other facilities, which principally originate programing from local sources may be given a different name—a name such as "low-power station."

6. In the past, translator policy generally has developed on an ad hoc basis with a variety of Commission actions taken in the last 20 years. Many of these decisions were stimulated by unpredictable technological, economic, and sociological developments—events that can be expected to occur naturally over time. However, some of these Commission rulings were necessitated by a lack of a comprehensive long-range policy. Now the Commission is initiating a broad inquiry to provide the information needed for policy decisions on the future of television translators and low-power television broadcasting.

Scope of the Inquiry

7. In embarking upon this proceeding, the Commission's basic inquiry is: What role may low-power television stations and translator stations play in delivering programing to the public. The Commission will need information on what alternative roles can be considered (e.g., changes to the existing translator service and/or creation of a new low-power TV service), and what impacts these new or altered services would have on the public, communications industries and the FCC. A baseline evaluation of the existing translator service (present role) also will be needed.

8. At the outset of this inquiry, the Commission wishes to focus on broad policy concepts for translators and low-power stations. After some fundamental policy related information is obtained, the Commission will be able to make several basic policy decisions which will set the direction for future rulemaking activities. Therefore, at this state of the inquiry, we do not seek detailed information or comments on specific existing or proposed regulations concerning technical standards, local station or cable television program protection, licensing, or other rules. At this stage, we only want to deal with very basic service concepts. The more detailed aspects of Commission rulemaking can be dealt with more effectively after some basic alternatives for translators and low-power broadcasting are formulated and evaluated on a series of decision criteria concerned with more fundamental policy issues.

9. The Commission fully recognizes that there may be economic, financial, and business relationships between TV translators and cable TV systems, as well as betwen TV translators and broadcast TV stations. We plan to examine these relationships, and how they might change under possible future regulatory programs. However, we do not wish to develop, in this proceeding, a record of material in support of the retention, revision, or deletion of all or any of our cable television rules. Consequently, while we will consider competitive factors in this inquiry, we do not solicit comments on the issues of regulatory parity per se, between cable and translators (or between translators and conventional broadcasters) or the modification of our cable television rules.[6]

Structure of the Inquiry

10. In this investigation we hope to obtain information on a wide range of areas, from programing needs to economic impact to radio interference. We believe that a single notice and comment procedure may not be adequate to provide the full range of information needed to establish policies in this area. Rather, we expect this proceeding to develop and progressively become more refined as a result of a number of inquiry and, perhaps later, rulemaking notices. Additionally, it is our expectation that in-house, Commission research efforts will be undertaken in parallel with the efforts of other interested parties. This approach to inquiry and rulemaking procedure is particularly appropriate in this case, where we can see the need for complex studies and analyses in social, economic, and engineering areas. The Commission's staff will undertake studies both in-house and through contractual research, in order to assure that all reasonable alternatives are considered in an objective manner. We propose to make the results of all these studies part of the record through the issuance of periodic working papers and study reports. Interested parties will have full opportunity to comment upon these various reports and results. The following are offered as examples of such possible research endeavors:

(1) The economics of operating low-power television stations (including translators) under alternatives of attended and unattended operation and under various alternative levels and types of program origination;

(2) The incentives available to encourage investment in low-power television broadcasting (including translators) and the potential revenue sources available to sustain operation;

(3) The potential impact of expanded use of translators or other low-power TV broadcast transmitters on the use and availability of UHF and VHF television spectrum;[7]

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waive or modify the foregoing provisions of this section for the operation of any station except * * * (3) stations engaged in broadcasting (other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations) * * *

Prior to the amendments enacted by Pub. L. 94-335, clause (3) to the first proviso read as follows:

(3) Stations engaged in broadcasting (other than those engaged *solely* in the function of rebroadcasting the signals of television broadcast stations) (emphasis added).

[4] See, e.g., "Report and Order," in docket 15971, 13 FCC 2d 305, 322 (1968).

[5] See "Report and Order," in docket 20539, supra.

[6] In this connection, we wish to note the Commission's action today, by "Memorandum Opinion and Order, FCC 78-606, FCC 2d (1978), disposing of petitions for rulemaking (RM-2751 and RM-2826), each filed by a cable television multiple system operator. As explained thoroughly in this "Memorandum Opinion and Order," many of the areas of concern raised in these petitions will be addressed in this broad inquiry. Other suggestions, however, such as a focus on "regulatory parity" per se, will not be pursued further at this time.

[7] Here we are considering whether the existing television bands should be redistribut-

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(4) The potential economic impact of translators or other low-power TV stations on cable television systems and primary broadcast TV stations under various regulatory alternatives.

REGULATORY BACKGROUND

11. It should be made clear, however, that this is not the first time the Commission has addressed these translator or low-power origination matters, and we believe a somewhat extended discussion of these matters is worthy of inclusion here. A survey of the Commission's past decisions and statements in the translator and low-power TV areas appears to provide support for the general concept of such origination. And although the concept of broad local community TV origination service, by translators or other low-power means, has been before the Commission in the past, the earlier reluctance of the Commission to take positive action can be attributed to engineering, signal interference, and spectrum allocation considerations, as well as a general indifference displayed by commenting parties and potential applicants. We never have rejected the concept of translator origination on its own merits, finding such an activity not to be in the public interest. Indeed, the Commission has been receptive to waiver requests seeking origination of various local interest programs.[8]

12. In 1967, by its "Notice of Proposed Rule Making," in docket 15971 (FCC 67-706, 8 FCC 2d 569 (1967)) the Commission said it would consider the possibility of amending its rules to permit translators to originate both programs and advertising. Perceiving only technical impediments to such an origination concept we stated that:

> * * * proposals to permit translators to originate programs are proposals for the further relaxation of the technical requirements for television broadcast stations to permit the use of inexpensive and technically inferior transmitting equipment. Unless it can be demonstrated that these standards are high enough to provide a quality picture and to prevent interference, we are not disposed to change them. (8 FCC 2d at 579.)

At the "Report and Order" stage of this proceeding, the Commission found that:

> * * * technical hurdles appear insuperable at this time, and for this reason alone, we do not find warrant for initiating rulemaking now looking toward permitting programing originations by translators. We have arrived at this judgment with some regret, because there is much appeal in the exploitation of possibilities for giving smaller communities which lack direct primary TV station service a means of local self-expression and of presenting issues of local importance, as well as candidates for local office. (12 FCC 2d at 322.)

13. Thus, it was only for engineering reasons that program origination by translators was not further pursued at that time and in that proceeding. All that was permitted were brief 20 second-per-hour fund solicitation, acknowledgment and advertising messages (13 FCC 2d 319), later expanded to 30 seconds-per-hour "Report and Order" in docket 19661, FCC 75-842, 54 FCC 2d 421 (1975)). Continuing in its 1968 "Report and Order" in docket 15971, the Commission observed that:

> * * * at this stage of the art, however, it will continue to be necessary to look to low-power television broadcast stations for these purposes, and meanwhile to continue to examine the possibilities—in our separate, pending rulemaking in docket No. 14229—for the authorization of low-cost, low-power television stations with modified technical requirements * * *

Hence, the Commission, in 1968, deferred such "Community TV service" issues to its ongoing rulemaking proceeding in docket 14229. The scope of the rulemaking proceeding in docket 14229, the captioned subject of which was "Fostering Expanded Use of UHF Television Channels," was enlarged in 1965 by a "Further Notice of Proposed Rule Making" (FCC 65-505). There, the Commission said it found a "need for a relatively low-powered class of station tailored to the needs of the medium and small sized communities * * *" It proposed that channels 70-83, inclusive, be used for this new class of service. Following the 1970 reallocation of this frequency space to land mobile services ("First Report and Order and Second Notice of Inquiry" in docket 18262, FCC 70-519, 19 RR 2d 1663 (1970)), the Commission closed out docket 14299, declaring moot, inter alia, its low-power community TV proposals. (See "Eighth Report and Order" in docket 14229, FCC 71-92, 20 RR 2d 1771 (1971).) In the above-referenced decision in Docket 18262, the Commission stated, at paragraph 16, that:

> In terminating docket No. 14229, we recognize that the public interest considerations for low-power educational and community television stations have not been entirely resolved.

14. In light of the above, it appears that further pursuit of a low-power translator origination concept is consistent with Commission policy. And, because of engineering refinements in translator-type broadcasting apparatus, it appears that the technical problems which precluded Commission action in the past may no longer be present today. And it seems apparent, from the wealth of "rural TV" and other proposals which recently have appeared on the scene, that there is a renewed and expanded interest in translator and low-power origination activity.

15. An analysis of the program origination potentials of translators and low-power television facilities indicates that a variety of new and expanded activities are possible under each service. In exploring this area, insofar as translators are concerned, it appears that current statutory law contemplates increased program origination. (A further assessment of the relevant statutory law is presented in appendix "C".) Even more extensive origination may be feasible where low-power, operator-attended television facilities may be involved.

ALTERNATIVES FOR LOW-POWER/TRANSLATOR SERVICE ROLES

16. The primary staff function in this proceeding will be the evaluation of alternative low-power/translator service roles on the set of decision criteria to be discussed below. These roles will be designed to represent the major policy options that the Commission will address. Since specific and detailed alternative roles cannot be well-defined at this stage, evaluation efforts and attendant comments, studies and analyses will have to be very generalized so that a wide range of options may be given consideration. Included among the policy/service options that we envision at this stage are those involving increased program origination, frequency allocation plans (see footnote 7, supra), cross-ownership considerations, and broadcast signal retransmission. Any regulatory changes may result in the form of modifying the scheme for the existing translator service, or perhaps, through the establishment of a separate regulatory program for a new "low-power" service—a service that might include several of translators' traditional functions.

DECISION CRITERIA

17. The basic decision criteria to be used in the initial phase of the policy development process are listed below. We will attempt to provide descriptive information on each of the criteria to help explain the range of the alternatives considered. Interested parties may provide any information they feel may be useful to the Commission concerning these basic criteria or other relevant elements discussed elsewhere.

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ed, by allotting some of the available spectrum to low-power television, in specific areas or generally, to maximize the diversity of television programing available to the viewing public. We are not, at this time, considering either the creation of additional new television broadcast bands or the revisiting of our decision to reallocate UHF channels 70-84 to land mobile radio services "First Report and Order and Second Notice of Inquiry" in docket 18262, FCC 70-519, 19 RR 2d 1663 (1970).) Moreover, we are not considering, at this stage, the distribution of frequency channels to particular stations.

[8] See, e.g., "Leeco TV, Inc.," 9 FCC 2d 1028 (1967); "Board of Cooperative Services," 4FCC 2d 995 (1966).

The decision criteria are suggested as follows:

a. Public need for program diversity.

b. Spectrum requirements.

c. Interference to communications services.

d. Media competition and economic impact.

e. Low power/translator economic viability and ownership.

f. Impact on Commission resources and service implementation delays.

PUBLIC NEED FOR PROGRAM DIVERSITY

18. Two important considerations for public policy formulation in this area are the need for additional service and the value which the public places upon increased service. While data on these matters may be difficult to estimate, it may be possible, for example, to calculate the maximum amount of unduplicated programing that U.S. households can receive, under various assumptions about channel assignments, signal strengths, terrain, and other propagation factors, and industry structure. Thus, under existing conditions, one level of service exists; under different financial alternatives, different television channel allocation alternatives, and different programing alternatives, it is likely that different levels of service will result. We also seek information on the importance that various sectors of the public place upon the ability to receive various types and quantities of programing. For example, people in areas which have little or no television service may be dependent on nontelevision sources of information and entertainment, which they believe adequately fulfill their needs. They may not have a strong desire for additional television service. On the other hand, these people may have a strong desire for additional service and may feel that they are being deprived of a valuable source of information or entertainment. Comment on this and related issues is specifically sought. We seek comment on how expanded origination activity might relate to and foster the concepts of programing "localism" and program diversity and whether this origination activity lends itself to the kind of service obligation regulation applicable to broadcast licensees. Concerning these service need issues, we reference the Commission's action, also taken today, with respect to two petitions for rulemaking, RM-2846 and RM-3109, which concern translator and low-power program origination. In this separate "Memorandum Opinion and Order," FCC 78-605, FCC 2d (1978) which describes in detail the nature of the petitions and the comments received, the Commission determined that many of the matters at issue therein would best be addressed first in the larger inquiry here. These issues concern the need for lower-powered, local, community service program origination, including instructional and other public service and informative uses. To the extent that these issues will be addressed here, the two petitions were dismissed as moot. Certain other aspects of the petitions were denied, including the RM-2846 request that a specific portion of the spectrum be dedicated, at this time, to such a low-power origination function. Many of the petitions' basic issues will still be a part of this broad inquiry. Parties wishing to file comments or conduct studies in this inquiry may wish to review the matters presented in these two petitions. We have placed these petitions, and the comments received, in the record of this "Inquiry."

SPECTRUM REQUIREMENTS

19. Extensive development of TV translators and low-power broadcasting stations could place a burden on our spectrum resources. This is especially true in urban areas where channel assignments are relatively scarce at this time. However, and in less urban areas especially, low-power broadcasting might prove to be a valuable use for fallow UHF television channel allocations. If translator and low-power operations are forecast to expand and develop, then it is important for the Commission to know the amount of spectrum required for such broadcast uses. We expect that competent engineering analysis will play an important role in the studies submitted by interested parties and the studies done by the Commission's staff. We particularly seek engineering analysis to examine the possibility and cost of providing particular levels of television service to all rural areas throughout the United States, based upon spectrum availability and interference studies. Similar analysis should be given to the matter of establishing low-power "community-service" facilities in urban areas. We seek basic, initial comment as to whether the Commission should establish a new frequency allocations scheme (see footnote 7, supra) for translators and/or for low-power television. Should minimum spacing requirements or specific allocations within the existing television bands be established for these operations? (No suggested standards are requested at this time.) Should translators and low-power stations be allowed to operate on a secondary (subject to displacement) basis on some television broadcast-allocated channels in some locations? (Many translators already operate in this fashion.) Should we establish a table of assignments for this low-power/translator service? Should these licensees be required to protect existing broadcast stations? How, if at all, should the nature and extent of these licensees' origination activities affect their frequency use status? These and related matters should be given general comment.

INTERFERENCE TO COMMUNICATIONS SERVICES

20. There currently are 2,000 domestic TV translators operating with VHF output and about 1,000 translators with UHF output. Although these translators operate on a secondary basis and must not cause interference to TV broadcast signals, there have been certain reports that television translators allegedly have caused interference affecting the operation of cable television systems. This interference, we are told, has been in the form of translator cochannel or adjacent channel interference with the television broadcast signal the cable system is attempting to pick up at its headend, or interference to a cable VHF output channel. We seek comments and studies on the interference potential of translators and low-power television transmission—not just interfernce affecting cable television but that which may affect any other broadcast or nonbroadcast communications service. Parties also should address, in a general fashion, issues concerning maximum and minimum power output for low-power broadcasting and the kinds of technical standards which might apply to such an activity.

MEDIA COMPETITION AND ECONOMIC IMPACT

21. In seeking comment on media competition and economic impact we reiterate our decision to not solicit comments on "regulatory parity," per se, among translators (and/or low-power television stations), cable television and conventional broadcasting, or on the need, if any, to modify the current cable television rules. However, any comprehensive examination of the role of translators and low-power television necessarily must include an assessment of the impact, competitive and otherwise, of such operations on other communications media.

22. It appears that the policy considerations here concern broadcast signal importation and rebroadcast, program duplication protection, and program origination. Translators, operating under current Commission regulations, are allowed to rebroadcast signals obtained by a variety of means and from varying distances. Certain Commission-imposed regulations do restrict, to some extent, the signals which may be rebroadcast and prescribe the conditions upon which translator rebroadcast of duplicating programing may occur in the service

area of a television broadcast station. (See e.g., § 74.732(e) of the Commission's rules.) While we do not intend to impose restrictions on the technical means of signal delivery to translators (see "Report and Order in docket 20539, supra) we do seek comment on whether a new or modified system of television signal rebroadcast and program duplication regulation should be established. Such signal importation and program duplication by translators, especially in smaller television markets where translators abound, may prove detrimental to local television broadcast licensees attempting to serve local needs and interests. Impact may also be felt by colocated or nearby cable television systems attempting to achieve or maintain significant subscriber penetration. On the other hand, it may be that translators' rebroadcast of certain distant signals may serve needs and interests not being met by present television (including cable television) service.

23. Consequently, we seek comprehensive comment on and analysis of these issues. We seek specific projections or estimates of the likelihood for adverse competitive and economic impact on existing and potential broadcast and cable television service that might result from the expanding role of translators and the possible advent of a new low-power television service. One area of focus, it appears, would be the balance between the potential for increased program diversity provided by translators and low-power stations and the effects of additional or duplicative programing on the service provided by broadcast stations and cable systems. Parties are also requested to provide specific studies and analyses on the competitive impact and effects on existing and potential television service of significant program origination and any attendant sale of advertising time by translators or low-power television stations. Comments are requested on the effect of the Commission placing specific limitations on the sale of advertising time and/or the types of programing which may be originated.

Low-Power/Translator Economic Viability and Ownership

24. Information on translator/low power economic viability, addressing, for example, the projected number of translator/low-power systems in the country and some indication of the size and characteristics of their operation is needed so the Commission will have a reliable estimate of the significance of the enterprise that may develop and, relatedly, the impact it may have on other services. In this regard, matters of special interest include station capital and operating costs, financing, program availability, and ownership. Clearly, comments received on this viability issue may overlap with those submitted concerning other areas. We consider objective information on viability, along with impact information on other services, as being centrally important for the Commission's ultimate policy decisions here. We seek comment on whether expanded origination and other low-power and translator service developments argue in favor of diversity-promoting ownership restrictions, applicable to colocated facilities and to the maximum number of facilities to be owned by a single entity, or whether such ownership restrictions might unnecessarily inhibit expansion of television service into areas of low population density and adversely affect the institution of diverse and perhaps specialized programing service in urban rural settings.[9] Parties also may wish to address, on this viability issue, whether the Commission should consider the establishment, for purposes of low-power origination, of regulations authorizing the use of low-cost video equipment (like that utilized in certain cable television origination and access operations). The use of low-cost transmission gear, like that found in the current translator service, should also be addressed. We ask whether our permitting the use of such equipment will, by itself, give added impetus to those persons or groups wishing to enter the low-power television field. Additionally, commenting parties may wish to present some initial views as to the viability and service-growth impacts of the various Commission licensing options for low-power television, and the impacts which may occur from any decision to place specific service obligations (fairness, ascertainment, etc.) on these licensees.

Impact on Commission Resources and Service Implementation Delays

25. Because translator/low-power regulation may require special licensing and enforcement procedures, and could result in extended administrative proceedings, the expected drain on FCC resources should be recognized in the decisionmaking process. That is, consideration should be given to administrative costs (including budget requirements) of these regulatory efforts and the possible negative effects on other regulatory programs within the agency. Also, the time it takes to effect any changes in the television service delivery structure may be an important factor to consider. Some policy alternatives may be easier to implement than others, allowing the public to receive benefits sooner than it might from a more difficult-to-implement alternative. Comments on this issue should be submitted by interested parties. Basically, our concern is one of "prioritization"—determining which regulatory direction may yield the greatest public benefits in the near term, and which goals should be set for achievement at a later time.

[9] It should be observed that, under current Commission regulation, licensees of VHF television broadcast stations may not own or support translators under certain conditions (see § 73.732 of the Commission's rules); cable television operators may not own translators in the communities they serve (see § 76.501(a)(3) of the Commission's rules.

Interim Treatment of Applications

26. We recognize that there are translator applications on file now, awaiting Commission action, and that applications will be filed on a continuing basis during the pendency of this proceeding. We can anticipate that this proceeding will continue over an extended period, although various intermediate actions may be taken throughout the period. We deem it inappropriate to delay the authorization of new TV translators under the existing plan of regulation during that period. The needs of the viewing public, particularly in the rural areas where most translators are located are more important than any administrative convenience which might result from a general "freeze" on translator applications. Consequently, the Commission's staff will routinely accept and process all translator applications during the pendency of this inquiry. With respect to those applications requiring rule waivers or embodying novel features touching upon matters being considered herein, the Commission will examine such applications and take such action as it deems appropriate—action which may include the holding of particular applications in abeyance pending resolution of the issues herein.

Procedural Matters

27. Authority for the inquiry herein is contained in sections 4 (i) and (j), 303,307, and 403 of the Communications Act of 1934, as amended.

28. All interested persons are invited to file initial written comments on or before December 11, 1978. The period for filing reply comments will be announced after we have some indication of the number and complexity of the comments received. Any person wishing to file a reply to a comment before the close of the formal comment period is encouraged to do so. All rele vant and timely comments and reply comments will be considered by the Commission. The Commission may take into account any other relevant information before it in addition to the comments invited by this notice Also, the Commission encourages par ties' submission of studies and analyses throughout the proceeding, even though these documents may not be

completed and filed prior to specific comment or reply dates.

29. In addition, during the pendency of this proceeding comments or studies deemed to be of particular interest, or which may reasonably be calculated to engender further useful information, may be distributed by either public notice or a further notice in this docket. Clearly, this is not a restricted proceeding.

30. In accordance with the provisions of § 1.419 of the Commission's rules, an original and six copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Members of the public wishing to participate informally in this proceeding may submit a single copy of their comments, specifying this proceeding's docket number (BC-78-253 in the heading. Copies of all responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239), at its headquarters in Washington, D.C. (1919 M Street NW.).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX A

FCC TRANSLATOR HISTORY

1. *Notice of Proposed Rulemaking in Docket 11331*, FCC-404 (March 31, 1955). Inquired into feasibility of licensing VHF and UHF boosters.

2. *C. J. Community Services, Inc.*, 20 FCC 860 (1956). Commission issues cease and desist order directed against operation of television broadcast booster station.

3. *Second Notice of Proposed Rulemaking in Docket 11611*, FCC 56-44 (1956). Proposed the adoption of a regulatory framework to the authorize and license TV translator stations.

4. *Report and Order in Docket 11611*, 13 RR 1561 (May 1956). Amended Commission rules to authorize 10 watt UHF translator stations.

5. *Order*, 13 RR 1570 (1956). Commission postponed the effective date of certain requirements for type approval of television translator equipment in the interest of expediting the establishment of television translator service.

6. *Memorandum Opinion and Notice of Further Proposed Rulemaking in Docket 11331*, FCC 57-700 (June 1957). Commission rejects licensing of VHF boosters and proposes rules for licensing UHF booster systems.

7. *Report and Order in Docket 12006*, 15 RR 1708 (1957). Commission rejects proposal to adopt rules precluding television translator operations in communities with regularly assigned television broadcast stations.

8. *Report and Order in Matter of Amendment of Part 4, Subpart G Rules Governing Television Broadcast Translator Stations*, 13 RR 1570a (1958). Relaxation of requirements for compliance with bandwidth limits by Commission action postponing the date for compliance.

9. *Notice of Proposed Rulemaking in Docket 12116*, FCC 57-829. Reopened issue of licensing VHF booster stations.

10. *Report and Order in Docket 12567*, 17 RR 1735 (1958). Increased maximum transmitter power output of UHF television broadcast translator stations from 10 watts to 100 watts.

11. *Report and Order in Docket 12116*, FCC 58-1255, 18 RR 1505 (1958). Operation of low/power television broadcast repeater stations not authorized.

12. *Public Notice*, No. 72034 (April 14, 1959). Commission recommendation that Congress amend the Communications Act to enable the Commission to consider licensing television "repeater" stations, in the VHF band, that are engaged solely in rebroadcasting television programs and were constructed on or before January 1, 1959.

13. *Notice of Inquiry in Docket 12443*, FCC 58-493 (May 1958). Commission initiates inquiry into alleged substantial adverse economic impact of "auxiliary services" such as community antenna systems, satellite television stations, UHF translators, and VHF repeaters or "boosters" on existing or potential regular television broadcast stations.

14. *Report and Order in Docket 12443*, 18 RR 1573. Commission recommends that sections 318 and 319 of the Communications Act be amended to permit authorization of VHF repeater stations. (Proceeding terminated.)

15. *Public Notice*, No. 78115 (September 10, 1959). Commission extends, until December 31, 1959, the general period of grace for existing VHF "booster" operations. *Public Notice*, No. 68813 (January 27, 1959). Commission had extended from 3 to 6 months the time for existing television VHF "boosters" to comply with its *Public Notice* of December 30, 1958, during which time it would give further study to the legal and technical aspects of the problem, including consideration of appropriate legislation amending the Communications Act to relax requirements for broadcast station operations.

16. *Report and Order in Docket 11331*, 20 RR 1505 (1960). Commission adopts a ceiling on the maximum power which may be used by a television broadcast booster station and states that the burden of resolving interference caused by a UHF booster station rests with the booster licensee.

17. *Report and Order in Docket 12116*, 20 RR 1536 (1960). Commission adopts rules permitting low-power VHF television translators and states that questions of economic impact will be handled on a case to case basis.

18. *Order*, 20 RR 1558 (1960). Amendment of rules to permit originating translator station to transmit call signs of all the translators in the system which retransmits its signals.

19. *Notice of Proposed Rulemaking in Docket 14184*, FCC 61-832 (1961). Proposed rules to provide that a VHF translator will not be issued to the licensee of a television broadcast station unless the grant will fill in an unserved area within the parent station's grade B contour nor duplicate programing of a television station with a grade B signal or better, nor serve any community which has a television channel assignment on which a television station is operating or for which a construction permit is outstanding.

20. *Report and Order in Docket 14132*, 22 RR 1501 (1961). Authorization of VHF television translators to employ more than one radio frequency amplifier to serve an area or community.

21. *Report and Order in Docket 14184*, 23 RR 1565 (1962). Rules are amended such that a UHF station is not permitted to extend its service area beyond its grade B contour by means of a VHF translator station.

22. *Notice of Inquiry and Notice of Proposed Rulemaking in Docket 15971*, 1 FCC 2d 453 (1965). Action by Commission to reexamine rules and policies with respect to enlargement of service area of potential and existing television stations to withstand cable penetration and, in this connection, to determine if such policies are impeding or encouraging a variety of off-the-air services, e.g., the proposal to facilitate the use of translators on allocated channels (docket 15858).

23. *Report and Order in Docket 15858*, 1 FCC 2d 15 (1965). Authorization of high-power (100w) VHF and UHF translators on channels in the television table of assignments (section 73.606) which are not occupied because the communities are unable to economically support the construction and operation of regular television stations or even satellite stations.

24. *Memorandum Opinion and Order in Docket 15858*, 2 FCC 2d 4 (1965). Stated that authorization of translators on unoccupied assignments does envision that some will eventually become full-fledged television broadcast stations but does not contemplate that only such applicants which planned to transform their translators into regular operations would be permitted to operate such translators.

25. *Second Report and Order in Dockets 14895, 15233, and 15971*, 2 FCC 2d 725 (1966). Commission defers certain cable television rulemaking action until more basic translator policies have been established and because translator rules and policies are currently in a state of flux.

26. *Notice of Proposed Rulemaking in Docket 16424*,, FCC 66-41, 31 FR 758 (1966). Contemplated authorization of AM microwave stations to relay programs to translators of 1 watt power or less.

27. *In the Matter of Amendment of Section 74.751 (b) of Part 74 of the Commission's Rules and Regulations, Order*, 3 FCC 2d 404 (1966). Replacement of transmitter of translator station requires an application to construct or make changes in such station unless equipment has been type-accepted by Commission.

28. *In the Matter of Amendment of Section 74.750(c)(7) and Section 74.783(a) Governing Television Broadcast Translator Stations, Memorandum Opinion and Order*, RM-440, 3 FCC 2d 301 (1966). Commission action dispenses with identification station requirements for translators of 1 watt power or less.

29. *Report and Order in Docket 16424*, 5 FCC 2d 772 (1966). Subparts G and F of part 74 were amended to make certain frequencies in the 2000-mc band available for use by television translators as AM microwave relays from television stations to translators.

30. *Memorandum Opinion and Order in the Matter of Amendment of section 74.750(c)(7) and Section 783(a) of the Rules Governing Television Broadcast Translator Stations*, FCC 66-1074, 8 RR 2d 1636 (1966). Commission action holds that in the case of higher powered translators relaxation of

station identification requirements is not warranted.

31. *Further Notice of Proposed Rulemaking and Notice of Inquiry in Docket 15971*, 32 FR 9103, 8 FCC 2d 569 (1967). Comprehensive television translator rulemaking instituted by Commission designed to treat all questions of translator policy except the proposed authorization of expanded use of for UHF translators already under study in *Supplement to Further Notice of Proposed Rulemaking in docket No. 14229* (Expanded Use of UHF TV Channels), 2 FCC 2d 527 (1966)), including consideration of: Licensee-owned VFH translators beyond the primary station's grade B contour; translator duplication of regular television stations; VHF translators in areas with predicted UHF service; different requirements for translators used with educational television stations higher power for VHF translators; origination of local announcements; use of translators as relays, and preference for licensees' applications.

32. *Order in the Matter of Amendment of Section 1.572 of the Commission's Rules to Clarify the Procedure for Processing of Television Broadcast Translator Stations*, 9 FCC 2d 2 (1967). A major change in the case of stations authorized under part 74 is any change in frequency, primary station, or principal community or communities and requires that application be made to the Commission for appropriate approval.

33. *Report and Order in Docket 15971*, 13 FCC 2d 305 (1968). Commission action taken with respect to overall translator policy including: Retention or rules which permit licensee-owned VHF translators beyond the primary station's grade B contours only where they will not be used to carry the signals of the primary station into the service area of a station in another market; retention of rules which bar television licensees from contributing to the construction of VHF stations; adoption of a rule permitting the use of power for VHF translators to 10w transmitter peak visual power in the continental United States west of the Mississippi River; retention of rules which bar the use of television translators to relay signals to other translators and as a means of point-to-point transmission of signals; a rule requiring the use of type-accepted equipment for all newly installed translators; adoption of a rule permitting UHF translator operators to engage in limited origination of local slides or still pictures and voice announcements; further study of the whole area of nonduplication by translators; and, among additional matters, retention of restrictions on intermixture of UHF and VHF translator and television stations.

34. *Notice of Proposed Rulemaking in Docket 18568*, FCC 69-1366 (June 9, 1969). Commission initiation of rulemaking concerning elimination of station identification requirements for translators of over 1 watt.

35. *Report and Order in Docket 18568*, 20 FCC 2d 858 (1969). Allowed relaxation of rules concerning identification of translator stations of over 1 watt.

36. *Notice of Proposed Rulemaking in Docket 18861*, FCC 70-520, 32 FR 10665 (1970). Commission proposes to permit UHF television translator stations to operate on channels below channel 70, in lieu of channels 70-83, which have been allocated for land mobile radio use.

37. *UHF Television Translators on Channels 21-69* (docket 18861), 35 FR 11307, 19 RR 2d 1827 (1970). Since an applicant specifying one of the upper 14 UHF channels faces the prospect of amending to a lower frequency when a decision is reached in docket 18861, the Commission decided to encourage applicants to apply for UHF translators on channels below 70 pending the outcome in docket 18861.

38. *In re Operation of UHF Translators on Unassigned Channels 55-69*, 29 FCC 2d 413 (1971). Commission had under consideration a proposal to limit applications for new UHF translators not operating on unassigned channels to frequencies from 716-806 MHz (channels 55 through 69) and, therefore, stated it only would accept applications for UHF translators in that range pending the outcome in docket 18861.

39. *Report and Order in Docket 18861*, 36 FR 19588, 23 RR 2d 1504 (1971). Amendment of rules to allow television broadcast translator stations to operate on channels 14 through 69 (470-806 MHz) in lieu of channels 70 through 83 (806-890 MHz), and to provide for authorization of UHF television stations of 1,000 watts peak visual transmitter output power on channels which are listed in the television table of assignments (§ 73.606 of the Commission's rules).

40. *Notice of Proposed Rulemaking in Docket 19661*, 38 FCC 2d 534 (1972). Proposed rulemaking to amend § 74.731(f) and 74.1231(f) to increase the period of time from 20-second limit to 30 seconds for slides in TV UHF translators and locally generated voice announcements in FM translators ordered.

41. *Second Report and Order in Docket 18397*, 23 FCC 2d 816, 19 RR 2d 1775 (July 1970). Amended rules to prohibit common ownership of cable system and translators serving same community.

42. *Fifth Report and Order in Docket 14429* (January 27, 1971). Terminated proceeding looking toward expanded use of UHF television channels. Did not adopt rules permitting low-power community television stations.

43. *Report and Order in Docket 19756*, 42 FCC 2d 667 (September 1973). Commission deleted subpart H, part 74 of the rules, which had provided for TV booster stations.

44. *Report and Order in Docket 19661*, 54 FCC 2d 421 (July 1975). Extended period within which UHF translators may originate slide announcements soliciting or acknowledging local public financial support from 20 seconds per hour to 30 seconds per hour.

45. *Notice of Proposed Rulemaking in Docket 20372*, 40 FR 10999 (1975). Proposed amendment of section 74.733 providing that no new UHF translator signal boosters would be authorized.

46. *Report and Order in Docket 20372*, 40 FR 25022, 33 RR 2d 1709 (1975). Effective July 11, 1975, the Commission will not authorize any new UHF signal boosters and grandfather existing boosters.

47. *Notice of Inquiry and Notice of Proposed Rulemaking in Docket 20539*, 40 FR 30985 (1975). Proposed amendment of subparts F and G of part 74 to allow for the use of FM microwave by television translator relay stations and to allow translator relays access to all three television auxiliary microwave bands.

48. *Notice of Proposed Rulemaking in Docket 20580*, (August 14, 1975). Proposed the use of multiple output amplifiers by UHF translators.

49. *Report and Order in Docket 20580*, FCC 76-593 (June 1976). Permits UHF translators to use multiple output amplifi ers.

50. *Report and Order in Docket 20539*, FCC 77-836, 67 FCC 2d 209 (1977). Adopting rules allowing, inter alia, translator relay use of FM microwave bands.

JUDICIAL DECISIONS—TRANSLATORS

1. *C. J. Community Services, Inc.* v. *Federal Communications Commission*, 246 F. 2d 660, 15 R.R. 2029 (D.C. Cir. 1957). Court holds that the Commission has jurisdiction to regulate VHF boosters and that it is the clear duty of the Commission "to advise through its rulemaking authority, the basis upon which 'all the people of the United States' may receive service through a licensed station." While the Court agreed that the Commission could outlaw television boosters because they pose interference problems, it stated that the Commission should get on its way "with the rulemaking proceedings" apparently contemplated in its docket 11331 and in its docket 11611 in which is to be examined the feasibility of "booster" or translator stations, or possibly other devices, as a means of filling in the service area of television stations. [Emphasis added.]

2. *H & B Communications Corp.* v. *Federal Communications Commission*, 17 R.R. 2d 2069 (D.C. Cir. 1969). In considering whether to authorize a television translator station, the Commission was required not only to give weight to the benefit which 5,000 households would gain through the operation of an aditional, noncommercial, translator service, but to consider, in comparison, the harm which might result from interference to be caused to some 2,000 cable subscribers. Cable subscribers are members of the community who are entitled to have their interests protected. Assuming that cable is an unprotected service, such a weighting process nevertheless is required

3. *Frontier Broadcasting Company* v. *Federal Communications Commission*, 134 U.S App. D.C. 31, 412 F. 2d 162, 15 R.R. 2d 2048 (February 1969), Court of Appeals reverses and remands Commission decision in *Laramie Plains Antenna TV Association, Inc.*, 11 FCC 2d 228, 11 R.R. 2d 1172, holding that, where a television station gives rebroadcast consent for local programs, consent to rebroadcast network programs without the network's consent violates section 325 of the Communications Act.

OTHER NONRULEMAKING COMMISSION ACTIONS

1. *Lee Co. TV, Inc.*, FCC 65-483, June 8, 1965: Adopted a policy of conditional grant of license for a VHF translator which was within the grade A contour of another television broadcast station whose programs the translator would duplicate.

2. August 1966, 4 FCC 2d 995: Commission waives numerous rules and authorizes BOCES, Third Supervisory District of Delaware, Greene, and Schoharie Counties, N.Y., to operate translator station W74AI, Stamford, N.Y., by taping incoming programs from various noncommercial educa tional television stations and rebroadcasting them on a delayed basis, amounting to origination.

3. July 1967: Commission decides *Newhouse Broadcasting Corporation*, 8 FCC 2d 1122, 10 R.R. 2d 937, establishing principle that need for a translator is presumed and one who challenges the need must make a

prima facie showing of lack of need, whereupon the burden of showing need shifts to the applicant.

4. September 1967, 9 FCC 2d 1028: Commission waives section 74.731(b) of the rules and allows *Leeco TV, Inc.*, to originate visual announcements on translator station W73AI, Fort Myers, Fla., for 7 days to generate enough revenue to remain on the air. Announcements limited to 60 seconds at intervals of not less than 30 minutes. First-class radiotelephone operator required.

5. November 1965: Commission waives various rules and authorizes board of education, city of Detroit, to construct and operate UHF translator stations W79AE and W83AB, Detroit, Mich., to be fed with locally originated programs at ITFS station KTB-98, specified as the primary station.

6. April 1969, *Telemundo, Inc.*, 17 FCC 2d 1016: Commission granted first microwave translator relay station to Telemundo, Inc. (WKAQ-TV, San Juan, P.R.), to feed two UHF translators. Conventional AM microwave stations.

7. October 1969, *KOAT, Inc.*, 20 FCC 2d 155 (1969): Translator station may provide a signal for a cable television system so long as it also provides significant off-the-air service (see section 74.731(c)).

8. June 1970: Chief, Broadcast Bureau, pursuant to authority delegated by the Commission on February 26, 1970, waived rules and granted first two of nine applications for 1,000-watt UHF translators to be located on Empire State Building in New York City, to provide service in areas where service was unsatisfactory because of reflections from World Trade Center. Translators to be fed by cable from primary station transmitters.

9. December 1972, *Nevada Radio-Television, Inc., et al.* 38 FCC 2d 555: Commission waived numerous rules and granted applications for 8 translators and 12 microwave relay stations to Nevada Radio-Television, Inc. (KOLO-TV, Reno, Nev.), and Western Communications, Inc. (KORK-TV, Las Vegas, Nev.), to carry programs of the two primary stations throughout Nevada. Microwave relay stations to use FM system.

10. January 1972, Commission, in *Tele-Visual Corporation* (*W70BC*), 33 FCC 2d 418, 23 R.R. 2d 704, rules that § 74.731(f) of the rules, which permits origination of local slide announcements soliciting or acknowledging public financial support of UHF translators, including broadcasting the advertising messages of contributor means that UHF translator can originate pure commercial advertisements.

11. February 1974: Commission waived rules and authorized 100-watt VHF translator station K101T, Elko, Nev., to operate via an existing intercity relay microwave system which had formerly been used to carry programs from KTVN, Reno, Nev., to KEKO(TV), Elko, Nev.

12. June 1974: Commission waived rules and authorized Roundup TV Tax District to construct and operate translator station in Roundup, Mont., rebroadcasting the programs of the ATS-F earth satellite. Authorization limited to 1 year.

13. July 1975, FCC 75-1046: Commission authorizes Medallion Broadcasters, Inc. (KMEG-TV, Sioux City, Iowa), to originate emergency messages and storm warnings on translator station K79CE, Norfolk, Nebr.

APPENDIX B.—TELEVISION TRANSLATORS—A HISTORICAL PERSPECTIVE

INTRODUCTION

1. The purpose of this study is to trace the origins of television translator stations in order to gain an understanding of how and why they began, what they were in the beginning, how they developed, what they are today and how that happened. An understanding of this evolutionary process is necessary to enable the Commission to decide what role it sees for translators in the future and to begin the process of revision, if indicated, of the present regulatory scheme.

THE BEGINNING

2. From the inception of television broadcasting, owing to the high costs of providing television service, considerable difficulty was encountered in bringing to smaller communities and more sparsely settled areas of the country as much service and choice as was available to that portion of the public living in larger cities and densely populated areas. These small communities tended either to be ones whose geographic location prevented reception of television signals, or ones which had such a small or scattered population that they could not provide the necessary economic support for the operation of regular television stations. However, the demand for television service in these economic fringe areas spurred determined communities to find solutions. The solutions to the problem took various forms. Taking their cue from the successful use of master antennas and a system of cable distribution of television signals to numerous receivers in large apartment buildings, entrepreneurs early conceived and adapted this idea for use in small outlying communities, which, because of the distance from the nearest television station or uneven terrain, or both, were unable to obtain satisfactory reception on home receiving antennas. However many of these communities, because of their small economic base, were not economically feasible for CATV systems. It was to fill this void that translator and booster systems developed.

3. In the early 1950's, translator and booster systems were a technologically new development and the Commission's rules contained no provision for their licensing or their regulation.[1] It was in this manner that these systems developed without Commission authority until, by 1956, there were approximately 800 unlicensed translators in operation.[2] As these systems grew in number, the Commission became concerned about their potential for causing interference to existing broadcast services.

4. It was against this background, and with this concern, that the Commission initiated several inquiries into the use of translator and booster systems and into the development of a regulatory scheme for their authorization. The first of these inquiries was a *Notice of Proposed Rulemaking*,[3] adopted March 31, 1955, which solicited information on the feasibility of licensing VHF and UHF television boosters. While this rulemaking was pending, the Commission adopted a *Second Notice of Proposed Rulemaking*,[4] in January 1956, looking toward adoption of a regulatory framework within which TV translator stations could be authorized and licensed. The latter rulemaking was terminated on May 30, 1956, with the adoption of a *Report and Order*[5] which amended the Commission's rules to authorize 10-watt UHF translator stations.

5. In authorizing UHF translator facilities, the Commission limited their operation to the upper 14 UHF channels, i.e., 70-83, and limited their power to 10 watts. The limitation of translators to the upper 14 UHF channels was imposed because the upper UHF channels were less congested and would allow more flexibility in finding a sufficient number of channels meeting the required protective spacing. Also by confining translators to the less congested upper 14 UHF channels, the Commission was able to relax operating and licensing requirements and thereby, make translators economically possible. Several parties filing comments advanced suggestions for an increase in the maximum power output of translators above the 10 watts proposed. In rejecting these suggestions the Commission concluded that the 10-watt maximum power limit should be retained until additional engineering data, based on actual experience with translators operating under a variety of conditions, could be obtained. The Commission believed that this experience, obtained after a period of operation, would demonstrate whether the 10-watt maximum was adequate, or whether more power would be necessary or desirable.

6. The Commission at this time also considered authorizing translators in the VHF band. It was decided, however, that the use of VHF channels would be highly inefficient in light of the extensive engineering measurements which would be required in order to determine whether or not a proposed translator would cause inteference to existing stations.

7. The Commission's action in authorizing the upper 14 UHF channels for licensing television translators did not solve the problems of unauthorized operations. Many translators and booster systems that had previously operated in the VHF band simply continued to do so. The first challenge to the Commission's efforts to curb these illegal operations came in *C. J. Community Services, Inc.* v. *FCC*, 100 U.S. App. D.C. 379, 15 R.R. 2020. The Commission had issued a cease and desist order to C. J. Community Services ("C. J.") to halt operations of its television booster station. Booster stations were not authorized under the Commission's rules, although there was a pending rulemaking inquiring into the feasibility of licensing such facilities. C. J. appealed the Commission's order to the U.S. Court of Appeals for the District of Columbia Circuit. In reversing and remanding the case to the Commission, the court upheld the jurisdiction of the Commission and held the unlicensed operation of the repeaters unlawful, but essentially enjoined the Commission from terminating those operations because the court found the Commission remiss in not providing rules and procedures under which the illegal boosters could be licensed. The court based its decision on the Commis-

[1] Translators rebroadcast the received signal on a different output channel; boosters rebroadcast on the same channel as the received signal ("on-channel").

[2] H. Seiden, *An Economic Analysis of Community Antenna Television Systems and the Television Broadcast Industry*, report to the FCC, 1965.

[3] Docket 11331, FCC 55-404.

[4] Docket 11611, FCC 56-44.

[5] Docket 11611, FCC 56-446

sion's statutory obligation to provide for the use of broadcast channels and its duty to issue appropriate licenses. The court also suggested that the Commission's completion of the pending rulemaking in docket 11331,[6] regarding the feasibility of licensing boosters, would aid in resolution of such issues as were before the court. On June 27, 1957, the Commission issued a memorandum opinion and order [7] rejecting the licensing of VHF boosters and proposing rules for licensing UHF booster systems. In rejecting VHF booster systems the Commission found insurmountable difficulties connected with their operation. There was no guarantee that a VHF booster would not cause interference, nor was it possible to determine whether or not it was in fact causing interference. In addition, there was no way to render the apparatus inoperative if it failed to function properly, as the facility was unattended. The only way a malfunction could be detected would be if reception of the booster signal were interrupted. Several parties petitioned for reconsideration, requesting an opportunity to provide detailed engineering data which would prove that VHF boosters were feasible. Because of the number of petitioners, among them the Governors of all of the Western States, the Commission issued a new *Notice of Proposed Rulemaking*, docket 12116,[8] to again examine the possibility of licensing VHF boosters. This docket was not resolved until December 30, 1958, and in the interim several important rulemaking proceedings took place. Each of these proceedings enhanced and increased the viability of UHF translators.

8. With the authorization of translator stations and a pending rulemaking proceeding looking toward the feasibility of licensing booster systems, the Commission determined that there was a need to examine these rural program distribution services, as well as cable and "satellite" systems. Accordingly, a notice of inquiry was adopted on January 3, 1958, in docket 12443.[9] Among the issues raised were: (1) What economic impact did translators, boosters, satellites, and cable systems have on local television broadcast systems; and (2) what percentage of homes received their only satisfactory television service from stations located in or near communities in which translator, booster, or cable systems were operating.

9. That same year, on November 19, 1958, the Commission, in docket 12567,[10] allowed an increase in power for UHF translators from 10 watts to 100 watts. In so doing, the Commission stated that since 1956 when translators were first licensed, it had gained experience with their operation and found that they caused no significant interference either to other translators or to stations in other services.[11] The Commission's action was significant in that it would enable translators to serve a larger number of homes and to serve greater areas, meeting a demonstrated public need and demand.

10. Shortly after its decision allowing power increases for UHF translators to 100 watts, the Commission, on December 30, 1958, in docket 12116 [12] rejected, for the third time, the licensing of VHF boosters. The Commission noted that it would not be feasible to operate VHF boosters under the same guidelines as UHF translators. UHF translators operated in the less congested upper 14 channels and could, therefore, operate with reduced technical and supervisory requirements. VHF, on the other hand, required greater technical supervision and more sophisticated equipment. The Commission further noted that the comments received were for the most part, self-serving, from unlicensed VHF booster operators merely indicating support for such systems. The comments contained no technical data and in no way dispelled the Commission's concern regarding potential interference to regular service in the congested VHF band.

11. On May 25, 1960, a year and a half after it rejected the licensing of VHF booster systems, the Commission adopted a *Report and Order* in docket 11331 [13] authorizing the use of UHF boosters. The Commission, still concerned with interference to other broadcast services and not having sufficient technical data available based on actual operation experience, limited the power of UHF boosters to 5 kilowatts. In addition, a burden was put upon applicants for UHF boosters to show that their stations could operate without causing interference to other broadcast services.

12. Docket 11331 had also addressed the feasibility of licensing VHF translators and the modification of the rules for UHF translators. On July 27, 1960, the Commission issued a *Report and Order.*[14] The order, authorizing the licensing of VHF translators and modifying the rules applying to UHF translators, was the foundation on which the present translator rules are built. Many of the comments received by the Commission indicated great concern on the part of UHF television broadcast licensees that translator stations represented an economic threat to them. The licensees felt that the additional channels offered by translator services would attract viewers at their economic expense. Other licensees believed that the availability of additional UHF channels through translator service would encourage the purchase of UHF receivers and thereby increase their potential audience. Various VHF licensees expressed a concern that VHF translators operating in the same area would dilute their audience and inhibit their ability to attract advertising revenues because they would duplicate the programs of local TV stations.

13. The Commission, in responding to these comments, reiterated its concern with the problem of bringing television service to all sectors of the nation, and endeavored to strike a balance between the interests of television broadcast licensees and the need for additional television services. On one hand, the Commission recognized that the economic welfare of television broadcast stations was a matter of public interest, but so was the availability of one or more television signals to unserved or underserved areas of the country. While the Commission rejected competition to regular television stations as a basis for denying VHF translators, it did recognize the possibility of interference to regular TV broadcast service. The rule, as adopted, required VHF translators to provide complete protection against such interference. The rule also limited the power of VHF translators to 1 watt and UHF translators to 100 watts. By limiting the power of VHF translators in this manner, the Commission believed that it could minimize interference problems and allow operations under very modest technical standards. The question of interference among VHF translators themselves was a matter the Commission thought best left to be settled by the licensees involved. Finally, in its efforts to reduce the cost of operating translators, the Commission made allowances for unattended operation of translators stations. The Commission was able to authorize unattended operation after Congress amended section 318 of the Communications Act in 1960 to provide a specific exception from the operator requirements for TV translators.

14. In early 1961, the Commission amended the translator rules to allow the use of more than one final radio frequency amplifier in VHF translators where each additional amplifier would be used to serve a different or separate community.[15] The Commission action increased the flexibility of VHF translators, for now one VHF translator could serve several communities. However, the Commission, ever cautious of the interference potential of VHF translators, limited the power fed to each antenna to 1 watt.

15. In amending the translator rules in 1960 to permit the operation of translators on VHF channels, the Commission had been persuaded that these translators would be in the public interest as another technique by which television service might be brought to more people, especially those in sparsely settled regions. The Commission had also been motivated by the fact that service would be improved within the normal service area of regular television broadcast stations. It had been thought by the Commission that applicants for translators would be primarily local groups or communities located in areas remote from regular television broadcast stations. However, a problem, not contemplated by the Commission arose in 1961 when the VHF translator rules were adopted permitting broadcast station licensees to acquire licenses for VHF translators. It became apparent that applications were being filed by broadcast stations licensees for purposes other than as a "fill-in" for shadowed areas within their predicted service contours. Some of these applications were clearly motivated by a desire to extend the coverage of regular television broadcast stations beyond their normal service areas. The Commission became concerned that unless some restrictions were placed upon the eligibility of regular broadcast licensees to apply for VHF translators, the VHF translator would simply become another competitive weapon between television licensees rather than an instrument to be utilized by people living in areas receiving little, if any, television service.

16. With these concerns in mind, the Commission adopted a *Report and Order* in docket No. 14184,[16] which amended the translator rules to limit the rights of television broadcast licensees in several significant ways. First: A television licensee was precluded from operating a VHF translator if it was intended to provide reception beyond the predicted grade B contour of the

[6] Docket 11331, supra.
[7] Docket 11331, FCC-57-700.
[8] FCC 57-829.
[9] FCC 58-483.
[10] FCC 58-1104.
[11] FCC 58-1104.
[12] FCC 58-1255.
[13] Docket 11331, FCC 60-615.
[14] 20 R.R. 1536.
[15] Docket 14132, 22 R.R. 1501. These are known as multiple output amplifiers. Each output must be used to serve a separate identifying community or area. Their use was limited to VHF translators.
[16] 23 R.R. 1565.

primary station. Second: A television licensee was precluded from operating a VHF translator within its grade A or B contour where the translator was intended to provide reception to all or a part of any community located within the grade A contour of any other television station if the translator would duplicate the other station's programs. Third: The new rules provided for the termination, upon sixty (60) days' notice, of any VHF translator authorization to a broadcast licensee if circumstances in its service area changed so that the grant of the translator license would have been prohibited at the time the initial application was filed.

17. As the number of translators grew and the technology improved, the systems became more sophisticated devices. In early 1965, the Commission determined that a need existed for a reexamination of the rules and policies regarding translators. This reexamination began with a *Notice of Inquiry and Notice of Proposed Rulemaking* in docket No. 15971, issued on April 23, 1965,[17] which initiated a broad inquiry into the entire translator regulatory scheme and philosophy. Although final resolution of the matters raised in docket 15971 did not occur until June 1968, the Commission adopted several important changes in the rules in the interim.

A. In a decision released June 8, 1965, the Commission adopted a policy of granting, with a condition, a license for a VHF translator which was within the grade A contour of another television broadcast station whose programs the translator would duplicate.[18] These translators were licensed upon the condition that, upon the request of such a television broadcast station the translator could not duplicate, simultaneously, or 15 days prior or subsequent thereto, a program broadcast by the television broadcast station. This interim policy insured that translators would continue to be licensed in the public interest by assuring that their operation would not be detrimental to local TV stations. Flexibility was thereby maintained which would enable the Commission to take appropriate action when docket 15971 was finally resolved.

B. Barely a month later, a *Report and Order* in docket No. 15858, released on July 7, 1965, amended the translator rules to allow 100-watt UHF and VHF translators to operate on vacant channels listed in the television table of assignments.[19] The Commission, in adopting the *Report and Order* briefly outlined its previous efforts to promote an efficient broadcasting service to all the people of the United States, and outlined the methods it had employed in the past to help bring television service to remote, isolated communities and rural areas by means of the current low power VHF translators (1 W) and high power (100 W) translators. However, there were still many communities to which channels were assigned in the table of assignments and yet unused. In most cases they were communities which found it economically infeasible to build and operate regular TV stations or even satellite stations. The Commission noted that its concern regarding potential interference by high-power VHF translators was not expected to be a problem, since the unused assignments which would be available for 100 W translators are all at standard spacings and should offer the same if not a greater degree of protection than would regular stations with maximum facilities. Such translators were to be "tenants at sufferance."

C. Prior to the Commission's decision allowing high-power VHF translators on unoccupied channels in the TV table of assignments, translators were typically licensed to groups of citizens having limited financial resources. These translators received the incoming signal at an elevated location, translated the signal to another frequency, and then beamed it down to the community to be served. Occasionally the signal of a translator was picked up and retransmitted by another translator further removed from the originating TV broadcast station. This was the only way in which TV signals could be brought to distant translators. Although microwave frequencies and relays had been available to CATV systems, the small groups of private citizens who, for the most part, owned translators, could not afford microwave relays, and no frequencies had been made available to them. However, with the advent of high-power VHF translators, local government bodies with the economic base to support such relays, began to build and operate television translators. It also appeared that in order for the new high-power VHF stations to provide good color reception, a better method was needed to bring distant TV signals to translators. The commission met this need in a *Report and Order* in docket 16424[20] adopted on November 30, 1966, making certain frequencies in the 2000 MHz band available for use by translators as microwave relays from TV stations. Such relays were authorized to use only AM systems.

D. On July 19, 1967, the Commission, in *Newhouse Broadcasting Corporation*, 8 FCC 2d 1122, 10 RR 2d 937, ruled that the need for a translator station was presumed and any party who chose to challenge that need must make a prima facie showing that the need did not exist. The burden of proof would then be shifted to the applicant to prove the need for the requested translator stations. This ruling was based on the Commission's experience that translators were generally built as a result of public need and demand.

18. The Commission completed its reexamination of television translator rules and policy, initiated on April 25, 1965,[21] with the adoption of a *Report and Order* in docket 15971 on June 5, 1968.[22] The *Report and Order* amended the translator rules in three significant respects.

First, it allowed UHF translators to originate and broadcast slide announcements soliciting or acknowledging local public financial suport for the operation of the translators. Such announcements were not to exceed 20 seconds per hour. The Commission made it clear that this amendment was simply designed to assist UHF translator stations in obtaining the financial support deemed necessary to assure their continued operation. This was limited to UHF translators because they were many times more costly to build, operate, and maintain than VHF translators.

Second, the Commission allowed television stations to establish VHF translators, or provide financial support for the operation and maintenance of VHF translators, beyond the television station's grade B contour when doing so would not result in the invasion of another television station's grade B contour.

Third, the Commission allowed VHF translators serving areas or communities west of the Mississippi River and in Alaska and Hawaii to increase their power to 10 watts. The Commission noted that the 1-watt limit on VHF translators represented a compromise between an effort to avoid interference and the needs of small communities without regular television service. However, the Commission said it was adopting the power increase because of the many complaints that the present 1-watt limit was inadequate to serve many communities. The Commission limited the power increase to areas west of the Mississippi because of the low density of regular TV stations on VHF channels and the small number of interference problems that had been experienced west of the Mississippi.

19. As translators grew in numbers and sophistication in the late 1960's and early 1970's, so did the demand for increased flexibility and change in the translator rules and policies. These new demands also brought new interpretations of the Commission's rules, in *Frontier Broadcasting Co. v. FCC*, 134 U.S. App. D.C. 31 (1969), the court of appeals reversed and remanded to the Commission its decision in *Laramie Plains Antenna TV Association, Inc.*, 11 FCC 2d 228, 11 RR 2d 11722. The Commission had ruled in *Laramie* that where a television station gives rebroadcast consent as to local programs, such consent was sufficient for rebroadcast of network programs also. The court, in reversing the Commission, ruled that where a television station gives rebroadcast consent for local programs only, rebroadcast of network programs without the consent of the network violated section 325(a) of the Communications Act.

20. The Commission continued to respond to the demands for change in the translator rules and policies by relaxing many of the restrictions on translator operations. Many of the restrictions that had been placed on translators were the result of the Comission's concerns regarding potential interference programs and its lack of technical data based on actual operation experience. However, by 1965, translators had been operating for some ten (10) years and the Commission believed there was a sufficient basis for policy reversions. In November 1965, the Commission waived various rules and allowed the Detroit Board of Education to construct and operate two UHF translator stations in Detroit. The programs they transmitted originated at instructional television fixed station KTB-98, which the license specified as the primary station. This was the first time the Commission had allowed a translator to rebroadcast the programs of a service other than a regular television station.

21. In August 1966, the Commission waived various rules to allow a New York educational translator licensee to operate a translator by taping incoming programs from various noncommercial educational television stations and rebroadcasting them on a delayed basis.[23] This recognition of the potential of translators continued and, in September 1967, the Commission waived § 74.731(b) of the rules to permit Leeco TV, Inc., to originate visual announcements on its translator station. Although the authori-

[17] FCC 65-334.
[18] *Lee Co. TV, Inc.*, FCC 65-483.
[19] 1 FCC 2d 15, 5 RR 2d 1702.
[20] 5 FCC 2d 722.
[21] FCC 65-334.
[22] 13 FCC 2d 305, 13 RR 2d 1577.
[23] 4 FCC 2d 995.

ty was granted for a period of 7 days only, in order to generate enough revenues for the translator to remain on the air, the waiver amounted to allowing the translator to advertise. The Commission did place two restrictions on this operation: (1) The announcements were limited to 60 seconds' duration at intervals of not less than 30 minutes; and (2) an operator with a first-class radiotelephone license was required.[24] In April of 1969, the Commission, once again, promoted the use and flexibility of translators when it granted the first microwave translator relay station to Telemundo, Inc. (WRAQ-TV), to feed two UHF translators.[25]

22. Closely following the grant of the first microwave translator relay station, the Commission amended its rules in December 1969 and modified the translator station identification requirements.[26] Believing translator identification requirements imposed a burden on licensees and, in some cases, broke up the picture being transmitted, the Commission provided new means for translator station identification. Translators operating with more than 1 watt, but no more than 100 watts, were no longer required to transmit the identification themselves, provided that suitable arrangements were made with the primary television station for the identification by the primary station. In addition, translators operating with a power of 1 watt were exempted from any identification requirement. The Commission exempted 1-watt translators from the ID requirements because any interference from these translators would occur in a very small area, and, therefore, would be easily detectable.

23. The year 1970 brought three major developments in the licensing of translator facilities. First, in June 1970, the Commission waived its rules and granted the first two of nine applications for 1,000-watt UHF translators to be located on the Empire State Building in New York City. These stations were licensed on a temporary basis to provide service to areas where television reception was unsatisfactory because of reflections from the World Trade Center. Second, in docket 18397[27] on July 1, 1970, the Commission amended its CATV rules to prohibit common ownership of CATV and translator systems in the same community. Such a rule, the Commission believed, would further diversity of control over local mass communications media. The Commission also noted that in its case-by-case consideration of existing translator-CATV cross ownerships, it had been observed that such combinations were unlikely to yield the best translator service to the public. Third, on September 29, 1970, the Commission adopted a *Report and Order* in Docket 17159[28] which promulgated rules creating an FM translator and FM booster service. The Commission believed that the establishment of low-power translator and booster stations would help extend FM radio service to areas receiving poor service because of distance or uneven terrain. The rules allowed FM boosters with transmitter power output of up to 10 watts nationwide and FM translators of up to 10 watts west of the Mississippi River except for zone I-A. East of the Mississippi River and in zone I-A, power was limited to 1 watt for translators.

24. As the demand for spectrum space increased, particularly by the land mobile radio service, the Commission determined that it was necessary to divert the upper UHF channels from domestic broadcast use. Accordingly, on October 5, 1971, the Commission released a *Report and Order* in docket 18861[29] changing its allocation policy for UHF translators. Where UHF translators had previously been licensed on the upper 14 channels, they were now to be licensed on channels 55-69 unless a showing was made that those channels were unavailable. If that was the case, translators could be licensed on lower channels. The Commission also authorized 100-watt UHF translators on channels specified in the television table of assignments and made the "15-mile rule" applicable to such facilities. This meant that these 1,000-watt UHF translators could serve any city within 15 miles of the city to which the channel was listed in the table of assignments, provided there was not a channel assigned to the latter city. Existing UHF translators on the upper 14 channels were permitted to remain on those channels, but only on a secondary basis to land mobile radio use. The Commission believed that since it was no longer feasible nor possible to set aside a band of frequencies exclusively for translators, the authorization of 1,000-watt UHF translators would provide some relief to the need for service to a greater number of persons. The Commission also noted that such translators were already being authorized on a waiver basis and that experience had clearly indicated their feasibility.

25. As the Commission gained experience regarding translators and their effect on conventional broadcast services, many of the old restrictions were relaxed and new uses were allowed for translator systems. To some degree, translators began to look more and more like regular broadcast services. In early 1972, in *Television Corporation*, 33 FCC 2d 418, 23 RR 2d 704 (1972), the Commission interpreted § 74.731(f) of the rules to allow a UHF translator to originate pure commercial matter. That section of the rules permits origination of local slide announcements, soliciting or acknowledging public financial support of UHF translator stations, including the advertising messages of contributors. The Commission said that § 73.731(f) was not designed to control or to set permissible limitations on the broadcast of commercial matter in ordinary circumstances, but rather to restrict the time of possible interruptions of the primary station's transmissions to very brief periods. The Commission specifically ruled that there was no prohibition against local origination by UHF translators of purely commercial matter so long as the technical and time limitations of the rules are observed. In December of the same year, the Commission waived the rules to allow 8 translators and 12 microwave relay stations to carry programs of the two primary stations (KOLO-TV, Reno, Nev. and KORK-TV, Las Vegas) throughout the State of Nevada. See *Nevada Radio Television, Inc., et al.*, 38 FCC 2d 555. In so doing, the Commission allowed microwave translator relays to operate in the 7000 and 13000 MHz bands by means of the more conventional television broadcast relays of the FM typed, normally employed by regular television broadcast stations. Prior to this action, microwave translator relays had been confined to the 2000 MHz auxiliary television band. The system required the demodulation and remodulation of the relayed television signal. This was a substantial departure from the translator rules, as the rules provided for translators to rebroadcast standard television signals received directly through space from regular broadcast stations (or other translators or translator relay stations), without significant alteration of the incoming signal.

26. The Commission's policies regarding translators continued throughout the 1970's. September of 1973 saw the deletion of subpart H, part 74 of the rules (boosters). This action was the result of a study made by the task force on reregulation. Since 1960 when the Commission adopted rules allowing TV boosters, only two such stations had been authorized, neither of which was ever licensed, and both of which were canceled at the permittees' request. In the 12-year period, no other applications had been filed for booster service. The lack of interest was believed to be due to the difficulty of avoiding undesirable interference to the incoming signal and to the fact that TV translators presented a much-to-be preferred alternative. *Report and Order* in docket 19756, 42 FCC 2d 667.

27. In October of 1973, the Commission authorized the Chief, Broadcast Bureau to waive all necessary rules to grant various applications of remote, small communities in Alaska to build translators which would be fed locally with video tape cassettes supplied by various Alaskan television stations. These communities are so isolated and remote that it was impossible to obtain off-the-air signals from regular television broadcast stations. The same month, pursuant to this authority, the first such application of the city of Unalaska, Alaska, was granted.

28. Several significant actions regarding translators occurred in 1974. First, in June 1974, the Commission authorized, for a 1-year period, Roundup TV Tax District, Roundup, Mont., to construct and operate a translator station which would rebroadcast programs of the ATS-F Earth satellite. The Commission imposed a condition on the grant requiring a first-class radiotelephone operator. Again the Commission departed from the normal requirement that translators receive signals directly from a television station (or other translator or translator relay system). Second, the Commission authorized, in November 1974, the waiver of its rules to grant applications of two licensees to construct 36 TV translators at construction camps along the Alaska oil pipeline. The licensees, Northern Television, Inc., and Midnight Sun Broadcasters, Inc., were allowed to feed these translators with video tape cassettes which they produced and flew daily to the construction camps and pumping stations. This system constituted a form of origination of programing by translators.

29. The Commission made provision for two new types of translator operation in July and September of 1975. First, Medallion Broadcasting, Inc., licensee of KNEG-TV, Sioux City, Iowa, was authorized to originate emergency messages and storm warnings on a translator station in Norfolk, Nebr. The civil defense agency had been using the facilities of a background music service to give storm warnings to citizens, but this service was limited to a few busi-

[24] 9 FCC 2d 1028.
[25] *Telemundo, Inc.*, 17 FCC 2d 1016.
[26] 20 FCC 2d 858, 17 RR 2d 1699.
[27] 20 RR 2d 1538.
[28] 23 RR 2d 1504.
[29] 47 FCC 2d 628.
[30] FCC 75-1046.

nesses, all in the central city area of Norfolk By originating aural announcements by translator, the civil defense agency could provide early warning to an estimated 17,000 people in the Norfolk area. The Commission reasoned that limited originations of this nature could result in averting property damage and the loss of human life. Second, the Commission granted a request by the Catholic Committee for Refugees for emergency special temporary authority to construct and operate a new FM duration of the camp's existence and was to cease operation when the camp was closed. During that same year, July 1975, the Commission expanded the period during which slide announcements could be originated by UHF translators from 20 to 30 seconds per hour. The Commission noted that the television stations which are rebroadcast by translators, as a general practice, use 30-second announcements. Thus, when a translator originates its own 20-second announcement, there is a 10-second residual announcement from the primary station which appeared on the receivers of the translator viewers, a situation that was confusing to viewers. In the interest of eliminating this viewer confusion, the Commission expanded the limitation to 30 seconds.[31]

30. In June of 1976 the Commission adopted the rules permitting UHF translators to use multiple output amplifiers as had been permitted for VHF translators. This action enabled a single UHF translator to provide service to more than one community. See *Report and Order*, docket 20580, FCC 76-593.

SUMMARY

31. Today, some translators are permitted to engage in a form of program origination by means of the introduction of video tape cassettes furnished by their primary stations. The Commission has allowed UHF translators in New York State to tape off-the-air programs and to rebroadcast them on a delayed basis—another form of origination. In New York City a translator is being used to transmit the subscription television signal of a nearby STV station. Translators now are authorized, by rule, to use FM microwave facilities for incoming signal delivery (see Report and Order in Docket 20539, FCC 77-836, 67 FCC 2d 209 (1977)). These facilities include common carrier relay, cable television relay (CARS), intercity relay and satellite-TVRO facilities. UHF translators are permitted to originate local slide announcements at intervals not exceeding 30 seconds per hour to solicit financial support and these announcements may consist of commercial advertising. Some translators have taken political advertising. Section 318 of the Communications Act, as amended in 1976, now empowers the Commission to authorize local originiation by translators so long as the translators retain their primary function as rebroadcast stations. Interesting and novel uses of translators have evolved, such as the Nebraska storm warning system and the Vietnamese refugee camp service. The Commission has permitted the use of UHF translators in cities such as New York to overcome various types of shadowing and other transmission problems.

32. All of this has demonstrated the capability of translators to serve purposes far beyond those originally conceived. With the advent of solid state circuitry, translators are more reliable and less costly to maintain. They offer great promise for service to remote and rural communities and their unique value has been demonstrated in Alaska where no other broadcast service would be possible except for translators. On the whole, translators are still largely operated by entities other than the licensees of regular television stations and are authorized as the result of public need and demand.

[31] *Report and Order* in docket No. 19661 (54 FCC 2d 421).

APPENDIX C

1. Clause (3) of the first proviso of section 318 of the Communications Act is the basic statutory authority relating to the operation of unattended translator stations.[1] That is, an unattended translator station, regardless of other activities engaged in, must remain as primarily a "rebroadcast" operation. As noted above, prior to the 1975 amendment to section 318, the statute referred to stations "* * * engaged *solely* in the function of rebroadcasting * * *" (emphasis added). However, in the *Report and Order* in docket 15971, FCC 68-605, 13 FCC 2d 305 (1968), the Commission authorized UHF translators to broadcast locally generated originations in the form of slides, still pictures and voice announcements lasting no longer than 20 seconds and at intervals of no less than 1 hour. By Commission rule (section 74.731), these originations are limited to those seeking or acknowledging of financial support and may include the advertising messages of contributors. In 1975, the duration limitation for such announcements was increased to 30 seconds (see *Report and Order* in docket 19661, supra).[2] The Commission stated that these originations are "* * * of a de minimis nature and are being authorized not to change in any significant degree the rebroadcast nature of the translator, but simply to assist it to obtain necessary financial support." (13 FCC 2d at 316, 317 (1968).)

2. Under the current statute, which substitutes the word "primary" for "solely," the potential for translator origination appears to be much broader, at least in terms of time duration. In its legislative proposal to Congress, the Commission stated:

We recognize the proposal does not set any specific limitations as to the amount of local origination to be permitted. We believe, however, that such a limitation could be best determined in a rulemaking proceeding conducted by the Commission to implement this legislation during which the comments received from all interested parties could be analyzed and evaluated. In deciding upon such a limitation, the Commission would, of course, be bound by the requirement of section 318 that origination be limited to the extent necessary to insure that translator stations retain their primary characteristics as rebroadcast stations. (Emphasis added.)

Neither the House nor the Senate report suggested any statutory time limits for origination, but rather agreed that deferral to Commission rule making was the better choice.

3. Another relevant issue is the "type" (as opposed to the "amount") of program material which those low-power station could be allowed to originate. Insofar as translators are concerned, we refer to the Commission's legislative request to Congress, which led to the Pub. L. 94-335 amendment to section 318. It observed as follows:

* * * secton 318's prohibition of program origination in many instances deprives those people dependent on translator stations for their television * * * reception of news of local political interest or events which vitally affect them. We believe the proposed substitution of the word "primarily" for "solely" will allow the Commission to authorize limited amounts of local origination in keeping with the public interest. (House Rep. 94-1261, 94th Congress, 2d sess., at 8 (1976).)

The Senate report offered, as is pertinent here, the following:

The Commission has also noted that the prohibition on program origination in many instances deprives those people dependent on translator service of their only potential source of local programing, such a emergency alerts and coverage of local political and other news events. The FCC has, therefore, requested this legislation to allow the Commission to authorize limited amounts of local origination by translator stations * * *. As noted in many areas of the country, translators provide the only access to satisfactory television * * * service. At present, however, such service consists solely of the programing of the distant station retransmitted by the translator. Allowing limited origination by translators would give their audiences access to local news and information of vital community interest * * * (S. Rept. 94-919, 94th Cong., 2d sess., at 4 (1976).)

4. As set forth in the preceding *Notice of Inquiry*, areas to be considered in this proceeding include those relating to program diversity and origination. While these matters will be examined in greater detail as the focus of the proceeding becomes more defined, only general comment on these origination-related matters should be presented now.

[1] Sec. 318, as is pertinent here, provides as follows:

Sec. 318. The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license * * *: *Provided, however*, That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except * * * (3) stations engaged in broadcasting (other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations) * * *.

Prior to the amendments enacted by Pub. L. 94-335, clause (3) to the first proviso read as follows:

(3) Stations engaged in broadcasting (other than those engaged *solely* in the function of rebroadcasting the signals of television broadcast stations) (emphasis added).

[2] As noted in the foregoing *Notice of Inquiry*, the Commission has initiated a proceeding looking toward the authorization of UHF translators' origination of these 30-second financial support and acknowledgement announcements.

[FR Doc. 78-23912 Filed 8-25-78; 8:45 am]

[1505-01]

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[50 CFR Part 656]

Atlantic Billfishes and Sharks

Correction

In FR Doc. 78-22446 appearing at page 35736 in the issue for Friday, August 11, 1978, which corrected the comment period for FR Doc. 78-20845 (43 FR 32840-32841, July 28, 1978) the comments period should be "September 18, 1978," instead of "September 11, 1978."

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.

[6820-32]

ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with section 10 (a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on September 14, 1978 from 9 a.m. to 6 p.m. and on September 15, 1978 from 9 a.m. to 6 p.m. at 2201 C Street NW, Washington, D.C., in room 7516.

The purpose of the meeting is for the GAC to receive breifings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 11652 dated March 10, 1972.

The meeting will be closed to the public in accordance with the determination of July 21, 1978 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973 issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: July 21, 1978.

SIDNEY D. ANDERSON,
Advisory Committee Management Officer.

[FR Doc. 78-24100 Filed 8-25-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 32327-2]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION

Postponement of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding assigned to be held on September 19, 1978, at 9:30 a.m. (43 FR 37207, Aug. 22, 1978) is hereby postponed to September 20, 1978, at 9:30 a.m. in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., August 22, 1978.

JOSEPH J. SAUNDERS
Administrative Law Judge.

[FR Doc. 78-24194 Filed 8-25-78; 8:45 am]

[6320-01]

[Docket No. 33218; Order 78-8-98]

U.S. CERTIFICATED CARRIERS

Order of Investigation and Suspension

AGENCY: Civil Aeronautics Board.

ACTION: Order of investigation and suspension.

SUMMARY: This order suspends and institutes an investigation of certain boarding priority tariff rules filed to comply with revised Board regulations dealing with overbooking.

FOR FURTHER INFORMATION CONTACT:

Randall D. Bennett, 202-673-5389, or Thomas G. Moore, 202-673-5038, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of August 1978.

By regulation ER-1050 effective September 3, 1968 (43 FR 24277, June 5, 1978), the Board amended part 250 of its economic regulations to reflect its new policy dealing with the "bumping" of passengers with confirmed reservations caused by overbooking. The new rules are designed to reduce involuntary bumping without specifically prohibiting deliberate overbooking or rigidly regulating other reservation practices of the airline industry. The key features of the Board's new policy are as follows:

(1) In the event of an oversold flight, no passenger will be denied a seat until the airline seeks volunteers who are willing to relinquish their reserved space in exchange for compensation at a level in the carrier's discretion.

(2) If there are not enough volunteers, the airline will deny boarding to non-volunteers on the basis of Board-approved boarding priority rules filed in carriers' tariffs.

(3) Denied boarding compensation for those bumped involuntarily has been increased.

(4) Those denied boarding, either voluntarily or involuntarily, must be fully and immediately advised in writing of their rights—their options, the amount of compensation, the method of payment, and the airlines' boarding priority rules.

By tariffs marked to become effective September 3, 9, 11, 28, 1978, most carriers certificated for domestic service have filed rules for both denied boarding compensation and boarding priority.[1] The former are all consistent with the specific requirements of the revised part 250 and no Board action is necessary.

The criteria which the Board set forth for boarding priority rules are broad in order to give the carriers reasonable flexibility. The criteria are an obligation to seek volunteers first; to write rules in such a manner as to be understandable to the average passenger so that he or she can ascertain the approximate likelihood of being bumped; and finally, a requirement that the rules must be nondiscriminatory. While the proposed rules all properly provide that volunteers will be solicited before any passenger is involuntarily bumped, we nevertheless find that in a number of instances the boarding priority rules filed are not satisfactory.

In general, individual carrier boarding priority rules can be grouped as follows:

(1) Those that call for boarding on a first-come-first-served basis;

(2) First-come-first-served after boarding the physically handicapped, unaccompanied children, emergency cases and elderly or infirm passengers;

(3) Those that give priority to full fare passengers over discount fare passengers;

(4) Those that give priority to first-class passengers over coach passengers; and

[1] Aspen Airways, Inc.; Reeve Aleutian Airways; and Wright Airlines have not filed. The Board's new rules also apply to foreign air transportation. Those tariffs will be dealt with at a later date.

(5) Those that give priority to connecting passengers over local passengers.

We believe that giving priority to the physically handicapped, unaccompanied children, etc. is a reasonable exercise of carrier judgment. Indeed, we specifically acknowledged this in ER-1050. As a general proposition denied boarding would likely be a greater hardship for these particular categories of traffic. It also seems reasonable to give connecting passengers priority over local boarding passengers.

We are concerned about the rules that give passengers priority based on fare category, i.e., first class over coach, full fare over discount fare. Such rules may well have merit if the passenger understands in advance that a particular priority of boarding is an element of the service he is purchasing at the different levels of fares. This is the kind of fare condition, however, which must be brought to the specific attention of passengers—for example, as a stamp on the ticket coupon—if such a differentiation of passengers bumped is to be fair and equitable. Without such notice there would be no reason for a lower fare passenger to assume that a lower boarding priority is attached to his or her fare, particularly in instances when the ticket has been paid for well in advance, which is typically the case with discount fares. At the least they would assume that once tickets are issued and reservations are confirmed, all passengers are equal at the boarding gate, and the average customer would understandably feel that, in the absence of notice to the contrary, the longer in advance of travel he purchases his ticket, the more certain he is of having boarding priority in the event of an oversale. The carriers have made no provision to bring the matter to the passengers' attention; therefore, we believe those tariff provisions must be suspended. We will also suspend filings which give priority to groups, to agency discount personnel, and to travel agents being transported to educational and training programs. We question whether the carriers will disclose those boarding priorities to passengers because of customer ill will and are concerned that our regulations will be violated. In any event, other passengers simply must be made aware of their lower priority standing, and any carrier that wishes to refile these or similar rules should indicate by what means it will do so.

We will suspend the rules that specify boarding solely on a first come, first served basis, without exception. We think it most unlikely that the airlines seriously contemplate strictly enforcing such rules, and a review of their current company manuals confirms this for most—they recognize the greater hardship for certain categories of passengers such as the physically handicapped. The boarding priority rules published in the tariffs must accurately reflect company practices as reflected in their passenger service manuals. Otherwise our reasons for requiring these rules to be filed as tariffs in the first place would be meaningless, i.e., to give the Board and the public a specific opportunity to pass upon them, and to make them more readily available to the public on a continuing basis.

We are also concerned that all of the first-come-first-served priority rules, even those which make exceptions for hardship cases, may be inconsistent with actual check-in procedures and are vague and ambiguous. For example, some do not use the locations at the airport where seats or boarding passes are given out as their reference point. Instead, the departure area is used for determining boarding priorities. In other cases, carriers are unclear, or do not even say, where passengers must present themselves to establish their priority. We will therefore suspend all rules containing a first-come-first-served priority.

Finally, a major consideration in our decision to suspend these tariffs is our concern about carriers' check-in deadlines and the way they will interact with the new rules. These deadlines vary from carrier to carrier as to both time and place of check-in, and we do not believe passengers generally are aware of them or of the fact that their reservation and, hence, their denied boarding compensation rights, may be invalidated if they do not meet them. This problem must be resolved if passengers are to have full information on boarding priority. While the check-in procedures are not included in the proposed tariffs, they nevertheless affect the passenger's boarding priority and eligibility for denied boarding compensation. The tariffs and notices to passengers must make clear when and where passengers are to present themselves to avoid being bumped or losing their rights to compensation.

The Board therefore concludes that the proposed boarding priority tariffs may be unjust or unreasonable and should be suspended.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002:

It is ordered, That:

1. An investigation be instituted to determine whether the provisions described in appendices A, B, C, D, and E attached hereto,[2] insofar as they apply in interstate and on overseas transportation, and rules, regulations, and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions described in appendices A, B, C, D, and E hereto insofar as they apply on interstate and overseas air transportation are suspended and their use deferred to and including December 1, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board; and

3. Copies of this order shall be filed with the tariffs, and served upon all U.S. certificated air carriers.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-24167 Filed 8-25-78; 8:45 am]

[2] Appendices A, B, C, D, and E are filed as a part of the original document.

[3510-04]

DEPARTMENT OF COMMERCE

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 $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the patent application 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.

Request for licensing information on a particular invention should be di-

rected to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314.

Patent 4,028,135: Method of Cleaning Surfaces by Irradiation with Ultraviolet Light; filed Apr. 22, 1976; patented June 7, 1977; not available NTIS.

Patent 4,028,623: Three Phase Spin Motor Power Meter; filed Feb. 6, 1976; patented June 7, 1977; not available NTIS.

Patent 4,031,806: Internal Umbilical Connector for Missiles; filed Sept. 1, 1976; patented June 28, 1977; not available NTIS.

Patent 4,033,228: Zone Setting Assembly with Temperature Compensator for Weapon Systems of the 'Soft Recoil' Type; filed June 28, 1976; patented July 5, 1977; not available NTIS.

Patent 4,033,525: Feedback PDM Encoder and Method for Actuating a Pneumatic Actuator with a Digital Autopilot; filed Dec. 8, 1975; patented July 5, 1977; not available NTIS.

Patent 4,033,670: Zeeman Effect Optical Isolator; filed Mar. 3, 1976; patented July 5, 1977; not available NTIS.

Patent 4,033,720: Unitary Sampling and Analysis Strip and Process; filed May 31, 1974; patented July 5, 1977; not available NTIS.

Patent 4,034,123: Compressed, Freeze-Dried Cottage Cheese and Method of Making; filed Feb. 13, 1976; patented July 5, 1977; not available NTIS.

Patent 4,034,273: Turbo-Electric Turret Drive System for Mobile Vehicles; filed Feb. 4, 1975; patented July 5, 1977; not available NTIS.

Patent 4,034,352: Phase Control of Clock and Sync Pulser; filed Feb. 20, 1976; patented July 5, 1977; not available NTIS.

Patent 4,034,675: Catalysts—Containing Ablative Resonance Suppressors; filed Aug. 20, 1970; patented July 12, 1977; not available NTIS.

Patent 4,035,732: High Dynamic Range Receiver Front End Mixer Requiring Low Local Oscillator Injection Power; filed Mar. 15, 1976; patented July 12, 1977; not available NTIS.

Patent 4,036,012: Laser Powered Rocket Engine Using a Gasdynamic Window; filed Feb. 18, 1976; patented July 19, 1977; not available NTIS.

Patent 4,036,013: Noise Controllable Nozzle Closure; filed Dec. 22, 1975; patented July 19, 1977; not available NTIS.

Patent 4,037,344: Magnetic Cartridge Chambering and Bolt Holding System; filed Mar. 22, 1976; patented July 26, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division/Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 900,371: Fermentation of Liquids; filed Apr. 26, 1978.

Patent 4,067,687: Phosphorus, Nitrogen, Bromine Containing Polymers and Process for Producing Flame Retardant Textiles; filed Jan. 23, 1976; patented Jan. 10, 1978; not available NTIS.

Patent 4,070,505: Method of Imparting Paramagnetic Susceptibility to Cotton Fibers; filed Feb. 24, 1976; patented Jan. 24, 1978; not available NTIS.

Patent 4,071,925: Apparatus for Forming Textile Lap; filed May 25, 1976; patented Feb. 7, 1978; not available NTIS.

Patent 4,072,784: Fixation of Multivalent Metal Salts of Carboxyl-Containing Vinyl Monomers on Fibrous Substrates; filed Apr. 9, 1976; patented Feb. 7, 1978; not available NTIS.

Patent 4,074,058: Antimicrobial Esters of Aliphatic Diols; filed Feb. 15, 1977; patented Feb. 14, 1978; not available NTIS.

Patent 4,071,501: Water Soluble Adduct of Hydroxymethyl Phosphorous Compound and Ammonia or Amine Compound and Method of Preparation; filed Jan. 14, 1976; patented Jan. 31, 1978; not available NTIS.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 782,874: Method of Preparing a Powdered Electrically Insulative Separator for Use in an Electrochemical Cell; filed Mar. 30, 1977.

Patent 4,040,801: Method and Apparatus for Rapid Adjustment of Process Gas Inventory in Gaseous Diffusion Cascades; filed June 14, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,048,715: Method of Preparing Porous, Active Material for Use in Electrodes of Secondary Electrochemical Cells; filed Jan. 27, 1976; patented Sept. 20, 1977; not available NTIS.

Patent 4,051,203: Method for Purifying Bidentate Organophosphorus Compounds; filed Jul. 8, 1976; patented Sept. 27, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 4,077,957: 6-(Bromomethyl)-2,4-Diaminopteridine Hydrobromide; filed Apr. 11, 1977; patented Mar. 7, 1978; not available NTIS.

Patent 4,079,056: Method of Making Pteridine Compounds; filed Mar. 31, 1975; patented Mar. 14, 1978; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 4,062,897: Acetals Derived from Negatively Substituted Aidehydes and Polynitro- or Halonitroethanols; filed Dec. 12, 1975; patented Dec. 13, 1977; not available NTIS.

Patent 4,063,243: Conformal Radar Antenna; filed May 27, 1975; patented Dec. 13, 1977; not available NTIS.

Patent 4,065,726: Negative Feedback Amplifier and Level Shifter; filed Aug. 11, 1976; patented Dec. 27, 1977; not available NTIS.

Patent 4,066,736: Process for Producing Concentrated Solutions of Hydroxylammonium Nitrate and Hydroxylammonium Perchlorate; filed Mar. 19, 1976; patented Jan. 3, 1978; not available NTIS.

Patent 4,072,123: Deep Towing Cable and Handling System; filed Mar. 16, 1976; patented Feb. 7, 1978; not available NTIS.

Patent 4,075,633: Space Adaptive Coherent Sidelobe Canceller; filed Oct. 25, 1974; patented Feb. 21, 1978; not available NTIS.

Patent 4,077,518: Sensor Transport System; filed Apr. 12, 1977; patented Mar. 7, 1978; not available NTIS.

Patent 4,079,316: Sliding Tone Command Receiver System; filed Sept. 13, 1976; patented Mar. 14, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application SN 812,447: Acoustic Driving of Rotor; filed July 5, 1977.

Patent application SN 888,434: Rapid, Quantitative Determination of Bacteria in Water; filed Mar. 20, 1978.

Patent application SN 891,247: Method and Apparatus for Continuous Measurement of Bacterial Content of Aqueous Samples; filed Mar. 29, 1978.

Patent application SN 893,657: Method and Automated Apparatus for Detecting Coliform organisms; filed Apr. 4, 1978.

[FR Doc. 78-24096 Filed 8-25-78; 8:45 am]

[3510-19]

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Friday, September 22, 1978, from 9:30 a.m. until 5 p.m. and on Saturday, September 23, 1978, from 9 a.m. until 12 noon in Room 4830, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community.

Tentative agenda items include:

1. Status report on the study of Federal policy on entrepreneurship of technology-based industries.

2. Discussion of Federal policies on industrial innovation.

3. Review of State government programs in industrial innovation.

4. Industry-university relationships in industrial innovation.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first come, first served basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the Federal Advisory Committee Act, in Room 3867, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5065.

Dated: August 22, 1978.

FRANCIS W. WOLEK,
Acting Assistant Secretary for Science and Technology.

[FR Doc. 78-24101 Filed 8-25-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group B (mainly low-power devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014, on 13-15 September 1978.

The purpose of the advisory group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency, and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs on large-scale integrated circuits which the Military Departments propose to initiate with industry, universities, or in their laboratories. The review will include classified program details and technical and financial information provided in confidence by business throughout the meeting.

In accordance with section 10(d) of appendix 1, title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of title 5 of the United States Code, specifically subparagraphs (1) and (4) throughout, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

AUGUST 23, 1978.

[FR Doc. 78-24138 Filed 8-25-78; 8:45 a.m.]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP76-10]

ARKANSAS LOUISIANA GAS CO.

Petition To Amend

AUGUST 21, 1978.

Take notice that on August 4, 1978, Arkansas Louisiana Gas Co. (Petitioner), P.O. Box 21734, Shreveport, La. 71151, filed in Docket No. CP76-10 a petition to amend the order of December 18, 1975, issued in the instant docket (54 FPC)[1] pursuant to section 7(c) of the Natural Gas Act so as to provide for an additional delivery point in Grady County, Okla., and an increase in the maximum daily quantity that Petitioner may deliver to Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of December 18, 1975, Petitioner is authorized to exchange gas with Michigan Wisconsin pursuant to a gas exchange agreement between the two companies dated May 8, 1975. Such exchange arrangement is for the mutual operating convenience of the two interstate pipeline systems to facilitate acquisition of gas in the field for the supply of their respective systems by minimizing the construction of duplicate gathering facilities in areas where both pipelines are acquiring gas supply, it is said.

Petitioner states that Michigan Wisconsin now has some additional gas committed to its system in an area where Arkla can receive the gas into an existing pipeline. Consequently, by an amendment dated March 9, 1978, the two companies have agreed to add another Michigan Wisconsin-to-Petitioner delivery point to accommodate Michigan Wisconsin's receipt of gas from the area, including Michigan Wisconsin's share of the gas from the McClure No. 1 Well in Grady County.

It is indicated that the March 9, 1978, amendment also increases the maximum daily quantity that Petitioner may deliver to Michigan Wisconsin at the Custer delivery point under the originally certificated exchange. Petitioner states that this increase is necessary to accommodate the additional volumes that it would be receiving from Michigan Wisconsin at the new Grady delivery point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 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. 78-24143 Filed 8-25-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.01), it was transferred to the Commission.

[6740-02]

[Docket No. ER76-709]

CINCINNATI GAS & ELECTRIC CO.

Refund Report

AUGUST 18, 1978.

Take notice that Cincinnati Gas & Electric Co., on July 28, 1978, tendered for filing, pursuant to ordering paragraph C of the Commission's Order Acknowledging Statement of Acceptance, Ordering the Filing of Rates for Georgetown, and Granting in Part Motion Requesting Conditions, issued November 23, 1977, a report of refund payment by Cincinnati Gas & Electric Co., to the Village of Georgetown, Ohio.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before August 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24144 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-459]

CITIES SERVICE GAS CO.

Application

AUGUST 21, 1978.

Take notice that on August 3, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in docket No. CP78-459 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of/or exchange gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $7,500,000, with no single project to exceed $1,500,000. Applicant indicates that the cost of the proposed facilities would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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 require 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. 78-24145 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-460]

CITIES SERVICE GAS CO.

Application

AUGUST 21, 1978.

Take notice that on August 3, 1978, Cities Service Gas Co. (Applicant), P.O. Box 24128, Oklahoma City, Okla. 73125, filed in Docket No. CP78-460 an application pursuant to section 7(b) of the Natural Gas Act and § 157.7(e) of the regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon, during the calendar year 1979, direct sale service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sale measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sale customer would not exceed 100,000 Mcf of natural gas during the last year of service.

The application states that Applicant would not abandon any service unless it shall have received a written request or written permission from the customer to terminate service. In the event such request or permission cannot be obtained, a statement certifying that the customer has no further need for service will be filed with the Commission, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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 permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24146 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-461]

CITIES SERVICE GAS CO.

Application

AUGUST 21, 1978.

Take notice that on August 3, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP78-461 an application pursuant to section 7 of the Natural Gas Act and § 157.7(g) of the Commission's regulations under the Natural Gas Act (18 CFR 257.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1979, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, relocation, operation and abandonment of facilities which will not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment of facilities would not exceed $3,000,000, with the cost of no single project to exceed $500,000. Applicant indicates that it would finance these costs from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24147 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-462]

CITIES SERVICE GAS CO.

Application

AUGUST 21, 1978.

Take notice that on August 3, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP78-462 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $300,000, which cost Applicant would finance from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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. 78-24148 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-443]

EL PASO NATURAL GAS CO.

Application

AUGUST 21, 1978.

Take notice that on July 24, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-443 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 2,500 Mcf of natural gas per day for Southwest Gas Corp. (Southwest), all as more fully set forth in the application of file with the Commission and open to public inspection.

It is stated that Southwest has acquired natural gas supplies from three wells in Eddy Country, N. Mex., which supplies are in close proximity to Applicant's existing transmission system. Applicant proposes to transport the subject gas for Southwest pursuant it a gas transportation agreement dated June 30, 1978, between the two companies, which agreement provides that Southwest would cause to be tendered to Applicant, at three specified receipt points in Eddy County, N. Mex. Applicant states that it would accept, dehydrate, and transport such natural gas for Southwest and would deliver to Southwest, at existing delivery points in Arizona and Nevada, all on a best efforts basis, an aggregate quantity of natural gas equivalent to 94.867 percent of the quantity of natural gas received by Applicant from Southwest at the receipt points.

It is stated that Applicant and Southwest intend that the receipt of natural gas by Applicant and the transportation and delivery by Applicant for the account of Southwest of equivalent volumes of natural gas, less shrinkage and fuel, would be accomplished on a reasonable concurrent basis. However, should an imbalance occur between quantities of natural gas received and the quantities of natural gas delivered by Applicant for the account of Southwest under the transportation agreement, the parties have agreed to cooperate to eliminate such imbalances as soon as practicable.

Applicant states that Southwest would pay it, for each Mcf of natural gas delivered at the delivery points in Arizona, the rate in effect and reflected from time to time as the Mainline Transmission Charge—Arizona, and for each Mcf of natural gas delivered under the transportation agreement on any day at the delivery points on the boundary between the States of Arizona and Nevada, the rate in effect and reflected from time to time as the Mainline Transmission Charge—Nevada. Applicant further states that as compensation for the dehydration only of natural gas by it for Southwest, Southwest would pay Applicant for each Mcf of natural gas tendered by Southwest and received by; Applicant, after deducting 0.14 percent shrinkage for dehydration, the rate in effect and reflected from time to time as the Production Area Charge—Dehydration Only.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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. 78-24149 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-457]

EL PASO NATURAL GAS CO.

Application

AUGUST 21, 1978.

Take notice that on August 2, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex., 79978, filed in Docket No. CP78-457 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas on an exchange basis with Northern Natural Gas Co. (Northern), and the operation of certain existing facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Applicant and Northern are parties to a gas exchange agreement dated July 19, 1960, as amended, which agreement provides for the gathering, delivery, and exchange of natural gas produced from certain wells in Beaver County, Okla., in which Applicant and/or Northern have either developed, acquired, or contracted for the purchase of such natural gas supplies. The application further states that pursuant to the subject agreement, Applicant is delivering certain quantities of natural gas to Northern at various points located on Northern's existing gathering system in exchange for equivalent quantities of natural gas being delivered by Northern to Applicant at points on Applicant's existing gathering system, both gathering systems being in Beaver County, Okla. Unless specifically agreed otherwise, the party gathering the gas from any well or wells for the account of the other party under said agreement is responsible to install, own, maintain, and operate all necessary lines and facilities to receive and measure the gas so received into its gathering system, it is said. It is stated that in the event that volumes of natural gas received by Applicant and Northern, for the other's account, are not equal, then balancing deliveries may be made at a point of interconnection between the gathering systems of the parties in Beaver County, Okla., by the party receiving the greater volume of natural gas. It is asserted that under the existing exchange arrangement, Northern, over the last 3 calendar years (1975-77) has delivered to Applicant an average of approximately 2,800 Mcf per day and Applicant's deliveries to Northern over the same period have averaged approximately 1,901 Mcf per day, all deliveries for exchange being made in Beaver County, Okla.

Applicant states that in order to facilitate the continued operation of said exchange arrangement between the parties, Applicant and Northern have executed a letter agreement dated December 1, 1977, providing for the use, as needed, of an additional existing point of interconnection between the facilities of the parties as a further balancing delivery point under the arrangement, which additional point of interconnection is at the outlet of Applicant's Beaver County plant in Beaver County, Okla. It is indicated that Applicant and Northern have agreed that the Beaver County plant balancing point would be used by Applicant to deliver to Northern, if required, a volume of natural gas equal to the imbalance of deliveries between the parties under the exchange arrangement, less the pro rata share of shrinkage and fuel used to process and compress the volume of balancing gas determined on a plant inlet volumetric basis. As compensation for processing and compression of the gas to be delivered at the Beaver County plant balancing point, Applicant would be entitled to retain and own all liquids recovered therefrom in Applicant's facilities, it is said.

The application states that the current operation under the exchange arrangement involves wellhead deliveries from a total of 29 wells connected to the parties' respective gathering systems. Applicant indicates that it and Northern have entered into amendatory agreements dated June 8, 1978, and June 23, 1978, providing for the addition of the Sizelove 1-35 and Barby C-2 wells, respectively, to be attached to Northern's existing gathering system in Beaver County. Applicant states that such wells would provide exchange deliveries by it which would essentially offset balancing deliveries which otherwise would be required to be made under the existing arrangement.

Applicant indicates that neither it nor Northern have previously filed for authorization covering the subject wellhead exchange arrangement, since such arrangement has heretofore been considered as nonjurisdictional under section 1(b) of the Natural Gas Act. Applicant further states that it and Northern have now concluded that the subject exchange arrangement is subject to Commission jurisdiction and therefore Applicant is seeking the authorization necessary to permit the continuation of the exchange. Applicant proposes to continue to operate all existing facilities now used in the exchange of gas produced by the wells.

Applicant also requests that the authorization specifically permit the exchange of natural gas from additional wells which may be attached to the respective gathering systems of each party as they become available to Applicant and Northern in Beaver County.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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. 78-24150 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. IN78-2]

FLORIDA GAS TRANSMISSION CO., ET AL.

Order Directing Private Investigation and Designating Officers to Conduct the Investigation

AUGUST 21, 1978.

On March 16, 1978, the Presiding Administrative Law Judge certified a proposed stipulation and settlement agreement and the accompanying record in *Florida Gas Transmission Company*, Docket No. CP74-192, to the Commission. The proposed Stipulation and Settlement was noticed for comment on March 27, 1978. Concurrently with the issuance of this investigative order, the Commission rejects that settlement proposal.

Staff, in its comments in opposition to the settlement, alleged that Florida Gas Transmission Co. (FGT) and Amoco Production Co. (Amoco) violated the Natural Gas Act. In particular, during the hearings in Docket No. CP74-192, the issue was raised as to whether FGT and others may have violated section 7 of the Natural Gas Act as a result of their agreement to a material amendment of a 1964 warranty sales contract undertaken without authorization from the Federal Power Commission. FGT and Amoco have since operated pursuant to that agreement and in apparent derogation of the original warranty sales contract and certificate.

Also apparent from the record in Docket No. CP74-192 is the significance of certain contractual obligations between FGT and Amoco with Florida Power & Light (FP&L) in the above-mentioned contract amendment. Accordingly, FP&L shall also be subject to investigation in these matters.

In summary, allegations have been made that:

1. The banking operations of FGT and Amoco subsequent to their March 22, 1967, letter agreement violated the terms of the Commission's certificate of public convenience and necessity as required by section 7(c).

2. The banking arrangement which diminished FGT's right to daily takes of natural gas from Amoco as certificated constituted an abandonment requiring prior approval under section 7(b).

3. FGT, in its 1968 application for sale of "excess gas" to Transco in Docket No. CP68-111, violated section 7(c) filing requirements.

The Commission finds: The allegations and matters in the above paragraphs, if true, to be in possible violation of section 7 of the Natural Gas Act and the rules and regulations thereunder, finds it necessary and appropriate, and hereby

The Commission orders: (A) Pursuant to the provisions of the Natural Gas Act, that a private investigation be made to determine whether the aforesaid persons or any other persons have engaged or are about to engage in any of the above reported acts or practices or in any similar or related acts or practices, and

(B) Pursuant to the provisions of section 14(c) of the Natural Gas Act, for the purpose of such investigation, Sheila S. Hollis is hereby designated an officer of this Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records deemed relevant and material to the inquiry, and to perform all other duties in connection therewith as prescribed by law. Endorsement is hereby given for Ms. Hollis to redelegate the above described powers without further Commission approval.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24151 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP74-162]

NATURAL GAS PIPELINE CO. OF AMERICA

Petition To Amend

AUGUST 21, 1978.

Take notice that on July 28, 1978, Natural Gas Pipeline Co. of America (Petitioner), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP74-162 a petition to amend the order of April 2, 1975, as amended, in the instant docket (53 FPC 1077)[1] pursuant to section 7(c) of the Natural Gas Act so as to authorize the exchange of an additional 25,000 Mcf of natural gas per day for a limited term; the operation of an additional exchange point in Hansford County, Tex.; and the operation of an existing exchange point in Ward County, Tex., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of April 2, 1975, as amended, Petitioner is authorized to exchange up to 65,000 Mcf of natural gas per day with El Paso Natural Gas Co. (El Paso), at various exchange points in Oklahoma, New Mexico, and Texas, pursuant to an exchange agreement between the two companies dated September 24, 1973, as amended.

It is indicated that under a separate agreement with Michigan Wisconsin Pipe Line Co. (Mich-Wisc), El Paso would cause Mich-Wisc to deliver, for its account, to Petitioner up to 25,000 Mcf of natural gas per day at an existing exchange point between Mich-Wisc and petitioner in Hansford County, Tex. (Hansford Exchange Point) for a term ending June 1, 1979. Petitioner proposes to redeliver equivalent volumes of gas to El Paso at the existing Lockridge Exchange Point, in Ward County, Tex.

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[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.01), it was transferred to the Commission.

Petitioner proposes that the quantity of up to 25,000 Mcf of gas per day be authorized in addition to the 65,000 Mcf per day currently authorized to be exchanged between Petitioner and El Paso.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 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 Nautral 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. 78-24152 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP76-4]

NORTHERN NATURAL GAS CO.

Petition To Amend

AUGUST 21, 1978.

Take notice that on July 24, 1978, Northern Natural Gas Co. (Petitioner), 2223 Dodge Street, Omaha, Nebr. 68102, filed in docket No. CP76-4 a petition to amend the order of March 31, 1976, issued in the instant docket (57 FPC ——)[1] pursuant to section 7(c) of the Natural Gas Act so as to provide for an extended period of time in which Petitioner is authorized to transport gas for Iowa Public Service Co. (IPS), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of March 31, 1976, petitioner was authorized, among other things, to transport vaporized liquefied natural gas (LNG) by displacement for IPS pursuant to the terms of a gas transportation contract dated June 10, 1975, between the two companies. It is further indicated that such agreement provided that Petitioner would transport up to 15,000 Mcf of natural gas per day for IPS during the period, November 27 through March 26 (winter season), by concurrently reducing deliveries to IPS at the Waterloo, Iowa, TBS No. 1 by that portion of the output of the IPS LNG plant near Waterloo and delivering equivalent volumes by displacement to IPS at petitioner's Sioux City, Iowa, TBS, No. 1A, up to 15,000 Mcf per day. For this transportation service IPS pays petitioner an annual demand charge of $5.01 cents per Mcf and a commodity charge of 2.12 cents per Mcf, it is said.

It is stated that IPS has advised petitioner that the extension of the transportation period is necessary to provide more adequately for the heating season requirements of its firm and small volume customers of Sioux City. Consequently, Petitioner and IPS have entered into an amendment to their transportation agreement dated March 20, 1978, which amendment extends the winter season to a 5-month period, October 27 through March 26. Petitioner indicates that such amendment also provides for a revision in charges to IPS for service provided, in that the monthly bill would be composed of one-fifth the annual demand charge. Should Petitioner deliver the maximum daily volume of 15,000 Mcf per day every day for the extended winter season, as set forth in the amendment, the additional revenues generated would be approximately $9,540, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 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. 78-24153 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-549]

NORTHWESTERN PUBLIC SERVICE CO.

Filing

AUGUST 18, 1978.

Take notice that Northwestern Public Service Co. on August 8, 1978, tendered for filing an additional service agreement with the city of Aberdeen, S. Dak., dated August 1, 1978, under which Northwestern will provide supplemental wholesale power service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 28, 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 available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24154 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-409 and ER78-410]

PHILADELPHIA ELECTRIC CO.

Order Granting Rehearing

AUGUST 17, 1978.

On July 18, 1978, the borough of Lansdale, Pa. (Lansdale) filed a petition for rehearing and clarification of the order accepting rates for filing, suspending proposed rate increase, consolidating proceedings, allowing interventions, allowing withdrawal, denying motion, and establishing procedures issued by the Commission on June 30, 1978, in the above-referenced dockets.

On May 31, 1978, the Philadelphia Electric Co. (PE) filed, inter alia, for an increase in its wholesale rates to Lansdale in the above-referenced dockets. On June 19, 1978, Lansdale filed a motion to reject, protest, and petition to intervene in such dockets.

The Commission's June 30, 1978, order noted that none of Lansdale's allegations of anticompetitive behavior in its June 19, 1978, petition concerned price squeeze, that Lansdale's allegations were all directed to restrictions on the availability of service, and that, consequently, price squeeze was not an issue in the case and the Commission was not instituting the price squeeze procedures described in 18 CFR 2.17.

Lansdale's petition for rehearing and clarification submits that the Commission is in error in its conclusion regarding price squeeze. Lansdale states that its June 19, 1978, petition alleged and showed a price squeeze effect between the operation of PE's HT retail

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.01), it was transferred to the Commission.

rate vis-a-vis the proposed wholesale rate to Lansdale.

Upon further deliberation the Commission finds that Lansdale did make a sufficient threshold allegation of price squeeze in its June 19, 1978, petition. Accordingly, the Commission finds that good cause exists to grant Lansdale's petition for rehearing and make price squeeze an issue in this proceeding.

In its June 30, 1978, order the Commission found that it was appropriate to make the auxiliary service provision issue in the instant proceeding subject to the resolution of that same issue in the docket in which it is already pending, namely docket No. ER77-402.[1] In its petition for rehearing and clarification, Lansdale requests that the Commission clarify the language used in its June 30, 1978, order to make it clear that the resolution of the auxiliary service provision issue in docket No. ER77-402 will become immediately effective with respect to the rate filed in docket Nos. ER78-409 and ER78-410.

We cannot at this time give Lansdale the assurance it seeks since we cannot know with certainty in advance of the time that ER77-402 comes before us whether the judgment we reach on the auxiliary service provision in that case will be equally applicable to the issue as it arises in ER78-409 and ER78-410. If the record and framing of the issue in ER77-402 are such as to permit the disposition of the auxiliary service provision on a basis that would apply as well to the instant proceeding, then our determination on this issue in ER77-402 shall apply in the instant proceeding. However, to the extent that the auxiliary service provision issue is not resolved in docket No. ER77-402, it shall be subject to resolution in the instant proceeding.

In the event that our disposition of the auxiliary service provision issue in ER77-402 appears to us to be equally applicable to the instant proceeding, then our final order in ER77-402 will include a clause requiring PE to amend its rate schedule being litigated in the instant docket so as to conform it to the decision with regard to the auxiliary service provision. If we do not so provide, but Lansdale believes that our order does dispose of the matter in the later docket, then Lansdale is, of course, free to move to have the presiding judge certify the record on this issue to the Commission for expedited resolution.

The Commission orders: (A) The borough of Lansdale's petition for rehearing and clarification is hereby granted and price squeeze is hereby an issue in this proceeing.

(B) Pursuant to § 2.17 of the Commission's rules of practice and procedure, the administrative law judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the borough of Lansdale's request for data required to present its case on the price squeeze issue.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24155 Filed 8-25-78; 8:45 am]

[1] Initial briefs in docket No. ER77-402 were filed on Aug. 2, 1978.

[6740-02]

[Docket No. CS71-522]

READING & BATES PETORLEUM CO. (FORMERLY READING & BATES OIL & GAS CO.)

Redesignation

AUGUST 18, 1978.

By letter of July 21, 1978, Reading & Bates Petroleum Co. has advised the Commission that its company's name has been changed from Reading & Bates Oil & Gas Co. to Reading & Bates Petroleum Co., by articles of amendment to its articles of incorporation, effective May 31, 1978.

Accordingly, the small producer certificate of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act in docekt No. CS71-522 to Reading & Bates Oil & Gas Co. is redesignated as that of Reading & Bates Petroleum Co.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24156 Filed 8-25-78; 8:45 a.m.]

[6740-02]

[Docket No. CP78-463]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 21, 1978.

Take notice that on August 3, 1978, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-463 an 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 with Northern Natural Gas Co. (Northern), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to exchange up to 3,000 Mcf of natural gas per day, on a best-efforts basis, with Northern pursuant to an exchange agreement dated June 15, 1978. It is indicated that Northern would purchase gas in Vermilion area block 34, offshore Louisiana, and deliver it into applicant's existing central Louisiana gathering system in Vermilion Block 35. Applicant indicates that it would purchase gas in Texas in the Gomez (Wolfcamp) field, Pecos County, the Gem Hemphill field, Hemphill County, and the Davidson Ranch field, Crockett County, and deliver it into existing facilities of Northern in the field or nearby.

Applicant states that the facilities required to attach its Texas supplies to the existing facilities of Northern would be installed under applicant's current budget-type authorization.

Applicant states that the proposed exchange will enable it to receive into its system gas which it will purchase from Texaco, Inc., in areas where applicant has no facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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. 78-24157 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-468]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 18, 1978.

Take notice that on August 7, 1978, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-468 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 11.03 miles of 30-inch loop line on the onshore portion of its central Texas gathering system, and gas dehydration facilities adjacent to the North Markham gas processing plant in Matagorda County, Tex., all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that applicant's central Texas gathering system extends from its main line at station 30 in Wharton County to producing fields in the Brazos area, offshore Texas, and that the system gathers gas under purchase contracts for applicant's system supply and is also utilized to transport gas for the account of others. Applicant states that the proposed pipeline facilities would complete the looping of the system between the main line at station 30 and the North Markham gas processing plant. The installation of the proposed 30-inch loop would increase the maximum capability of the system to 283,677 Mcf per day, it is said. Applicant anticipates that the available supplies on the system would build up to a total of about 238,000 Mcf per day in 1979, based on the information from the operator of the two new fields. It is stated that the additional capacity would also be utilized to transport new supplies from Mustang Island block A-85 presently estimated to be attached in 1980 by means of a planned extension of the system from Brazos block A-133 to Mustang Island block A-85.

It is stated that the estimated cost of the proposed facilities is $6,100,000, which cost would be financed initially through short-term loans and available cash. Permanent financing would be undertaken as a part of an overall long-term financing program at a later date, if is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 1, 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. 78-24158 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-471]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 21, 1978.

Take notice that on August 8, 1978, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-471 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 400 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for a term of 2 years for Specialty Dyers Division of Knitbrook, Inc. (Specialty), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 400 dt equivalent of natural gas per day for Specialty, an existing industrial customer of Public Service Co. of North Carolina (Public Service), one of applicant's resale customers served under its rate schedule CD-2.

It is stated that specialty has purchased from Harkins & Co., First Mississippi Corp., St. Joe Petroleum (U.S.) Corp., and Amerada Hess Corp. (producers) up to 400 dt equivalent of natural gas per day to be produced from certain wells in the Greens Creek field, Jefferson Davis County, Miss., at a price of $1.745 per million. Btu's for the first year and $1.92 per million Btu's during the second year. The gas is said to have a thermal content of approximately 961 Btu per cubic foot. It is further stated that the gas purchase contract provides for a minimum take-or-pay quantity of 300 million Btu's per day, and for a 6-month makeup period following the initial term of the agreement to make up gas paid for but not taken.

Applicant would take delivery of the subject gas in Jefferson Davis County, Miss., and redeliver it to existing points of delivery to Public Service for delivery to Specialty's Concord, N.C., plant.

Applicant proposes to charge 23.5 cents per dt for all quantities transported and would retain 3.8 percent of the volumes received as makeup for compressor fuel and line loss.

Applicant asserts that since the service is interruptible, there exists sufficient pipeline capacity to perform the service on a peak day, average day, and annual basis, and that the proposed service will have no impact on applicant's ability to provide systemwide deliveries for priority 1 markets. Applicant further asserts that it was unable to purchase the subject gas because of the unwillingness of producers to sell the gas for resale in the interstate market.

It is stated that Specialty has retained Consul, Ltd., to aid it in the development of a gas supply program, and has agreed to pay Consul, Ltd., 15.0 cents per million Btu for its services.

It is stated that the subject gas would be utilized by Specialty for the dyeing and finishing process in connection with its gas-fired tenter frames and dryers for which no alternate fuel, other than propane, can duplicate the efficiency in energy and process use and give the odor-free quality essential to the process. It is further stated that Public Service has advised that it is highly uncertain that it can provide gas supplies to meet Specialty's priority 2 needs because it is being curtailed by applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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. 78-24159 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-472]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 21, 1978.

Take notice that on August 8, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-472 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 500 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for a term of 2 years for Statesville Brick Co., Inc. (Statesville), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 500 dt equivalent of natural gas per day for Statesville, an existing industrial customer of Public Service Co. of North Carolina (Public Service), one of Applicant's resale customers served under its rate schedule CD-2.

It is stated that Statesville has purchased from Harkins & Co., First Mississippi Corp., St. Joe Petroleum (U.S.) Corp., and Amerada Hess Corp. (Producers) up to 500 dt equivalent of natural gas per day to be produced from certain wells in the Greens Creek Field, Jefferson Davis County, Miss., at a price of $1.745 per million Btu's for the first year and $1.92 per million Btu's during the second year. The gas is said to have a thermal content of approximately 961 Btu per cubic foot. It is further stated that the gas purchase contract provides for a minimum take-or-pay quantity of 375 million Btu's per day, and for a 6-month makeup period following the initial term of the agreement to make up gas paid for but not taken.

Applicant would take delivery of the subject gas in Jefferson Davis County, Miss., and redeliver it to existing points of delivery to Public Service for delivery to Statesville's Stateville, N.C., plant.

Applicant proposes to charge 23.5 cents per dt for all quantities transported and would retain 3.8 percent of the volumes received as makeup for compressor fuel and line loss.

Applicant asserts that since the service in interruptible, there exists sufficient pipeline capacity to perform the service on a peak day, average day and annual basis, and that the proposed service will have no impact on Applicant's ability to provide systemwide deliveries for priority 1 markets. Applicant further asserts that it was unable to purchase the subject gas because of the unwillingness of Producers to sell the gas for resale in the interstate market.

It is stated that Statesville has retained Consul, Ltd., to aid it in the development of a gas supply program, and has agreed to pay Consul, Ltd., 15.0 cents per million Btu for its services.

It is stated that the subject gas would be utilized by Statesville in its wide cross section brick kiln with a high velocity burner which is designed for use with gaseous fuel only. It is further stated that Public Service has advised that it is highly uncertain that it can provide gas supplies to meet Fletcher's priority 2 needs because it is being curtailed by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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. 78-24160 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. CP78-473]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

AUGUST 21, 1978.

Take notice that on August 8, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-473 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessary authorizing the transportation of up to 10,000 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for a term of 2 years for Fibers Division of Allied Chemical Corp. (Allied), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 10,000 dt equivalent of natural gas per day for Allied, an existing industrial customer of CNG Transmission Co. (CNG), one of Applicant's resale cus-

tomers served under its rate schedule CD-2.

It is stated that Allied has purchased from Harkins & Co., First Mississippi Corp., St. Joe Petroleum (U.S.) Corp., and Amerada Hess Corp. (Producers) up to 10,000 dt equivalent of natural gas per day to be produced from certain wells in the Greens Creek Field, Jefferson Davis County, Miss., at a price of $1.745 per million Btu's for the first year and $1.92 per million Btu's during the second year to be paid to Harkin & Co., First Mississippi Corp., and St. Joe Petroleum (U.S.) Corp. and $1.745 per million Btu's for the first 12-month period and $1.92 per million Btu's for the second 8-month period to be paid to Amerada Hess Corp. The gas is said to have a thermal content of approximately 961 Btu per cubic foot. It is further stated that the gas purchase contract provides for a minimum take-or-pay quantity of 7,500 million Btu's per day, and for a 6-month makeup period following the initial term of the agreement to make up gas paid for but not taken.

Applicant would take delivery of the subject gas in Jefferson Davis County, Miss., and redeliver it to existing points of delivery to CNG for delivery to Allied's Hopewell, Va., plant.

Applicant proposes to charge 23.5 cents per dt for all quantities transported and would retain 3.8 percent of the volumes received as makeup for compressor fuel and line loss.

Applicant asserts that since the service is interruptible, there exists sufficient pipeline capacity to perform the service on a peak day, average day, and annual basis, and that the proposed service will have no impact on Applicant's ability to provide system-wide deliveries for priority 1 markets. Applicant further asserts that it was unable to purchase the subject gas because of the unwillingness of Producers to sell the gas for resale in the interstate market.

It is stated that Allied has retained Consul, Ltd., to aid it in the development of a gas supply program, and has agreed to pay Consul, Ltd., 10.0 cents per million Btu for its services.

It is stated that the subject gas would be utilized by Allied primarily as feedstock and process gas for the ammonia plant at Hopewell with a small amount being used as process gas needed to mix with the reformer purge gas so as to provide precise temperature control to the reformer. It is further stated that Allied estimates curtailment for the 1978-79 winter season to be approximately 8,000 million Btu's per day and that severe curtailment will continue beyond 1979.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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. 78-24161 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-499]

UNION ELECTRIC CO.

Order Accepting Interchange Agreement for Filing, Suspending Proposed Iterchange Agreement, Providing for Hearing, Granting Intervention, and Granting Request for Waiver

AUGUST 17, 1978.

On July 17, 1978, Union Electric Co. (Union) submitted for filing an interchange agreement between Union and Associated Electric Cooperative, Inc. (Associated), dated June 28, 1978. The proposed interconnection agreement provides for emergency energy transactions, economy energy transactions, excess energy transactions, participation power service and firm power service, short-term firm power transactions, system-participation power transactions, and displacement of power through one party's transmission system to delivery points to service areas of the other party.

On April 14, 1978, Union had filed a notice of cancellation designated as Union Electric Co., Supplement No. 19 to Union Rate Schedule FPC No. 69, relating to an interchange agreement between Union and Associated of March 27, 1978.[1] That interchange agreement had an initial term extending to June 1, 1978, and was subject to termination by either party at the end of the initial period (or any anniversary date thereof) by the giving of not less than 3 years' written notice of intention to terminate. Associated filed their protest to intervene in that proceeding, requesting that the Commission suspend Union's filing and direct Union to continue operations under FPC Rate Schedule No. 69 until further Commission order. By order of may 12, 1978, the Commission accepted the notice of cancellation for filing, assigned it an effective date of June 1, 1978, granted Associated's request for 5 months' suspension of Union's April 14 filing and ordered them to continue serving Associated under Union FPC Rate Schedule No. 69 through November 1, 1978, unless a final Commission order was issued before that date.

The Commission ordered an investigation to determine if Union's proposed cancellation was in the public interest, and ordered that a public hearing be held to determine the circumstances leading up to and surounding Union's proposed cancellation of Union's FPC Rate Schedule No. 69.

By letter dated May 30, 1978, Union tendered for filing a withdrawal of notice of cancellation, a motion to accept withdrawal of notice of cancellation and a motion addressed to prisiding administrative law judge requesting a stay of the proceedings pending Commission action on the motion to accept withdrawal. By order issued May 31, 1978, the presiding judge granted Union's motion to stay proceedings pending the Commission's action on Union's motion to accept withdrawal and to terminate. On July 6, 1978, we issued an order granting motion to accept withdrawal of notice of cancellation and to terminate proceedings in docket No. ER78-310. In that order, we granted Union's motion to accept withdrawal of notice of cancellation and to terminate the proceedings. In our order, we noted that a filing was being made to allow Associated and Union time to complete their negotiations for a new interchange agreement. We noted Union's statement that it believed that negotiations for a new interchange agreement would be successful and that such new agreement would be in the public interest. We further noted that Associated concurred in Union's May 30

[1] Docket No. ER78-310.

motion requesting acceptance of withdrawal of notice of cancellation and termination of proceedings. We noted in our order that by our action, Associated would continue to receive service under Union Rate Schedule FPC No. 69 indefinitely until a new interchange agreement is negotiated or Union files a new notice of cancellation pursuant to 18 CFR § 35.15.

The instant filing represents a new interchange agreement which will supersede that rate schedule. Union states that incorporated into the new agreement is a change in the format of the contract, an updating of contract capacity amounts at the various delivery points, an updating of rates for power and energy under various service schedules, the addition of interconnection points and delivery points between the parties, and the clarification of the contract language to eliminate certain administrative difficulties which had developed under the previous agreement.

Union states that the terms and negotiations provided for in the agreement were arrived at through negotiation with consideration being given to current operating costs, the present costs of installing capacity and the advantage of interconnected operations. Union notes that during the 12 months ended June 30, 1978, there were no transactions between the parties under the agreement being superseded that would have been affected by the proposed new rates except the purchase by Union of an aggregate of 17,220 MW of excess energy at a cost of $426,840. Union notes that since future transactions under the agreement will depend on day-to-day operations or will be contracted for at a future date, no estimate of such transactions is furnished. Union requests the Commission waive its requirements for such data. Union also requests that to provide contractual continuity between the previous agreement which expired June 30, 1978, and the new proposed agreement, the Commission waive the 30-day filing requirement and permit the new agreement to become effective as of July 1, 1978.

Notice of Union's July 17, 1978 filing was issued on July 26, 1978, with comments, protests, or petitions to intervene due on or before August 4, 1978. On July 31, 1978, Associated Electric Cooperative, Inc. (Associated) filed a petition to intervene in this proceeding. On August 4, 1978, Central Electric Power Cooperative, Inc. (Central) filed a petition to intervene and protest.[2] Central states that it is a rural electric cooperative providing generation and transmission service to 29 counties in central Missouri. Central states that it is an active member of Associated Electric Cooperative, Inc. In its petition to intervene, Central states that the proposed interchange agreement directly affects interests of Central which are not adequately represented by the existing parties and as to which Central may be bound by the Commission's action in this proceeding. Central alleges that the terms, conditions, and charges for transmission service including obligations to curtail loads in certain instances and restrictions placed on Central's capability to make certain plant interconnections contained in the filed interchange agreement may adversely affect Central's ability to serve its load. In addition, Central alleges that the interchange agreement may affect its generation and transmission responsibilities and the rates and charges associated therewith. Central accordingly requests that the Commission suspend the proposed interchange agreement for 1 day and allow the agreement to go into effect subject to refund.

Our review indicates that the interchange agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, we will accept the submittal for filing, suspend it for 1 day, make it effective subject to refund, and establish hearing procedures to determine its lawfulness, based on the above.

The Commission finds:

(1) Good cause exists to waive 18 CFR § 35.3 to permit Union's submittal to become effective subject to refund as hereinafter ordered.

(2) Good cause exists to waive 18 CFR § 35.13(b)(1),[3] requiring estimates of sales and revenues for transactions under the interchange agreement.

(3) It is necessary and in the public interest that an evidentiary hearing be held in this docket in order for the Commission to discharge its responsibilities under section 205 of the Federal Power Act.

(4) Participation in this proceeding by Associated Electric Cooperative, Inc., and Central Electric Power Cooperative, Inc.

The Commission orders:

(A) Waiver of 18 CFR § 35.3 notice requirements pertaining to Union's July 17, 1978 filing is hereby granted.

(B) Waiver of 18 CFR § 35.13(b)(1) is hereby granted.

(C) Central's proposed interchange agreement filed on July 17, 1978, is hereby accepted for filing as of June 30, 1978, and suspended for 1 day until July 1, 1978, when it shall become effective, subject to refund.

(D) Central Electric Power Cooperative, Inc. and Associated Electric Cooperative, Inc., are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene: *And provided further,* That the admission of the intervenors shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders entered in this proceeding.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402 of the DOE Act and under the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act, a public hearing will be held to determine the justness and reasonableness of the proposed rates, charges, terms, and conditions of service. The administrative law judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the rules of practice and procedure.

(F) Nothing contained herein shall be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to section 1.18 of the Commission's rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24162 Filed 8-25-78; 8:45 am]

[2] The petition was incorrectly titled as docket No. ER77-499.

[3] The utility shall file: A statement comparing sales and services and revenues therefrom, by months and for the year, under both the rate schedule proposed to be superseded or supplemented and the proposed changed rate schedule, each applied to the transactions for the 12 months immediately preceding and to the 12 months immediately succeeding the date on which the new rate schedule is to become effective. Such comparisons should be made for each class of service, for each customer, and for each delivery point. The billing quantities involved in the computation of the charges should also be shown.

[6740-02]

[Docket No. CP78-454]

UNITED GAS PIPE LINE CO.

Application

AUGUST 21, 1978.

Take notice that on August 1, 1978, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-454 an appli-

cation pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 3,000 Mcf of natural gas per day for Natural Gas Pipeline Co. of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport natural gas for Natural pursuant to a gas transportation agreement dated July 17, 1978, between the two companies, which agreement provides that Applicant would transport natural gas for Natural from a point of receipt on Applicant's existing 14-inch Latex-Fort Worth pipeline system in Harrison County, Tex., to an authorized point of delivery between the systems of Applicant and Natural in Polk County, Tex.

The application states that Natural has acquired the right to purchase volumes of gas produced by Marshall Exploration, Inc., in the Elysian Fields in Harrison County, Tex., and that in order to get this additional supply of natural gas into its system, Natural has requested Applicant to transport up to 3,000 Mcf per day for Natural's account. It is stated that Natural would cause the subject gas to be delivered to Applicant for Natural's account at a tap to be installed on Applicant's 14-inch Latex-Fort Worth Line in Harrison County, Tex. It is indicated that Applicant would deliver said volumes, less an allowance for fuel and company-used gas, to Natural in Polk County, Tex. Any facilities required to deliver the gas to be purchased by Natural in the Elysian Fields would be constructed or caused to be constructed by Natural under its appropriate gas-purchase facility budget authority, it is said. Applicant estimates that the cost of these facilities at $1,751. It is stated that Natural would own, operate and maintain these facilities.

The application states that Natural has agreed to pay Applicant for gas transported under said transportation agreement an amount per Mcf equal to Applicant's average jurisdictional transmission cost of service in effect from time to time in Applicant's Northern Rate Zone, less any amount included in such average jurisdictional transmission cost of service which is attributable to gas consumed in the operation of Applicant's pipeline system. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operations, in the Northern Rate Zone is said to be 24.46 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 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.

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. 78-24163 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. RA78-5]

YOUNG REFINING CORP.

Notice Granting Motion for Extension of Time

AUGUST 18, 1978.

On July 24, 1978, the Office of Hearings and Appeals, Department of Energy, issued a final Decision and Order in Case No. DXE-0084, as amended by the Supplemental Order issued on August 8, 1978, in Case No. DEX-0099, upon an Application for Exception of Young Refining Corp.

On August 16, 1978, Young Refining Corp. moved this Commission for an extension of time by which to file a petition for review of those orders of thirty (30) days from the date on which the Commission adopted and published its rules and procedures to govern petitions for review filed pursuant to section 504(b) of the Department of Energy Organization Act, 42 U.S.C. 7194(b) (1977 Supp.).[1]

Upon consideration of this motion for extension of time, good cause has been shown to extend the time for filing the petition for review required by section 1.40(d)(2) of the Commission's Rules of Practice and Procedure until 30 days from August 8, 1978, the date the Commission issued its rules governing petitions for review of adjustment request denials, to and including September 7, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24164 Filed 8-25-78; 8:45 a.m.]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. G-4282 et al.]

GULF OIL CORP. ET AL.

Correction

AUGUST 9, 1978.

Findings and order after statutory hearing issuing certificates of public convenience and necessity issued July 3, 1978.

At 43 FR 32176 published July 25, 1978, in appendix, table I, *Southern Union Supply Company*, Docket No. CI76-578 and *Southern Union Supply Company*, Docket No. CI76-579. Under column headed "Docket No. and Date Filed" change "7-12-77" to "7-27-77".

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-24141 Filed 8-25-78; 8:45 a.m.]

[6740-02]

[Docket No. RP78-77]

MISSISSIPPI RIVER TRANSMISSION CORP.

Correction

AUGUST 18, 1978.

Order accepting for filing and suspending proposed rate increase and tariff changes, initiating hearing, establishing procedures, and granting interventions issued July 31, 1978.

At 43 FR 34834 published August 7, 1978, on page 34834, first column, ordering paragraph (C), line 1: change "January 1, 1978" to "January 1, 1979"; line 13: change "shall be permitted" to "shall not be permitted".

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24140 Filed 8-25-78; 8:45 a.m.]

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[1] Procedures for Review by the Federal Energy Regulatory Commission of Adjustment Request Denials by the Secretary of Energy, Docket No. RM78-17, issued August 8, 1978.

[6740-02]

[Project No. 2811]

PUBLIC UTILITY DISTRICT NO. 1 OF KLICKITAT COUNTY, WASH.

Correction

AUGUST 16, 1978.

Notice granting interventions issued July 28, 1978. At 43 FR 34197, published August 3, 1978, the heading is changed from 2812 to:

[Project No. 2811]

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-24139 Filed 8-25-78; 8:45 am]

[6740-02]

[Docket No. AR70-1]

WEST TEXAS GATHERING CO.

Filing of Pipeline Refund Reports and Refund Plans

AUGUST 21, 1978.

Take notice that the pipelines listed in the appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 6, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
Aug. 7, 1978	West Texas Gathering	AR70-1	Report.
Aug. 10, 1978	Lawrenceburg Gas	RP70-6, et al.	Do.
Do	El Paso Natural	RP77-18	Do.
Do	Florida Gas Transmission	AR64-2	Plan.
Do	East Tennessee Natural Gas	RP74-90	Report.
Aug. 14, 1978	Tennessee Gas Pipeline	RP75-13, et al.	Do.

[FR Doc. 78-24142 Filed 8-25-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 955-5]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from August 14, 1978, through August 18, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comments is October 9, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: August 23, 1978.

WILLIAM D. DICKERSON,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Ferron-Price Planning Unit, Manti-Lasal National Forest; several counties in Utah, August 15: Proposed are five alternatives for management of the Ferron-Price Planning Unit. The planning unit includes 531,500 acres of the Manti-Lasal National Forest in Carbon, Emery, Sanpete, Utah, and Sevier Counties, Utah. The five alternatives consider features such as: (1) Wilderness classification of inventoried roadless area, (2) timber harvest/mineral resource uses, (3) emphasis on wildlife habitats, water production, and recreation, and (4) livestock grazing and forage production. (USDA-FS-R4-DES(ADM)-78-7) (EPA Order 80882).

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Final

Coastal Zone Management Program, Hawaii; several counties in Hawaii, August 15: Proposed is the approval of a coastal zone management program for the State of Hawaii. Approval of the program and implementation would allow program administration grants to be awarded to the State and require that Federal actions be consistent with the program. Through this program the State of Hawaii would establish policies and standards to condition, restrict, or prohibit some uses in parts of the coastal zone and encourage development in others through coordinated actions of State and local authorities. Comments made by: DOD, USA, COE, HUD, USAF, AHP, DOT, DOC, GSA, NRC, DOE, and State and local agencies, groups, individuals, and businesses (EPA Order 80883).

ECONOMIC DEVELOPMENT ADMINISTRATION

Final Supplement

1980 Olympic Winter Games; Essex County, N.Y., August 18: This statement supplements a final EIS filed in January 1977 concerning the 1980 Winter Olympic Games to be held in the village of Lake Placid and the town of North Elba and Wilmington, and vicinity, Essex County, N.Y. There are no new Olympic projects proposed for implementation that would have substantial impact which were not addressed in the final and draft supplement. Five alternatives are considered for the disposal of wastewater. Comments made by: DOI, State, EPA, USDA, AND State and local agencies, and groups, individuals, and businesses (EPA Order 80895).

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-6795.

Final

Rio Grande River, Santa Fe, Arroyo Mascaras, N. Mex.; August 15: The project involves the construction of a dry flood control reservior on the Santa Fe River; channelization of approximately 4,000 feet of Arroyo Mascaras, raise Apartment Drive Bridge; and a new bridge at College St. in Santa Fe. Adverse impacts are: The alteration of 22 acres turbidity in the river, two reservoirs would be evident until revegetation, and short-term air and noise pollution due to construction (Albuquerque District). Comments made by: DOI, DOT, USDA, HEW, FPC, EPA, DOC, and State agencies, and groups and businesses (EPA Order 80881).

Disposal of hydrogen cyanide, Tooele Army Depot; Tooele County, Utah, August 18: The proposed action consists of detoxify-

ing 281 pounds of the chemical agent hydrogen cyanide which is stored in two bombs at Tooele Army Depot, Tooele County, Utah. The two bombs will be moved to an incinerator facility where the hydrogen cyanide will be removed by pressurization of the bombs with nitrogen and introduced via a feed/control system into the incinerator which will be operated at a temperature of 1100° F. Effulent gases from the incinerator will pass through an afterburner and discharge into the atmosphere. Comments made by: No comments made (EPA Order 80894).

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, 202-566-0405.

Final

Central Los Angeles Parking Facility, Los Angeles County, Calif., August 17: Proposed is the construction of a 1,300-space parking facility on Government-owned land directly behind the Federal Building at 300 North Los Angeles Street. The structure will provide space for official, visitor, and employee carpool parking for both the Federal Building and the U.S. Courthouse at 312 North Spring Street. Adverse impacts include construction-related pollution and increased levels of noise and possibly air pollution in the immediate vicinity of the parking facility. Comments made by: AHP, EPA, DOI, USDA, COE, DOT, DLAB, HUD, and State and local agencies, and groups and businesses. (EPA Order 80892).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-6308.

Draft

Southbrook Addition Subdivision, Fort Worth; Tarrant County, Tex., August 14: Proposed for consideration is an application for HUD home mortgage insurance submitted by Centennial Homes, Inc. The subdivision involved, Southbrook, will cover approximately 123 acres and contain about 546 single-family units with an expected population of 1,900. The project is located in Fort Worth, Tarrant County, Tex. (HUD-R06-EIS-76-30(D)) (EPA Order 80877).

Final

Venus Gardens Development, Puerto Rico; August 14: The proposed action involves the urbanization of a tract of land of approximately 409 cuerdas (1 CDA = 0.97 acre) located in the Sabana Llana Ward of Rio Piedras. The plans have been approved by the pertinent Commonwealth agencies. They are comprised of a total of 1,450 units to be developed in two main stages. Adverse effects include construction-related pollution, increases in surface runoff and population density, and an increased demand for all public services. Comments made by: DOT, HUD, VA, DOI, HEW, EPA, and State agencies. (EPA Order 80880).

SECTION 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Community Development, San Jose, 3-year program; Santa Clara County, Calif., August 16: Proposed is a community development block grant three-year plan for the city of San Jose, Santa Clara County, Calif., during the period of July 1978 through June 1981. This plan consists of numerous individual projects either concentrated in specific residential neighborhoods or dispersed in one or two larger planning areas. Neighborhood projects include: (1) Housing rehabilitation loans and grants, (2) improvement or construction of public parks and facilities, and (3) improvement of community facilities. Areawide projects include: (1) Interim rehabilitation/relocation assistance (2) historical preservation loans, and (3) other features. (EPA Order 80887).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF INDIAN AFFAIRS

Draft

Navajo Land Selection; several counties in Arizona, August 15: Proposed is the sale of 250,000 acres of public domain to the Navajo Tribe as directed by Pub. L. 93-531, the tribe has applied for grazing land in House Rock Valley and the Paria Plateau, northern Arizona. This statement examines community establishment, tending of livestock, and adherence to deferred- and rest-rotation grazing and other management practices that, over time, should improve the vegetation. The project does not concern the relocation of Indians, only the land-transfer consequences. (INT-DES-78-33) (EPA Order 80884).

BUREAU OF LAND MANAGEMENT

Draft

Palo Verde-Devers 500-kV Transmission Line; several counties in Arizona and California, August 18: The proposed action is the construction of a single-cricuit 500-kV transmission line from the Palo Verde Nuclear Generating Station near Buckeye, Ariz., to southern California: The transmission line will vary between 235 and 265 miles long, depending on the route selected. The project includes upgrading one substation, adding two telecommunication sites and upgrading several others and construction of new access roads as needed. (DES-78-34) (EPA Order 80891.)

Final Supplement

Fort Mohave Land Sale (S-2); Clark County, Nev., August 15: This supplement was prepared in response to the National Resource Defense Council, Inc., and Environmental Defense Fund comments on the final EIS (filed in January, 1975). Proposed is the transfer of the remaining 9,000 acres of national resource lands in Clark County, Nev., to the State of Nevada under the Fort Mohave Act of April 22, 1960, Pub. L. 86-443. Transfer to the Nevada Division of Colorado River Resources would take place over a period of 6 years after approval by the Secretary of Interior. (INT-FES-75-10). Comments made by: COE, DOI, AHP. (EPA Order 80878.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Harry G. Moore, Jr., Acting Director, Division of Environmental Planning, Tennessee Valley Authority, 268 401 Building, Chattanooga, Tenn. 37401, 615-755-3161, FTS 854-3161.

Draft

Ocoee No. 2 Hydro Plant, rehabilitation; Polk County, Tenn., August 18: Proposed is the rehabilitation work that would restore the flume and crib dam of the Ocoee No. 2 Hydro Plant, located in Polk County, Tenn., to a safe integral part of the TVA hydroelectric generating system. Three alternatives are considered which include: (1) Facility retirement consisting of the removal of the crib dam and flume, sealing of penstocks and sale of equipment, (2) a rockfill dam addition, replacement of trestles, and 1,800 feet of wooden flume, and (3) construction of a new concrete dam, replacement of trestles and 1,800 feet of wooden flume. (EPA Order 80893.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Fayetteville Airport Connector to I-95, Cumberland County, N.C., August 14. The porposed project consists of providing access between the Fayetteville Airport and planned I-95 by: (1) constructing an interchange on I-95 at or near NC-2219; and (2) providing a two-lane facility between the new interchange and NC-2212. The proposed interchange will be located approximately 1.8 to 2.2 miles from the nearest planned interchange (at NC-87 relocated). Six alternatives considered include no-build, public transportation, a northern interchange location, and partial relocation and improvements. (FHWA-NC-EIS-78-04-D.) (EPA order No. 80879.)

I-440, From I-40 to I-24, Nashville, Davidson County, Tenn. August 17. Proposed is the improvement of crosstown transportation in Nashville, Davidson County, Tenn. The project, to be known as I-440, has been planned to provide the principal high capacity facility for the circumferential travel demand. Five alternatives are presently under study which include: (1) present design, a six-lane limited-access highway, (2) reduced facility, four lane limited-access, (3) the boulevard, a four lane urban street with at-grade, signalized intersections and additional turn lanes where needed, and (4) no-build. The build atlernatives include a 2½ mile long bikeway. (FHWA-TN-EIS-78-06-D.) (EPA order No. 80889.)

Final

Route 7, Norwalk to Danbury, Fairfield County, Conn., August 16. Proposed is the relocation of route 7 from the vicinity of I-95 in Norwalk to the vicinity of I-84 in Danbury all within Fairfield County, Conn. The entire project covers approximately 20 miles, and would be built as an expressway on a new alignment with control of access,

and would vary from 2 to 3 through lanes in each direction. All feasible locations for the relocation pass through a portion of Wooster State Park in Danbury. (FHWA-CONN-EIS-74-01-F.) Comments made by: USDA, DOC, EPA, AHP, FPC, HEW, HUD, DOI, State and local agencies, groups, individuals and businesses. (EPA order No. 80888.)

WA-5, South 272d Street, King County, Wash., August 14. The proposed project is the Diamond interchange, park and ride lot, and flyer stop which is to be constructed on interstate 5, South 272d Street approximately 10 miles south of the Seattle corporate limits in King County, Wash. This environmental impact statement for alternative design of the interchange was approved in 1973. The park and ride lot, designated as site A contains 500 stalls and a ramp level flyer stop. This report has been prepared to outline the impacts associated with the interchange and the inclusion of the park and ride lot and flyer stop. Comments made by: COE, DOI, HUD, USDA, DOT, EPA, DOC, State and local agencies. (EPA order No. 80876.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Draft

Lexington Market Station Joint Development Project, Baltimore County, Md., August 18. Proposed is a joint development project at the downtown retail district, Baltimore City, Md. Public sector funds would be used for real property acquisition; business relocation; demolition; site preparation; public improvements; the disposition of development rights to designated portions of the proposed project site area, by sale or lease, to private development entities at the highest obtainable price as established by professional re-use appraisals; historic preservation costs; and a two-block extension of the city's Lexington Street Mall. (EPA order No. 80896.)

Final

Rail Rapid Transit Extension, Chicago O'Hare Airport, Cook County, Ill., August 15. The proposed project involves the extension of the Kennedy Rail Rapid Transit Line from its present terminus at Jefferson Park to O'Hare International Airport located in Chicago, Cook County, Ill. The two track extension of the existing line would be constructed in the median of the Kennedy Expressway from Jefferson Park to the Northwest Tollway. upon approaching the terminal area, the extension would go into a subway to be constructed beneath the existing park garage. The transit line would terminate in a stub-end station which would service the major airport terminals and adjacent facilities. (UTMA-IL-03-0046.) Comments made by: USDA, HUD, DOI, DOT, EPA, State and local agencies, groups, individuals, and businesses. (EPA order No. 80085.)

U.S. COAST GUARD

Final

Greater New Orleans Mississippi River Bridge No. 2, Orleans and Jefferson Parishes La., August 16. The proposed action is to construct a new bridge and approaches across the Mississippi River in New Orleans. The new bridge will be located parallel to and 400 feet downstream of the existing Greater New Orleans Bridge. The new structure will be a three-span, cantilevered through truss bridge very similar in appearance and construction to the existing Greater New Orleans Bridge, spans of approximately 853 feet, 1,575 feet, and 591 feet are proposed for the main structure. Two properties on the National Register of Historic Places will be adversely affected. Comments made by: AHP, ICC, COE, USDA, HUD, DOI, DOT, EPA, State and local agencies, groups, individuals, and businesses. (EPA order No. 80886.)

[FR Doc. 78-24218 Filed 8-25-78; 8:45 a.m.]

[6560-01]

[FRL 954-3; OTS-280002]

TOXIC SUBSTANCES CONTROL

Availability of Funds for Cooperative Agreements With States

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of funds for cooperative agreements with States.

SUMMARY: The Environmental Protection Agency (EPA) proposes, under authority of the Toxic Substances Control Act (TSCA), to fund a limited number of toxic substances control cooperative agreements during fiscal year 1979, subject to the availability of funding. Such funds will be awarded to States for the establishment and operation of projects leading to the prevention or elimination within the States of unreasonable risks to health or the environment which are associated with a chemical substance or mixture and with respect to which the Administrator is unable or is not likely to take action for their prevention or elimination under TSCA.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Walt Mardis, Office of Program Integration and Information, Environmental Protection Agency, Room E713 (TS-793), 401 M Street SW., Washington, D.C. 20460, 202-755-4880 or 202-755-8040.

SUPPLEMENTARY INFORMATION: Applicants will be eligible for funding only if a priority need is demonstrated, as determined under Office of Toxic Substances guidelines (see below). Eligibility for funding will, in part, be based upon: the seriousness of the human health effects in a State which are associated with chemical substances or mixtures, including cancer, birth defects, and gene mutations; the extent of the exposure in a State of human beings and the environment to chemical substances and mixtures; and the extent to which chemical substances and mixtures are manufactured, processed, distributed, used, and disposed of in a State. Other factors, such as long-term impact, transferability to other States, likelihood of project success, and potential benefit compared to cost, will also be considered.

These cooperative agreements will be subject to the provisions of EPA's general grant regulations (40 CFR Part 30) and to special conditions to be set forth in each agreement signed by the Governor of a State or his duly authorized representative and EPA. Federal assistance will be awarded only once under the present TSCA authorization to each approved applicant. A total of approximately $3 million is expected to be available in fiscal year 1979 to fund these cooperative agreements. The State's matching contribution must be at least 25 percent ot the total cost of the program.

Information regarding application submission, evaluation criteria, and other pertinent requirements are contained in the document "Office of Toxic Substances Guidelines for State Agencies To Use in Submitting Applications for Financial Assistance for State Toxic Substances Control Projects," as set forth below. Applications must be submitted to the Environmental Protection Agency, Grants Administration Division (PM-216), Washington, D.C. 20460, by (90 days from date of this notice) in order to be considered eligible for the first set of awards. A copy of the application should be sent to the appropriate EPA Regional Office. However, applications submitted within 6 months after (90 days from date of this notice), but not accepted for funding in the initial selection process, will be considered for subsequent funding in a second selection process.

Cooperative Agreements and Enforcement

EPA intends to make available additional funds to support cooperative agreements with States for compliance monitoring under TSCA. A notice describing this program and application procedures will appear in the Federal Register in the near future.

States will be eligible for compliance monitoring funds regardless of application submitted or funds awarded under this notice. If EPA deems proposals submitted under the two notices to be sufficiently related, the State may submit a single application and provide integrated administration for both.

Dated: August 17, 1978.

MARILYN C. BRACKEN,
Acting Assistant Administrator for Toxic Substances.

OFFICE OF TOXIC SUBSTANCES

GUIDELINES FOR STATE AGENCIES TO USE IN SUBMITTING APPLICATIONS FOR FINANCIAL ASSISTANCE FOR STATE TOXIC SUBSTANCES CONTROL PROJECTS

I. Purpose

The Office of Toxic Substances (OTS), under authority of the Toxic Substances Control Act (TSCA) will implement a program of financial assistance to States during fiscal year 1979 (FY 79) in the form of cooperative agreements to enable selected States to develop and implement projects to prevent or eliminate unreasonable environmental and health hazards posed by toxic substances. These unreasonable hazards must be of a kind which EPA is unable to, or not likely to, control under TSCA.

II. Eligibility

To be eligible for award of funds under the toxic substances control cooperative agreement program, a State must meet the following criteria in order of importance.

A. *Need.* An applicant must establish a priority "need" based upon evidence of: The occurrence or likely occurrence of serious human health effects, including cancer, birth defects, or gene mutation, which are known to be, or suspected of being associated with human exposure to chemical substances or mixtures arising from the manufacture, processing, distribution, use and disposal of such substances or mixtures in the State.

The lack of adequate data makes it impossible to use a single standard to measure this "need." While data contained in such publications as the National Cancer Institute's study, *U.S. Cancer Mortality by County*, and *Mortality Tables of the Vital Statistics of the United States (1976)*, indicate deaths which may be related to chemicl production, use or disposal in the past, such tables are not predictive of mortality and morbidity which will occur in the future as a result of current exposure. In cases where epidemiological data are lacking, and a chemical is believed to cause a particular health effect (e.g., cancer), applicants may use publications such as the *County Business Patterns Data*, prepared by the Bureau of Census in conjunction with the Office of Management and Budget, which provides a statewide overview of chemical production.

Applicants should plan, therefore, to cite data from the above mentioned sources, or from other verifiable sources, to prove stated need. EPA Regional Offices will be responsible for corroborating the validity of State data relating to need.

Because of the imprecise nature of the data, it is not possible to rank the States numerically; instead, grouped categories will be established on the basis of apparent need. Those States demonstrating the greatest need will be given highest priority; those whose demonstrated need is somewhat less will be given lower priority.

B. *Legislative authority.* A State must have enacted enabling legislation which empowers it to conduct the specific activities it proposes to conduct under the cooperative agreement. In some cases, such legislation may specifically address itself to control of toxic substances. In other cases, such legislation may be phrased in more general terms, dealing, for example, with the preservation of public health. The application should in any event, cite the relevant provisions in State law and regulations.

C. *Program in place.* State organizations or legislation needed to achieve the intended results should exist and be functioning. The application must identify the agency or agencies of the State which will establish or operate, or both, the project(s) for which the application is submitted.

D. *Actions proposed and priorities.* The application must deseribe in detail the actions proposed to be taken under such project(s) in accordance with these guidelines, and must state the priority for each action. The likelihood of success in implementing the project along proposed lines and the project's potential benefit compared to cost must be demonstrated.

E. *Long term impact.* The application must establish the potential of a cooperative agreement for long term beneficial impact upon human health and the environment of development and implementation of a toxic substances control program. If a State can demonstrate a potential for transferability of its techniques and approaches to other States, this will be given additional favorable consideration. "Transferability" here denotes the possibility that other States could utilize for their own benefit innovative and/or effective techniques and approaches, developed as a result of a cooperative agreement between a State and EPA, for better controlling potential hazards to human health and the environment of chemical substances and mixtures.

F. *Project coordination.* The application must contain satisfactory assurances that such projects will be coordinated with other projects of the State government for environmental and public health protection. A signed statement of intent to this effect should be submitted by prospective participants in the project.

G. *OMB Circular A-95.* Applicants must comply with all applicable requirements of Office of Management and Budget (OMB) Circular No. A-95 under section 30.305 of the EPA General Grant Regulations.

H. *Reports.* The application must provide for the making of a comprehensive annual progress report, which will be required under the special cooperative agreement conditions.

III. Program Activities Included in a Toxic Substances Control Cooperative Agreement

The applicant must demonstrate his plans for solving or alleviating problems of human health and the environment, associated with toxic substances and mixtures, against which the Administrator is unable or unlikely to take action under TSCA. For example, if exposure to a chemical substance is limited to a particular geographic area or if action at the State level is more appropriate than Federal action, EPA would be less likely to act. If a question arises with an applicant as to whether EPA is likely to take action against such problems, the applicant should contact the OTS as indicated below for advice.

Cooperative agreement funds shall not be used to pay for clean-up costs of specific toxic substances problems, nor for compensation in payment of damages suffered as a result of a toxic substances problem. Rather, applicants should stress the development of innovative and/or effective techniques for control of toxic substances, as well as new sources of information on problems caused by toxic substances and steps which might be taken to solve or alleviate them. In reviewing applications for cooperative agreements, EPA will, as indicated above, be examining the potential transferability to other States of the techniques and approaches to be developed as a result of the agreements.

Applications must include a statement, signed by a duly authorized representative of the Governor, concerning State plans for continuation of program activities beyond the period of Federal funding. No additional funding in support of this program beyond fiscal year 1979 will be made available to States without new congressional authorization.

Cooperative agreement program funds may be used to pay salaries and other benefits for personnel performing data gathering, rulemaking, monitoring, analytical, or managerial functions relating to cooperative agreement activities, and to reimburse travel and per diem expenses of personnel which are directly attributable to the performance of such activities.

Program funds may also be used for such costs as purchasing supplies and equipment, including laboratory equipment for monitoring and testing purposes when these supplies and equipment are an integral part of the funded project. The application should specify the amounts and purposes of the above costs to be charged to the project.

IV. Program period

In planning their project(s), applicants should bear in mind that agreement funds do not have to be disbursed in their entirety within fiscal year 1979. However, EPA expects that all such funds will be disbursed within a 3 year period following award of the cooperative agreement, with the understanding, of course, that the awards will not be repeated under the present TSCA authorization.

V. Cost sharing

The States shall provide at least 25 percent of the approved project costs. The States' share may be reflected in allowable direct or indirect costs.

VI. Submission of applications

Applications for Federal assistance may be submitted by State agency(ies) responsible for State activities in the toxic substances control area. States interested in receiving toxic substances control cooperative agreements should submit EPA Form 5700-33, Application for Federal Assistance, to the Environmental Protection Agency, Grants Administration Division (PM-216), 401 M Street SW., Washington, D.C. 20460, by [90 days following publication of this notice in the FEDERAL REGISTER] in order to be considered eligible for the first set of awards. A copy of the application should be sent to the appropriate EPA Regional Office. States submitting applications after this date may jeopardize their chances of receiving toxic substances control cooperative agreement funds in the first distribution of awards.

VII. EPA actions on applications

A review panel will be constituted at EPA Headquarters with Regional Office representation. This panel will initially review all applications submitted within 90 days following publication of this notice in the FEDERAL REGISTER, and will make the final determination of which States will receive awards within 45 days following the submission deadline. It is anticipated that the number of cooperative agreements to be funded under this program will range between 6 and 10. Except in unusual circumstances, the amount of each cooperative agreement will range between $100,000 and $500,000. Awards will be transmitted to States within 45 days following final determination.

Approximately one-half of all cooperative agreement funds available under this program will be obligated to those States whose applications receive favorable consideration in the first review. Funding will be based strictly on merit as determined in accordance with the eligibility criteria as set forth above.

After [9 months following publication of this notice in the FEDERAL REGISTER], EPA will review all unfunded applications submitted up to that time in a second selection process in order to obligate the remaining cooperative agreement funds. States not receiving awards following this review will have to seek funding assistance elsewhere.

The awards will be made by EPA Headquarters. However, the Regional Administrator or his designee will serve as Project Officer for the administration of the cooperative agreement and will be responsible for overseeing State performance. Further information concerning toxic substances control cooperative agreements may be obtained by contacting the appropriate EPA Regional Office or the Office of Toxic Substances, EPA, 401 M Street SW., Washington, D.C. 20460. The OTS contact is Walt Mardis, telephone 202-755-4880 or 202-755-8040.

[FR Doc. 78-24192 Filed 8-25-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[SS Docket Nos. 78-268, 78-269; File Nos. 08629/30/31/32-IB-93TV, 32869/70/71/72-IB-38**]

CHAPMAN T.V. & ELECTRONICS AND MOBILE U.H.F., INC.

Memorandum Opinion and Order

Adopted: August 21, 1978.

Released: August 24, 1978.

By the Chief, Safety and Special Radio Services Bureau.

In re applications of Charles R. Wells, d.b.a. Chapman T.V. & Electronics, 8959 Chapman Avenue, Garden Grove, Calif. 92641, for renewal of authorizations for stations KUS880, KUS881, WPM25, and KQ5912 in the business radio service, Mobile U.H.F., Inc., 8959 Chapman Avenue, Garden Grove, Calif. 92641, for authorizations for new facilities in the business radio service.

1. The Chief, Safety and Special Radio Services Bureau (the Bureau) has before him for consideration the above-captioned applications filed respectively January 23, 1978, by Charles R. Wells (Wells), d.b.a. Chapman T.V. & Electronics (Chapman) for renewal of licenses and March 6, 1978, by Mobile U.H.F., Inc. (Mobile U.H.F.), for authorization of new facilities. Also before the Bureau in connection with its consideration of these applications are the evidentiary record and initial decision of Administrative Law Judge Reuben Lozner in the hearing proceeding on the applications of Bill Sims, d.b.a. Sims Tow Service (Sims), for authorization of new facilities in the business radio service (docket No. 21416; file Nos. 43898/43899/43900-IB-67TV).

2. The *Sims* proceeding was designated for hearing by the Bureau October 11, 1977, to determine whether Sims had willfully operated business radio service facilities without a license and, if so, whether he possessed the requisite character qualifications to receive a grant of the applications which were the subject of that proceeding. Because Sims had alleged that his admittedly unlicensed operation had been undertaken on the basis of certain representations made to him by Chapman, which supplied his radio equipment, the Bureau made Wells, individually and doing business as Chapman, as well as William Hyde (Hyde), the Chapman salesman with whom Sims had dealt, parties to the proceeding. Both Wells and Hyde appeared in the proceeding by counsel and both testified at the hearing.

3. The initial decision of Judge Lozner in the *Sims* case (FCC 78D-42) was released July 7, 1978. The time prescribed in the Commission's rules within which any party to that proceeding might have sought review of the initial decision has now expired without any request for review having been filed.

4. Judge Lozner's initial decision found that Sims had been awarded a contract valued in excess of $5 million from the city of Long Beach as the exclusive 24-hour emergency police tow service for the Long Beach Police Department over a 5-year period. The contract required that Sims provide radio-dispatched tow trucks and that he improve the radio service previously authorized by the Commission to a corporation owned by Sims. Several weeks prior to the April 1, 1977, commencement of the contract Sims, through Hyde, entered into agreement whereby Chapman and E. F. Johnson Co., the manufacturer, would provide the required radios and installation. At the same time Sims, through Hyde, entered into an agreement with Mobile U.H.F., Inc., which was 50 percent owned by Wells, to provide Sims with a mobile relay service to be used in conjunction with the radios purchased from Chapman.

5. The initial decision found that Chapman, through its employee,

Hyde, offered to provide a "loaner" radio system to Sims for the latter's use in the event that the Commission did not issue a license to Sims by April 1, 1977; that Hyde advised Sims that the loaner procedure would be illegal and enlisted Sims' silence; that such a loaner system was in fact provided and installed by Chapman employees; that the system was made operative with the mobile relay system which Sims had concurrently leased from Mobile U.H.F.; that subsequently Sims' radios were modified by Chapman employees to use the frequency pair for which Sims had an application pending at the Commission; and that the modification included rendering the radios capable of using the mobile relay station leased from Mobile U.H.F.

6. The presiding judge's initial decision in the *Sims* proceeding pointed out that "* * * an applicant cannot abdicate his responsibility to comply with the Communications Act and Commission Regulations by a claimed reliance on a supplier's representation that a license has been issued." Judge Lozner added, however, that:

> * * * this should not be construed as approval of a supplier's business practices that include direct or implied representations to a purchaser which induce the operation of unlicensed radio facilities * * *. If such a business practice leads the purchaser into the belief that he has been relieved of such responsibility, the practice is highly questionable * * *. It should also be pointed out that equipment suppliers and their representatives who hold Commission licenses, by virtue of such licenses remain subject to this Commission's jurisdiction, and in an appropriate proceeding their fitness to continue as Commission licensees may be questioned.

7. The record in the *Sims* proceeding indicates that Chapman and Mobile U.H.F., in their eagerness to preserve an important transaction, encouraged and abetted Sims in his illegal radio operation. In fact, Sims' violations of the Communications Act and the Commission's rules were made possible through Chapman's proposal of the illegal "loaner" scheme; Chapman's provision, tuning and installation of the "loaner" system; and the twin roles of Chapman and Mobile U.H.F. in modifying the illegal radio system for use on the frequencies sought by Sims and in connection with the mobile relay system which Sims had leased from Mobile U.H.F. The record also indicates that the participation of Chapman and Mobile U.H.F. in Sims' illegal acts could not have occurred without the knowledge and assent of Wells, proprietor of Chapman and 50 percent owner of Mobile U.H.F.

8. Hence, serious questions exist as to whether either Chapman or Mobile U.H.F. possesses the requisite character or is sufficiently responsible in the conduct of its business and the supervision of its employees/agents to receive a grant of the authorizations which each here seeks. Because the Bureau cannot make the necessary finding, pursuant to section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-captioned applications of either applicant would serve the public interest, convenience, and necessity, the applications must, in accordance with section 309(e) of the act, be designated for hearing.

9. Accordingly, *It is ordered*, That in accordance with the provisions of section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Charles R. Wells, d.b.a. Chapman T. V. & Electronics, file Nos. 08629/30/31/32-IB-93TV, for renewal of authorizations for stations KUS880, KUS881, WPM25, and KQ5912 in the business radio service and of Mobile U.H.F., Inc., file Nos. 32869/70/71/72-IB-38**, for authorizations for new facilities in the business radio service are, pursuant to authority delegated in sections 0.131(a) and 0.331 of the Commission's rules, designated for hearing in a consolidated proceeding, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether Charles R. Wells, individually and/or doing business as Chapman T. V. & Electronics, directly and/or through his employees or agents, knowingly or willfully partcipated in or abetted the unlicensed radio operations of Bill Sims, d.b.a. Sims Tow Service, by offering to provide, providing, installing, tuning, or rendering operational any of the radio equipment actually utilized and which Wells knew or should have known would be utilized by Bill Sims, d.b.a. Sims Tow Service, in the latter's unlicensed radio operations.

(b) To determine whether Mobile U.H.F., Inc., through its officers and/or directors and/or stockholders and/or employees and/or agents, knowingly or willfully participated in or abetted the unlicensed radio operations of Bill Sims, d.b.a. Sims Tow Service, by offering to provide, providing, installing, tuning, or rendering operational a mobile relay station or any other radio equipment actually utilized and which Mobile U.H.F., Inc., knew or should have known would be utilized by Bill Sims, d.b.a. Sims Tow Service in the latter's unlicensed radio operations.

(c) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether Charles R. Wells, d.b.a. Chapman T. V. & Electronics, possesses the requisite character qualifications to receive a grant of his applications which are the subject in part of this proceeding.

(d) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether Charles R. Wells, d.b.a. Chapman T.V. & Electronics possesses the requisite management responsibility and supervisory control over his employees/agents to receive a grant of his applications which are the subject in part of this proceeding.

(e) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Mobile U.H.F., Inc., possesses the requisite character qualifications to receive a grant of its applications which are the subject in part of this proceeding.

(f) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Mobile U.H.F., Inc., possesses the requisite management responsibility and supervisory control over its officers/employees/agents to receive a grant of its applications which are the subject in part of this proceeding.

(g) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-captioned applications of Charles R. Wells, d.b.a. Chapman T. V. & Electronics will best serve the public interest, convenience, and necessity.

(h) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-captioned applications of Mobile U.H.F., Inc., will best serve the public interest, convenience and necessity.

10. *It is further ordered*, That Charles R. Wells, d.b.a. Chapman T. V. & Electronics, Mobile U.H.F., Inc., and the Chief, Safety and Special Radio Services Bureau are made parties in this proceeding.

11. *It is further ordered*, That the burden of proceeding with the evidence and the burden of proof are, pursuant to section 309(e) of the Act and sections 1.254 and 1.973(e) of the Commission's rules, upon Charles R. Wells, d.b.a. Chapman T. V. & Electronics, and Mobile U.H.F., Inc., with respect to the issues set forth in paragraph 9 hereinabove pertaining to each.

12. *It is further order*, That each of the parties named in paragraph 10 hereinabove, in order to avail himself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that he will appear on the date fixed for hearing and present evidence on the issues specified in this order, as prescribed in section 1.221 of the Commission's rules.

13. *It is further order*, That the Secretary of the Commission shall serve a copy of this order, by certified mail, return receipt requested, upon each of

the parties (except the Bureau) named in paragraph 10 hereinabove.

FEDERAL COMMUNICATIONS COMMISSION,
CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 78-24168 Filed 8-25-78; 8:45 am]

[6712-01]

[FCC 78-563; CC Docket No. 78-240; File Nos. 60334-CR-P-77, 60335-CR-P-77]

BEEHIVE TELEPHONE CO., INC.

Memorandum Opinion and Order

Adopted: July 27, 1978.

Released: August 22, 1978.

By the Commission.

In re applications of Beehive Telephone Co., Inc., for construction permits to establish new central office and rural subscriber stations in the rural radio service at temporary fixed locations in the applicant's certificated area in western Utah.

1. Presently before the Commission are the applications of Beehive Telephone Co. for construction permits to establish new central office and rural subscriber stations in the rural radio service at temporary fixed locations in the applicant's certificated area in western Utah. No petitions to deny the application have been received.

2. The applicant is the sole wireline common carrier certificated by the Utah Public Service Commission to serve the area in question. Beehive's certificated area, which was previously certificated to Consolidated Telephone Co. and Mountain Bell Telephone, is rural territory comprising mountains and desert. Beehive proposes to provide telephone service via radio, pending the construction of pole lines, to isolated communities which have no alternate source of telephone service.

3. In docket 20155 through 20177, and docket 20211, *The Telephone Company, Inc.*, 65 FCC 2d 605 (released August 5, 1977), appeal dismissed (D.C. Cir. April 21, 1978), the Commission found that the Telephone Co., Inc., and Silver Beehive Telephone Co. were not qualified to remain licensees because they lacked the requisite character qualifications.[1] Docket 20155 et al. did not involve the service proposed in the subject applications. The result in docket 20155 et al. is therefore not dispositive of these applications, but must be considered in determining whether the applicant is qualified to be a licensee for the service proposed. *Central Broadcasting Co.*, 11 FCC 259, 281 (1946); see *Folkways Broadcasting Co.*, 48 FCC 2d 723 (Rev. Bd. 1974), review denied, FCC 75-1017 (1975), reconsideration denied, 57 FCC 2d 609 (1976).

4. In the interest of public safety, special temporary authority for the construction and operation of the proposed facilities will be granted for a maximum period of 180 days.[2]

5. Except to the extent indicated herein, we find the applicant legally, financially, technically, and otherwise qualified to construct and operate the proposed facilities.

6. Accordingly, *it is ordered*, Pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. section 309(e) (1970), that the above-captioned applications of Beehive Telephone Co., Inc., are designated for hearing upon the following issues:

(a) To determine whether, in light of docket 20155 through 20177, and docket 20211, the applicant has the requisite character qualifications to be a licensee or permittee of the Commission; and

(b) To determine, in light of the evidence adduced pursuant to the foregoing issue, what disposition of the above-referenced applications would best serve the public interest, convenience, and necessity.

7. *It is further ordered*, That the hearing shall be held at a time and place and before an administrative law judge to be specified in a subsequent order.

8. *It is further ordered*, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

9. *It is further ordered*, That the applicant may avail itself of an opportunity to be heard by filing with the Commission, pursuant to section 1.221(c) of the rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this memorandum opinion and order.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-24169 Filed 8-25-78; 8:45 am]

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[1] The Telephone Co., Inc., which did business as Silver Beehive Telephone Co., has changed both its corporate and business names to Beehive Telephone Co., Inc.

[2] The Chairman will inform the Utah Public Service Commission of our actions. That Commission will be made aware that the service being provided on a temporary basis may be discontinued and that it should seek alternative sources to continue the service.

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by September 7, 1978, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or betweeen exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3292-1.

Filing party: Joe Ling, Ackerman, Ling & Russell, 1000 Bank of California Building, 444 West Ocean Boulevard, Long Beach, Calif. 90802.

Summary: Agreement No. T-3292-1 provides for the assignment by Koppel, Inc. (Koppel), and the assumption by Crescent Wharf & Warehouse Co. (Crescent) of Koppel's right, title, and interest in a 5-year lease between Koppel and San Diego Unified Port District (Port) of two parcels of land. Crescent will operate the facility as a bulk commodity terminal to receive and accumulate bulk commodities for loading to ocean vessels. As compensation under the assigned lease, the Port will receive a flat rental plus applicable tariff changes when incurred.

By order of the Federal Maritime Commission

Dated: August 23, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24188 Filed 8-25-78; 8:45 am]

[6730-01]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to

section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by September 18, 1978, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularly allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or its contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-2756-1.

Filing party: Mr. J. L. Haskell, Acting Municipal Port Director, City of Milwaukee, 500 North Harbor Drive, Milwaukee, Wis. 53202.

Summary: Agreement No. T-2756-1, between city of Milwaukee (city) and the Jacobus Co. (Jacobus), amends the basic agreement originally between city and Optics for Industry, and subsequently assigned to Jacobus. The basic agreement provides for the lease of premises located on the South Harbor tract, Milwaukee, Wis., to be used in the business of supplying heating oil fuel to industry customers and the export of inedible oil and greases. The purpose of this modification is to: (1) Extend the lease for an additional 5 years; (2) increase the rent to $35,770 per annum; and (3) delete the provision providing for Jacobus' exclusive use of the spur track.

Agreement No. T-3695.

Filing party: Mr. Paul D. deMariano, Port Director, Port Everglades Authority, P.O. Box 13136, Port Everglades, Fla. 33316.

Summary: Agreement No. T-3695, between Port Everglades Authority (port) and Sea-Land Service, Inc. (Sea-Land), provides for a 20-year berthing and crane agreement between the parties. Under the agreement, Sea-Land will assist the port in the design and construction of fixed facilities consisting of crane rail supports, crane rails, tie downs, bumpers, and an adequate fendering system. Sea-Land will provice at its sole expense, installed on port's dock, a self-contained container-handling crane of 30 long-ton capacity. Sea-Land will retain ownership of the crane and will make it available to other carriers at a rate payable to Sea-Land and as agreed to by port. Sea-Land will be granted preferential rights to the berth and crane for two vessels each week. The port will develop a container yard adjacent to the container berth where the crane is installed. Upon completion, Sea-Land will relocate its operations at the port to these facilities. Sea-Land shall pay to the port such tariff charges as are then applicable except for wharfage rates, for which Sea-Land will be granted a reduction based on tonnage levels as provided for in the agreement.

Agreement No. 9522-37.

Filing party: David C. Jordan, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 9522-37 modifies the basic agreement of the Med-Gulf Conference to provide that the conference may agree upon and publish uniform credit rules including rules pertaining to bonding and security requirements and provides for denying credit.

Agreement No. 10351.

Filing party: James T. Crowley, Senior Vice President, Moore McCormack Lines, Inc., 2 Broadway, New York, N.Y. 10004.

Summary: Agreement No. 10351 is a general agency agreement between Moore McCormack Lines, Inc. (Mooremack), and States Steamship Co. (States) wherein Mooremack appoints States as its traffic and freight sales agent in the States of California, Washington, Oregon, Idaho, Nevada, New Mexico, Montana, Utah, and the Canadian province of British Columbia. States will solicit and book cargo and passengers for Mooremack's common carrier services in the trades between U.S. Atlantic Coast ports and Brazil, Uruguay, Argentina, the Republic of South Africa, Mozambique, Tanzania, Kenya, and the Malagasy Repulic.

By order of the Federal Maritime Commission.

Dated: August 23, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24189 Filed 8-25-78; 8:45 am]

[6730-01]

SECURITY FOR THE PROTECTION OF THE PUBLIC—INDEMNIFICATION OF PASSENGERS FOR NONPERFORMANCE OF TRANSPORTATION

Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission general order No. 20, as amended (46 CFR part 540):

Italia Crociere Internazionali S.P.A. and "Italia" Societa' per Azioni Di Navigazione ("Italia" Di Navigazione S.P.A.), Italian Line Cruises International, 366 Madison Avenue, New York, N. Y. 10017.

Dated: August 22, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24191 Filed 8-25-78; 8:45 am]

[6730-01]

SECURITY FOR THE PROTECTION OF THE PUBLIC—FINANCIAL RESPONSIBILITY TO MEET LIABILITY INCURRED FOR DEATH OR INJURY TO PASSENGERS OR OTHER PERSONS ON VOYAGES

Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons or voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission general order No. 20, as amended (46 CFR Part 540):

Italia Crociere Internazionali S.p.A. and "Italia" Societa' per Azioni di Navigazione ("Italia" di Navigazione S.p.A.), Italian Line Cruises International, 366 Madison Avenue, New York, N.Y. 10017.

Dated: August 22, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-24190 Filed 8-25-78; 8:45 am]

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

OPEN COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, September 7, 1978.
Thursday, September 21, 1978.
Thursday, September 28, 1978.

The meetings will convene at 10 a.m., and will be held in room 5A06A, Civil Commission Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to

time advise the Civil Service Commission thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of t

Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee secretary.

Members of the public are invited to submit material in writing to the chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street NW., Washington, D.C. 20415, 202-632-9710.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

AUGUST 24, 1978.

[FR Doc. 78-24202 Filed 8-24-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

ALDEN INVESTMENT COMPANY, INC.

Formation of Bank Holding Company

Alden Investment Company, Inc., Alden, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Alden State Bank, Alden, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the reserve bank, to be received not later than September 21, 1978.

Board of Governors of the Federal Reserve System, August 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24184 Filed 8-25-78; 8:45 am]

[6210-01]

CEDAR RIVER BANCORPORATION

Formation of Bank Holding Company

Cedar River Bancorporation, Cedar Rapids, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of United State Bank, Cedar Rapids, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 15, 1978.

Board of Governors of the Federal Reserve System, August 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24185 Filed 8-25-78; 8:45 am]

[6210-01]

GEORGIA BANCSHARES, INC.

Formation of Bank Holding Company

Georgia Bancshares, Inc., Macon, Ga., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Georgia Bank and Trust Company, Macon, Ga. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 18, 1978.

Board of Governors of the Federal Reserve System, August 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24186 Filed 8-25-78; 8:45 am]

[6210-01]

NORTHERN CITIES BANCORPORATION, INC.

Formation of Bank Holding Company

Northern Cities Bancorporation, Inc., Anoka, Minn., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80.4 per cent of the voting shares of State Bank of Anoka, Anoka, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 20, 1978.

Board of Governors of the Federal Reserve System, August 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-24187 Filed 8-25-78; 8:45 am]

[1505-01]

GOVERNMENT PRINTING OFFICE

DEPOSITORY LIBRARY COUNCIL TO THE PUBLIC PRINTER

Meeting

The Depository Library Council to the Public Printer will meet on October 10 and 11, 1978, at the Holiday Inn, Alexandria Old Town Motel, Alexandria, Va.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Any member of the public who wishes to attend shall notify Mr. J. D. Livsey, Head, Library and Statutory Distribution Service, Government Printing Office, Washington, D.C. 20401, telephone: area code 703-557-2050.

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chairman.

Dated: August 15, 1978.

JOHN J. BOYLE,
Public Printer.

[FR Doc. 78-24027 Filed 8-25-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-78-889]

PRIVACY ACT OF 1974

New Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain that is subject to the Privacy Act of 1974.

EFFECTIVE DATE: The system shall become effective without further notice in 30 calendar days (September 27, 1978) unless comments are received on or before September 27, 1978, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The proposed system will result from the collection of demographic, socioeconomic, and neighborhood and housing characteristics of a sample of occupants in selected cities entitled to community development block grants.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on June 26, 1978.

The prefatory statement containing general routine uses applicable to all of the Department's systems of records was published at 42 FR 54765 (October 7, 1977). Appendix A, which lists the addresses of HUD's field offices, was published at 42 FR 54777 (October 7, 1977).

HUD/PD&R-5

System name:

HUD community development block grant evaluation files.

System location:

Location of private data collection firm to be selected and headquarters office.

Categories of individuals covered by the system:

A sample of occupants of owner-occupied and rental housing units and members of neighborhood groups in selected community development block grant (CDBG) entitlement cities.

Categories of records in the system:

Demographic, socioeconomic, housing, and neighborhood characteristics, utilization of neighborhood services and facilities and attitudes about the CDBG program.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See routine uses paragraphs of prefatory statement. Other routine uses: the University of Pennsylvania for analyses of the impacts and benefits of the CDBG program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual records stored in lockable file drawers located in lockable rooms. Access limited to authorized personnel. Personal identifiers such as mailing labels, names, addresses, and assigned codes maintained in separate locked files with access restricted. Automated records contain no identification of individuals except assigned numeric codes.

Retrievability:

Name, address, and numeric code.

Safeguards:

Manual records stored in lockable file cabinets in lockable rooms and computer facilities are in secured areas. Access to both types of records are limited to authorized personnel.

Retention and disposal:

Records maintained for duration of study, approximately 4 years. Manual records, including lists of names and addresses indexed to numeric codes, will be destroyed. Computer records without personal identifiers will be maintained for a longer period.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For information, assistance or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

Record access procedure:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Subject individual.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., August 21, 1978.

WILLIAM A. MEDINA,
Assistant Secretary for Administration.

[FR Doc. 78-23998 Filed 8-25-78; 8:45 am]

[4310-31]

DEPARTMENT OF THE INTERIOR

Geological Survey

PARADISE VALLEY, IDAHO

Known Leasing Area (Phosphate)

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by reorganization plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 departmental manual 2, and Secretary's order 2948, Federal lands within the State of Idaho have been classified as subject to the competitive phosphate leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 211).

The name of the area, the effective date, and the total acreage involved are as follows:

(12) IDAHO

Paradise Valley (Idaho) known leasing area (Phosphate): November 20, 1975, 1,348.94 acres.

A diagram showing the boundaries of the area classified for competitive leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Regional Conservation Manager, Western Region, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, Calif. 94025.

Dated: August 18, 1978.

W. A. RADLINSKI,
Acting Director,
U.S. Geological Survey.

[FR Doc. 78-24098 Filed 8-25-78; 8:45 a.m.]

[4410-01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[AAG/A Order No. 10-78]

PRIVACY ACT OF 1974

System of Records

On May 22, 1978, the Department of Justice, Criminal Division published in the FEDERAL REGISTER (43 FR 21953) a proposal to establish a new system of records entitled tax disclosure index file and associated records (Justice/CRM-025). The system will contain all requests for tax material, any such material provided by the Internal Revenue Service or duplicated or extracted by the Criminal Division from such material, and related records necessary to the application for and/or safeguarding of such material received on or after January 1, 1977. On the same day the Department published a proposed rule (43 FR 21901) exempting the system from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G), (H), and (I), (e) (5) and (8), (f) and (g) of the act.

No comments were received regarding the proposed system. Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General order No. 793-78, the new system, published on May 22, 1978, is hereby adopted and the final rule is promulgated by its publication in the rules section of today's FEDERAL REGISTER.

Dated: August 18, 1978.

KEVIN D. ROONEY,
Assistant Attorney General
for Administration.

[FR Doc. 78-23954 Filed 8-25-78; 8:45 am]

[4410-09]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and section 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on August 1, 1978, Fher Corp. Ltd., Carretera 132, KM 25.3, P.O. Box 7468, Ponce, PR 00731, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substance phenmetrazine.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 29, 1978.

Dated: August 21, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-24165 Filed 8-25-78; 8:45 am]

[7535-01]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Notice of Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on September 26-27, 1978, at the offices of the National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456. The meetings will commence at 9 a.m. daily in room 4002.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration. An NCU Board review will also be held.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

LORENA C. MATTHEWS,
Acting Administrator.

AUGUST 22, 1978.

[FR Doc. 78-24071 Filed 8-25-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, it is hereby determined that the renewal of the Advisory Committee for Science Education is necessary and in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the General Services Administration pursuant to section 114(a)(1) of the Federal Advisory Committee Act and OMB Circular No. A-63, revised.

Authority for this Advisory Committee shall expire on February 4, 1979, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

GEORGE C. PIMENTEL,
Acting Deputy Director.

[FR Doc. 78-24094 Filed 8-25-78; 8:45 am]

[7555-01]

INTEGRATED BASIC RESEARCH ADVISORY SUBCOMMITTEE OF THE ADVISORY COMMITTEE FOR APPLIED SCIENCE AND RESEARCH APPLICATIONS POLICY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Integrated Basic Research (IBR) Advisory Subcommittee of the Advisory Committee for Applied Science and Research Applications Policy.

Date: September 18, 1978, 9 a.m., September 19, 1978, 9 a.m.

Place: National Science Foundation, 1800 G Street NW., Room 540, Washington, D.C.

Type of meeting: Open.

Contact person: Mr. Lewis G. Mayfield, Deputy Director, Division of Integrated Basic Research, Room 1149, National Science Foundation, Washington, D.C. 20550, 202-632-5957.
Summary of 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 meeting: To provide recommendations on selection of topics for the Division of Integrated Basic Research, Applied Science and Research Applications Directorate.
Agenda: Monday, September 18, 1978:
9:00—Welcome and introduction.
9:30—IBR concept.
10:00—Discussion of the concept.
10:30—Presentation and discussion of topic areas.
12:00—Charge to subcommittee.
12:30—Lunch.
1:30—Subcommittee working session.
5:00—Adjourn.
Tuesday, September 19, 1978
9:00—Preparation of subcommittee report.
12:30—Adjourn.

Dated: August 22, 1978.

REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-24095 Filed 8-25-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 33 to facility operating license No. DPR-35, issued to Boston Edison Co. (the licensee), which revised technical specifications for operation of the Pilgrim Nuclear Power Station Unit No. 1 (the facility) located near Plymouth, Mass. The amendment is effective as of its date of issuance.

This amendment authorizes the installation and use of new high density storage racks for the storage of spent fuel assemblies in the spent fuel storage pool.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of consideration of modification to facility spent fuel storage pool in connection with this amendment was published in the FEDERAL REGISTER on April 22, 1976 (41 FR 16888). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal of the action being authorized and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action significantly greater than that which has been predicted and described in the Commission's final environmental statement for the facility dated May 1972.

For further details with respect to this action, see (1) the application for amendment dated December 17, 1975 and supplements thereto dated November 8, 1976, June 14, August 1, September 6, and 9, and December 5, 1977, June 26, 1978, and August 10, 1978, (2) amendment No. 33 to license No. DPR-35, (3) the Commission's concurrently issued related safety evaluation, and (4) the Commission's concurrently issued environmental impact appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Mass. 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of August 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-24131 Filed 8-25-78; 8:45 am]

[7590-01]

[Docket Nos. 50-295 and 50-304]

COMMONWEALTH EDISON CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

COMMONWEALTH EDISON CO.

(Zion Station, Units 1 and 2)

Facility Operating License Nos. DPR-39 and DPR-48

This action is in reference to a notice published by the Commission on July 18, 1978, in the FEDERAL REGISTER (43 FR 30938) entitled "Proposed Issuance of Amendments to Facility Operating Licenses."

The Chairman of this Board and his address is as follows:

Edward Luton, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. Linda W. Little, Research Triangle Institute, P.O. Box 12194, Research Triangle Park, N.C. 27709.

Dr. Forrest J. Remick, 305 East Hamilton Avenue, State College, Pa. 16801.

Dated at Bethesda, Md., this 21st day of August 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-24132 Filed 8-25-78; 8:45 a.m.]

[7590-01]

[Docket Nos. 50-269, 50-270, and 50-287]

DUKE POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment Nos. 64, 64, and 61 to facility operating licenses Nos. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Co. which revised the license for operation of the Oconee Nuclear Station Unit Nos. 1, 2, and 3, located in Oconee County, S.C. The amendments are effective as of the date of issuance.

These amendments add license conditions relating to the completion of facility modifications for fire protection.

The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in con-

nection with issuance of these amendments.

For further details with respect to this action, see (1) the licensee's submittals dated December 31, 1976, March 1, July 18, November 22, December 15, 1977, January 16, January 25, February 1, February 22, May 9, June 19, and July 19, 1978, (2) amendment Nos. 64, 64, and 61 to license Nos. DPR-38, DPR-47, and DPR-55, respectively, and (3) the Commission's related safety evalution. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Oconee County Library, 201 South Spring, Walhalla, S.C. 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of August 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-24133 Filed 8-25-78; 8:45 am]

[7590-01]

[Docket No. 50-286]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 16 to facility operating license No. DPR-64, issued to the Power Authority of the State of New York (the licensee), which revised technical specifications for operation of the Indian Point Nuclear Generating Unit No. 3, located in Buchanan, Westchester County, N.Y. The amendment is effective as of its date of issuance.

The amendment allows the licensee to apply the inspection techniques and acceptance criteria of the summer 1975 addenda to the 1974 edition of section XI of the ASME Code to weld L-1 in the primary coolant system pressurizer and finds the indication in that weld acceptable in accordance with those criteria.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 8, 1978, (2) amendment No. 16 to license No. DPR-64, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of August 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-24134 Filed 8-25-78; 8:45 am]

[7590-01]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 22 to facility operating license No. DPR-54 issued to Sacramento Municipal Utility District, which revised technical specifications for operation of the Rancho Seco Nuclear Generating Station, located in Sacramento County, Calif. The amendment is effective as of its date of issuance.

The amendment to the technical specifications revises the pressure-temperature limitations applicable to the reactor coolant system to cover operation up to 5 effective full power years.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 2, 1978, as revised August 11, 1978, (2) amendment No. 22 to license No. DPR-54, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C., and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, Calif. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of August 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-24135 Filed 8-25-78; 8:45 am]

[7590-01]

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO. (DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 12 to the facility operating license No. NPF-3, issued to the Toledo Edison Co. and the Cleveland Electric Illuminating Co., for operation of the Davis-Besse Nuclear Power Station, unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of the date of its issuance.

The amendment incorporates changes in the administrative control

section of the technical specifications to reflect changes in the organizational structure at the corporate level of the Toledo Edison Co.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 12, 1978, (2) amendment No. 12 to license NPF-3, and (3) the Commission's related safety evaluation supporting amendment No. 12 to license No. NPF-3. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 18th day of August 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-24136 Filed 8-25-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the standard review plan (SRP) previously announced, (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published revision No. 1 to section No. 3.9.2 of the SRP (Dynamic Testing and Analysis of Systems, Components, and Equipment) for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the standard review plan for the review of safety analysis reports for nuclear power plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for revision No. 1 to section No. 3.9.2 is $4. Foreign price information is available from NTIS. A copy of the standard review plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md. this 21st day of August 1978.

For the U.S. Nuclear Regulatory Commission.

FRANK SCHROEDER,
Acting Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-24137 Filed 8-25-78; 8:45 a.m.]

[7590-01]

RISK ASSESSMENT REVIEW GROUP

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of an open meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held on September 7, 1978 in the Matomic Building, 1717 H Street NW., Washington, D.C. The purposes of this meeting are to meet with the NRC Commissioners and with Advisory Committee on Reactor Safeguards (ACRS).

The Risk Assessment Review Group is an independent group established by the NRC (42 FR 34955) for the purpose of providing advice and information to the Commission regarding the final report of the reactor safety study, WASH-1400 (NUREG-75/014), and the peer comments on the study, advice and recommendations on developments in the field of risk assessment methodology and courses of action which might be taken on future development and use of risk assessment methodology. This advice and information will assist the Commission in establishing policy regarding the use of risk assessment in the regulatory process. It will also clarify the achievements and limitations of the reactor safety study. The review group will submit a report to the Commission on or before September 30, 1978.

The agenda for the meeting will be as follows:

A. 10 a.m.-12 p.m.—Meeting with NRC Commissioners, Room 1130.

B. 4:30 p.m.-6:30 p.m.—Meeting with ACRS, Room 1046.

Further information regarding topics to be discussed and whether the meeting has been cancelled or rescheduled can be obtained by a prepaid telephone call on September 6, 1978, to the Office of Policy Evaluation (telephone 202-634-3209, Attention: John Austin) between 8:15 a.m. and 5 p.m. EDT.

Dated at Washington, D.C., this 23rd day of August 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-23203 Filed 8-24-78; 9:35 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 8, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be

approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Notice of additional allowance for dependents, 21-8820K (NR), single-time, 130,000 veteran, Caywood, D. P., 395-3443.

GENERAL SERVICES ADMINISTRATION

Federal Information Center Client Survey, single-time, 600 individual in Florida, Caywood, D. P., 395-3443.

ENVIRONMENTAL PROTECTION AGENCY

301(C) and 301(G) modification request, single-time, 600 dischargers of nonconventional pollutants, Ellett, C. A., 395-6132.

DEPARTMENT OF ENERGY

Emergency Report of Projected Refinery, ERA-91, single-time, 17 major refiners, Raynsford, R., 395-3814.

DEPARTMENT OF COMMERCE

Industry and Trade Administration, railroad freight cars, ITA-9017, single-time, 25 railroad freight car manufacturers, Office of Federal Statistical Policy and Standard, 673-7956.

National Oceanic and Atmospheric Administration, public weather requirements survey plan, single-time, 3,500 households in the SMSA'S, Clearance Office, 395-3772.

Bureau of Census:

Multiplicity survey, D-816A(XR), D-816B(XR), D-816C(XR), D-816D(XR), single-time, 6,750 households in Richmond, Va., Office of Federal Statistical Policy and Standard, 673-7956.

Multiplicity survey, D-816A(XC), 816B(XC), 816D(XC), single-time, 750 households in Montezuma and La Plata Counties, Colo., Office of Federal Statistical Policy and Standard, 673-7956.

Post enumeration survey, housing unit coverage listing, book, 1980 census—dress rehearsal D-817(X), single-time, 12,800 households in dress rehearsal counties, Colorado and Virginia, Office of Federal Statistical Policy and Standard, 673-7956.

Post enumeration survey, current household roster, 1980 census—dress rehearsal, D-818(X), single-time, 8,100 households in dress rehearsal counties in Colorado, and Virginia, Office of Federal Statistical Policy and Standard, 673-7956.

Application for excepted employment in the field service, BC-50A, on occasion, 900,000 job applications, Caywood, D. P., 395-3443.

Industry and Trade Administration, columbium and tantalum, ITA-9018, single-time, 30 producers of columbium and tantalum metals, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, assignment of informed consent to sterilization form, No. pending OMB clearance consent to surgical procedure, on occasion, 100,000 individual requesting sterilization process to be paid by Federal Government, Richard Eisinger, 395-3214.

Office of the Secretary, low income mobile urban hispanic study, OS-7-78, single-time, 50 household interviews, Office of Federal Statistical Policy and Standard, 673-7956.

Office of the Assistant Secretary for Education, student verification of benefits—BEOG, OS-8-78, single-time, 2,500 basic grant recipients (students), Laverne V. Collins, 395-3214.

Public Health Service, fifth survey—cigarette smoking among teenagers, single-time, 12-18 year old males and females, office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, industrial wage survey of electrical applicance repair shops—universe refinement, BLS 3113, single-time, 6,400 established in electrical applicance repair business, Clearance Office, 395-3772.

Bureau of International Labor Affairs, questionnaire for buyers of new foreign cars, ILAB-242, single-time, 3,000 buyers of new foreign cars, Strasser, A., 395-6132.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration, specification for pressure tank car tanks: compliance reporting (NPRM), quarterly, 380 owners of pressure tank cars, Strasser, A., 395-6132.

REVISIONS

U.S. CIVIL SERVICE COMMISSION

PMIP Application Material Package, CSC 1,353, (INC. CSC), 1,300, 1,300-A and 1,301, annually, graduate students, 2,400 responses, 1,500 hours, Caywood, D. P., 395-3443.

Application for Architects and Landscape Architects, CSC 1,263, on occasion, employment applicants, 25,000 responses, 50,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Application for Participation and Site Information, (SFSPFC), FNS 81 and 81-1, annually, service institutions, 10,800 responses, 11,200 hours, Human Resources Division, Ellett, C. A., 395-3532.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Application for Fishing Vessel Obligation Guarantee, NOAA 88-1, on occasion, fishermen, 100 responses, 300 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Program Performance Report (developmental disabilities), quarterly, State agencies, 225 responses, 450 hours, Richard Eisinger, 395-3214.

Office of Education Standard Application Federal Assistance (non-construction) for Follow-Through program, OE-4473, annually, education agencies and colleges and universities, 218 responses, 6,540 hours, Budget Review Division, 395-4775.

Health Resources Administration, Application To Participate in the Health Professions Capitation Grant program, annually, health professions schools, 300 responses, 1,200 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:

Titanium Materials, 6-1138-A, annually, consumers of titanium materials, 69 responses, 52 hours, Clearance Office, 395-3772.

Cobalt, 6-1041-M, quarterly, consumers and producers of cobalt, 52 responses, 45 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF LABOR

Employment Standards Administration Monthly Employment Utilization Report, CC-257, monthly, construction contractors, 240,000 responses, 120,000 hours, Strasser, A., 395-6132.

EXTENSIONS

GENERAL SERVICES ADMINISTRATION

Labor Standards Interview, GSA 7401, weekly, construction workers, 750 responses, 375 hours, Strasser, A., 395-6132.

Requests for Authorization of Additional Classification(s), Rate, and Fringe Benefit(s), GSA 2428, on occasion, construction contractors, 24 responses, 60 hours, Strasser, A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Farm Arrangement Questionnaire, SSA-7157 F4, on occasion, employee's benefits, 40,000 responses, 20,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Operating Budget Forms and Summary Budget, HUD-52564, HUD-52566, HUD-52567, HUD-52571, HUD-52573, annually, local housing authorities, 15,000 responses, 60,000 hours, Caywood, D. P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-24206 Filed 8-25-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8198]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that study group 1 of the U.S. organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 21, 1978 at 10 a.m. in Room A-110 (training room) of the Federal Communications Commission, 1229 20th

Street NW., Washington, D.C. This study group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The study group will discuss international telecommunications questions relating to telegraph, telex, data, videotex, maritime mobile and leased channel services in order to develop U.S. positions to be taken at international CCITT meetings to be held in December 1978 and during 1979, in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directd to Mr. Richard H. Howarth, State Department, Washington, D.C. 20520, telephone 202-632-3405.

Dated: August 21, 1978.

RICHARD H. HOWARTH,
Vice Chairman,
U.S. CCITT National Committee.

[FR Doc. 78-24099 Filed 8-25-78; 8:45 am]

[4810-22]

TREASURY DEPARTMENT

Customs Service

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM MALAYSIA

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are paid by the Government of Malaysia to manufacturers or exporters of textile products. A preliminary determination will be made not later than January 5, 1979, and a final determination not later than July 5, 1979.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Holly Kuga, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on July 5, 1978, alleging that benefits conferred by the Government of Mayalsia upon the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fiber from Malaysia constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements; [1] and "men's and boys' apparel" includes those items described in the appendix of this notice, together with their tariff schedule classifications.

The imported merchandise classifiable under item numbers 705.3000, 791.7620, and 791.7660 of the Tariff Schedules of the United States, Annotated (TSUSA) are eligible for duty-free entry under the Generalized System of Preferences. Accordingly, before countervailing duties may be assessed, the U.S. International Trade Commission must render an affirmative injury determination pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)). In view of the absence of any imports of this duty-free merchandise from Malaysia during at least the last 3 years, it is determined that an investigation with respect to these three item numbers will not be conducted.

The bounties or grants alleged in the petition are as follows:

(1) Tax relief for up to 8 years for companies designated as a "pioneer" industry by the Federal Industrial Development Authority (FIDA).

(2) Investment tax credit for other companies fulfilling certain conditions regarding investment.

(3) Tax relief for companies satisfying specified conditions regarding employment levels and location.

(4) Preferential loan rates, low lease and rental fees and subsidized utility rates for companies locating in designated industrial estates.

(5) Tax relief for a period up to 8 years for enterprises qualifying under the "Locational Incentive Scheme."

(6) Tax relief for companies qualifying under the "Increased Capital Allowance Incentive."

The incentives described above would be considered a bounty or grant only if a preponderance of production is exported.

(7) Tax exemptions for companies that have surpassed their previous year's export sales level.

(8) Accelerated depreciation allowance for companies exporting 20 percent of their total production.

(9) Income tax deduction for expenses incurred in promoting exports.

(10) Duty-free imports for companies locating in free trade zones.

(11) Subsidized premium rates for export insurance.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than January 5, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Malaysia upon the manufacture, production, or exportation of merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than July 5, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to reorganization plan No. 26 of 1950 and Treasury Department Order 190 (revision 15), March 16, 1978, the provisions of Treasury Department Order 165, revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

A concurrent Notice is being published with respect to companion cases involving such or similar merchandise from Mexico, Pakistan, Singapore, and Thailand.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

AUGUST 17, 1978.

To facilitate use of these appendixes, the descriptions of the TSUSA item numbers have been simplified. These descriptions are not meant to

[1] The textile items include those in categories 310-320, 330, 363, 400, 410, 411, 425, 429, 444, 600-605, 610-614, 625, and 627 of the Correlation: Textile and Apparel Categories With Tariff Schedules of the United States, Annotated, as published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), and amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), and June 22, 1978 (43 FR 26773). In addition, products listed in appendix A and all similar products not covered by these categories because they are considered "certified handloomed and folklore products" are considered "textile mill products" for purposes of this notice.

modify, change, or contradict in any way the meaning of the descriptions presented in the TSUSA. In any case where a description conflicts with the TSUSA, the description in the latter will prevail.

APPENIDX A

Catagory No.	Item	TSUSA No.
	Cotton yarn, carded, singles	
	Not bleached or colored:	
300	Not mercerized	301.—00
300	Mercerized	302.—20
300	Bleached or colored	302.—22
	Cotton yarn, carded, plied	
300	Yarns, carded, plied	302.—24
	Cotton yarn, combed, singles	
301	Yarns, combed, singles	302.—26
	Cotton yarn, combed, plied	
301	Yarns, combed, plied	302.—28
	Pillowcases, carded	
360	Pillowcases, carded, not ornamented (including bolster sets)	363.3020
	Pillowcases, combed	
360	Pillowcases, combed, not ornamented (including bolster sets)	363.3040
	Sheets, carded	
361	Sheets, combed, not ornamented	363.3010
	Sheets, combed	
361	Sheets, combed, not ornamented	363.3030
	Bedspreads and quilts	
	Lace or net bedding, whether or not ornamented:	
	Lace, net or ornamented.	
362	Bedspreads	363.0515
362	Coverlets, quilts, and comforters	363.0520
	Not ornamented:	
362	Bedspreads, tufted, block printed by hand, not jacquard-figured, of cotton	363.5015
362	Bedspreads, other than tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015
362	Coverlets, quilts, and comforters, block-printed by hand, not jacquard-figured, of cotton	363.5030
362	Bedspreads, tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Bedspreads, other than tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Coverlets, quilts, and comforters, not blockprinted by hand, not jacquard-figured, of cotton	363.5130
362	Bedspreads, tufted, jacquard-figured, of cotton	363.5515
362	Bedspreads, other than tufted, jacquard-figured, of cotton	363.5515
362	Coverlets, quilts, and comforters, jacquard-figured, of cotton	363.5530
	Towels, dish	
369	Dish towels, with fringe, ornamented	365.7815

APPENIDX A—Continued

Catagory No.	Item	TSUSA No.
369	Dish towels, not jacquard-figured, not ornamented	365.2760
	Towels, other	
	Other towels not ornamented; Valued not over 45¢ each:	
369	Dish towels, terry	366.1820
369	Dish towels of pile or tufted construction	366.1840
369	Terry towels, other than dish towels	366.1855
	Valued over 45¢ each but not over $1.45/lb:	
369	Dish towels, terry	366.2120
369	Dish towels, of pile or tuft construction	366.2140
	Valued over 45¢ each and over $1.45/lb:	
369	Dish towels, terry	366.2420
369	Dish towels of pile or tuft construction	366.2440
	Other towels, not ornamented:	
	Not jacquard-figured:	
369	Shop towels (dedicated to use in garages, filling stations, and machine shops)	366.2740
369	Other	366.2780
	Table damask and manufacturers	
	Table damask, fancy or figured:	
	Wholly of cotton:	
369	Not bleached or colored	323.—52
369	Bleached but not colored	324.—52
369	Colored, whether or not bleached	325.—52
	Chief value, but not wholly of cotton:	
369	Not bleached of colored	329.—52
369	Bleached but not colored	330.—52
369	Colored, whether or not bleached	331.—52
369	Tablecloths and napkins, damask, not ornamented	366.4200
369	Furnishings, damask, except curtains and drapes, etc., towels, tablecloths, and napkins, not ornamented	366.7500
	Braided and woven elastic	
369	Elastic fabrics, not braided	349.1500
369	Elastic yarns, cordage braids and fabrics, braided, of cotton	349.3095
	Fishing netting and fish nets	
369	Fish nets and fish netting	355.3500
(1)	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastic material or laminated with sheet rubber or plastics	355.6510
	Woven or knit fabrics (except pile or tufted fabrics) coated or filled, N.S.P.F.	
(1)	Oilcloths, of cotton	365.1000
(1)	Tracing cloths, of cotton	356.1500
(1)	Window hollands	356.2000
(1)	Other, N.S.P.F	356.2510
	Pile and tufted fabrics	
	Pile:	
626	Of vegetable fiber, except cotton, containing manmade fiber	346.5025
626	Of silk, containing manmade fiber	346.5625
	Of manmade fiber:	
	Velvets:	
626	Velvets, under 48 inches in width, with cut warp pile, weighing less than 8 oz/yd²	346.6045
626	Other	346.6050

APPENIDX A—Continued

Catagory No.	Item	TSUSA No.
626	Tufted fabrics	346.9000
	Netting in the piece, made on a lace, net or knitting machine:	
	Not ornamented:	
669	Quilling, of manmade fibers	352.3000
	Other:	
669	Made on a Mechlin machine, of manmade fibers	352.4000
(1)	Burnt out lace, in the piece, or in motifs, manmade fibers	352.1000
	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastics, or laminated with sheet rubber or plastics:	
(1)	Over 70 pct by weight of rubber or plastics	355.8100
	Woven or knit fabrics (except pile or tufted) coated or filled N.S.P.F.:	
(1)	Oilcloths, manmade fibers	356.1000
(1)	Tracing cloths, manmade fibers	356.1560
(1)	Other	356.4000
	Textile fabrics, including laminated fabrics, N.S.P.F.:	
	Of vegetable fiber, except cotton, containing manmade fiber:	
(1)	Woven	359.2000
(1)	Knit	359.2000

[1] No catagory number.

APPENDIX B—MEN'S AND BOYS APPAREL

Category No.	Approximate description	TSUSA No.
	SUITS	
333	Cotton, woven	380.1206
333	Cotton, knit	380.0654
359	Cotton, woven	380.0041
359	....do	380.5116
443	Wool, woven	380.0260
443	....do	380.5146
443	....do	380.6350
443	....do	380.6651
443	....do	380.6652
443	....do	380.6653
443	....do	380.6654
643	....do	380.0464
643	....do	380.5176
643	....do	380.8451
643	....do	380.8452
643	Manmades, knit	380.8145
643	....do	380.8148
643	....do	380.0420
	COATS AND JACKETS	
333	Cotton, woven	380.0042
333	....do	380.0940
333	....do	380.0960
333	....do	380.1235
333	....do	380.1255
333	....do	380.5104
459	Wool, knit	380.5795
434	....do	380.6110
433	Wool, woven	380.0240
433	....do	380.5134
433	....do	380.6310
433	....do	380.6611
433	....do	380.6612
633	Manmades, knit	380.8104
633	....do	380.8105
633	....do	380.0402
633	Manmades, woven	380.0443

APPENDIX B—MEN'S AND BOYS APPAREL—Continued

Category No.	Approximate description	TSUSA No.
633	.....do.....	380.5164
633	.....do.....	380.8411
633	.....do.....	380.8412
	TROUSERS	
347	Cotton, woven	380.3920
347	.....do.....	380.3924
347	.....do.....	380.3923
347	.....do.....	380.3921
347	.....do.....	380.3930
347	.....do.....	380.3928
347	.....do.....	380.3926
347	.....do.....	380.5124
347	Cotton, knit	380.0033
347	.....do.....	380.0660
347	Cotton, woven	380.0071
347	.....do.....	380.0072
447	Wool, woven	380.0265
447	.....do.....	380.5154
447	.....do.....	380.6360
447	.....do.....	380.6660
647	Manmades, knit	380.0435
647	.....do.....	380.0436
647	.....do.....	380.8142
647	.....do.....	380.8166
647	.....do.....	380.8167
647	Manmades, woven	380.0468
647	.....do.....	380.0469
647	.....do.....	380.5184
647	.....do.....	380.8449
647	.....do.....	380.8456
647	.....do.....	380.8457
	OVERCOATS AND RAINCOATS	
334	Cotton	376.5410
334	Cotton, woven	380.0910
334	.....do.....	380.0920
334	.....do.....	380.1210
334	.....do.....	380.1220
334	.....do.....	380.0980
334	.....do.....	380.0990
334	.....do.....	380.1280
334	.....do.....	380.1290
334	.....do.....	380.5108
334	Cotton, knit	380.0002
334	.....do.....	380.0611
334	Cotton, woven	380.0045
434	Wool, woven	380.0245
434	.....do.....	380.5136
434	.....do.....	380.5137
434	.....do.....	380.6320
434	.....do.....	380.6615
434	.....do.....	380.6616
634	Manmades, knit	376.5610
634	.....do.....	380.8101
634	.....do.....	380.8109
634	.....do.....	380.8111
634	.....do.....	380.0405
634	Manmades, woven	380.0445
634	.....do.....	380.5168
634	.....do.....	380.8410
633	.....do.....	380.8416
634	.....do.....	380.8417
	SHIRTS	
338	Cotton, knit	380.0645
338	.....do.....	380.0651
338	.....do.....	380.0652
340	Cotton, woven	380.0060
340	.....do.....	380.2750
340	.....do.....	380.2760
340	.....do.....	380.2782
340	.....do.....	380.2788
340	.....do.....	380.2792
340	.....do.....	380.2798
340	.....do.....	380.2770
340	.....do.....	380.5112
338	Cotton, knit	380.0028
338	.....do.....	380.0029
459	Wool, knit	380.5795
438	.....do.....	380.0205

APPENDIX B—MEN'S AND BOYS APPAREL—Continued

Category No.	Approximate description	TSUSA No.
438	.....do.....	380.6120
440	Wool, woven	380.0255
440	.....do.....	380.5142
440	.....do.....	380.6340
440	.....do.....	380.6640
638	Manmades, knit	380.0418
638	.....do.....	380.0419
638	.....do.....	380.8138
638	.....do.....	380.8139
640	Manmades, woven	380.0455
640	.....do.....	380.8435
640	.....do.....	380.0458
640	.....do.....	380.0461
640	.....do.....	380.5172
640	.....do.....	380.8440
640	.....do.....	380.8445
	SWEATERS AND CARDIGANS	
345	Cotton, knit	380.0658
345	.....do.....	380.0659
345	.....do.....	380.0030
445	Wool, knit	380.5730
445	.....do.....	380.5740
445	.....do.....	380.5750
445	.....do.....	380.0290
445	.....do.....	380.5900
445	.....do.....	380.6130
445	.....do.....	380.6140
445	.....do.....	380.6145
445	.....do.....	380.6155
459	.....do.....	380.6160
459	.....do.....	380.7215
645	Manmades, knit	380.0422
645	.....do.....	380.0426
645	.....do.....	380.8152
645	.....do.....	380.8153
	DRESSING GOWNS AND ROBES	
350	Cotton, woven	380.0049
350	.....do.....	380.1520
350	.....do.....	380.1540
350	.....do.....	380.1820
350	.....do.....	380.1840
350	Cotton, knit	380.0009
350	.....do.....	380.0620
459	Wool, woven	380.0250
459	.....do.....	380.6330
459	.....do.....	380.6630
650	Manmades, knit	380.0408
650	.....do.....	380.8117
650	Manmades, woven	380.0449
650	.....do.....	380.8425
	PAJAMAS AND OTHER NIGHTWEAR	
351	Cotton, knit	380.0011
351	.....do.....	380.0625
351	Cotton, woven	380.2100
351	.....do.....	380.2400
351	.....do.....	380.3909
351	.....do.....	380.0050
651	Manmades, knit	380.0411
651	.....do.....	380.8123
651	Manmades, woven	380.0452
651	.....do.....	380.8430
	MUFFLERS, SCARVES, AND SHAWLS	
359	Cotton, knit	372.1010
359	.....do.....	372.1520
359	Cotton, woven	372.1040
359	.....do.....	372.1540
359	.....do.....	372.1560
359	Wool, knit	372.3000
459	.....do.....	372.1020
459	.....do.....	372.3500
459	Wool, woven	372.1050
459	.....do.....	372.4000
459	.....do.....	372.4500
659	Manmades, knit	372.1030
659	.....do.....	372.7000

APPENDIX B—MEN'S AND BOYS APPAREL—Continued

Category No.	Approximate description	TSUSA No.
659	Manmades, woven	372.1060
659	.....do.....	372.7520
659	.....do.....	372.7540
	NECKTIES	
359	Cotton, knit	373.0500
359	.....do.....	373.1000
359	Cotton, woven	373.0500
359	Wool, woven	373.1000
459	Wool, knit	373.0500
459	.....do.....	373.1500
659	Manmades, knit	373.0500
659	.....do.....	373.2500
659	Manmades, woven	373.0500
659	.....do.....	373.2700
459	Wool, woven	373.0500
459	.....do.....	373.1500
	VESTS	
359	Cotton, woven	380.0073
359	.....do.....	380.3320
359	.....do.....	380.3620
	BEACHWEAR	
659	Manmades, knit	380.0429
659	.....do.....	380.8163
659	Manmades, woven	380.0465
659	.....do.....	380.8453
	UNDERWEAR	
338	Cotton, knit	380.0018
338	.....do.....	380.0021
352	.....do.....	380.0635
338	.....do.....	380.0640
352	.....do.....	378.1030
352	.....do.....	378.1530
352	.....do.....	378.1520
352	.....do.....	378.0540
352	Cotton, woven	378.2011
352	.....do.....	378.2510
352	.....do.....	378.0561
459	Wool, knit	378.3510
459	Wool, woven	378.4000
459	.....do.....	378.4500
638	Manmades, knit	380.0416
638	.....do.....	380.0417
638	.....do.....	380.8133
638	.....do.....	380.8135
652	.....do.....	378.0545
652	.....do.....	378.6015
652	.....do.....	378.6020
652	Manmades, woven	378.0565
652	.....do.....	378.6511
	GLOVES	
331	Cotton, woven	704.0520
331	.....do.....	704.0555
331	.....do.....	704.4010
331	.....do.....	704.4025
331	.....do.....	704.4055
331	Cotton, knit	704.1020
331	.....do.....	704.1055
331	.....do.....	704.4502
331	.....do.....	704.4504
331	.....do.....	704.4506
331	.....do.....	704.4508
331	.....do.....	704.4522
331	.....do.....	704.4524
331	.....do.....	704.4526
331	.....do.....	704.4555
331	Cotton, other	704.1520
331	.....do.....	704.1555
331	.....do.....	704.5015
331	.....do.....	704.5055
	Leather	705.3510
	.....do.....	705.3530
	.....do.....	705.3550

APPENDIX B—MEN'S AND BOYS APPAREL—Continued

Category No.	Approximate description	TSUSA No.
	.....do.....	705.3560
	.....do.....	705.4000
	.....do.....	705.4200
	.....do.....	705.4300
	.....do.....	705.4500
	.....do.....	705.4600
	.....do.....	705.4800
	.....do.....	705.5000
	.....do.....	705.5100
	.....do.....	705.5300
	.....do.....	705.5400
	.....do.....	705.5500
	.....do.....	705.5700
	.....do.....	705.5800
	Rubber and plastics (dipped)...	705.8600
	LEATHER WEARING APPAREL	
333	With cotton, woven.....	791.7412
334	.....do.....	791.7413
347	.....do.....	791.7418
359	With cotton, woven.....	791.7426
459	With wool, knit.....	791.7430
459	With wool, woven.....	791.7440
645	With manmades, knit.....	791.7454
648	.....do.....	791.7458
633	.....do.....	791.7459
634	.....do.....	791.7460
659	.....do.....	791.7464
633	With manmades, woven.....	791.7470
634	.....do.....	791.7471
647	.....do.....	791.7380
	With other fibers.....	791.7484
	PLAYSUITS	
337	Cotton, knit.....	380.0015
337	.....do.....	380.0630
337	Cotton, woven.....	380.0058
337	.....do.....	380.3912
637	Cotton, knit.....	380.0414
637	.....do.....	380.8127
	OTHER MEN'S AND BOYS' APPAREL	
359	Cotton, knit.....	380.0037
359	.....do.....	380.0695
359	.....do.....	380.4505
359	.....do.....	380.7205
359	Cotton, woven.....	376.5420
359	.....do.....	380.0078
359	.....do.....	380.0080
359	.....do.....	380.0531
359	.....do.....	380.3000
359	.....do.....	380.3980
359	.....do.....	380.3982
359	.....do.....	380.3984
359	.....do.....	380.5128
359	.....do.....	380.7505
359	.....do.....	380.9005
459	Wool, knit.....	380.4515
459	.....do.....	380.5795
459	.....do.....	380.6160
459	.....do.....	380.7215
459	Wool, woven.....	372.4000
459	.....do.....	372.4500
459	.....do.....	380.0270
459	.....do.....	380.0533
459	.....do.....	380.5158
459	.....do.....	380.6390
459	.....do.....	380.6690
459	.....do.....	380.7515
459	.....do.....	380.9015
659	Manmades, knit.....	376.5620
659	.....do.....	380.0407
659	.....do.....	380.0439
659	.....do.....	380.4525
659	.....do.....	380.7225
659	.....do.....	380.8113
659	.....do.....	380.8192
659	Manmades, woven.....	380.0472
659	.....do.....	380.0475
659	.....do.....	380.0536
659	.....do.....	380.5188

APPENDIX B—MEN'S AND BOYS APPAREL—Continued

Category No.	Approximate description	TSUSA No.
659	.....do.....	380.7525
659	.....do.....	380.8460
659	.....do.....	380.8486
659	.....do.....	380.9025

NOTE.—In addition, all similar products not covered by these categories because they are "certified hand-loomed and folklore products" are considered "men's and boys' apparel" for the purposes of this petition.

[FR Doc. 78-23600 Filed 8-25-78, 8:45 am]

[4810-22]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM MEXICO

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are paid by the Government of Mexico to manufacturers or exporters of textile products. A preliminary determination will be made not later than January 5, 1979, and a final determination not later than July 5, 1979, and a final determination not later than July 5, 1979.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Ready, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on July 5, 1978, alleging that benefits conferred by the Government of Mexico upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and man-made fiber from Mexico constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles and miscellaneous products of textile mills made of cotton, wool and man-made fibers, as specified in the U.S. bilateral textile agreements;[1] and "men's and boys' apparel" includes those items described in the appendix of this notice, together with their tariff schedule classifications.

The imported merchandise classifiable under item numbers 705.3000, 791.7620, and 791.7660 of the tariff schedules of the United States, annotated (TSUSA) are eligible for duty-free entry under the generalized system of preferences. In the event that it becomes necessary to refer this case to the U.S. International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury, or likelihood of injury, to an industry in the United States with regard to these duty-free imports.

The bounties or grants alleged in the petition are as follows:

(1) Corporate tax benefits granted by the secretariat of national properties and industrial growth to certain firms.

(2) Exemptions of 10 to 40 percent from income tax for a period of 3 to 10 years depending upon the location of the enterprise.

(3) Exemption of 50 to 100 percent from the stamp tax normally imposed on all contracts and business documents and transactions for certain companies.

(4) Tax incentives on both the Federal and local levels that involve, for example, partial or full exemption from real estate taxes and varying municipal and State taxes on industrial licenses.

(5) Low-interest loans for industry provided by Government programs such as the Industrial Equipment Fund (FONEI), the National Fund for Industrial Development (FOMIN) and the Guarantee Fund for the development of small- and medium-sized industries (FOGAIN).

The incentives described above would be considered a bounty or grant only if a preponderance of production is exported.

(6) Low-interest loans designed to finance production for sale to foreign markets provided by the fund for the

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[1] The textile items include those in categories 310-320, 330, 363, 400, 410, 411, 425, 429, 444, 600-605, 610-614, 625 and 627 of the Correlation: Textile and apparel categories with tariff schedules of the United States, annotated, as published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), and amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), and June 22, 1978 (43 FR 26773). In addition, products listed in appendix A and all similar products not covered by these categories because they are considered "certified handloomed and folklore products" are considered "textile mill products" for purposes of this notice.

development of manufacture export products (FOMEX), which is operated by the Centeral Bank (Banco de Mexico).

(7) Corporate income tax exemption on income derived form exports of 100 percent for the first 3 years of operation, which is gradually reduced to 50 percent.

(8) A partial rebate to exporters of the "mercantile" tax levied on all exported goods.

(9) Subsidized premiums on export insurance provided by the government-owned Mexican Credit Insurance Co., (COMESEC).

(10) Services provided by FOMEX and other government entities such as the Mexican Foreign Trade Institute (IMCE) which assist Mexican companies in developing foreign markets, including the compensation of exporters for costs incurred abroad in obtaining credit and direct help to Mexican compaines in connection with all their export transactions and shipping problems.

(11) Rebates up to 50 percent on railroad freight rates in Mexico to exporters.

(12) Special benefits, such as exemptions form payment of duty and import license requirements, for goods that are shipped to so-called "free zones" and which are ultimately exported.

The allegation regarding relief from import duties on materials used in producing goods for the export market will not be investigated because this practice is not countervailable.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than January 5, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Mexico upon the manufacture, production or exportation of merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than July 5, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), customs regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the customs regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

A concurrent Notice is being published with respect to companion cases involving such or similar merchandise form Malaysia, Pakistan, Singapore and Thailand.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

AUGUST 17, 1978

To facilitate use of these appendixes, the descriptions of the TSUSA item numbers have been simplified. These descriptions are not meant to modify, change or contradict in any way the meaning of the descriptions presented in the TSUSA. In any case where a description conflicts with the TSUSA, the description in the latter will prevail.

APPENDIX A

Category No.	Item	TSUSA No.
	Cotton yarn, carded, singles	
	Not bleached or colored:	
300	Not mercerized	301.—00
300	Mercerized	302.—20
300	Bleached or colored	302.—22
	Cotton yarn, carded, plied	
300	Yarns, carded, plied	302.—24
	Cotton yarn, combed, singles	
301	Yarns, combed, singles	302.—26
	Cotton yarn, combed, plied	
301	Yarns, combed, plied	302.—28
	Pillowcases, carded	
360	Pillowcases, carded, not ornamented, (including bolster sets)	363.3020
	Pillowcases, combed	
360	Pillowcases, combed, not ornamented, (including bolster sets)	363.3040
	Sheets, carded	
361	Sheets, combed, not ornamented	363.3010
	Sheets, combed	
361	Sheets, combed, not ornamented	363.3030
	Bedspreads and quilts	
	Lace or net bedding, whether or not ornamented;	
	Lace, net or ornamented:	
362	Bedspreads	363.0515
362	Coverlets, quilts and comforters	363.0520
	Not ornamented:	
362	Bedspreads, tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015

APPENDIX A—Continued

Category No.	Item	TSUSA No.
362	Bedspreads, other than tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015
362	Coverlets, quilts and comforters, block-printed by hand, not jacquard-figured, of cotton	363.5030
362	Bedspreads, tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Bedspreads, other than tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Coverlets, quilts, and comforters, not block-printed by hand, not jacquard-figured, of cotton	363.5130
362	Bedspreads, tufted, jacquard-figured, of cotton	363.5515
362	Bedspreads, other than tufted, jacquard-figured, of cotton	363.5515
362	Coverlets, quilts, and comforters, jacquard-figured, of cotton	363.5530
	Towels, dish	
369	Dish towels, with fringe, ornamented	365.7815
369	Dish towels, not jacquard-figured, not ornamented	365.2760
	Towels, other	
	Other towels not ornamented:	
	Valued not over 45 cents each:	
369	Dish towels, terry	366.1820
369	Dish towels of pile or tufted construction	366.1840
369	Terry towels, other than dish towels	366.1855
	Valued over 45 cents each but not over $1.45 per pound:	
369	Dish towels, terry	366.2120
369	Dish towels, of pile or tuft construction	366.2140
	Valued over 45 cents each and over $1.45 per pound:	
369	Dish towels, terry	366.2420
369	Dish towels of pile or tuft construction	366.2440
	Other towels, not ornamented:	
	Not jacquard-figured:	
369	Shop towels (dedicated to use in garages, filling stations and machine shops)	366.2740
369	Other	366.2780
	Table damask and manufacturers	
	Table damask, fancy or figured:	
	Wholly of cotton:	
369	Not bleached or colored	323.—52
369	Bleached but not colored	324.—52
369	Colored, whether or not bleached	325.—52
	Chief value, but not wholly of cotton:	
369	Not bleached or colored	329.—52
369	Bleached but not colored	330.—52
369	Colored, whether or not bleached	331.—52
369	Tablecloths and napkins, damask, not ornamented	366.4200
369	Furnishings, damask, except curtains and drapes, etc., towels, tablecloths, and napkins, not ornamented	366.7500
	Braided and woven elastic	
369	Elastic fabrics, not braided	349.1500

APPENDIX A—Continued

Category No.	Item	TSUSA No.
369	Elastic yarns, cordage braids and fabrics, braided, of cotton	349.3095
	Fishing nets and fish netting	
369	Fish netting and fish nets	355.3500
(1)	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastic material or laminated with sheet rubber or plastics	355.6510
	Woven or knit fabrics, (except pile or tufted fabrics) coated or filled, N.S.P.F.:	
(1)	Oilcloths, of cotton	365.1000
(1)	Tracing cloths, of cotton	356.1500
(1)	Window hollands	356.2000
(1)	Other, N.S.P.F.	356.2510
	Pile and tufted fabrics	
	Pile:	
626	Of vegetable fiber, except cotton, containing manmade fiber	346.5025
626	Of silk, containing manmade fiber	346.5625
	Of manmade fiber:	
	Velvets:	
626	Velvets, under 48 inches in width, with cut warp pile, weighing less than 8 oz/yd²	346.6045
626	Other	346.6050
626	Tufted fabrics	346.9000
	Netting in the piece, made on a lace, net or knitting machine:	
	Not ornamented:	
669	Quilling, of manmade fibers	352.3000
	Other:	
669	Made on a mechlin machine, of manmade fibers	352.4000
(1)	Burnt out lace, in the piece, or in motifs, manmade fibers	352.1000
	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastics, or laminated with sheet rubber or plastics:	
(1)	Over 70 percent by weight of rubber or plastics	355.8100
	Woven or knit fabrics (except pile or tufted) coated or filled N.S.P.F.:	
(1)	Oilcloths, manmade fibers	356.1000
(1)	Tracing cloths, manmade fibers	356.1560
(1)	Other	356.4000
	Textile fabrics, including laminated fabrics, N.S.P.F.:	
	Of vegetable fiber, except cotton, containing manmade fiber:	
(1)	Woven	359.2000
(1)	Knit	359.2000

[1] No category number.

APPENDIX B.—*Men's and boys' apparel*

Category No.	Approximate description	TSUSA No.
	SUITS	
333	Cotton, woven	380.1206
333	Cotton, knit	380.0654
359	Cotton, woven	380.0041
359	....do	380.5116
443	Wool, woven	380.0260
443	....do	380.5146
443	....do	380.6350
443	....do	380.6651
443	....do	380.6652
443	....do	380.6653
443	....do	380.6654
643	....do	380.0464
643	....do	380.5176
643	....do	380.8451
643	....do	380.8452
643	Man-mades, knit	380.8145
643	....do	380.8148
643	....do	380.0420
	COATS AND JACKETS	
333	Cotton, woven	380.0042
333	....do	380.0940
333	....do	380.0960
333	....do	380.1235
333	....do	380.1255
333	....do	380.5104
459	Wool, knit	380.5795
434	....do	380.6110
433	Wool, woven	380.0240
433	....do	380.5134
433	....do	380.6310
433	....do	380.6611
433	....do	380.6612
633	Man-mades, knit	380.8104
633	....do	380.8105
633	....do	380.0402
633	Man-mades, woven	380.0443
633	....do	380.5164
633	....do	380.8411
633	....do	380.8412
	TROUSERS	
347	Cotton, woven	380.3920
347	....do	380.3924
347	....do	380.3923
347	....do	380.3921
347	....do	380.3930
347	....do	380.3928
347	....do	380.3926
347	....do	380.5124
347	Cotton, knit	380.0033
347	....do	380.0660
347	Cotton, woven	380.0071
347	....do	380.0072
447	Wool, woven	380.0265
447	....do	380.5154
447	....do	380.6360
447	....do	380.6660
647	Man-mades, knit	380.0435
647	....do	380.0436
647	....do	380.8142
647	....do	380.8166
647	....do	380.8167
647	Man-mades, woven	380.0468
647	....do	380.0469
647	....do	380.5184
647	....do	380.8449
647	....do	380.8456
647	....do	380.8457
	OVERCOATS AND RAINCOATS	
334	Cotton	376.5410
334	Cotton, woven	380.0910
334	....do	380.0920
334	....do	380.1210
334	....do	380.1220
334	....do	380.0980
334	....do	380.0990
334	....do	380.1280
334	....do	380.1290
334	....do	380.5108
334	Cotton, knit	380.0002
334	....do	380.0611
334	Cotton, woven	380.0045
434	Wool, woven	380.0245
434	....do	380.5136
434	....do	380.5137
434	....do	380.6320
434	....do	380.6615
434	....do	380.6616
634	Man-mades, knit	376.5610
634	....do	380.8101
634	....do	380.8109
634	....do	380.8111
634	....do	380.0405
634	Man-mades, woven	380.0445
634	....do	380.5168
634	....do	380.8410
633	....do	380.8416
634	....do	380.8417
	SHIRTS	
338	Cotton, knit	380.0645
338	....do	380.0651
338	....do	380.0652
340	Cotton, woven	380.0060
340	....do	380.2750
340	....do	380.2760
340	....do	380.2782
340	....do	380.2788
340	....do	380.2792
340	....do	380.2798
340	....do	380.2770
340	....do	380.5112
338	Cotton, knit	380.0028
338	....do	380.0029
459	Wool, knit	380.5795
438	....do	380.0205
438	....do	380.6120
440	Wool, woven	380.0255
440	....do	380.5142
440	....do	380.6340
440	....do	380.6640
638	Man-mades, knit	380.0418
638	....do	380.0419
638	....do	380.8138
638	....do	380.8139
640	Man-mades, woven	380.0455
640	....do	380.8435
640	....do	380.0458
640	....do	380.0461
640	....do	380.5172
640	....do	380.8440
640	....do	380.8445
	SWEATERS AND CARDIGANS	
345	Cotton, knit	380.0658
345	....do	380.0659
345	....do	380.0030
445	Wool, knit	380.5730
445	....do	380.5740
445	....do	380.5750
445	....do	380.0209
445	....do	380.5900
445	....do	380.6130
445	....do	380.6140
445	....do	380.6145
445	....do	380.6155
459	....do	380.6160
459	....do	380.7215
645	Man-mades, knit	380.0422
645	....do	380.0426
645	....do	380.8152
645	....do	380.8153
	DRESSING GOWNS AND ROBES	
350	Cotton, woven	380.0049
350	....do	380.1520
350	....do	380.1540
350	....do	380.1820
350	....do	380.1840
350	Cotton, knit	380.0009
350	....do	380.0620
459	Wool, woven	380.0250
459	....do	380.6330
459	....do	380.6630
650	Man-mades, knit	380.0408

APPENDIX B.—*Men's and boys' apparel*—Continued

Category No.	Approximate description	TSUSA No.
650	.....do.....	380.8117
650	Man-mades, woven.....	380.0449
650	.....do.....	380.8425
	Pajamas and Other Nightwear	
351	Cotton, knit.....	380.0011
351	.....do.....	380.0625
351	Cotton, woven.....	380.2100
351	.....do.....	380.2400
351	.....do.....	380.3909
351	.....do.....	380.0050
651	Man-mades, knit.....	380.0411
651	.....do.....	380.8123
651	Man-mades, woven.....	380.0452
651	.....do.....	380.8430
	MUFFLERS, SCARVES, AND SHAWLS	
359	Cotton, knit.....	372.1010
359	.....do.....	372.1520
359	Cotton, woven.....	372.1040
359	.....do.....	372.1540
359	.....do.....	372.1560
359	Wool, knit.....	372.3000
459	.....do.....	372.1020
459	.....do.....	372.3500
459	Wool, woven.....	372.1050
459	.....do.....	372.4000
459	.....do.....	372.4500
659	Man-mades, knit.....	372.1030
659	.....do.....	372.7000
659	Man-mades, woven.....	372.1060
659	.....do.....	372.7520
659	.....do.....	372.7540
	NECKTIES	
359	Cotton, knit.....	373.0500
359	.....do.....	373.1000
359	Cotton, woven.....	373.0500
359	Wool, woven.....	373.1000
459	Wool, knit.....	373.0500
459	.....do.....	373.1500
659	Man-mades, knit.....	373.0500
659	.....do.....	373.2500
659	Man-mades, woven.....	373.0500
659	.....do.....	373.2700
459	Wool, woven.....	373.0500
459	.....do.....	373.1500
	VESTS	
359	Cotton, woven.....	380.0073
359	.....do.....	380.3320
359	.....do.....	380.3620
	BEACHWEAR	
659	Man-mades, knit.....	380.0429
659	.....do.....	380.8163
659	Man-mades, woven.....	380.0465
659	.....do.....	380.8453
	UNDERWEAR	
338	Cotton, knit.....	380.0018
338	.....do.....	380.0021
352	.....do.....	380.0635
338	.....do.....	380.0640
352	.....do.....	378.1030
352	.....do.....	378.1530
352	.....do.....	378.1520
352	.....do.....	378.0540
352	Cotton, woven.....	378.2011
352	.....do.....	378.2510
352	.....do.....	378.0561
459	Wool, knit.....	378.3510
459	Wool, woven.....	378.4000
459	.....do.....	378.4500
638	Man-mades, knit.....	380.0416
638	.....do.....	380.0417
638	.....do.....	380.8133
638	.....do.....	380.8135
652	.....do.....	378.0545
652	.....do.....	378.6015
652	.....do.....	378.6020
652	Man-mades, woven.....	378.0565
652	.....do.....	378.6511
	GLOVES	
331	Cotton, woven.....	704.0520
331	.....do.....	704.0555
331	.....do.....	704.4010
331	.....do.....	704.4025
331	.....do.....	704.4055
331	Cotton, knit.....	704.1020
331	.....do.....	704.1055
331	.....do.....	704.4502
331	.....do.....	704.4504
331	.....do.....	704.4506
331	.....do.....	704.4508
331	.....do.....	704.4522
331	.....do.....	704.4524
331	.....do.....	704.4526
331	.....do.....	704.4555
331	Cotton, other.....	704.1520
331	.....do.....	704.1555
331	.....do.....	704.5015
331	.....do.....	704.5055
.....	Leather.....	705.3000
.....	.....do.....	705.3510
.....	.....do.....	705.3530
.....	.....do.....	705.3550
.....	.....do.....	705.3560
.....	.....do.....	705.4000
.....	.....do.....	705.4200
.....	.....do.....	705.4300
.....	.....do.....	705.4500
.....	.....do.....	705.4600
.....	.....do.....	705.4800
.....	.....do.....	705.5000
.....	.....do.....	705.5100
.....	.....do.....	705.5300
.....	.....do.....	705.5400
.....	.....do.....	705.5500
.....	.....do.....	705.5700
.....	.....do.....	705.5800
.....	Rubber and plastics (dipped)..	705.8600
	LEATHER WEARING APPAREL	
333	With cotton, woven.....	791.7412
334	.....do.....	791.7413
347	.....do.....	791.7418
359	.....do.....	791.7426
459	With wool, knit.....	791.7430
459	With wool, woven.....	791.7440
645	With man-mades, knit.....	791.7454
648	.....do.....	791.7458
633	.....do.....	791.7459
634	.....do.....	791.7460
659	.....do.....	791.7464
633	With man-mades, woven.....	791.7470
634	.....do.....	791.7471
647	.....do.....	791.7380
	With other fibers.....	791.7484
.....	All leather apparel.....	791.7620
.....	.....do.....	791.7660
	PLAYSUITS	
337	Cotton, knit.....	380.0015
337	.....do.....	380.0630
337	Cotton, woven.....	380.0058
337	.....do.....	380.3912
637	Cotton, knit.....	380.0414
637	.....do.....	380.8127
	OTHER MEN'S AND BOYS' APPAREL	
359	Cotton, knit.....	380.0037
359	.....do.....	380.0695
359	.....do.....	380.4505
359	.....do.....	380.7205
359	Cotton, woven.....	376.5420
359	.....do.....	380.0078
359	.....do.....	380.0080
359	.....do.....	380.0531
359	.....do.....	380.3000
359	.....do.....	380.3980
359	.....do.....	380.3982
359	.....do.....	380.3984
359	.....do.....	380.5128
359	.....do.....	380.7505
359	.....do.....	380.9005
459	Wool, knit.....	380.4515
459	.....do.....	380.5795
459	.....do.....	380.6160
459	.....do.....	380.7215
459	Wool, woven.....	372.4000
459	.....do.....	372.4500
459	.....do.....	380.0270
459	.....do.....	380.0533
459	.....do.....	380.5158
459	.....do.....	380.6390
459	.....do.....	380.6690
459	.....do.....	380.7515
459	.....do.....	380.9015
659	Man-mades, knit.....	376.5620
659	.....do.....	380.0407
659	.....do.....	380.0439
659	.....do.....	380.4525
659	.....do.....	380.7225
659	.....do.....	380.8113
659	.....do.....	380.8192
659	Man-mades, woven.....	380.0472
659	.....do.....	380.0475
659	.....do.....	380.0536
659	.....do.....	380.5188
659	.....do.....	380.7525
659	.....do.....	380.8460
659	.....do.....	380.8486
659	.....do.....	380.9025

NOTE.—In addition, all similar products not covered by these categories because they are "certified hand-loomed and folklore products" are considered "men's and boys' apparel" for the purposes of this petition.

[FR Doc. 23601 Filed 8-25-78; 8:45 am]

[4810-22]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM PAKISTAN

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are paid by the Government of Pakistan to manufacturers or exporters of textile products. A preliminary determination will be made not later than January 5, 1979, and a final determination not later than July 5, 1979.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Holly Kuga, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on July 5, 1978, alleging that benefits conferred by the Government of Pakistan upon the manufacture production or exportation of men's and boys' apparel and textile mill products of cotton wool and manmade fiber from Pakistan constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles and miscellaneous products of textile mills made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements;[1] and "men's and boys' apparel" includes those items described in the appendix of this notice, together with their tariff schedule classifications.

The imported merchandise classifiable under item numbers 705.3000, 791.7620, and 791.7660 of the Tariff Schedules of the United States, Annotated (TSUSA) are eligible for duty-free entry under the Generalized System of Preferences. In the event that it becomes necessary to refer this case to the U.S International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury, or likelihood of injury, to an industry in the United States with regard to these duty-free imports.

The bounties or grants alleged in the petition are as follows:

(1) Tax credit schemes to encourage investment in designated areas of the country.

(2) Advantageous depreciation allowances for new plants and equipment and for machinery used for extra shifts.

(3) Reduced corporate income taxes for companies established in specified areas of the country between July 1, 1975 and June 30, 1981.

(4) Preferential credit terms for industries that produce for export through government entities such as the Pakistan Industrial Credit and Investment Corp., the Industrial Development Bank of Pakistan, the Investment Corporation of Pakistan and the Pakistan Industrial Development Corp.

The incentives described above would be considered a bounty or grant only if a preponderance of production is exported.

(5) Reductions of income tax for exporters which vary depending on the share of total production that is exported.

(6) Preferential loan rates for exports through the various government financing institutions and the State Bank of Pakistan.

(7) Loans by the government of foreign currency made free of interest.

The following allegations will not be investigated because the practices described are not countervailable:

(1) Exemptions from sales tax on exports and on raw materials used in production for exports of manufactured goods.

(2) Relief from import duties on goods used in the production of exported merchandise.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than January 5, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Pakistan upon the manufacture, production or exportation of merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than July 5, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

A concurrent notice is being published with respect to companion cases involving such or similar merchandise from Malaysia, Mexico, Singapore and Thailand.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

AUGUST 17, 1978.

To facilitate use of these appendixes, the descriptions of the TSUSA item numbers have been simplified. These descriptions are not meant to modify, change or contradict in any way the meaning of the descriptions presented in the TSUSA. In any case where a description conflicts with the TSUSA, the description in the latter will prevail.

APPENDIX A

Category No.	Item	TSUSA No.
	Cotton yarn, carded, singles	
	Not bleached or colored:	
300	Not mercerized	301.—00
300	Mercerized	302.—20
300	Bleached or colored	302.—22
	Cotton yarn, carded, plied	
300	Yarns, carded, plied	302.—24
	Cotton yarn, combed, singles	
301	Yarns, combed, singles	302.—26
	Cotton yarn, combed, plied	
301	Yarns, combed, plied	302.—28
	Pillowcases, carded	
360	Pillowcases, carded, not ornamented (including bolster sets)	363.3020
	Pillowcases, combed	
360	Pillowcases, combed, not ornamented (including bolster sets)	363.3040
	Sheets, carded	
361	Sheets, combed, not ornamented	363.3010
361	Sheets, combed, not ornamented	363.3030
	Bedspreads and Quilts	
	Lace or net bedding, whether or not ornamented:	
	Lace, net or ornamented:	
362	Bedspreads	363.0515
362	Coverlets, quilts and Comforters	363.0520
	Not Ornamented:	
362	Bedspreads, tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015
362	Bedspreads, other than tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015
362	Coverlets, quilts and comforters, block-printed by hand, not jacquard-figured, of cotton	363.5030
362	Bedspreads, tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115

[1] The textile items include those in categories 310-320, 330, 363, 400, 410 411, 425, 429, 444, 600-605, 610-614, 625 and 627 of the *Correlation:* Textile and Apparel Categories with Tariff Schedules of the United States, Annotated, as published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), and amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), and June 22, 1978 (43 FR 26773). In addition, products listed in appendix A and all similar products not covered by these categories because they are considered "certified handloomed and folklore products" are considered "textile mill products" for purposes of this notice.

APPENDIX A—Continued

Category No.	Item	TSUSA No.
362	Bedspreads, other than tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Coverlets, quilts, and comforters, not block-printed by hand, not jacquard-figured, of cotton	363.5130
362	Bedspreads, tufted, jacquard-figured, of cotton	363.5515
362	Bedspreads, other than tufted, jacquard-figured, of cotton	363.5515
362	Coverlets, quilts, and comforters, jacquard-figured, of cotton	363.5530
	Towels, dish	
369	Dish towels, with fringe, ornamented	365.7815
369	Dish towels, not jacquard-figured, not ornamented	365.2760
	Towels, other	
	Other towels not ornamented:	
	Valued not over 45 cents each:	
369	Dish towels, terry	366.1820
369	Dish towels of pile or tufted construction	366.1840
369	Terry towels, other than dish towels	366.1855
	Valued over 45 cents each but not over $1.45 per pound:	
369	Dish towels, terry	366.2120
369	Dish towels, of pile or tuft construction	366.2140
	Valued over 45 cents each and over $1.45 per pound:	
369	Dish towels, terry	366.2420
369	Dish towels of pile or tuft construction	366.2440
	Other towels, not ornamented:	
	Not jacquard-figured:	
369	Shop towels (dedicated to use in garages, filling stations and machine shops)	366.2740
369	Other	366.2780
	Table damask and manufacturers	
	Table damask, fancy or figured:	
	Wholly of cotton:	
369	Not bleached or colored	323.—52
369	Bleached but not colored	324.—52
369	Colored, whether or not bleached	325.—52
	Chief value, but not wholly of cotton:	
369	Not bleached or colored	329.—52
369	Bleached but not colored	330.—52
369	Colored, whether or not bleached	331.—52
369	Tablecloths and napkins, damask, not ornamented	366.4200
369	Furnishings, damask, except curtains and drapes, etc., towels, tablecloths, and napkins, not ornamented	366.7500
	Braided and woven elastic	
369	Elastic fabrics, not braided	349.1500
369	Elastic yarns, cordage braids and fabrics, braided, of cotton	349.3095
	Fishing nets and fish netting	
369	Fish netting and fish nets	355.3500

APPENDIX A—Continued

Category No.	Item	TSUSA No.
	(Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastic material or laminated with sheet rubber or plastic	355.6510
	Woven or knit fabrics, (except pile or tufted fabrics) coated or filled, N.S.P.F.:	
	Oilcloths, of cotton	365.1000
	Tracing cloths, of cotton	356.1500
	Window hollands	356.2000
	Other, N.S.P.F.	356.2510
	Pile and tufted fabrics	
	Pile:	
626	Of vegetable fiber, except cotton, containing manmade fiber.	346.5025
626	Of Silk, containing manmade fiber	346.5625
	Of manmade fiber:	
	Velvets:	
626	Velvets, under 48 inches in width, with cut warp pile, weighing less than 8 oz/yd²	346.6045
626	Other	346.6050
626	Tufted fabrics	346.9000
	Netting in the piece, made on a lace, net or knitting machine:	
	Not ornamented:	
669	Quilling, of manmade fibers	352.3000
	Other:	
669	Made on a mechlin machine, of manmade fibers	352.4000
(1)	Burnt out lace, in the piece, or in motifs, manmade fibers	352.1000
	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastics, or laminated with sheet rubber or plastics:	
(1)	Over 70 Pct by weight of rubber or plastics	355.8100
	Woven or knit fabrics (except pile or tufted) coated or filled N.S.P.F.:	
(1)	Oilcloths, manmade fibers	356.1000
(1)	Tracing cloths, manmade fibers	356.1560
(1)	Other	356.4000
	Textile fabrics, including laminated fabrics, N.S.P.F.:	
	Of vegetable fiber, except cotton, containing manmade fiber:	
(1)	Woven	359.2000
(1)	Knit	359.2000

[1] No category number.

APPENDIX B.—*Men's and boys apparel*

Category No.	Approximate description	TSUSA No.
	SUITS	
333	Cotton, woven	380.1206
333	Cotton, knit	380.0654
359	Cotton, woven	380.0041
359	....do	380.5116
443	Wool, woven	380.0260
443	....do	380.5146
443	....do	380.6350
443	....do	380.6651
443	....do	380.6652
443	....do	380.6653

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
443	....do	380.6654
643	....do	380.0464
643	....do	380.5176
643	....do	380.8451
643	....do	380.8452
643	Manmades, knit	380.8145
643	....do	380.8148
643	....do	380.0420
	COATS AND JACKETS	
333	Cotton, woven	380.0042
333	....do	380.0940
333	....do	380.0960
333	....do	380.1235
333	....do	380.1255
333	....do	380.5104
459	Wool, knit	380.5795
434	....do	380.6110
433	Wool, woven	380.0240
433	....do	380.5134
433	....do	380.6310
433	....do	380.6611
433	....do	380.6612
633	Manmades, knit	380.8104
633	....do	380.8105
633	....do	380.0402
633	Manmades, woven	380.0443
633	....do	380.5164
633	....do	380.8411
633	....do	380.8412
	TROUSERS	
347	Cotton, woven	380.3920
347	....do	380.3924
347	....do	380.3923
347	....do	380.3921
347	....do	380.3930
347	....do	380.3928
347	....do	380.3926
347	....do	380.5124
347	Cotton, knit	380.0033
347	....do	380.0660
347	Wool, woven	380.0071
347	....do	380.0072
447	....do	380.0265
447	....do	380.5154
447	....do	380.6360
447	....do	380.6660
647	Manmades, knit	380.0435
647	....do	380.0436
647	....do	380.8142
647	....do	380.8166
647	....do	380.8167
647	Manmades, woven	380.0468
647	....do	380.0469
647	....do	380.5184
647	....do	380.8449
647	....do	380.8456
647	....do	380.8457
	OVERCOATS AND RAINCOATS	
334	Cotton	376.5410
334	Cotton, woven	380.0910
334	....do	380.0920
334	....do	380.1210
334	....do	380.1220
334	....do	380.0980
334	....do	380.0990
334	....do	380.1280
334	....do	380.1290
334	....do	380.5108
334	Cotton, knit	380.0002
334	....do	380.0611
334	Cotton, woven	380.0045
434	Wool, woven	380.0245
434	....do	380.5136
434	....do	380.5137
434	....do	380.6320
434	....do	380.6615
434	....do	380.6616
634	Manmades, knit	376.5610

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
634	.....do.....	380.8101
634	.....do.....	380.8109
634	.....do.....	380.8111
634	.....do.....	380.0405
634	Manmades, woven	380.0445
634	.....do.....	380.5168
634	.....do.....	380.8410
633	.....do.....	380.8416
634	.....do.....	380.8418
	SHIRTS	
338	Cotton, knit	380.0645
338	.....do.....	380.0651
338	.....do.....	380.0652
340	Cotton, woven	380.0060
340	.....do.....	380.2750
340	.....do.....	380.2760
340	.....do.....	380.2782
340	.....do.....	380.2788
340	.....do.....	380.2792
340	.....do.....	380.2798
340	.....do.....	380.2770
340	.....do.....	380.5112
338	Cotton, knit	380.0028
338	.....do.....	380.0029
459	Wool, knit	380.5795
438	.....do.....	380.0205
438	.....do.....	380.6120
440	Wool, woven	380.0255
440	.....do.....	380.5142
440	.....do.....	380.6340
440	.....do.....	380.6640
638	Manmades, knit	380.0418
638	.....do.....	380.0419
638	.....do.....	380.8138
638	.....do.....	380.8139
640	Manmades, woven	380.0455
640	.....do.....	380.8435
640	.....do.....	380.0458
640	.....do.....	380.0461
640	.....do.....	380.5172
640	.....do.....	380.8440
640	.....do.....	380.8445
	SWEATERS AND CARDIGANS	
345	Cotton, knit	380.0658
345	.....do.....	380.0659
345	.....do.....	380.0030
445	Wool, knit	380.5730
445	.....do.....	380.5740
445	.....do.....	380.5750
445	.....do.....	380.0209
445	.....do.....	380.5900
445	.....do.....	380.6130
445	.....do.....	380.6140
445	.....do.....	380.6145
445	.....do.....	380.6155
445	.....do.....	380.6160
445	.....do.....	380.7215
645	Manmades, knit	380.0422
645	.....do.....	380.0426
645	.....do.....	380.8152
645	.....do.....	380.8153
	DRESSING GOWNS AND ROBES	
350	Cotton, woven	380.0049
350	.....do.....	380.1520
350	.....do.....	380.1540
350	.....do.....	380.1820
350	.....do.....	380.1840
350	Cotton, knit	380.0009
350	.....do.....	380.0620
459	Wool, woven	380.0250
459	.....do.....	380.6330
459	.....do.....	380.6630
650	Manmades, knit	380.0408
650	.....do.....	380.8117
650	Manmades, woven	380.0449
650	.....do.....	380.8425

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
	PAJAMAS AND OTHER NIGHTWEAR	
351	Cotton, knit	380.0011
351	.....do.....	380.0625
351	Cotton, woven	380.2100
351	.....do.....	380.2400
351	.....do.....	380.3909
351	.....do.....	380.0050
651	Manmades, knit	380.0411
651	.....do.....	380.8123
651	Manmades, woven	380.0452
651	.....do.....	380.8430
	MUFFLERS, SCARVES AND SHAWLS	
359	Cotton, knit	372.1010
359	.....do.....	372.1520
359	Cotton, woven	372.1040
359	.....do.....	372.1540
359	.....do.....	372.1560
359	Wool, knit	372.3000
459	.....do.....	372.1020
459	.....do.....	372.3500
459	Wool, woven	372.1050
459	.....do.....	372.4000
459	.....do.....	372.4500
659	Manmades, knit	372.1030
659	.....do.....	372.7000
659	Manmades, woven	372.1060
659	.....do.....	372.7520
659	.....do.....	372.7540
	NECKTIES	
359	Cotton, knit	373.0500
359	.....do.....	373.1000
359	Cotton, woven	373.0500
359	Wool, woven	373.1000
459	Wool, knit	373.0500
459	.....do.....	373.1500
659	Manmades, knit	373.0500
659	.....do.....	373.2500
659	Manmades, woven	373.0500
659	.....do.....	373.2700
459	Wool, woven	373.0500
459	.....do.....	373.1500
	VESTS	
359	Cotton, woven	380.0073
359	.....do.....	380.3320
359	.....do.....	380.3620
	BEACHWEAR	
659	Manmades, knit	380.0429
659	.....do.....	380.8163
659	Manmades, woven	380.0465
659	.....do.....	380.8453
	UNDERWEAR	
338	Cotton, knit	380.0018
338	.....do.....	380.0021
352	.....do.....	380.0635
338	.....do.....	380.0640
352	.....do.....	378.1030
352	.....do.....	378.1530
352	.....do.....	378.1520
352	.....do.....	378.0540
352	Cotton, woven	378.2011
352	.....do.....	378.2510
352	.....do.....	378.0561
459	Wool, knit	378.3510
459	Wool, woven	378.4000
459	.....do.....	378.4500
638	Manmades, knit	380.0416
638	.....do.....	380.0417
638	.....do.....	380.8133
638	.....do.....	380.8135
652	.....do.....	378.0545
652	.....do.....	378.6015

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
652	.....do.....	378.6020
652	Manmades, woven	378.0565
652	.....do.....	378.6511
	GLOVES	
331	Cotton, woven	704.0520
331	.....do.....	704.0555
331	.....do.....	704.4010
331	.....do.....	704.4025
331	.....do.....	704.4055
331	Cotton, knit	704.1020
331	.....do.....	704.1055
331	.....do.....	704.4502
331	.....do.....	704.4504
331	.....do.....	704.4506
331	.....do.....	704.4508
331	.....do.....	704.4522
331	.....do.....	704.4524
331	.....do.....	704.4526
331	.....do.....	704.4555
331	Cotton, other.....	704.1520
331	.....do.....	704.1555
331	.....do.....	704.5015
331	.....do.....	704.5055
.....	Leather.....	705.3000
.....	.....do.....	705.3510
.....	.....do.....	705.3530
.....	.....do.....	705.3550
.....	.....do.....	705.3560
.....	.....do.....	705.4000
.....	.....do.....	705.4200
.....	.....do.....	705.4300
.....	.....do.....	705.4500
.....	.....do.....	705.4600
.....	.....do.....	705.4800
.....	.....do.....	705.5000
.....	.....do.....	705.5100
.....	.....do.....	705.5300
.....	.....do.....	705.5400
.....	.....do.....	705.5500
.....	.....do.....	705.5700
.....	.....do.....	705.5800
.....	Rubber and plastics (dipped)..	705.8600
	LEATHER WEARING APPAREL	
333	With cotton, woven.....	791.7412
334	.....do.....	791.7413
347	.....do.....	791.7418
359	.....do.....	791.7426
459	With wool, knit.....	791.7430
459	With wool, woven.....	791.7440
645	With manmades, knit	791.7454
648	.....do.....	791.7458
633	.....do.....	791.7459
634	.....do.....	791.7460
659	.....do.....	791.7464
633	With manmades, woven	791.7470
634	.....do.....	791.7471
647	.....do.....	791.7380
	With other fibers.....	791.7484
.....	All leather apparel.....	791.7620
.....	.....do.....	791.7660
	PLAYSUITS	
337	Cotton, knit	380.0015
337	.....do.....	380.0630
337	Cotton, woven	380.0058
337	.....do.....	380.3912
637	Cotton, knit	380.0414
637	.....do.....	380.8127
	OTHER MEN'S AND BOY'S APPAREL	
359	Cotton, knit	380.0037
359	.....do.....	380.0695
359	.....do.....	380.4505
359	.....do.....	380.7205
359	Cotton, woven	376.5420
359	.....do.....	380.0078
359	.....do.....	380.0080

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
359	....do	380.0531
359	....do	380.3000
359	....do	380.3980
359	....do	380.3982
359	....do	380.3984
359	....do	380.5128
359	....do	380.7505
359	....do	380.9005
459	Wool, Knit	380.4515
459	....do	380.5795
459	....do	380.6160
459	....do	380.7215
459	Wool, woven	372.4000
459	....do	372.4500
459	....do	380.0270
459	....do	380.0533
459	....do	380.5158
459	....do	380.6390
459	....do	380.6690
459	....do	380.7515
459	....do	380.9015
659	Manmades, knit	376.5620
659	....do	380.0407
659	....do	380.0439
659	....do	380.4525
659	....do	380.7225
659	....do	380.8113
659	....do	380.8192
659	Manmades, woven	380.0472
659	....do	380.0475
659	....do	380.0536
659	....do	380.5188
659	....do	380.7525
659	....do	380.8460
659	....do	380.8486
659	....do	380.9025

NOTE.—In addition, all similar products not covered by these categories because they are "certified hand-loomed and folklore products" are considered "men's and boy's apparel" for the purposes of this petition.

[FR Doc. 78-23602 Filed 8-25-78; 8:45 a.m.]

[4810-22]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM SINGAPORE

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are paid by the Government of Singapore to manufacturers or exporters of textile products. A preliminary determination will be made not later than January 5, 1979, and a final determination not later than July 5, 1979.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

William Trujillo, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on July 5, 1978, alleging that benefits conferred by the Government of Singapore upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool and manmade fiber from Singapore constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles and miscellaneous products of textile mills made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements;[1] and "men's and boys' apparel" includes those items described in the appendix of this notice, together with their tariff schedule classifications.

The imported merchandise classifiable under item numbers 705.3000, 791.7620 and 791.7660 of the Tariff Schedules of the United States, Annotated (TSUSA) are eligible for duty-free entry under the generalized system of preferences. Accordingly, before countervailing duties may be assessed, the U.S. International Trade Commission must render an affirmative injury determination pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)). In view of the absence of any imports of this duty-free merchandise from Singapore during at least the last 3 years, it is determined that an investigation with respect to these three item numbers will not be conducted.

The bounties or grants alleged in the petition are as follows:

(1) Exemption from corporate income tax for a period of up to 10 years for new companies designated by the Economic Development Board (EDB) as a "pioneer" industry.

(2) Exemptions for other new companies designated by the Ministry of Finance as beneficial to the economy.

(3) Exemptions from corporate income tax for up to 5 years for existing companies that increase their investment in equipment by a certain amount.

(4) Accelerated depreciation allowance for 3 years for specified capital expenditures.

(5) Government loans available at preferential rates, guarantees to third parties and direct equity participation by government funded by the EDB.

(6) Low rental and property tax rates for land and subsidized water and utility charges for companies locating in designated industrial estates.

The incentives described above would be considered a bounty or grant only if a preponderance of production is exported.

(7) Reduced corporate tax rate for a period up to 15 years on profits for companies whose export comprise at least 20 percent of total sales.

(8) Deductions from corporate gross income of expenses incurred in promoting exports.

(9) Loans at preferential rates to exporters by the Development Bank of Singapore and other sources.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than January 5, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Singapore upon the manufacture, production or exportation of merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than July 5, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

A concurrent notice is being published with respect to companion cases involving such or similar merchandise

[1] The textile items include those in categories 310-320, 330, 363, 400, 410, 411, 425, 429, 444, 600-605, 610-614, 625 and 627 of the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States, Annotated, as published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), and amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), and June 22, 1978 (43 FR 26773). In addition, products listed in appendix A and all similar products not covered by these categories because they are considered "certified handloomed and folklore products" are considered "textile mill products" for purposes of this notice.

from Malaysia, Mexico, Pakistan and Thailand.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

AUGUST 17, 1978.

To facilitate use of these appendixes, the descriptions of the TSUSA item numbers have been simplified. These descriptions are not meant to modify, change or contradict in any way the meaning of the descriptions presented in the TSUSA. In any case where a description conflicts with the TSUSA, the description in the latter will prevail.

APPENDIX A

Category No.	Item	TSUSA No.
	Cotton yarn, carded, singles	
	Not bleached or colored:	
300	Not mercerized	301.—00
300	Mercerized	302.—20
300	Bleached or colored	302.—22
	Cotton yarn, carded, plied	
300	Yarns, carded, plied	302.—24
	Cotton yarn, combed, singles	
301	Yarns, combed, singles	302.—26
	Cotton yarn, combed, plied	
301	Yarns, combed, plied	302.—28
	Pillowcases, carded	
360	Pillowcases, carded, not ornamented (including bolster sets)	363.3020
	Pillowcases, combed	
360	Pillowcases, combed, not ornamented (including bolster sets)	363.3040
	Sheets, carded	
361	Sheets, combed, not ornamented	363.3010
	Sheets, combed	
361	Sheets, combed, not ornamented	363.3030
	Bedspreads and quilts	
	Lace or net bedding, whether or not ornamented:	
	Lace, net or ornamented:	
362	Bedspreads	363.0515
362	Coverlets, quilts and comforters	363.0520
	Not ornamented:	
362	Bedspreads, tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015
362	Bedspreads, other than tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015
362	Coverlets, quilts and comforters, block-printed by hand, not jacquard-figured, of cotton	363.5030
362	Bedspreads, tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Bedspreads, other than tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Coverlets, quilts, and comforters, not block-printed by hand, not jacquard-figured, of cotton	363.5130

APPENDIX A—Continued

Category No.	Item	TSUSA No.
362	Bedspreads, tufted, jacquard-figured, of cotton	363.5515
362	Bedspreads, other than tufted, jacquard-figured, of cotton	363.5515
362	Coverlets, quilts, and comforters, jacquard-figured, of cotton	363.5530
	Towels, dish	
369	Dish towels, with fringe, ornamented	365.7815
369	Dish towels, not jacquard-figured, not ornamented	365.2760
	Towels, other	
	Other towels not ornamented:	
	Valued not over 45 cents each:	
369	Dish towels, terry	366.1820
369	Dish towels of pile or tufted construction	366.1840
369	Terry towels, other than dish towels	366.1855
	Valued over 45 cents each but not over $1.45 per pound:	
369	Dish towels, terry	366.2120
369	Dish towels, of pile or tuft construction	366.2140
	Valued over 45 cents each and over $1.45 per pound:	
369	Dish towels, terry	366.2420
369	Dish towels of pile or tuft construction	366.2440
	Other towels, not ornamented:	
	Not jacquared-figured:	
369	Shop towels (dedicated to use in garages, filling stations and machine shops)	366.2740
369	Other	366.2780
	Table damask and manufacturers	
	Table damask, fancy or figured:	
	Wholly of cotton:	
369	Not bleached or colored	323.—52
369	Bleached but not colored	324.—52
369	Colored, whether or not bleached	325.—52
	Chief value, but not wholly of cotton:	
369	Not bleached or colored	329.—52
369	Bleached but not colored	330.—52
369	Colored, whether or not bleached	331.—52
369	Tablecloths and napkins, damask, not ornamented	366.4200
369	Furnishings, damask, except curtains and drapes, etc., towels, tablecloths, and napkins, not ornamented	366.7500
	Braided and woven elastic	
369	Elastic fabrics, not braided	349.1500
369	Elastic yarns, cordage braids and fabrics, braided, of cotton	349.3095
	Fishing nets and fish netting	
369	Fish netting and fish nets	355.3500
(1)	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastic material or laminated with sheet rubber or plastics	355.6510
	Woven or knit fabrics (except pile or tufted fabrics) coated or filled, N.S.P.F.:	
(1)	Oilcloths, of cotton	365.1000
(1)	Tracing cloths, of cotton	356.1500
(1)	Window hollands	356.2000
(1)	Other, N.S.P.F.	356.2510

APPENDIX A—Continued

Category No.	Item	TSUSA No.
	Pile and tufted fabrics	
	Pile:	
626	Of vegetable fiber, except cotton, containing manmade fiber	346.5025
626	Of silk, containing manmade fiber	346.5625
	Of manmade fiber:	
	Velvets:	
626	Velvets, under 48 inches in width, with cut warp pile, weighing less than 8 oz/yd²	346.6045
626	Other	346.6050
626	Tufted fabrics	346.9000
	Netting in the piece, made on a lace, net or knitting machine:	
	Not ornamented:	
669	Quilling, of manmade fibers	352.3000
	Other:	
669	Made on a Mechlin machine, of manmade fibers	352.4000
(1)	Burnt out lace, in the piece, or in motifs, manmade fibers	352.1000
	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastics, or laminated with sheet rubber or plastics:	
(1)	Over 70 pct by weight of rubber or plastics	355.8100
	Woven or knit fabrics (except pile or tufted) coated or filled N.S.P.F.:	
(1)	Oilcloths, manmade fibers	356.1000
(1)	Tracing cloths, manmade fibers	356.1560
(1)	Other	356.4000
	Textile fabrics, including laminated fabrics, N.S.P.F.:	
	Of vegetable fiber, except cotton, containing manmade fiber:	
(1)	Woven	359.2000
(1)	Knit	359.2000

[1] No category number.

APPENDIX B.—*Men's and boys apparel*

Category No.	Approximate description	TSUSA No.
	SUITS	
333	Cotton, woven	380.1206
333	Cotton, knit	380.0654
359	Cotton, woven	380.0041
359	....do	380.5116
443	Wool, woven	380.0260
443	....do	380.5146
443	....do	380.6350
443	....do	380.6651
443	....do	380.6652
443	....do	380.6653
443	....do	380.6654
643	....do	380.0464
643	....do	380.5176
643	....do	380.8451
643	....do	380.8452
643	Man-mades, knit	380.8145
643	....do	380.8148
643	....do	380.0420
	COATS AND JACKETS	
333	Cotton, woven	380.0042
333	....do	380.0940
333	....do	380.0960

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
333	.....do.....	380.1235
333	.....do.....	380.1255
333	.....do.....	380.5104
459	Wool, knit	380.5795
434	.....do.....	380.6110
433	Wool, woven	380.0240
433	.....do.....	380.5134
433	.....do.....	380.6310
433	.....do.....	380.6611
433	.....do.....	380.6612
633	Man-mades, knit	380.8104
633	.....do.....	380.8105
633	.....do.....	380.0402
633	Man-mades, woven	380.0443
633	.....do.....	380.5164
633	.....do.....	380.8411
633	.....do.....	380.8412
	TROUSERS	
347	Cotton, woven	380.3920
347	.....do.....	380.3924
347	.....do.....	380.3923
347	.....do.....	380.3921
347	.....do.....	380.3930
347	.....do.....	380.3928
347	.....do.....	380.3926
347	.....do.....	380.5124
347	Cotton, knit	380.0033
347	.....do.....	380.0660
347	Cotton, woven	380.0071
347	.....do.....	380.0072
447	Wool, woven	380.0265
447	.....do.....	380.5154
447	.....do.....	380.6360
447	.....do.....	380.6660
647	Man-made, knit	380.0435
647	.....do.....	380.0436
647	.....do.....	380.8142
647	.....do.....	380.8166
647	.....do.....	380.8167
647	Man-made, woven	380.0468
647	.....do.....	380.0469
647	.....do.....	380.5184
647	.....do.....	380.8449
647	.....do.....	380.8456
647	.....do.....	380.8457
	OVERCOATS AND RAINCOATS	
334	Cotton	376.5410
334	Cotton, woven	380.0910
334	.....do.....	380.0920
334	.....do.....	380.1210
334	.....do.....	380.1220
334	.....do.....	380.0980
334	.....do.....	380.0990
334	.....do.....	380.1280
334	.....do.....	380.1290
334	.....do.....	380.5108
334	Cotton, knit	380.0002
334	.....do.....	380.0611
334	Cotton, woven	380.0045
434	Wool, woven	380.0245
434	.....do.....	380.5136
434	.....do.....	380.5137
434	.....do.....	380.6320
434	.....do.....	380.6615
434	.....do.....	380.6616
634	Man-made, knit	376.5610
634	.....do.....	380.8101
634	.....do.....	380.8109
634	.....do.....	380.8111
634	.....do.....	380.0405
634	Man-mades, woven	380.0445
634	.....do.....	380.5168
634	.....do.....	380.8410
633	.....do.....	380.8416
634	.....do.....	380.8417
	SHIRTS	
338	Cotton, knit	380.0645
338	.....do.....	380.0651

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
338	.....do.....	380.0652
340	Cotton, woven	380.0060
340	.....do.....	380.2750
340	.....do.....	380.2760
340	.....do.....	380.2782
340	.....do.....	380.2788
340	.....do.....	380.2792
340	.....do.....	380.2798
340	.....do.....	380.2770
340	.....do.....	380.5112
338	Cotton, knit	380.0028
338	.....do.....	380.0029
459	Wool, knit	380.5795
438	.....do.....	380.0205
438	.....do.....	380.6120
440	Wool, woven	380.0255
440	.....do.....	380.5142
440	.....do.....	380.6340
440	.....do.....	380.6640
638	Man-made, knit	380.0418
638	.....do.....	380.0419
638	.....do.....	380.8138
638	.....do.....	380.8139
640	Man-mades, woven	380.0455
640	.....do.....	380.8435
640	.....do.....	380.0458
640	.....do.....	380.0461
640	.....do.....	380.5172
640	.....do.....	380.8440
640	.....do.....	380.8445
	SWEATERS AND CARDIGANS	
345	Cotton, knit	380.0658
345	.....do.....	380.0659
345	.....do.....	380.0030
445	Wool, knit	380.5730
445	.....do.....	380.5740
445	.....do.....	380.5750
445	.....do.....	380.0209
445	.....do.....	380.5900
445	.....do.....	380.6130
445	.....do.....	380.6140
445	.....do.....	380.6145
445	.....do.....	380.6155
459	.....do.....	380.6160
459	.....do.....	380.7215
645	Man-mades, knit	380.0422
645	.....do.....	380.0426
645	.....do.....	380.8152
645	.....do.....	380.8153
	DRESSING GOWNS AND ROBES	
350	Cotton, woven	380.0049
350	.....do.....	380.1520
350	.....do.....	380.1540
350	.....do.....	380.1820
350	.....do.....	380.1840
350	Cotton, knit	380.0009
350	.....do.....	380.0620
459	Wool, woven	380.0250
459	.....do.....	380.6330
459	.....do.....	380.6630
650	Man-mades, knit	380.0408
650	.....do.....	380.8117
650	Man-mades, woven	380.0449
650	.....do.....	380.8425
	PAJAMAS AND OTHER NIGHTWEAR	
351	Cotton, knit	380.0011
351	.....do.....	380.0625
351	Cotton, woven	380.2100
351	.....do.....	380.2400
351	.....do.....	380.3909
351	.....do.....	380.0050
651	Man-mades, knit	380.0411
651	.....do.....	380.8123
651	Man-mades, woven	380.0452
651	.....do.....	380.8430
	MUFFLERS, SCARVES, AND SHAWLS	

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
359	Cotton, knit.....do.....	372.1010
359	.....do.....	372.1520
359	Cotton, woven	372.1040
359	.....do.....	372.1540
359	.....do.....	372.1560
359	Wool, knit	372.3000
459	.....do.....	372.1020
459	.....do.....	372.3500
459	Wool, woven	372.1050
459	.....do.....	372.4000
459	.....do.....	372.4500
659	Man-made, knit	372.1030
659	.....do.....	372.7000
659	Man-mades, woven	372.1060
659	.....do.....	372.7520
659	.....do.....	372.7540
	NECKTIES	
359	Cotton, knit	373.0500
359	.....do.....	373.1000
359	Cotton, woven	373.0500
359	Wool, woven	373.1000
459	Wool, knit	373.0500
459	.....do.....	373.1500
659	Man-mades, knit	373.0500
659	.....do.....	373.2500
659	Man-mades, woven	373.0500
659	.....do.....	373.2700
459	Wool, woven	373.0500
459	.....do.....	373.1500
	VESTS	
359	Cotton, woven	380.0073
359	.....do.....	380.3320
359	.....do.....	380.3620
	BEACHWEAR	
659	Man-mades, knit	380.0429
659	.....do.....	380.8163
659	Man-mades, woven	380.0465
659	.....do.....	380.8453
	UNDERWEAR	
338	Cotton, knit	380.0018
338	.....do.....	380.0021
352	.....do.....	380.0635
338	.....do.....	380.0640
352	.....do.....	378.1030
352	.....do.....	378.1530
352	.....do.....	378.1520
352	.....do.....	378.0540
352	Cotton, woven	378.2011
352	.....do.....	378.2510
352	.....do.....	378.0561
459	Wool, knit	378.3510
459	Wool, woven	378.4000
459	.....do.....	378.4500
638	Man-mades, knit	380.0416
638	.....do.....	380.0417
638	.....do.....	380.8133
638	.....do.....	380.8135
652	.....do.....	378.0545
652	.....do.....	378.6015
652	.....do.....	378.6020
652	Man-mades, woven	378.0565
652	.....do.....	378.6511
	GLOVES	
331	Cotton, woven	704.0520
331	.....do.....	704.0555
331	.....do.....	704.4010
331	.....do.....	704.4025
331	.....do.....	704.4055
331	Cotton, knit	704.1020
331	.....do.....	704.1055
331	.....do.....	704.4502
331	.....do.....	704.4504

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
331	.....do.....	704.4506
331	.....do.....	704.4508
331	.....do.....	704.4522
331	.....do.....	704.4524
331	.....do.....	704.4526
331	.....do.....	704.4555
331	Cotton, other.....	704.1520
331	.....do.....	704.1555
331	.....do.....	704.5015
331	.....do.....	704.5055
—	Leather.....	705.3510
—	.....do.....	705.3530
—	.....do.....	705.3550
—	.....do.....	705.3560
—	.....do.....	705.4000
—	.....do.....	705.4200
—	.....do.....	705.4300
—	.....do.....	705.4500
—	.....do.....	705.4600
—	.....do.....	705.4800
—	.....do.....	705.5000
—	.....do.....	705.5100
—	.....do.....	705.5300
—	.....do.....	705.5400
—	.....do.....	705.5500
—	.....do.....	705.5700
—	.....do.....	705.5800
—	Rubber and plastics (dipped)..	705.8600
	LEATHER WEARING APPAREL	
333	With cotton, woven.....	791.7412
334	.....do.....	791.7413
347	.....do.....	791.7418
359	With cotton, woven.....	791.7426
459	With wool, knit.....	791.7430
459	With wool, woven.....	791.7440
645	With man-mades, knit.....	791.7454
648	.....do.....	791.7458
633	.....do.....	791.7459
634	.....do.....	791.7460
659	.....do.....	791.7464
633	With man-mades, woven.....	791.7470
634	.....do.....	791.7471
647	.....do.....	791.7380
	With other fibers.....	791.7484
	PLAYSUITS	
337	Cotton, knit.....	380.0015
337	.....do.....	380.0630
337	Cotton, woven.....	380.0058
337	.....do.....	380.3912
637	Cotton, knit.....	380.0414
637	.....do.....	380.8127
	OTHER MEN;S AND BOYS' APPAREL	
359	Cotton, knit.....	380.0037
359	.....do.....	380.0695
359	.....do.....	380.4505
359	.....do.....	380.7205
359	Cotton, woven.....	376.5420
359	.....do.....	380.0078
359	.....do.....	380.0080
359	.....do.....	380.0531
359	.....do.....	380.3000
359	.....do.....	380.3980
359	.....do.....	380.3982
359	.....do.....	380.3984
359	.....do.....	380.5128
359	.....do.....	380.7505
359	.....do.....	380.9005
459	Wool, knit.....	380.4515
459	.....do.....	380.5795
459	.....do.....	380.6160
459	.....do.....	380.7215
459	Wool, woven.....	372.4000
459	.....do.....	372.4500
459	.....do.....	380.0270
459	.....do.....	380.0533
459	.....do.....	380.5158
459	.....do.....	380.6390
459	.....do.....	380.6690

APPENDIX B.—*Men's and boys apparel*—Continued

Category No.	Approximate description	TSUSA No.
459	.....do.....	380.7515
459	.....do.....	380.9015
659	Man-mades, knit.....	376.5620
659	.....do.....	380.0407
659	.....do.....	380.0439
659	.....do.....	380.4525
659	.....do.....	380.7225
659	.....do.....	380.8113
659	.....do.....	380.8192
659	Man-mades, woven.....	380.0472
659	.....do.....	380.0475
659	.....do.....	380.0536
659	.....do.....	380.5188
659	.....do.....	380.7525
659	.....do.....	380.8460
659	.....do.....	380.8486
659	.....do.....	380.9025

NOTE.—In addition, all similar products not covered by these categories because they are "certified hand-loomed and folklore products" are considered "men's and boys' apparel" for the purposes of this petition.

[FR Doc. 78-23603 Filed 8-25-78; 8:45 am]

[4810-22]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM THAILAND

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are paid by the Government of Thailand to manufacturers or exporters of textile products. A preliminary determination will be made not later than January 5, 1979, and a final determination not later than July 5, 1979.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on July 5, 1978, alleging that benefits conferred by the Government of Thailand upon the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool, and man-made fiber from Thailand constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice, "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements;[1] and "men's and boys' apparel" includes those items described in the appendix of this notice, together with their Tariff Schedule classifications.

The imported merchandise classifiable under item Nos. 705.3000, 791.7620, and 791.7660 of the Tariff Schedules of the United States, Annotated (TSUSA) are eligible for duty-free entry under the generalized system of preferences. Accordingly, before countervailing duties may be assessed, the U.S. International Trade Commission must render an affirmative injury determination pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)). In view of the absence of any imports of this duty-free merchandise from Thailand during at least the last 3 years, it is determined that an investigation with respect to these three item numbers will not be conducted.

The bounties or grants alleged in the petition are as follows:

(1) Exemption from corporate income taxes on net profits for 3 to 8 years for certain companies approved by the Board of Investment.

(2) Additional fiscal benefits granted by the BOI for locating in certain specified areas of the country, including: (a) a 100 percent tax holiday or a partial exemption of tax for a certain time period; (b) reduction of business taxes on sales of products for a maximum of 5 years; (c) following expiration of the tax holiday, deduction from taxable income of double the actual cost of transport, water and electricity; (d) deduction from taxable income of up to 25 percent of the capital investment in plant and amenities; and (e) reduction of income tax by 50 percent for 5 years following the expiration of the initial 100 percent tax holiday period.

(3) Benefits granted to companies located in areas controlled by the Industrial Estate Authority, including the

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[1] The textile items include those in categories 310-320, 330, 363, 400, 410, 411, 425, 429, 444, 600-605, 610-614, 625, and 627 of the *Correlation: Textile and Apparel Categories with Tariff Schedules of the United States, Annotated*, as published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), and amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), and June 22, 1978 (43 FR 26773). In addition, products listed in appendix A and all similar products not covered by these categories because they are considered "certified handloomed and folklore products" are considered "textile mill products" for purposes of this notice.

provision of power and water at subsidized rates and availability of land at low rental or acquisition cost.

(4) Advisory technical and training services provided free of charge to manufacturers by the Ministry of Industry.

The incentives described above would be considered a bounty or grant only if a preponderance of production is exported.

(5) Complete relief from "business taxes" (levied on gross monthly receipts and collected at the point of origin) through either an outright exemption, a deduction from income tax or a cash rebate for companies producing for export.

(6) Exemption from exchange controls on remittance of profits and dividends.

Pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than January 5, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Thailand upon the manufacture, production, or exportation of merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than July 5, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

A concurrent notice is being published with respect to companion cases involving such or similar merchandise from Malaysia, Mexico, Pakistan, and Singapore.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

AUGUST 17, 1978.

To facilitate use of these appendixes, the descriptions of the TSUSA item numbers have been simplified. These descriptions are not meant to modify, change or contradict in any way the meaning of the descriptions presented in the TSUSA. In any case where a description conflicts with the TSUSA, the description in the latter will prevail.

APPENDIX A

Category No.	Item	TSUSA No.
	Cotton yarn, carded, singles	
	Not bleached or colored:	
300	Not mercerized	301.—00
300	Mercerized	302.—20
300	Bleached or colored	302.—22
	Cotton yarn, carded, plied	
300	Yarns, carded, plied	302.—24
	Cotton yarn, combed, singles	
301	Yarns, combed, singles	302.—26
	Cotton yarn, combed, plied	
301	Yarns, combed, plied	302.—28
	Pillowcases, carded	
360	Pillowcases, carded, not ornamented, (including bolster sets)	363.3020
	Pillowcases, combed	
360	Pillowcases, combed, not ornamented (including bolster sets)	363.3040
	Sheets, carded	
361	Sheets, combed, not ornamented	363.3010
	Sheets, combed	
361	Sheets, combed, not ornamented	363.3030
	Bedspreads and quilts	
	Lace or net bedding, whether or not ornamented;	
	Lace, net or ornamented:	
362	Bedspreads	363.0515
362	Coverlets, quilts and comforters	363.0520
	Not ornamented:	
362	Bedspreads, tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015
362	Bedspreads, other than tufted, block-printed by hand, not jacquard-figured, of cotton	363.5015
362	Coverlets, quilts and comforters, block-printed by hand, not jacquard-figured, of cotton	363.5030
362	Bedspreads, tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Bedspreads, other than tufted, not block-printed by hand, not jacquard-figured, of cotton	363.5115
362	Coverlets, quilts, and comforters, not block-printed by hand, not jacquard-figured, of cotton	363.5130
362	Bedspreads, tufted, jacquard-figured, of cotton	363.5515
362	Bedspreads, other than tufted, jacquard-figured, of cotton	363.5515
362	Coverlets, quilts, and comforters, jacquard-figured, of cotton	363.5530
	Towels, dish	
369	Dish towels, with fringe, ornamented	365.7815
369	Dish towels, not jacquard-figured, not ornamented	365.2760
	Towels, other	
	Other towels not ornamented:	
	Valued not over 45 cents each:	
369	Dish towels, terry	366.1820
369	Dish towels of pile or tufted construction	366.1840
369	Terry towels, other than dish towels	366.1855
	Valued over 45 cents each but not over $1.45 per pound:	
369	Dish towels, terry	366.2120
369	Dish towels, of pile or tuft construction	366.2140
	Valued over 45 cents each and over $1.45 per pound:	
369	Dish towels, terry	366.2420
369	Dish towels of pile or tuft construction	366.2440
	Other towels, not ornamented:	
	Not jacquard-figured:	
369	Shop towels (dedicated to use in garages, filling stations and machine shops)	366.2740
369	Other	366.2780
	Table damask and manufacturers	
	Table damask, fancy or figured:	
	Wholly of cotton:	
369	Not bleached or colored	323.—52
369	Bleached but not colored	324.—52
369	Colored, whether or not bleached	325.—52
	Chief value, but not wholly of cotton:	
369	Not bleached or colored	329.—52
369	Bleached but not colored	330.—52
369	Colored, whether or not bleached	361.—52
369	Tablecloths and napkins, damask, not ornamented	366.4200
369	Furnishings, damask, except curtains and drapes, etc., towels, tablecloths, and napkins, not ornamented	366.7500
	Braided and woven elastic	
369	Elastic fabrics, not braided	349.1500
369	Elastic yarns, cordage braids and fabrics, braided, of cotton	349.3095
	Fishing nets and fish netting	
369	Fish netting and fish nets	355.3500
(1)	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastic material or laminated with sheet rubber or plastics	355.6510
	Woven or knit fabrics, (except pile or tufted fabrics) coated or filled, N.S.P.F.:	
(1)	Oilcloths, of cotton	365.1000
(1)	Tracing cloths, of cotton	356.1500
(1)	Window hollands	356.2000
(1)	Other, N.S.P.F.	456.2510

APPENDIX A—Continued

Category No.	Item	TSUSA No.
	Pile and tufted fabrics	
	Pile:	
626	Of vegetable fiber, except cotton, containing manmade fiber	346.5025
626	Of silk, containing manmade fiber	346.5625
	Of manmade fiber:	
	Velvets:	
626	Velvets, under 48 inches in width, with cut warp pile, weighing less than 8 oz/yd²	346.6045
626	Other	346.6050
626	Tufted fabrics	346.9000
	Netting in the piece, made on a lace, net or knitting machine:	
	Not ornamented:	
669	Quilling, of manmade fibers	352.3000
	Other:	
669	Made on a mechlin machine, of manmade fibers	352.4000
(1)	Burnt out lace, in the piece, or in motifs, manmade fibers	352.1000
	Woven or knit fabrics (except pile or tufted fabrics) coated or filled with rubber or plastics, or laminated with sheet rubber or plastics:	
(1)	Over 70 percent by weight of rubber or plastics	355.8100
	Woven or knit fabrics (except pile or tufted) coated or filled N.S.P.F.:	
(1)	Oilcloths, manmade fibers	356.1000
(1)	Tracing cloths, manmade fibers	356.1560
(1)	Other	356.4000
	Textile fabrics, including laminated fabrics, N.S.P.F.:	
	Of vegetable fiber, except cotton, containing manmade fiber:	
(1)	Woven	359.2000
(1)	Knit	359.2000

[1] No category number.

APPENDIX B.—*Men's and Boys' Apparel*

Category No.	Approximate description	TSUSA No.
	SUITS	
333	Cotton, woven	380.1206
333	Cotton, knit	380.0654
359	Cotton, woven	380.0041
359	....do	380.5116
443	Wool, woven	380.0260
443	....do	380.5146
443	....do	380.6350
443	....do	380.6651
443	....do	380.6652
443	....do	380.6653
443	....do	380.6654
643	Wool, woven	380.0464
643	....do	380.5176
643	....do	380.8451
643	....do	380.8452
643	Manmades, knit	380.8145
643	....do	380.8148
643	....do	380.0420
	COATS AND JACKETS	
333	Cotton, woven	380.0042
333	....do	380.0940
333	....do	380.0960

APPENDIX B.—*Men's and Boys' Apparel*—Continued

Category No.	Approximate description	TSUSA No.
333	....do	380.1235
333	....do	380.1255
333	....do	380.5104
459	Wool, knit	380.5795
434	....do	380.6110
433	Wool, woven	380.0240
433	....do	380.5134
433	....do	380.6310
433	....do	380.6611
433	....do	380.6612
633	Manmades, knit	380.8104
633	....do	380.8105
633	....do	380.0402
633	Manmades, woven	380.0443
633	....do	380.5164
633	....do	380.8411
633	....do	380.8412
	TROUSERS	
347	Cotton, woven	380.3920
347	....do	380.3924
347	....do	380.3923
347	....do	380.3921
347	....do	380.3930
347	....do	380.3928
347	....do	380.3926
347	....do	380.5124
347	Cotton, knit	380.0033
347	....do	380.0660
347	Cotton, woven	380.0071
347	....do	380.0072
447	Wool, woven	380.0265
447	....do	380.5154
447	....do	380.6360
447	....do	380.6660
647	Manmades, knit	380.0435
647	....do	380.0436
647	....do	380.8142
647	....do	380.8166
647	....do	380.8167
647	Manmades, woven	380.0468
647	....do	380.0469
647	....do	380.5184
647	....do	380.8449
647	....do	380.8456
647	....do	380.8457
	OVERCOATS AND RAINCOATS	
334	Cotton	376.5410
334	Cotton, woven	380.0910
334	....do	380.0920
334	....do	380.1210
334	....do	380.1220
334	....do	380.0980
334	....do	380.0990
334	....do	380.1280
334	....do	380.1290
334	....do	380.5108
334	Cotton, knit	380.0002
334	....do	380.0611
334	Cotton, woven	380.0045
434	Wool, woven	380.0245
434	....do	380.5136
434	....do	380.5137
434	....do	380.6320
434	....do	380.6615
434	....do	380.6616
634	Manmades, knit	376.5610
634	....do	380.8101
634	....do	380.8109
634	....do	380.8111
634	....do	380.0405
634	Manmades, woven	380.0445
634	....do	380.5168
634	....do	380.8410
633	....do	380.8416
634	....do	380.8417
	SHIRTS	
338	Cotton, knit	380.0645
338	....do	380.0651

APPENDIX B.—*Men's and Boys' Apparel*—Continued

Category No.	Approximate description	TSUSA No.
338	....do	380.0652
340	Cotton, woven	380.0060
340	....do	380.2750
340	....do	380.2760
340	....do	380.2782
340	....do	380.2788
340	....do	380.2792
340	....do	380.2798
340	....do	380.2770
340	....do	380.5112
338	Cotton, knit	380.0028
338	....do	380.0029
459	Wool, knit	380.5795
438	....do	380.0205
438	....do	380.6120
440	Wool, woven	380.0255
440	....do	380.5142
440	....do	380.6340
440	....do	380.6640
638	Manmades, knit	380.0418
638	....do	380.0419
638	....do	380.8138
638	....do	380.8139
640	Manmades, woven	380.0455
640	....do	380.8435
640	....do	380.0458
640	....do	380.0461
640	....do	380.5172
640	....do	380.8440
640	....do	380.8445
	SWEATERS AND CARDIGANS	
345	Cotton, knit	380.0658
345	....do	380.0659
345	....do	380.0030
445	Wool, knit	380.5730
445	....do	380.5740
445	....do	380.5750
445	....do	380.0209
445	....do	380.5900
445	....do	380.6130
445	....do	380.6140
445	....do	380.6145
445	....do	380.6155
459	....do	380.6160
459	....do	380.7215
645	Manmades, knit	380.0422
645	....do	380.0426
645	....do	380.8152
645	....do	380.8153
	DRESSING GOWNS AND ROBES	
350	Cotton, woven	380.0049
350	....do	380.1520
350	....do	380.1540
350	....do	380.1820
350	....do	380.1840
350	Cotton, knit	380.0009
350	....do	380.0620
459	Wool, woven	380.0250
459	....do	380.6330
459	....do	380.6630
650	Manmades, knit	380.0408
650	....do	380.8117
650	Manmades, woven	380.0449
650	....do	380.8425
	PAJAMAS AND OTHER NIGHTWEAR	
351	Cotton, knit	380.0011
351	....do	380.0625
351	Cotton, woven	380.2100
351	....do	380.2400
351	....do	380.3909
351	....do	380.0050
651	Manmades, knit	380.0411
651	....do	380.8123
651	Manmades, woven	380.0452
651	....do	380.8430
	MUFFLERS, SCARVES AND SHAWLS	

APPENDIX B.—*Men's and Boys' Apparel*—Continued

Category No.	Approximate description	TSUSA No.
359	Cotton, knit	372.1010
359	....do	372.1520
359	Cotton, woven	372.1040
359	....do	372.1540
359	....do	372.1560
359	Wool, knit	372.3000
459	....do	372.1020
459	....do	372.3500
459	Cotton, woven	372.1050
459	....do	372.4000
459	....do	372.4500
659	Manmades, knit	372.1030
659	....do	372.7000
659	Manmades, woven	372.1060
659	....do	372.7520
659	....do	372.7540
	NECKTIES	
359	Cotton, knit	373.0500
359	....do	373.1000
359	Cotton, woven	373.0500
359	Wool, woven	373.1000
459	Wool, knit	373.0500
459	....do	373.1500
659	Manmades, knit	373.0500
659	....do	373.2500
659	Manmades, woven	373.0500
659	....do	373.2700
459	Wool, woven	373.0500
459	....do	373.1500
	VESTS	
359	Cotton, woven	380.0073
359	....do	380.3320
359	....do	380.3620
	BEACHWEAR	
659	Manmades, knit	380.0429
659	....do	380.8163
659	Manmades, woven	380.0465
659	....do	380.8453
	UNDERWEAR	
338	Cotton, knit	380.0018
338	....do	380.0021
352	....do	380.0635
338	....do	380.0640
352	....do	378.1030
352	....do	378.1530
352	....do	378.1520
352	....do	378.0540
352	Cotton, woven	378.2011
352	....do	378.2510
352	....do	378.0561
459	Wool, knit	378.3510
459	Wool, woven	378.4000
459	....do	378.4500
638	Manmades, knit	380.0416
638	....do	380.0417
638	....do	380.8133
638	....do	380.8135
652	....do	378.0545
652	....do	378.6015
652	....do	378.6020
652	Manmades, woven	378.0565
652	....do	378.6511
	GLOVES	
331	Cotton, woven	704.0520
331	....do	704.0555
331	....do	704.4010
331	....do	704.4025
331	....do	704.4055
331	Cotton, knit	704.1020
331	....do	704.1055
331	....do	704.4502
331	....do	704.4504

APPENDIX B.—*Men's and Boys' Apparel*—Continued

Category No.	Approximate description	TSUSA No.
331	....do	704.4506
331	....do	704.4508
331	....do	704.4522
331	....do	704.4524
331	....do	704.4526
331	....do	704.4555
331	Cotton, other	704.1520
331	....do	704.1555
331	....do	704.5015
331	....do	704.5055
.....	Leather	705.3510
.....	....do	705.3530
.....	....do	705.3550
.....	....do	705.3560
.....	....do	705.4000
.....	....do	705.4200
.....	....do	705.4300
.....	....do	705.4500
.....	....do	705.4600
.....	....do	705.4800
.....	....do	705.5000
.....	....do	705.5100
.....	....do	705.5300
.....	....do	705.5400
.....	....do	705.5500
.....	....do	705.5700
.....	....do	705.5800
.....	Rubber and plastics (dipped)	705.8600
	LEATHER WEARING APPAREL	
333	With cotton, woven	791.7412
334	....do	791.7413
347	....do	791.7418
359	....do	791.7426
459	With wool, knit	791.7430
459	With wool, woven	791.7440
645	With manmades, knit	791.7454
648	....do	791.7458
633	....do	791.7459
634	....do	791.7460
659	....do	791.7464
633	With manmades, woven	791.7470
634	....do	791.7471
647	....do	791.7380
.....	With other fibers	791.7484
	PLAYSUITS	
337	Cotton, knit	380.0015
337	....do	380.0630
337	Cotton, woven	380.0058
337	....do	380.3912
637	Cotton, knit	380.0414
637	....do	380.8127
	OTHER MEN'S AND BOYS' APPAREL	
359	Cotton, knit	380.0037
359	....do	380.0695
359	....do	380.4505
359	....do	380.7205
359	Cotton, woven	376.5420
359	....do	380.0078
359	....do	380.0080
359	....do	380.0531
359	....do	380.3000
359	....do	380.3980
359	....do	380.3982
359	....do	380.3984
359	....do	380.5128
359	....do	380.7505
359	....do	380.9005
459	Wool, knit	380.4515
459	....do	380.5795
459	....do	380.6160
459	....do	380.7215
459	Wool, woven	372.4000
459	....do	372.4500
459	....do	380.0270
459	....do	380.0533
459	....do	380.5158
459	....do	380.6390
459	....do	380.6690

APPENDIX B.—*Men's and Boys' Apparel*—Continued

Category No.	Approximate description	TSUSA No.
459	....do	380.7515
459	....do	380.9015
659	Manmades, knit	376.5620
659	....do	380.0407
659	....do	380.0439
659	....do	380.4525
659	....do	380.7225
659	....do	380.8113
659	....do	380.8192
659	Manmades, woven	380.0472
659	....do	380.0475
659	....do	380.0536
659	....do	380.5188
659	....do	380.7525
659	....do	380.8460
659	....do	380.8486
659	....do	380.9025

NOTE.—In addition, all similar products not covered by these categories because they are "certified hand-loomed and folklore products" are considered "men's and boys' apparel" for the purposes of this petition.

[FR Doc. 78-23604 Filed 8-25-78; 8:45 am]

[4810-22]

Office of the Secretary

STEEL WIRE STRAND FOR PRESTRESSED CONCRETE FROM JAPAN

Determination of Sales at Less Than Fair Value and Final Discontinuance of Antidumping Investigation

AGENCY: U.S. Treasury Department.

ACTION: Determination of sales at less than fair value and final discontinuance of antidumping investigation.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that steel wire strand for prestressed concrete from Japan, except for that produced by one company, is being sold at less than fair value. (Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries). This case is being referred to the United States International Trade Commission for a determination whether the less than fair value sales have caused, or are likely to cause, injury to an industry in the United States.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On October 17, 1977, information was

received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of domestic producers alleging that steel wire strand from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). The concerned domestic producers of the subject merchandise are: Armco Steel Corp., Middletown, Ohio; Bethlehem Steel Corp., Bethlehem, Pa; the American Spring Wire Corp., Bedford Heights, Ohio; CF&I Steel Corp., Pueblo, Colo., and Florida Wire and Cable Co., Jacksonville, Fla. An "antidumping proceeding notice", indicating that there was evidence on record concerning injury to, or likelihood of injury to, an industry in the United States, was published in the FEDERAL REGISTER of November 23, 1977 (42 FR 60034). An amendment to that notice was published on December 8, 1977 (42 FR 62113) clarifying the description of the merchandise and correcting the TSUSA item number. A notice announcing withholding of appraisement for 6 months and a tentative determination of sales at less than fair value was published in the FEDERAL REGISTER of May 31, 1978 (43 FR 23671).

For purposes of this notice the term "steel wire strand" means steel wire strand, other than alloy steel, stress-relieved and suitable for use in prestressed concrete, provided for in item number 642.1120 of the tariff schedules of the United States, annotated (TSUSA).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in Customs' investigation and for the reasons noted below, I hereby determine that steel wire strand from Japan, other than that produced by Kawatetsu Wire Products Co., Ltd., is being sold at less than fair value within the meaning of section 201(a) of the act (19 U.S.C. 160(a)). In the case of steel wire strand from Japan produced by Kawatetsu Wire Products Co., Ltd., I hereby discontinue the antidumping investigation.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

A. SCOPE OF THE INVESTIGATION

Approximately 92 percent of the imports of the subject merchandise from Japan are sold for export to the United States by Shinko Wire Co., Ltd. (Shinko), Amagasaki; Sumitomo Electric Industries, Ltd. (Sumitomo), Osaka; Suzuki Metal Industry Co., Ltd. (Suzuki), Tokyo; Kawatetsu Wire Products Co., Ltd. (Kawatetsu,) Tokyo; and Tokyo Rope Manufacturing Co., Ltd. (Tokyo Rope), Tokyo. The investigation therefore was limited to sales by these five manufacturers.

B. BASIS OF COMPARISON

For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the act, the proper basis of comparison appears to be between the purchase price and the home market price of such or similar merchandise on all sales by Shinko, Suzuki, Tokyo Rope and Sumitomo; and between purchase price or exporter's sales price and the price for export to countries other than the United States of such or similar merchandise on sales made by Kawatetsu. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used exclusively for four manufacturers since all sales for export were made to nonrelated customers in the United States. Exporter's sales price, as defined in section 204 of the act (19U.S.C. 163), was used for those sales in which a related importer acted as the seller of the merchandise.

Home market price, as defined in § 153.2, customs regulations (19 CFR 153.2), was used for four manufacturers since such or similar merchandise was sold by those manufacturers in the home market in sufficient quantities to provide a basis for fair value comparisons. In the case of Kawatetsu, sales for exportation to countries other than the United States were used in accordance with § 153.3, customs regulations (19 CFR 153.3), since such or similar merchandise was not sold in the home market in sufficient quantities to form an adequate basis of comparison.

In accordance with § 153.31(b), customs regulations (19 CFR 153.31(b)), pricing information was sought concerning imports, sales to countries other than the United States and home market sales during the period June 1, 1977, through November 30, 1977.

C. PURCHASE PRICE

For purposes of this final determination, purchase price has been calculated on the basis of the C. & F. price to U.S. customers or the price to unrelated trading companies for export to the United States. Deductions have been made for inland freight, shipping expenses and, where applicable, ocean freight.

D. EXPORTER'S SALES PRICE

For the purpose of this determination, exporter's sales prices has been calculated on the c.i.f. U.S. port price to unrelated U.S. customers, with deductions for ocean freight, marine insurance, import duties where applicable, expenses incurred in selling the merchandise in the United States, importing expenses, commissions where applicable, discounts where applicable, inland freight in Japan, expenses incurred in Japan in selling to the United States, and shipping expenses in Japan.

E. HOME MARKET PRICES

For the purpose of this determination, the home market prices have been calculated on the basis of the delivered prices in the home market to related and unrelated purchasers. Sales to related customers were used because such prices do not appear to be lower than the prices to unrelated customers. Adjustments have been made for differences in inland freight, packing, and interest expenses between home market sales and export sales. Deductions have been made, where applicable, for rebates made on home market sales which are directly related to the sales under consideration. These rebates have been historically offered and were negotiated at the time of sales. A claim made by Shinko for an adjustment for warranty expenses has been allowed because the expenses were incurred during the period of investigation and are directly related to the sales under consideration in that the warranty was expressly a condition of the sale of this merchandise. The fact that the warranty expenses during the investigative period resulted from a sale just prior to the period under investigation does not negate the firm's entitlement to this adjustment because normally a lag would occur between time of sale and time of claim, and the actual expenses incurred on sales made during the period would not be ascertainable until later. To the extent the amount incurred appeared to be at a reasonable and consistent level, it is properly allowed.

Claims for the cost of technical services were allowed in the case of Shinko and allowed in part in the case of Sumitomo because the particular costs were consisted to be directly related to the sales under consideration. In the case of Shinko, the claim was for per diem and travel expenses of engineers who visited Shinko's customers after sales to help with various technical problems. In the case of Sumitomo, that part of the claim allowed relates to technical materials provided to customers for resale promotion and for equipment furnished end-users for the purpose of manipulating the purchased steel wire strand. On the other hand, claims made by Sumitomo for certain presale technical service expenses have been denied. These expenses were related primarily to sala-

ries for engineers and support personnel and are regarded as overhead items that do not qualify as "circumstance of sale" since they may be incurred whether or not the sale is consummated.

An adjustment was made for claims made by Shinko, Sumitomo, Tokyo Rope, and Suzuki that they derive a benefit from a lower-than-commercial rate of interest on payments for export merchandise made by the trading companies when they place orders. The payments are allegedly used to finance the purchase of raw materials for the exported product. The purpose of the advance is, however, not relevant to the calculations required by the Act. On the other hand, to the extent the producers derive an interest rate benefit from the prepayments, on their export sales, an adjustment therefor is appropriate.

The above-described adjustments for packing and interest differentials, rebates, warranty expenses, and technical service costs were made in accordance with § 153.10, customs regulations (19 CFR 153.10).

A claim made by Shinko for an adjustment for interest expenses on home market inventory of raw materials has not been allowed because such expenses are viewed as presale expenses which are not directly related to the sales under consideration. Further, a claim by Suzuki for an adjustment for interest expenses based on the weighted-average cost for long-term loans, short-term loans, and discounted promissory notes has been partially denied because the available evidence indicates that such costs directly related to sales were only incurred on discounted promissory notes.

A claim made by Sumitomo for higher costs associated with processing orders for home market sales compared to the costs incurred for export sales has been denied. Treasury's consistent policy in this area has been that such costs are overhead costs for which no adjustment is proper. In addition, a claim made by Sumitomo for interest expense on work-in-process that is supposedly incurred only on home market sales is denied because the interest expense is incurred prior to sale and is viewed as an overhead expense not directly related to the sales under consideration. Therefore, it does not qualify as an adjustment under § 153.10, customs regulations (19 CFR 153.10).

Claims were made by four of the five manufacturers for differences in merchandise. Shinko, Sumitomo, Suzuki, and Tokyo Rope have all claimed that they incurred higher costs of production associated with the manufacture of wire strand for consumption in Japan compared to strand produced for export to the United States. These claims derive from respondents' contention that certain industrial standards exist in the home market which require the use of a higher quality starting material, referred to as piano wire rod, and that piano rod must be treated with a more costly heating process, referred to as lead patenting. These respondents contend their strand exported to the United States is made from lower quality rod and is not lead patented.

The claim for differences in raw material has been denied. Although the Japanese standard for wire strand specifies piano wire rod as the starting material from which the strand is to be produced, and no comparable American standard exists, inadequate evidence has been presented to prove that the piano wire rod allegedly used to make strand for domestic consumption results in a strand with identifiable physical differences from the strand sold for export production. In fact, the customs service performed laboratory analyses of the two types of strand and could detect no significant differences between them. Moreover, two of the manufacturers did not permit verification of this claim at all and a third did not provide meaningful documentation of its claim.

An adjustment for differences in the merchandise resulting from lead patenting the home market product has been allowed. Although the Japanese standards relied upon do not specify that lead patenting is to be used in the production of wire strand, an agency of the Japanese Government has confirmed that "lead patenting is applied to all wire strand manufactured in accordance with the Japanese standards for wire strand. The available information indicates that the great bulk of the merchandise produced for home consumption is, in fact, lead patented, while the merchandise produced for export is not subject to this treatment. Customs' testing has corroborated this claim. Therefore, an adjustment has been made, based upon the verified differences between the costs incurred to each company in performing this process for home market production and using other processes for their export production.

Petitioners have argued that even if Japanese home market strand is lead patented due to local requirements and export strand may not be subject to this treatment, no adjustment is warranted because in the U.S. market the patented strand would command no higher price. Because U.S. buyers would attribute no value to the alleged difference in the product, they claim no adjustment based on cost should be made. In a number of cases we have attempted to corroborate the amount of an alleged cost differential by testing it against its market value, most recently in silicon metal from Canada. On the other hand, in the case of passenger automobiles from Germany (41 FR 20196, May 17, 1976), an adjustment was made for the cost of emission controls mandated for models exported to the U.S. even though no value would have been attributed to them in the home market (indeed they were claimed to detract from the value of the automobile in the eyes of home market buyers). This case presents the reverse of that situation. The Department cannot overlook an apparent requirement of one national market even if the cost incurred in meeting that requirement would be accorded no value in the other. Accordingly, an adjustment should be allowed for the difference in cost between lead patenting home market strand and control cooling the export product.

Sumitomo has made a further claim for an adjustment to account for costs allegedly arising from manufacturing processes employed in the production of strand for home consumption to assure a flawless strand, which processes are not used on strand sold for export. This claim includes costs for such processing steps as billet grinding, drawing, stranding and stress-relieving, plus an allowance for alleged differences in production yield. However, Sumitomo has not proved that actual physical differences result in the merchandise produced for the two markets. However, Sumitomo has asserted that customs' testing of steel wire strand was not designed to detect flaws in surface characteristics and thus, could not be used to determine whether the claim relating to billet grinding was valid. Therefore, customs will now promptly conduct tests to determine the validity of that claim. If differences in the merchandise are revealed as a result of these tests, the Department will make an appropriate adjustment and will advise the International Trade Commission of any resulting change in the margins. Under Treasury's interpretation of § 153.11 of the customs regulations (19 CFR 153.11), permitting allowances only for actual differences in the merchandise, the claim adjustments for billet grinding and other production processes must be denied at this time.

Counsel for Sumitomo has argued that if these adjustments cannot be allowed under § 153.11, because of Sumitomo's failure to prove identifiable differences in merchandise, the adjustments ought to be allowed as "circumstance-of-sale" adjustments under § 153.10 (19 CFR 153.10). This argument has been rejected because that regulation relates solely to "circumstances" surrounding the marketing of the product. It has been long-established Treasury practice to separate

claims which distinctly relate to the sale of the merchandise as opposed to its production.

Shinko, Suzuki, and Tokyo Rope have all made claims for adjustments for cutting costs associated with strand sold in the home market which has been cut to purchasers' specifications. These manufacturers contend that no sales to the United States entail cutting costs. The omission of cut strand still leaves sufficient sales of uncut strand, which is considered to be more similar for purposes of comparison.

Rather than to consider the basis for an adjustment for cutting costs, it has been determined that it is more appropriate to omit cut strand from the price comparisons.

F. SALES PRICE FOR EXPORTATION TO COUNTRIES OTHER THAN THE UNITED STATES

For the purposes of this determination, sales price for exportation to countries other than the United States, in the case of Kawatetsu, has been calculated on the basis of the f.o.b. price to an unrelated trading company. Deductions have been made for inland freight and shipping expenses. An adjustment to the price has been made for the difference between the interest expenses incurred in selling the merchandise to the United States and that incurred in selling to countries other than the United States.

Third-country sales used for purposes of this determination were to the United Arab Emirates (UAE), Canada and Ecuador. Of the three sizes of strand for which comparisons were made, only one was sold to more than a single third-country. In that instance, wherein there were sales to both Canada and the UAE, a weighted-average of sales to those two countries was used. Generally, where there are sales to more than one third country, a single market would be chosen as the basis of comparison. The criteria for selection would normally include factors such as volume of sales, similarity in quantities of individual sales compared to those to the United States, similarity in development of market, and the regularity of sales over an extended period of time.

In this case, a single sale to the UAE comprised by far the largest volume of all third market sales during the period investigated; the quantity of that sale was larger than the quantities of most, but not all, individual sales to the United States. It would be inappropriate to disregard these sales entirely. There were also several sales to Canada individually in quantities substantially smaller than those to the United States. However, Canada has historically been a regular market for Kawatetsu. It would be inappropriate to disregard such sales. Accordingly, it was concluded that under these circumstances, a weighted-average of sales to both countries would best provide a proper "fair value" for the merchandise.

G. RESULT OF FAIR VALUE COMPARISONS

Using the above criteria, comparisons were made on 98.7 percent of sales to the United States by the five manufacturers investigated. The table below sets forth the margins found on those companies covered by this investigation:

Manufacturer	Sales compared at margin (in percent)	Range of margins (in percent)	Weighted-average margin (in percent)
Shinko	100	1.5-26.2	13.3
Sumitomo	95.6	0.4-32.7	15.8
Suzuki	93.3	0.1-15.5	6.9
Kawatetsu	52.5	0.1- 4.0	0.6
Tokyo Rope	83.8	0.3-11.7	4.5

In the case of Kawatetsu, the weighted/average margin is considered minimal in relation to the total volume of sales. In addition, formal assurances have been received from that producer that it would make no future sales at less than fair value within the meaning of the Act.

The Secretary has provided an opportunity to known interested parties to present written and oral views pursuant to § 153.40, Customs regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

The order to withhold appraisement on the subject merchandise from Japan, cited above and published in the FEDERAL REGISTER on May 31, 1978 (43 FR 23671), is hereby terminated with respect to Kawatetsu, effective upon publication of this notice.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

AUGUST 21, 1978.

[FR Doc. 78-24128 Filed 8-25-78; 8:45 am]

[4810-40]

Office of the Secretary

[Department Circular Public Debt Series—No. 21-78]

TREASURY NOTES OF SEPTEMBER 30, 1982

Series J-1982

AUGUST 23, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of United States securities, designated Treasury Notes of September 30, 1982, Series J-1982 (CUSIP No. 912827 JA 1). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated September 6, 1978, and will bear interest from that date, payable on a semiannual basis on March 31, 1979, and each subsequent 6 months on September 30 and March 31, until the principal becomes payable. They will mature September 30, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure depositis of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, August 29, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 28, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a one-eighth of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid in all of the securities. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretarty of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, September 6, 1978, at the Federal Reserve bank or branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, September 1, 1978, if the check is drawn on a bank in the Federal Reserve district of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Dept), or

(b) Thursday, August 31, 1978, if the check is drawn on a bank in another Federal Reserve district.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted

securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "the Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "the Secretary of the Treasury for coupon (securities offered by this circular to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve bank or branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to recieve interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve bank or branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

NOTE.—The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 78-24170 Filed 8-23-78; 3:42 pm]

[8320-01]

VETERANS ADMINISTRATION

ADVISORY COMMITTEE ON STRUCTURAL SAFETY OF VETERANS ADMINISTRATION FACILITIES

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in room 442 at the Lafayette Building, 811 Vermont Avenue NW., Washington, D.C. on October 13, 1978 at 10 a.m. The Committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake, and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. James Lefter, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office, phone 202-389-2864, prior to October 11, 1978.

Dated: August 17, 1978.

By direction of the Administrator.

JOHN J. LEFFLER,
Associate Deputy Administrator.

[FR Doc. 78-24127 Filed 8-25-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 99]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 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 September 27, 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.

MC-FC-77459 filed July 10, 1978. Transferee: WAYNE RAMESBOTTOM, d.b.a. WAYNE'S TRUCKING, 406 Bell Street, Ingersoll, Ontario, Canada, N5C 2P7. Transferor: William Wellington Connolly, (Freida Connolly—Executrix) R.R. No. 1, Hyde Park, Ontario, Canada NOM 1Z0. Representative: S. Harrison Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC, 2005. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. 126628, issued August 15, 1967, as follows: Face and decorative brick (except refractory brick), from Dearborn, MI, to ports of entry on or adjacent to the United States-Canada boundary line located on or near the St. Clair and Detroit Rivers restricted to traffic destined to points in the Province of Ontario, Canada. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77730, filed June 29, 1978. Transferee: ALBINA MOVING & STORAGE CO., 714 North Fremont Street, Portland, OR 97227. Transferor: Albina Transfer Co., 714 North Fremont Street, Portland, OR 97227. Representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC 732, issued January 24, 1951, as follows: *Household goods*, as defined in practices of Motor Common Carriers of household goods, 17 MCC 467, between Portland, OR and points in WA. Transferee presently holds no authority from this commission and applica-

tion has not been filed for temporary authority under section 210a(b).

MC FC 77743, filed July 5, 1978. Transferee: PAUL W. TAYLOR CO., INC., 13 Broadway, Stoneham, MA 02180. Transferor: J. J. Donovan & Sons, Inc., 35 Swan Street, Medford, MA 02155. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate No. MC 21643, issued March 24, 1941, as follows: *Household goods, office furniture and equipment, and store fixtures,* between Somerville, MA, and points within 25 miles thereof, on the one hand, and, on the other, points in ME, NH, VT, RI, CT, NY, and NJ. Transferee holds no authority from this commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77748 filed July 6, 1978. Transferee: FIFE TRUCKING, INC., Route 1, Box 253, Riverton, WY 82501. Transferor: Osborne Trucking Co., Inc., 1008 Sierra Drive, Riverton, WY 82501. Representative: Brian Rideneour, P.O. Box 82028, Lincoln, NE 68501. Authority sought for purchase of a portion of the operating rights of transferor as set forth in permits MC 133741 (sub-1), MC 133741 (sub-5), and MC 133741 (sub-6), issued December 23, 1969, May 14, 1971, and October 21, 1970, respectively, as follows: *Cement,* in bulk, from Montana City, MT, and Devil's Slide, UT, to Riverton, WY; *concrete pipe and precast concrete products,* from Riverton, WY, to points in CO, ID, and UT; *reinforcing steel mesh, reinforcing steel bars, angle iron, steel bars, and steel channels,* from Pueblo, CO, to Riverton, WY; Poly-Vinyl chloride pipe, from Austin, MN, to points in WY, CO, ID, MT, NE, SD, and UT; *machinery, equipment, materials, and supplies used in or in connection with the manufacture of concrete products* between Riverton, WY, on the one hand, and on the other, specified points in MT, ND, SD, MN, and IA. Transferee presently holds no authority from the Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77749, filed July 6, 1978. Transferee: FUGAZY CONTINENTAL CORP. OF CONNECTICUT, 645 Madison Avenue, New York, NY 10022. Transferor: Airport Bus Service, Inc. (Albert Altesman, trustee in bankruptcy), 7 Dey Street, New York, NY 10007. Representative: Arthur Wagner, 600 Madison Avenue, New York, NY 10022. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate MC 126916, issued May 10, 1976, as follows: Passengers and their baggage, in the same vehicle with passengers, between New Haven, CT, and the John F. Kennedy International Airport, New York, NY, serving the intermediate points of Stratford, Bridgeport, Milford, Fairfield, Westport, Norwalk, Darien, Stamford, and Greenwich, CT, and La Guardia Airport, Flushing (Main Street) and Jamaica (Sutphin Boulevard) Stations of the Long Island Rail Road Co., New York, NY, over specified routes. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77757, filed July 18, 1978. Transferee: McNULTY TANK LINES DIVISION, McNULTY INDUSTRIES, INC., d.b.a. McNULTY TANK LINES, U.S. Highway 130, Bridgeport, NJ 08014. Transferor: Skyline Transport, Inc., 1910 Russell Street, Baltimore, MD 21230. Representative: H. Neil Garson, Esq., 3251 Old Lee Highway, Suite 400, Fairfax, VA 22030. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in certificate MC 128642 (Sub-7) issued February 23, 1972, as follows: *Corn products,* in bulk, from the facilities of A. E. Staley Manufacturing Co. at or near Morrisville, PA, to points in CT, DE, FL, GA, IN, KY, ME, MD, NA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77759, filed July 18, 1978. Transferee: HUGH J. RITCHIE, d.b.a. TRUCKIT, 6463 East Canning Street, Los Angeles, CA 90040. Transferor: Hugh J. Ritchie and George Krocos, a partnership, d.b.a. Truckit, 6463 East Canning Street, Los Angeles, CA 90040. Representative: Hugh J. Ritchie, 3200 Wilshire Boulevard, Suite 809, Los Angeles, CA 90010. Authority sought for purchase by transferee of the operating rights of transferor as set forth in permit MC 140880 (Sub-1), issued December 9, 1976, as follows: Foundry compounds and supplies (except commodities in bulk), from Georgetown and Danville, IL, Cleveland, Columbus, Hamilton, and Ashtabula, OH, Milwaukee, WI, and Muse, PA, to Vernon and City of Commerce, CA. Transferee holds no authority from this commission and application has not been filed for temporary authority under section 210a(b).

MC-FC-77766, filed July 11, 1978. Transferee: THRUWAY FREIGHT LINES, INC., P.O. Box 56, Elmwood Park, NJ 07407. Transferor: Stacey-Adam Warehouses, Inc., 84-132 Lockwood Street, Newark, NJ 07105. Representative: George A. Olsen, 69 Tonnell Avenue, Jersey City, NJ 07306. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate MC 64075, issued August 23, 1973, as follows: General commodities, with the usual exceptions, between Newark, NJ, and New York, NY. Transferee presently holds authority under MC 119090 and subs thereto. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77767, filed July 11, 1978. Transferee: BOOTHEEL TRANSPORTATION CO., 1238 Meadowbrook Lane, P.O. Box 1088, Cape Girardeau, MO 63701. Transferor: Righter Trucking Co., Inc., 1238 Meadowbrook Lane, P.O. Box 1088, Cape Girardeau, MO 63701. Representative: Guy H. Postell, Attorney at Law, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in certificate MC 75281 (Sub-8), issued June 3, 1977, as follows: *Pipe, wire, cable, cord sets, plastic materials, and material equipment and supplies* used in the conduct of such business, between the facilities of Triangle PWC, Inc., a subsidiary of Triangle Industries, Inc., at Sikeston, MO, on the one hand, and, on the other, facilities at San Francisco and Los Angeles, CA, and Portland, OR. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77771, filed June 27, 1978. Transferee: FRANCES J. LINDEMAN, 2010 Greenwood Street, Harrisburg, PA 17104. Transferor: W. S. Kurtz & Son, Inc., 2010 Greenwood Street, Harrisburg, PA 17104. Representative: Robert C. Spitzer, Esq., Nauman, Smith, Shissler & Hall, P.O. Box 840, 6 North Third Street, Harrisburg, PA 17108. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate MC 91449 issued January 25, 1960, as follows: Household goods between Harrisburg, PA, and points within 5 miles of Harrisburg on the one hand, and, on the other, points in MD, NJ, and NY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77775, filed July 18, 1978. Transferee: JOHN BUCHANAN, d.b.a. BUCHANAN & SONS, 105 Jeff Davis Avenue, P.O. Box 774, Selma, AL 36701. Transferor: Deason Transfer & Storage Co., Inc., 105 Jeff Davis Avenue, Selma, AL 36701. Representative: J. Douglas Harris, 200 South Lawrence Street, Montgomery, AL 36104. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate of registration MC 120899 (Sub-1), issued

August 15, 1968, as follows: Household goods within a 200-mile radius of Clanton, AL. Transferee holds no operating rights from the Commission. Application for temporary authority under 210(a)b has not been filed.

MC-FC-77777, filed July 20, 1978. Transferee: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Transferor: Trans-Ways Co., Route 3, Moscow, PA 18444. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought for purchase by transferee of the operating rights of transferor as set forth in permit MC 135182 (Sub-1), issued April 11, 1972, as follows: Materials, supplies, and products used in or produced by the food processing industry (except commodities in bulk), between Erie and North East, PA, and Westfield, Dunkirk, Buffalo, and Newark, NY, on the one hand, and, on the other, points in NJ, NY, and PA. Transferee presently holds no authority from this commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77780, filed July 25, 1978. Transferee: E. W. HUNDLEY, 4501½ West Marginal Way SW., Seattle, WA 98106. Transferor: Alaska Coast Transport, Inc. (G. S. (Stu) Douglas, successor/trustee in bankruptcy), 417 Norton Building, Seattle, WA 98104. Representative: Wallace Aiken, Esq., Aiken, St. Louis & Liljeg, 1215 Norton Building, Seattle, WA 98104. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificates MC 127031, and Subs-1, -2, and -5, issued May 31, 1966, September 1, 1965, August 10, 1065, and May 13, 1969, as follows: General commodities, with exceptions, between Juneau, AK, and points within 25 miles thereof on the one hand, and, on the other, Tok Junction, AK, and Blaine and Sumas, WA; between points within 25 miles of Juneau, AK, including Juneau; and between points in Alaska south and east of the United States-Canada boundary line north of Haines, AK; and household goods between those points in Alaska south and east of the international boundary line between the United States and Canada located north of Haines, AK, on the one hand, and, on the other, Seattle, WA, with restrictions. Transferee presently holds no authority from this Commission. Application for temporary authority under section 210a(b) was granted July 31, 1978.

MC-FC-77784, filed July 26, 1978. Transferee: C.O.D.E., INC., 4800 Colorado Boulevard, Denver, CO 80216. Transferor: Nolte Bros. Truck Line, Inc., 4800 Colorado Boulevard, Denver, CO 80216. Representative: Donald Stern, Attorney at Law, 7171 Mercy Road, Suite 610, Omaha, NE 68106. Authority sought for transfer of the operating rights of Nolte Bros. Truck Line, Inc., to C.O.D.E., Inc. Operating rights sought to be transferred by transferee of transferor as set out in certificates MC 25869 and all subs thereunder. The operating rights include general commodities over regular routes between Chicago, IL, to Omaha, NE, and various irregular routes authorities to transport meats and packinghouse products, furniture and furniture parts, chemicals, foodstuffs, and various other specified commodities, from, to, or between points in CO, CT, DE, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, MT, NE, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, UT, VA, WV, WI, and WY. Transferee currently holds no operating authority from the Commission but is affiliated with transferor and Utica Transfer, Inc. Application has not been filed under section 210a(b) for temporary authority.

MC-FC-77789, filed July 28, 1978. Transferee: WALTER J. LUBINSKI AND KENNETH E. KOCHER, a partnership, d.b.a. L & K TRANSPORTATION, Rural Delivery No. 4, Box 199, Dallas, PA 18612. Transferor: Russell Parsons, Rural Delivery No. 5, Box 98, Dallas, PA 18612. Representative: S. Berne Smith, Attorney at Law, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificates MC 136480 and (Sub-1) issued August 20, 1975 and October 7, 1976 respectively as follows: *Foodstuffs* (except in bulk) from Penn Yan, Long Island City, Maspeth, and New York, NY, to Pridgeton, East Rutherford, Elizabeth, and Vineland, NJ, and La Grange, IL, to the facilities of Robert Sosnick located at Los Angeles and South San Francisco, CA, Portland, OR, and Seattle, WA. *Wax candles*, from Newburgh and Brooklyn, NY, and Farmingdale, NJ, to the facilities of Robert Sosnick located at Los Angeles and South San Francisco, CA, Portland, OR, and Seattle, WA. *Wine* (except in bulk), from points in the New York, NY, Harbor Limits as defined in 49 CFR 1070.1(a) to the facilities of Robert Sosnick located at Los Angeles and South San Francisco, CA, Portland, OR, and Seattle, WA. *Anthracite filer media*, from points in WY, Lackawanna and Luzerne Counties, PA, to points in that part of the U.S. lying on and west of a line beginning at the mouth of the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada. *Foodstuffs* (except in bulk and except frozen), from Farmingdale, NJ, to the facilities of J. Sosnick & Son at Los Angeles and South San Francisco, CA, Portland, OR, and Seattle, WA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-24172 Filed 8-25-78; 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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[6320-01]

1

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the August 23, 1978, agenda; M-155, Amdt. 3, August 28, 1978.

TIME AND DATE: 1:30 p.m., August 23, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 15. Docket 32420, Petition of Alaska Airlines, Inc., and Certain Other Certificated Air Carriers for Rulemaking (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On August 22, 1978, the staff learned that due to a delay in coordination by other bureaus, the Board will not receive this item in time for adequate consideration prior to the Wednesday, August 23, 1978, meeting. We expect the coordination process to be completed so that the Board can consider this item next week. Accordingly, the following Members have voted that agency business requires the deletion of Item 15 and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1710-78 Filed 8-24-78; 9:32 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

Notice of addition of item from the August 23, 1978, agenda; M-155, Amdt. 4, August 28, 1978.

TIME AND DATE: 1:30 p.m., August 23, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Addition: 5a. Aero Uruguay, S.A.: Petition for reconsideration of staff action denying authority under part 375 to operate four cargo charter flights (BIA, BPDA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On August 21, 1978, the Director, Bureau of International Aviation denied the applications of Aero Uruguay for foreign aircraft permits to operate four cargo charters under 1108(b) of the act. On August 22, 1978, Aero Uruguay petitioned the Board for reconsideration of the staff's action. The first of the flights was to depart August 22, 1978. Vice Chairman Minetti, and Members O'Melia and Bailey, voting separately in their offices reversed the staff in part and decided to allow the flight scheduled to depart Montevideo for New York on the evening of August 22, 1978. Action on the three remaining flights were deferred pending consideration at the August 23, 1978 Board meeting. The next flight departs August 24, 1978. I move that agency business required that the Board meet on less than 7 days' notice, and that no earlier announcement of this meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1715-78 Filed 8-24-78; 3:50 pm]

[6320-01]

3

CIVIL AERONAUTICS BOARD.

Notice of deletion of item to the August 23, 1978, agenda; M-155 Amdt. 5, August 23, 1978.

TIME AND DATE: 1:30 p.m., August 23, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Deletion: 16. Docket 33019, Chicago-Midway Expanded Service Proceeding. Order on Reconsideration (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 16 is being deleted from the August 23, 1978, agenda in order to give the Board Members sufficient time to review the item. Accordingly, the following Members have voted that agency business requires the deletion of Item 16 from the August 23, 1978 agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1716-78 Filed 8-24-78; 3:50 pm]

[6320-01]

4

[M-157, August 22, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 25, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Dockets 31290 and 30891, DPFI Fare Level and Structure Policies and Discount Fare Policy (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This meeting will concern the DPFI Fare Level and Structure Policies, Docket 31290, and Discount Fare Policy Docket 30891. The Board has announced its intention of completing its consideration of these items by August 31, 1978. The staff has completed its work and a Board meeting is necessary to discuss this item. So that the staff has time to complete any instructed revisions within the announced time frame, it is necessary that the Board meet on August 25, 1978, to consider this matter. Accordingly, the following Members have voted that agency business requires that the Board meet on Friday, August 25, 1978, on less than 7 days' notice, and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1717-78 Filed 8-24-78; 3:50 pm]

[6351-01]

5

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1702-78, Published August 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., August 29, 1978.

CHANGES IN THE MEETING:

Delete: Temporary moratorium on offer and sale of leverage contracts and request by the New York Coffee and Sugar Exchange for approval of lower daily price fluctuation limits in sugar.

Add: General discussion of daily price fluctuation limits.

[S-1713-78 Filed 8-24-78; 1:59 pm]

[6570-06]

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Wednesday, August 30, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part open to the public and part closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Proposed organization structure to assume functions to be transferred from the Civil Service Commission on January 1, 1979, and from the Department of Labor on July 1, 1979.
2. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued August 23, 1978.

[S-1712-78 Filed 8-24-78; 11:34 am]

[6715-01]

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, August 30, 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, August 31, 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 meetings.
Correction and approval of minutes.
Advisory opinions: AO 1978-44, AO 1978-46, AO 1978-51, AO 1978-52, AO 1978-53A, AO 1978-53B, AO 1978-53C, AO 1978-53D, AO 1978-53E, AO 1978-54, AO 1978-58, AO 1978-60, and AO 1978-64.
Report on earmarked contributions.
Resolution of particulars.
Policy regarding transfers to registered entities from unregistered entities.
Appropriations and budget.
Interpretation and application of 2 U.S.C. 438(b) regarding clearinghouse.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions closed to the public (executive session):

Any matters not concluded at the meeting of August 30, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1708-78 Filed 8-24-78; 9:32 am]

[6730-01]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., August 30, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Legal objections of Baltic Shipping Co. to section 21 order concerning rates and practices in the Gulf Coast/North Europe trade.
2. Agreements Nos. T-3638 and T-3638-A between the Puerto Rico Ports Authority and Puerto Rico Maritime Shipping Authority providing for use of marine terminal facilities at Puerto Nuevo, San Juan, P.R.
3. Staff report on review of General Order 7—Self-Policing Provisions in Agreements.
4. Informal Docket No. 534(I): *Aquino Sailcloth, Inc.* v. *U.S. Lines, Inc.*—Review of the record.
5. Agreement Nos. 9847-4, 10028-7, 9847-5 and 10028-8, modifications to pooling agree-

ments in the U.S. Atlantic/Brazil trades—Extension of term.

Portion closed to the public:

1. Activities of Seatrain Lines, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1709-78 Filed 8-24-78; 9:32 am]

[7035-01]

9

AUGUST 24, 1978.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 25, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Short notice of closed meeting. Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp unanimously voted to close this conference because it is likely to relate solely to the internal personnel rules and practices of the agency, within the meaning of 5 U.S.C. 552b(c)(2) and 49 CFR 1012.7(d)(2), and disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, within the meaning of 5 U.S.C. 552b(c)(6) and 49 CFR 1012.7(d)(6). Chairman O'Neal was absent and did not participate. Commissioner Murphy did not participate.

In addition to the Commission members, the following persons are expected to attend: Managing Director, Pierce A. Quinlan; Director, Peter M. Shannon, Jr.; Assistant Director, Lewis R. Teeple; Acting Chief, John H. Moseman; General Counsel, Mark L. Evans; Managing Director, Ivan Michael Schaeffer, Region 2; Assistant Regional Counsel, Manuel A. Lojo, Region 2; and J. David Richardson, Personnel Office.

MATTER TO BE CONSIDERED: Personnel matter.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, telephone 202-275-7252.

[S-1718-78 Filed 8-24-78; 3:53 pm]

[7035-01]

10

AUGUST 24, 1978.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 25, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Short notice of closed meeting. The following additional person will attend: Emily Stover, Deputy Director, Office of Communications and Consumer Affairs.

[S-1719-78 Filed 8-24-78; 3:53 pm]

[7590-01]

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: August 30 and 31, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, AUGUST 30; 2 P.M.

1. Discussion of personnel matters (approximately 1 hour, closed, exemption 6).
2. Briefing on NRR International Matters (tentative, approximately 1 hour, closed, exemption 1).

THURSDAY, AUGUST 31; 9:30 A.M.

1. Discussion of provision for protection of individuals who provide information to NRC (approximately 1 hour, public meeting).
2. Discussion of role of use of deadly force in safeguarding strategic SNM (approximately 1 hour, public meeting).
3. Affirmation items (approximately 10 minutes, public meeting):
   a. Licensing of spent fuel storage,
   b. 145b waiver for employment,
   c. Requirements to be accomplished in the event of an irretrievable well-logging source, and
   d. Organization and Functions—NRR (tentative).

THURSDAY, AUGUST 31; 1:30 P.M.

1. Discussion of NMSS Organization (approximately 1½ hours, public meeting).
2. Discussion of NRC Awards (approximately 1 hour, closed, exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

Dated: August 23, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-1711-78 Filed 8-24-78; 9:32 am]

[8010-01]

12

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 a closed meeting on Friday, August 25, 1978, at 2:30 p.m., in Room 825, 500 North Capitol Street, Washington, D.C.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. 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 item 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).

Chairman Williams, and Commissioners Loomis, Evans, and Pollack determined that (i) the aforesaid meeting should be held in closed session and (ii) Commission business required consideration of this matter and no earlier notice thereof was possible.

The subject matter of the closed meeting scheduled for Friday, August 25, 1978, at 2 p.m., will be: Market sensitive regulatory matter.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Michael P. Rogan at 202-755-1638.

AUGUST 23, 1978.

[S-1714-78 Filed 8-24-78; 3:39 pm]

federal register

MONDAY, AUGUST 28, 1978
PART II



DEPARTMENT OF TRANSPORTATION

FEDERAL MEDIATION AND CONCILIATION SERVICE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

■

PRIVACY ACT OF 1974

Annual Publication

[4910-61]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

AGENCY: Department of Transportation.

ACTION: Incorporation by reference of Privacy Act issuances.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

DATES: This document fulfills the annual notice requirements of the Privacy Act for 1978.

FOR FURTHER INFORMATION CONTACT: John J. Windsor, by telephone 202/426-1887, Privacy Act Coordinator for the Department; or by mail to OST, M-25, 400 7th Street, SW., Washington, D.C. 20590.

APPROVAL OF THE DIRECTOR, FEDERAL REGISTER: The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval on July 13, 1978, to incorporate these Privacy Act issuances by reference.

LOCATION OF NOTICES IN 1977 COMPILATION: Notices of this agency's system of records appear in Volume I of the 1977 Compilation at pages 47036 through 47165 and the Federal Register published September 19, 1977 (42 FR 47036).

AVAILABILITY OF 1977 COMPILATION: "Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photo copy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

PUBLICATION OF CHANGES, DELETIONS AND ADDITIONS: Published under this explanation is the full text of systems of records that have had changes of substance, or have been published as new systems of records since the Compilation of 1977. Also published is the list of systems which have been rescinded by previous publication. These should be marked as "deleted" from existing library copies of the 1977 Compilation by authority of the Department of Transportation notices in the Federal Register.

Brock Adams,
Secretary of Transportation.

August 8, 1978.

Changes Since September 19, 1977

FOR USE WITH ANNUAL COMPILATION OF SYSTEMS OF RECORDS

Deletions From 1977 Compilation

Page (Vol. 42), System Number, and System Name

47043, DOT/CG 512, Statement of employment and Financial Interest.

47046, DOT/CG 531, Custody and Safekeeping of Savings Bonds.

47053, DOT/CG 590, Merchant Vessel Casualty Reporting.

47056, DOT/CG 621, Detainees Log.

47068, DOT/CG 679, Reserve Pay and Points System.

47105, DOT/NHTSA 414, Youth Highway Safety Advisory Committee.

47106, DOT/NHTSA 418, National Motor Vehicle Safety Advisory Council Files.

47113, DOT/NHTSA 449, Vehicles Defect Program File.

47113, DOT/NHTSA 450, Safety Related Defects Interviews and Vehicle Disablement Study.

47120, DOT/OST 005, Citizens Advisory Committee on Transportation Quality.

47125, DOT/OST 020, Information Systems Division Project Management.

47127, DOT/OST 027, Personnel Data Working Files.

47138, DOT/SLS 150, Biographical Files.

Republished for Substantial Change

Substitute the following reprints for the DOT/CG Systems 622, 678 and 589 on pages 47056, 47067 and 47052, respectively:

DOT/CG 622

System name: Military Training and Education Records. DOT/CG.

System location: Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G-PTE), 400 7th Street, SW., Washington D.C. 20590. Records are also located at District and Headquarters Units. See Appendix I for locations.

Categories of individuals: Coast Guard Military Personnel. (Commissioned Officers, Commissioned Warrant Officers, Cadets, and Enlisted Personnel).

Categories of records in the system: General Service Correspondence Course. Off-Duty Education Records. Professional Training Records. Non-traditional Educational Support Records. Achievement and Aptitude Test Results. Academic Performance Records. Correspondence Course Rate Advancement Records. Military Performance Records. Admissions Processing Records. Grade Reporting Records. Cadet Adacemic Status Records. Transcript Maintenance Records. Cadet Discipline Status Records. Military Personnel Records. Military Training Schedules Records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Evaluation and mesurement of training performance. Statistical summaries. Input to personnel records. Partial criteria for selection and admission to service/professional schools. Partial criteria for selection to postgraduate education programs. Criteria for admission to the Coast Guard. Criteria for retention in service schools. Criteria for promotion. The above information is used by authorized Coast Guard personnel in the performance of official duties. See Prefatory Statement of General Routine Uses.

Storage: File folders stored in file cabinets. Portions are stored on ADP equipment.

Retrievability: Retrieved by name, rate, class number, cadet code number, and Social Security Number.

Safeguards: Records are kept in file cabinets in offices that are locked during off-duty hours. Those records stored in ADP equipment may only be accessed through use of a user access code.

Retention and Disposal: Personal History, Service History and School Conduct and Military Performance records are kept for 1 year. Academic and Correspondence Course records are kept for 5 years. Aptitude and Achievement Test results, as a part of Training and Education records, are kept for 5 years. Records are destroyed by mutilating, shredding, or burning.

System manager(s) and address: Chief, Office of Personnel, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW., Washington, D.C. 20590.

Notification procedure: Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW., Washington, D.C. 20590. Written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing to or visiting (G-CMA) at the address in "Notification procedure", or by visiting the local activity where assigned for training. Prior written notification of personal visits is required to insure that the applicable record will be available. Proof of identity is required prior to release of records. A military identification card, driver's license, or similar document will be considered suitable identification.

Contesting record procedures: Same as "Record access procedures".

Record source categories: Official military personnel records, test results, instructors and supervisors.

Systems exempted from certain provisions of the Act: Portions of this system of records may be exempt from disclosure under the provisions of 5 U.S.C. 552a(k)(5), which provide, in part that investigatory material compiled solely for the purpose of determining

suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence. Portions of this system of records may be exempt from disclosure under the provisions of 5 U.S.C. 552a(k)(6), which provides, in part, that testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be withheld from disclosure to the extent that disclosure of these records would compromise the objectivity or fairness of the testing or examination process. Portions of this system of records may be exempt from disclosure under the provisions of 5 U.S.C. 552a(k)(7), which provide, in part, that evaluation material used to determine potential for promotion in the armed services may be withheld from disclosure but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of a source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

DOT/CG 678

System name: Reserve Personnel Management Information System (Automated)

System location: Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G-RA/82), 400 7th Street, SW., Washington, D.C. 20590.

Categories of individuals: Reserve officers and enlisted personnel in an active or inactive status, with the exception of retired reservists, and including those reservists released from extended active duty to fulfill a specific term of inactive obligated service.

Categories of records in the system: Reserve Personnel Management Information System (RPMIS) contains the Master Personnel File and the Pay and Points File. Included in these files are the following data concerning each Coast Guard Reservist in this system: name, social security number, grade or rate, educational background, current assignment and date assigned, duty status, date of birth, date of enlistment, appointment, or extension, date of expiration of obligations, anniversary date, data on pay base date, aviation pay and administrative pay, training rating, reserve category and class, training/pay category, number of dependents, Federal withholding exemptions, Selective Service induction certification, date of completion of Ready obligation, officer experience indicator, last screening date and result, civilian occupation, date of last National Agency Check, date of last physical and immunizations, date of completion of extended active duty, annual training date, total retirement points and satisfactory years of service for retirement purpose, current year retirement point accounting data, including inactive duty training and active duty training participation and correspondence course activity, taxable wages paid and withholdings, uniform allowances, Servicemens Group Life Insurance (SGLI) information, and mailing address.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The RPMIS is used for the personnel administration of individual reservists and the overall management of the reserve program. See Prefatory Statement of General Routine Uses. The Master Personnel File provides status and qualification listings, expiration of enlistment and physical reports, strength management reports, unit and district rosters, and advancement and promotion reports. The Pay and Points File provides point count statements, earning statements, budgeting reports, inactive duty and active duty pay, and retirement eligibility listings. The addresses of individual reservists are used for mailing paychecks, earning statements, "The Reservist," and Annual Screening Questionnaires. Records in this system are routinely disclosed to the Treasury Department to complete payroll checks. Used by: Authorized personnel from the Office of Reserve and the Office of Comptroller, authorized personnel on the staff of the various district commanders in the normal performance of their official duties, the Deputy Assistant Secretary of Defense for Manpower, Logistics and Reserve Affairs and others as authorized by Chief, Office of Reserve or his representative.

Storage: The storage is on computer disks with magnetic tape backups. The file is updated weekly.

Retrievability: Individual records in the system are retrieved by Social Security Number.

Safeguards: Magnetic tapes are stored in locked storage areas when not in use and are accounted for at all times during actual use. Personnel screening is employed prior to granting access.

Retention and Disposal: Magnetic tapes are used, corrected and updated until the tapes become physically deteriorated after which they are destroyed.

System manager(s) and address: Chief, Office of Reserve, Department of Transportation, United States Coast Guard Headquarters, Commandant (G-R), 400 7th Street, SW., Washington, D.C. 20590.

Notification procedure: Requests to determine if this system contains information on any individual should be made in person or in writing to: Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW., Washington, D.C. 20590. Written request must be signed by the individual.

Record access procedures: Procedures for access to records may be obtained by writing to or visiting Commandant (G-CMA) at the address in "Notification procedure". Prior written notification of personal visit will insure that the record will be available at the time of visit. Proof of identity will be required prior to release of records. A military identification or similar document will be considered suitable identification.

Contesting record procedures: Same as "Record access procedures".

Record source categories: Information contained in the system is obtained from the individual, Coast Guard Headquarters and district offices, and the various operating units of the Coast Guard.

DOT/CG 589

System name: U.S. Merchant Seamen's Records.

System location: Department of Transportation (DOT), United States Coast guard (CG), Commandant (G-MVP), 400 7th Street, SW., Washington, D.C. 20590. Portions of these records may be located at the Marine Inspection Office or the Marine Safety Office where the seaman was documented.

Categories of individuals: U.S. Merchant Seamen.

Categories of records in the system: Personnel Files: containing applications for documents, certificates and licenses, copies of shipment and discharge records, license record, qualifications, correspondence, and disciplinary record (closing or summary sheet only). Shipping Articles (including "Master's Report of Seamen Shipped and Discharged"), and disciplinary records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Coast Guard officials in administering the Commercial Vessel Safety Program to determine qualifiations for the issuance of licenses, documents, and certificates; to determine disciplinary action; to provide duplicate records of service or documents to the seaman, his next or kin or his agent; to provide information to other Federal agencies, such as the Veterans' Administration, the Social Security Administration, etc., in connection with benefits and services administered by those agencies; to provide information to private organizations when considered beneficial to the seaman; to provide information to Federal, State, and local investigative and law enforcement officials as provided for by law. See Prefatory Statement of General Routine Use.

Storage: The personnel file will be stored on updateable microfiche and limited personal data will reside on computer disks and magnetic tapes. The above media will be continuously updated as new or additional data is received. The remainder of the records will be stored in file folders in paper form.

Retrievability: The personnel file on microfiche will be accessed from its storage cabinet by a coded identifier of the location of the record within the cabinet. The data on the computer record will be retrieved by direct terminal access with the selection of data elements determined by the authorized user. Retrieval will be by name and cross indexed under ID (i.e., "Z", "BK", or Social Security number).

Safeguards: Personnel files on microfiche are stored in the locked retrieval cabinet. The data on the computer file can be retrieved only via "password" identifier with users being permitted access only to that portion of the overall file that has previously been determined as meeting their needs. The file folders are maintained in locked rooms.

Retention and Disposal: Personnel files are held 3 years for unlicensed personnel and 10 years for licensed personnel after last activity, then transferred to a holding area where they may be destroyed after 60 years of inactivity. Shipping Articles are held 3 years then transferred to a Federal Records Center where they are considered historical data and are not destroyed. Disciplinary Records are maintained in paper form. Administrative Law Judge's Decisions and Orders and Appeal File are transferred to a Federal Records Center after 5 years. Commandant's Decision on Appeal and National Transportation Safety Board Decisions and Orders are retained. Disciplinary Record Cards are destroyed upon notice of death.

System manager(s) and address: Chief, Office of Merchant Marine Safety, Department of Transportation, United States Coast Guard Headquarters, 400 7th Street, SW., Washington, D.C. 20590.

Notification procedure: Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW., Washington, D.C. 20590. In order to determine if a record for an individual exists, it is necessary that the applicant furnish the complete name in which the document was issued, the serial number of the document (i.e., "Z", "BK", and/or Social Security number), and his date and place of birth. A written request must be signed by the individual.

Record access procedures: Procedures may be obtained by writing Commandant (G-CMA) or visiting at the address in "Notification procedure" or the Marine Inspection Office or Marine Safety Office where the document was issued for locally maintained portions.

Contesting record procedures: Same as "Record access procedures".

Record source categories: Personnel File—Date furnished by the seamen, U.S. Coast Guard officials, other Federal Agencies and employer. Shipping Articles—Vessels' operators, seamen, masters of vessels, State Department, and Coast Guard officials. Disciplinary Records—Furnished by the Investigating Officers at the various Marine Inspection and Marine Safety Offices.

Systems exempted from certain provisions of the Act: Portions of this system of records may be exempt from disclosure under the provisions of 5 U.S.C. 552a(k)(2), which provide, in part that investigatory material compiled for law enforcement purposes may be withheld from disclosure to the extent that the identity of the source of the information would be revealed by disclosing the investigatory record, and the source has received an express guarantee that his identity would be held in confidence, or, prior to the effective date of this section, if the source received an implied promise that his identity would be held in confidence.

Republished From Prior Printing, Use With 1977 Compilation

From Volume 43 of the Federal Register, pages 4307 and 17091 republish the new systems of records DOT/OST 061, DOT/NHTSA 467 and DOT/FAA 844 for use with the annual publication "Privacy Act Issuance—1977 Compilation":

DOT/OST 061

System name: Records of Official Time Granted Employees for Performing Representational Functions.

System location: All DOT locations.

Security classification: None.

Categories of individuals: All employees representing other DOT employees, pursuant to such employees' right to representation under statute, regulation, executive order, or the terms of a collective bargaining agreement.

Categories of records in the system: This system records the amount of official time granted to individuals to perform employee representational functions, and the purpose for which the official time was used.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information in these records may be used:

1. By agency officials and officially recognized labor unions for review to assure that the use of official time is in accordance with applicable government/agency policy and regulations.
2. Preparation of analytical and statistical studies and reports.
3. See prefatory statement of general routine uses.

Storage: Records are maintained in file folders, punch cards, magnetic tape, disks, or by other electronic means.

Retrievability: These records are retrieved by name or by category of use.

Safeguards: Access to and use of these records are limited to agency personnel whose official duties require such access, and to officially recognized labor unions with respect to employees within the units that they represent. Safeguards include locked buildings, guard service, and locked file cabinets. Statistical information from these records may be made available to other agencies or to the interested public.

Retention and Disposal: These records are destroyed after 3 years.

System manager(s) and address: The Personnel Officer of each DOT facility, or the Chief, Labor-Management Relations Division, Office of Personnel and Training, Office of the Assistant Secretary for Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590.

Notification procedure: Inquiries should be directed to the System Manager.

Record access procedures: Contact or write to the System Manager for information on procedures for gaining access to records.

Contesting record procedures: Contact or write the System Manager. Reasonably identify the record and specify the information to be contested.

Record source categories: Federal employees and supervisors.

DOT/NHTSA 467

System name: Driver Programs Data System (DOT/NHTSA) Safe Performance Secondary School Driver Education Curriculum/Demonstration Project Analysis File.

System location: Battelle-Columbus Laboratories (BCL), 505 King Avenue, Columbus, Ohio 43201.

Categories of individuals: 15-16 year olds, non-licensed DeKalb County, Georgia High School student volunteers for Driver Education.

Categories of records in the system:

(a) DeKalb Gounty School system records:

(1) Student Entry Data consisting of: name, DeKalb County student number, driver's license number, student project number (a unique number assigned to each student participating in the project), birthdate, sex, high school, site, socioeconomic status index, term of instruction, driver's education groups Safe Performance Curriculum (SPC), Pre-Driver Licensing Curriculum (PDL), and Control Group.

(2) DeKalb County Student Master Data consisting of: grade point average, address, schedule information, driver education teacher, driver education class, changes in student status, trasferring schools within DeKalb County, leaving the DeKalb County School District.

(3) Driver Education project Information consisting of: driver education test scores, pretest, unit tests, skill tests, post test, result of driving habit survey(s).

(b) Driver History File consisting of: student project number, cumulative number of points, name/date/length of suspensions, restrictions on driving, issue date of driver's license/learner's permit, exam date of driver's test, habitual offender/date, currently licensed, record of each citation; type of violation(s), date of violation, number of points for each violation, accident involved, license suspended/revoked.

(c) Accident History File consisting of: citation to project person, one vehicle or multi-vehicle accident, pedestrian/bicyclist accident, date of accident, violations for this accident, type of accident, property damage/injury/fatality, number of injuries, number of fatalities, position in car of injured/dead, severity of injuries.

Authority for maintenance of system: Highway Safety Act of 1966, Section 403.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Battelle-Columbus Laboratories at 6 month intervals will evaluate the effectiveness of Safe Performance Curriculum as a driver education program and report results to NHTSA program manager.

Storage: The records are stored at Battelle-Columbus Laboratories (BCL) on magnetic tape and disk.

Retrievability: The manual records are indexed by student project number to preclude the use of names. However, the automated records can also be retrieved by name, address, birthday and Georgia drivers license numb er.

Safeguards: The contents of the collected data will not be available to any public source. Records are maintained in a secure area with controlled access. In addition, access to the computer system is through the use of account numbers.

Retention and Disposal: All client data will be retained until project termination, at that time de-identified (ID number, DL number, and name removed) copies of the analysis file will be submitted to the Office of Driver and Pedestrian Programs, NHTSA, Washington, D.C. and to other research organizations specifically requesting the de-identified data, as per NHTSA approval.

System manager(s) and address: Department of Transportation, Chief, Program and Demonstration Management Division, National Highway Traffic Safety Administration, Room 5130, 400 7th Street, SW., Washington, D.C. 20590.

Notification procedure: Inquiries should be directed to the System Manager.

Record access procedures: Contact or write to the System Manager.

Contesting record procedures: Initiate requests for changes to records by writing to Systems Manager.

Record source categories: DeKalb County, Ga., school system records, Georgia Department of Public Safety Driving Records.

DOT/FAA 844

System name: FAA Airplane Noise Complaint System, DOT/FAA.

System location: Federal Aviation Administration, Office of Environmental Quality, 800 Independence Avenue, SW., Washington, D.C. 20591

Categories of individuals: Individuals who complain to the FAA about airplane noise at Dulles and National Airports in the Washington, D.C. area and in the vicinity of JFK Airport in New York.

Categories of records in the system: Name, address, date, time of day of complaint, and category of complaint which may include one or more of the following:

(a) Excessive noise.
(b) Structure disturbance; e.g., vibrating windows.
(c) Activity interruption; e.g., sleep disturbance.
(d) Perceived danger.
(e) Animal disturbance.
(f) Flying too low.
(g) Other; e.g., caused earache.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tape. Original record of complaint will be destroyed following transfer of information to tape.

Retrievability: By last name, address, complaint category, time of complaint.

Safeguards: Directly concerned employees will be briefed in the provisions and requirements of the Privacy Act of 1974. These employees will be counseled as to the absolute requirements for confidentiality of the records under their control. They will be informed that appropriate disciplinary action will be taken for failure to comply with this requirement. Access to the system of records will be possible only to those agency employees with knowledge of a regularly changed password. The password will be conceived by the System Manager and divulged only to directly concerned employees. The original record will be destroyed following transfer of information to magnetic tape.

Retention and Disposal: Records are kept indefinitely.

System manager(s) and address: Director, Office of Environmental Quality, AEQ-1, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591

In order to increase the level of safety of the proposed system of records, no other individuals will be designated for the position of System Manager.

Notification procedure: Individual wishing to know if information pertaining to them appears in this system of records may inquire in person or in writing to the System Manager. The inquirer's name and address will be required in order to ascertain whether the system contains a record about that individual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: All anticipated disclosures of records in the FAA Airplane Noise Complaint System will be to those officers and employees of the DOT and FAA who have a need for the record in the performance of their duties, thus bringing the system within the scope of 5 U.S.C. 552a(b)(1). No routine uses under 552a(b)(3) are anticipated other than those set forth in the Prefatory Statement of Routine Uses applicable to all DOT/FAA Systems of Records, which appeared in the Federal Register on September 19, 1977, (42 FR 47038).

Record access procedures: Individuals who desire access to information about themselves in this system of records should either contact in person or address their written inquiries to the System Manager.

Contesting record procedures: Individuals who desire to contest information about themselves in this system of records should contact or address their inquiries to the Administrator or his delegate at the following address: Department of Transportation, Federal Aviation Administration, Office of the Administrator, 800 Independence Avenue, SW., Washington, D.C. 20591

Record source categories: Information is obtained from individual noise complaints, on a voluntary basis. No specific forms will be used to obtain this information.

[FR Doc. 78-23545 Filed 8-25-78; 8:45 am]

[6732-01]

FEDERAL MEDIATION AND CONCILIATION SERVICE

PRIVACY ACT OF 1974

Systems of Records: Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974, the Federal Mediation and Conciliation Service hereby publishes the systems of records as currently maintained by the Service. The systems of records identified in the notice published at 42 FR 65128 (December 29, 1977) continue in effect and are published in their entirety below.

Wayne L. Horvitz,
Director.

INDEX OF SYSTEM NAMES

System
FMCS/I Agency Internal Personnel Record—Agency Employee
FMCS/II Agency Pay Records—Agency Employee
FMCS/III Agency Personnel Security Records—Agency Employee
FMCS/IV Arbitrator Personal Data File—Arbitrator/Arbitrator Applicant

FMCS—I

System name: Agency Internal Personnel Records

System location:

National Office
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Region 1
Federal Mediation and Conciliation Service
2937 Federal Building
26 Federal Plaza
New York, NY 10007

Region 2
Federal Mediation and Conciliation Service
401 Mall Building
4th and Chestnut Streets
Philadelphia, PA 19106

Region 3
Federal Mediation and Conciliation Service
Suite 400
1422 W. Peachtree Street, NW.
Atlanta, GA 30309

Region 4
Federal Mediation and Conciliation Service
1525 Superior Building
815 Superior Avenue, N.E.
Cleveland, OH 44114

Region 5
Federal Mediation and Conciliation Service
175 West Jackson Street
16th Floor
Chicago, IL 60604

Region 6
Federal Mediation and Conciliation Service
Chromalloy Plaza—Fifth Floor
120 S. Central
St. Louis, MO 63105

Region 7
Federal Mediation and Conciliation Service
50 San Francisco Street
Suite 235
San Francisco, CA 94133

Region 8
Federal Mediation and Conciliation Service
Fourth and Vine Building
2615 Fourth Avenue
Seattle, WA 98121

Categories of individuals: Agency Employees

Categories of records in the system: The records in this system are Agency internal operating records used in the operation of the Agency's personnel management program. This record system contains the following files:

1. Personnel Folders—correspondence and other documents relating to employee debt, station transfer, employee evaluations, background information, and recommendations for promotion.
2. Station Transfer Requests—request forms and related documents.
3. Performance Evaluation Files—evaluations of new employees.
4. Applicant Files—where applicable, employment applications, personal resumes, correspondence relating to medical examination and conditions, qualifications or suitability for employment, documents related to verifying qualifications, rating sheet for years of qualifying experience, and interview reports of FMCS staff.
5. Employee Conduct Files—records relating to employee performance, code of conduct, and possible disciplinary/corrective action.
6. Employee Productivity Statistics—self explanatory.

Authority for maintenance of system: Title II, Labor Management Relations Act, 1947, As Amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A. In the event that the above system of records maintained by this Agency to carry out its functions indicates a violation or potential violation of law, whether civil criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulations or order issued pursuant thereto.

B. Information within this system of records is referred to appropriate sources from which information is requested in the course of an investigation as to suitability for initial or continued employment to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

C. Information within this system of records is referred to members of Congress to the extent necessary to answer routine letters of inquiry concerning employment applications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are stored in both locked and unlocked file cabinets, depending upon the nature of the record and availability of filing equipment. Data may be retrieved by an individual's name. Access to these records is restricted to appropriate employees of the National Office and the Regional Office. Files are retained indefinitely, subject to periodic review.

System manager(s) and address:

Director of Administration
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries in writing to the Director of Administration, FMCS at the aforementioned address. All such inquiries should include the requestor's name and any other information that may be helpful in locating the files.

Record access procedures: See Notification

Record source categories: Information is obtained directly from the individual concerned, whenever possible. However, also included is information obtained from Agency personnel and occasionally from sources outside the Agency.

Systems exempted from certain provisions of the Act: In order to preserve the accuracy of information necessary for determining suitability for employment, the identity of a confidential source is exempted from disclosure under 5 USC 552 (a) (k) (5). The exemption is published in 29 CFR Part 1410.

FMCS—II

System name: Agency Pay Records

System location:

Federal Mediation and Conciliation Service
Washington, D.C. 20427

Categories of individuals: Agency Employees

Categories of records in the system: The records in this system are used to administer the agency pay system. The records in an employee's pay file may be copies of a personnel action form, tax withholding certificates, notification of check mailing address, allotment forms, health and life insurance forms, retirement forms, and the salary clearance form. The travel records consist of a request for travel, travel authorization, travel vouchers, transportation requests, authorizations, and reimbursements for expenses incurred in connection with an official change of duty station. The system also contains computer listings reflecting pay data, leave records, and time and attendance records.

Authority for maintenance of system: 5 USC Chapters 51, 53, and 57.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and filed by an individual's name. The files are contained in regular file cabinets, access to which is restricted to Budget and Finance Division personnel only. These records are maintained and disposed of in accordance with the Federal Property Management Regulation 101-11.4 (General Records Schedules 2, 6, and 9).

System manager(s) and address:

Director of Administration
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries to the Director of Administration, FMCS, at the aforementioned address. All such inquiries should indicate name, and any other information that may be helpful in locating the file.

Record access procedures: See above.

Record source categories: Information is obtained directly from the individual concerned.

FMCS—III

System name: Agency Personnel Security Records

System location:

Federal Mediation and Conciliation Service
Washington, D.C.

Categories of individuals: Agency Employees

Categories of records in the system: Various information pertaining to the background investigation and issuance of clearances.

Authority for maintenance of system: Executive Order 10450 and 10501, or other Statutory/Regulatory requirements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A. A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

B. The existence and date of security clearance are furnished to government agencies or private firms dealing in classified matters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and filed by an individual's name. They are used by agency management officials in determining suitability for employment and in issuing security clearances. The files are contained in locked security file cabinets, access to which is restricted. The Agency Personnel Security Officer determines personnel who are authorized to review these records. These records are maintained and disposed of in accordance with the Federal Personnel Manual and the Federal Property Management Regulation 101-11.4 (General Records Schedule 18).

System manager(s) and address:

Agency Personnel Security Officer
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries to the Agency Personnel Security Officer at the above address.

Record access procedures: All inquiries relating to the Civil Service Commission background reports or national agency checks should be addressed to Director, Bureau of Personnel Investigations, U.S. Civil Service Commission, 1900 E Street, Washington, D.C. All other requests for agency security records should be directed in writing to the Director of Administration at the address provided above. All such inquiries should indicate name and any other information that may be helpful in locating the file.

Record source categories: Information is obtained directly from the individual on an application for background investigation which is furnished to the Civil Service Commission.

FMCS—IV

System name: Arbitrator Personal Data File

System location:

Federal Mediation and Conciliation Service
Washington, D.C. 20427

Categories of individuals: Arbitrator Applicants and Arbitrators

Categories of records in the system: The first category of records consists of arbitrator applicant records (those not accepted). These records contain personal resumes, the personal data questionnaire listing education, professional background and experience, confidential and other recommendations as to acceptability, and correspondence pertaining to rejection from placement on the panel. The second category of records consists of current arbitrator files (those currently on the roster), and contain the same information as in the applicant files. In addition, such files include correspondence with an arbitrator regarding standard fee, interest in only certain cases, complaints, and other correspondence related to case handling procedures, and biographical sketches summarizing information contained in the personal data questionnaire.

Authority for maintenance of system: Title II Labor Management Relations Act, 1947, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Biographical sketches are furnished to the parties requesting the referral of a panel of arbitrators.

They are also furnished to persons conducting research on the arbitration process in a particular area.

Data furnished by the applicant or arbitrator and other sources listed above is routinely disclosed to appropriate persons or organizations outside the agency in the course of verification or evaluation for the purpose of admittance to or retention on the roster. Data furnished by any source in the nature of a complaint or inquiry about the arbitrator's performance or qualifications are routinely referred to the appropriate person outside the agency in the course of investigating an arbitrator's eligibility for retention on the roster.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: These records are maintained in original/duplicate document form and computer tape. In either case, they are retrieved by an individual name or identification number. Access is restricted to Office of Arbitration personnel, and Management Systems personnel on a limited basis only. These files are used for purposes of referring arbitration panels to labor/management. Presently, the files are stored in lateral file cabinets. Files on active arbitrators are maintained as long as the individual is utilized for referral of panels. Arbitrator applicant files are maintained for two years. After the two year retention period, a separate listing of rejected arbitrator applicants is prepared and the file is destroyed.

System manager(s) and address:

Director of Office of Arbitration Services
Federal Mediation and Conciliation Service
Washington, D.C. 20427

Notification procedure: Individuals seeking knowledge of whether the system contains information about them should direct their inquiries in writing to the Director of Administration, FMCS, or Director of Arbitration Services, FMCS, at the aforementioned address. All such inquiries should indicate name and any other information that may be helpful in locating the file.

Record access procedures: See Notification.

Record source categories: Direct from the individual, sources furnished by the individual, or obtained by FMCS.

Systems exempted from certain provisions of the Act: In order to preserve the accuracy of information necessary for determining appointment to the roster for arbitration records, the identity of a confidential source is exempted from disclosure under 5 USC 552(a)(k)(5). The exemption is published in 29 CFR Part 1410.

[FR Doc. 78-23547 Filed 8-25-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-38]

PRIVACY ACT OF 1974

Systems of Records

In accordance with 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974 (Pub. L. 93-579), the National Aeronautics and Space Administration hereby publishes the systems of records currently maintained by the agency. Systems notices and amendments were last published on September 27, 1977, at page 49683, Federal Register, Volume 42.

DESCRIPTION OF CHANGES

The following describes changes—other than changes in the routine uses—included in the republished system notices for NASA.

Item 1. In the Table of Contents—delete "NASA 76 OSTR-KSC Operations Safety Training Records—NASA" and substitute "NASA 76 STCS—KSC Shuttle Training Certification System—NASA."

Item 2. In NASA 10 ACMQ added location 11 as a subsystem location because of office transfer and changed the title of location 9's subsystem manager.

Item 3. In NASA 10 EEOR deleted location 10 as a subsystem location and changed the title of location 12's subsystem manager. The retention and disposal of system files was modified and patterned after CSC procedures.

Item 4. In NASA 10 GMVP several subsystem managers title's were changed.

Item 5. Location 6 was deleted as a subsystem manager in NASA 10 HABC, and the title of location 4's subsystem manager was changed.

Item 6. In NASA 10 SECR location 10 was deleted as a subsystem and location 3's subsystem manager's title was changed.

Item 7. In Appendix A, the title of location 10 was changed.

PUBLIC COMMENT INVITED

The following are proposed substantive changes to systems notices.

Item 1. In NASA 10 BRPA expansion of the categories of individuals covered by the system to include non-NASA participants in agency programs is proposed.

Item 2. In NASA 10 GMVP the internal uses have been revised to make it clear that the purposes of the records include the issuance of a vehicle operator's permit.

Item 3. In NASA 10 HERD it is proposed to expand the system locations to include Location 6, the John F. Kennedy Space Center and Location 9, the George C. Marshall Space Flight Center.

Item 4. In NASA 10 SECR the following expanded routine uses are proposed:

a. Under the "Personnel Security Records" segment one expanded routine use (8) is proposed.

b. Under the "Criminal Matter Records" segment one expanded routine use (2) is proposed.

c. Under the "Traffic Management Records" segment one expanded routine use (2) is proposed.

Item 5. In NASA 10 SMED new use (5) is proposed.

Item 6. In NASA 10 SPER Categories of records in the system have been clarified to reflect the relationship between certain NASA-maintained information and information for which the U.S. Civil Service Commission publishes Privacy Act notices.

Item 7. In NASA 76 OSTR has been replaced by NASA 76 STCS. The new system reflects the broadened training requirements generated by the operation of the Space Shuttle.

Item 8. In Appendix B, Standard routine Uses—NASA, Standard Routine Use No. 4—Court Proceedings—disclosure to any agency representing the Government is provided for.

Written comments should be addressed to the NASA Privacy Officer, Mail Code AE, National Aeronautics and Space Administration, Washington, D.C. 20546, on or before October 31, 1978. All written comments received through that date will be considered by NASA before taking final action on the proposed changes. Any comments received will be available for public inspection at the National Aeronautics and Space Administration, Room 7001, 400 Maryland Avenue, SW., Washington, D.C. 20546, between the hours of 9 a.m. and 4 p.m., Monday through Friday (except Holidays), until 4 p.m., October 31, 1978.

It is proposed that these changes in routine uses become effective on November 7, 1978, unless otherwise noted in the Federal Register.

Robert F. Allnutt,
Associate Deputy Administrator.

August 14, 1978.

System name: Aircraft Crewmember Qualifications and Performance Records - NASA.

System location: Locations 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and 12 as set forth in Appendix A.

Categories of individuals: Crewmembers of NASA aircraft.

Categories of records in the system: System contains: (1) record of qualification, experience, and currency, e.g., flight hours (day, night, and instrument), types of approaches and landings, crew position, type aircraft, flight check ratings and related examination results, training performed and medical records; (2) flight itineraries and passenger manifests; and (3) biographical information.

Authority for maintenance of system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for: evaluation of crewmember performance by supervisory flight operations personnel and staff; by the individuals whose records are maintained; on occasion by flight operations and safety survey teams; and by the NASA Aircraft Office. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) In cases of accident investigations, access to this system of records may be granted to federal or local agencies such as Department of Defense, Federal Aviation Administration, National Transportation Safety Board, or foreign governments; (2) To other agencies, companies, or governments requesting qualifications of crewmembers prior to authorization to participate in their flight programs; or to other agencies, companies, or governments whose crewmembers may participate in NASA's flight programs; (3) With prior approval by the individual - publicity or press releases; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, charts, punched cards, computer printouts.

Retrievability: Records are indexed by name or aircraft number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear at 14 C.F.R. Part 1212.

Retention and Disposal: Records are retained indefinitely.

System manager(s) and address: Director, NASA Aircraft Office, Location 1.

Subsystem Managers: Chief, Aircraft Operations Division, Location 2; Director, Flight Operations, Location 3; Chief, Aircraft Operations Division, Location 5; Chief, Aircraft Operations Section, Location 6; Chief, Operations Branch, Flight Research Division, Location 7; Chief, Aircraft Operations Branch, Location 8; Chief, Aircraft Operations, Location 9; Chief Contract Management, Location 10; Data Acquisition Manager, Earth Resources Laboratory, Location 11; Chief, Aeronautical Programs Branch, Location 12 (Locations are set forth in Appendix A).

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individuals, training schools or instructors, medical units or doctors.

System name: Biographical Records for Public Affairs - NASA.

System location: Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Categories of individuals: Principal and prominent management and staff officials, program and project managers, scientists, en-

gineers, speakers, other selected employees involved in newsworthy activitiesm and other participants in agency program.

Categories of records in the system: Current biographical information about the individual with a recent photograph when available. Data items are those generally required by NASA or the news media in preparing news or feature stories about the individual and/or his activity with NASA.

Authority for maintenance of system: 42 U.S.C 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is compiled, updated, and maintained at NASA installations for ready reference material and for immediate availability when required by the news media for news stories about the individual generally involving his participation in a major NASA activity.

The data serves as background information about the individual and is used within NASA to prepare public appearance announcements of key officials, speaking engagements, special appointments, participation in professional societies, etc.; to write news stories about special achievements, awards, participation in major NASA activities, programs, etc.; and to prepare responses to inquiries submitted to the Office of Public Affairs from the news media.

Users are the staff members of the public information office within each office of Public Affairs.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: these records are made available to professional societies, civic clubs, industrial and other organizations, news media representatives, researchers, authors, Congress, other agencies and other members of the public in connection with NASA public affairs activities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Since the records are a matter of public information, no safeguard requirements are necessary.

Retention and Disposal: Records are maintained as long as there is potential public interest in them and are disposed of when no longer required.

System manager(s) and address: The Director of Public Information at Location 1.

Subsystem Managers: The Public Affairs Officer at Locations 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Notification procedure: An individual desiring to find out if a Biographical System of Records contains a record pertaining to him should call, write, or visit the Office of Public Affairs at the appropriate NASA location.

Record access procedures: An individual may request access to his record by calling, writing, or visiting the Office of Public Affairs at the appropriate NASA locations. Individuals may examine or obtain a copy of their biographical record at any time.

Contesting record procedures: The information in the record was provided voluntarily by the individual with the understanding that the information will be used for public release. The individual is at liberty at any time to revise, update, add, or delete information in his biographical record to his own satisfaction.

Record source categories: Information in the biography of an individual in the system of records is provided voluntarily by the individual generally with the aid of a form questionnaire.

System name: Equal Opportunity Records - NASA.

System location: Locations 1 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Categories of individuals: Complainants and applicants.

Categories of records in the system: (1) Complaints and (2) applications..

Authority for maintenance of system: 42 U. S. C. 2473; 44 U.S.C. 3101; Executive Order 11478, dated August 8, 1969; Civil Service Commission Regulations, Part 713; Equal Opportunity Act 1972, as amended (P.L. 92-261); Section 15 of the Age Discrimination in Employment Act of 1967, as amended (P.L. 93-259).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for maintaining active discrimination complaints files; to retain inactive discrimination complaints files; to analyze Headquarters workforce; to track the status of the Equal Opportunity Programs to provide CSC with budget outlays for the Civil Rights Activity Report; to provide the Congress with accomplishments in Equal Opportunity Programs; to refer applicants (minorities and females); and to determine contractors' compliance with Executive Orders 11246 and 11375 as amended.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Civil Service Commission to facilitate their processing of discrimination complaints, including investigations, hearings and reviews on appeals; (2) Responses to other Federal agencies and other organizations having legal and administrative responsibilities related to the NASA Equal Employment Opportunity Programs and to individuals in the record; (3) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by any combination of name, birthdate, social security number, ethnic groups, grades, topics, statistics.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access and are locked during non-duty hours.

Retention and Disposal: Complaint files are maintained for one year after each case has been closed and then retired to the appropriate Federal Records Center. They are destroyed by the Records Center when the records are four years old. Other routine office records are reviewed periodically and retired to the appropriate Federal Records Center or destroyed.

System manager(s) and address: Assistant Administrator for Equal Opportunity Programs, Location 1.

Subsystem managers: Equal Employment Opportunity Officer at Locations 1, 3, and 8; Chief, Equal Employment Opportunity Programs Office at Location 2; Head, Equal Opportunity Programs Office at Location 4; Equal Employment Opportunity Programs Officer at Location 5; Equal Opportunity Officer at Location 6; Head, Equal Opportunity Programs Office at Location 7; Director, Equal Employment Opportunity Office at Location 9; Deputy Manager at Location 11; Equal Opportunity Officer at Location 12. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Employees, applicants, installation EEO officers, complainants, EEO counselors, EEO investigators, CSC complaints examiners, complaints coordinators, Assistant Administrator for Equal Opportunity Programs.

System name: Executive Development Records - NASA.

System location: Locations 1 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Categories of individuals: Approximately 700 individuals with experience and education unique to the NASA mission in the technical and administrative fields who are considered to be replacement candidates for key positions within NASA or who are considered to be high potential candidates.

Categories of records in the system: Biographical data, education, training, government experience, other experience, military service, individual development plan data.

Authority for maintenance of system: 42 U.S.C. 2473, 44 U.S.C. 3101, and 5 U.S.C. 4103.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the identification of replacement candidates who are currently ready to assume the responsibility of a key position/positions throughout the Agency and for the identification of high potential and replacement candidates who are in need of a certain amount of training and/or experience before assuming a key position within the Agency. These candidates would then be groomed toward the identified key positions. There are no routine uses outside of NASA of the information contained in this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, on spread sheets, and will probably be stored on punched cards and magnetic tape by calendar year 1977.

Retrievability: The records are indexed alphabetically; however, once this information is stored on cards and/or tape, it may be indexed by social security number or by educational and work experience codes.

Safeguards: Records are located in a locked metal file cabinet with access limited to those whose official duties require access.

Retention and Disposal: These records will be retained and updated for as long as there is a need by NASA top management to readily identify and groom replacement candidates for NASA's key positions throughout the Agency.

System manager(s) and address: Director, Office of Executive Development, Location 1.

Subsystem Managers: Directors of Locations 2 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Notification procedure: Information may be obtained from the System Manager only.

Record access procedures: Requests from individuals should be addressed to the same address stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Employers, top NASA officials throughout the Agency, other persons acquainted with the work performance of the individual, and NASA personnel records.

System name: Government Motor Vehicle Operators Permit Records - NASA.

System location: Locations 1 through 15 inclusive as set forth in Appendix A.

Categories of individuals: NASA employees, contractor employees, other federal and state government employees.

Categories of records in the system: Name, home address, Social Security Number, physical description of individual, physical condition of individual, traffic record.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; Federal Personnel Management Manual, Chapter 930; Federal Property Management Regulations Subpart 101-39.601; NASA Management Issuance 6720.1A.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the purpose of identifying and checking record of applicant and issuing permits for operation of Government vehicles. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) National Driver Register, Department of Transportation, where Form 1047 is received for check and (2) Standard routine uses 1 through 4 inclusive, as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Indexed by name.

Safeguards: Records are located in metal file cabinets with access limited to those whose official duties require access. Room is locked during non-duty hours.

Retention and Disposal: Records are maintained for a period of three years when permit expires or until permit holder leaves the Agency or requests cancellation. Records are destroyed when no longer reguired.

System manager(s) and address: Director, Administrative Services Division, Location 1.

Subsystem Managers: Chief, Security Branch, Location 2; Transportation Officer, Location 3; Chief, Logistics Management Division, Location 4; Chief, Transportation Branch, Location 5; Chief of Transportation, Location 6; Chief, Management Support Division, Location 7; Head, General Services Section, Location 8; Director, Logistics Office, Location 9; Chief Contract Management, Location 10; Chief Installation Operations, Location 11; Director of Administration, Location 12; Contract and Property Specialist, Location 13; Chief, Maintenance and Administration Office, Location 14; Chief of Facilities, Location 15. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual NASA employees and individual contractor employees.

System name: History Archives Biographical Collection - NASA.

System location: Locations 1 and 5 as set forth in Appendix A.

Categories of individuals: Individuals who are of historical significance in aeronautics, astronautics, space science, and other concerns of NASA.

Categories of records in the system: Biographical data; speeches and articles by the individual.

Authority for maintenance of system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for researching and writing official histories and answering queries from various NASA offices. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: Disclosure to scholars (historians and other disciplines), or any other interested individuals for research and writing dissertations, articles, and books, for government, commercial and non-profit publication.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are stored in file folders.

Retrievability: The records are indexed by name.

Safeguards: Because these records are archive material and therefore a matter of public information, there are no special safeguard procedures required.

Retention and Disposal: Most biographical files are retained indefinitely, either in the archives or retired to the appropriate Federal Records Center.

System manager(s) and address: Director, History Office, Code YH, Location 1.

Subsystems Managers: Administrative Operations Specialist, Code BE-4, Location 5(Locations are set forth in Appendix A).

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Press releases, newspapers, journals, and the individuals themselves.

System name: Human Experimental and Research Data Records - NASA

System location: Locations 2, 3, 5, 6, 9, and 13 as stated in Appendix A.

Categories of individuals: Individuals who have been involved in space flight, aeronautical research flight, and/or participated in NASA tests or experimental or research programs; Civil Service employees, military, employees of other government agencies, contractor employees, students, human subjects (volunteer or paid), and other volunteers on whom information is collected as part of an experiment or study.

Categories of records in the system: Data obtained in the course of an experiment, test, or research medical data from inflight records; other information collected in connection with an experiment, test, or research.

Authority for maintenance of system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used by NASA for the purposes of evaluating new analytical techniques, equipment, and re-examining flight data for alternative interpretations, developing applications of experimental techniques or equipment, reviewing and improving operational procedures with respect to experimental protocols (both inflight and ground), life support systems operating procedures, determining human engineering requirements, and carrying out other research.

In addition to the internal use of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to other individuals or organizations, including Federal, State, or local agencies, and nonprofit, educational, or private entities, who are participating in NASA programs or are otherwise furthering the understanding or application of biological, physiological, and behavioral phenomena as reflected in the data contained in this system of records; and (2) the standard routine use 4 as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in file folders; on punch cards, magnetic tapes, or discs; on microfilm, microfiche, still photographs, or motion picture film; and on various medical recordings such as electrocardiographic tapes, stripcharts, and x-rays.

Retrievability: By name, experiment or test; arbitrary experimental subject number; flight designation; or crew member designation on a particular space or aeronautical flight.

Safeguards: Access is limited to Government personnel requiring access in the discharge of their duties, and to appropriate support contractor employees on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations set forth in 14 C.F.R. Part 1212.

Retention and Disposal: Astronaut records are retained indefinitely. Ground test and research data are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed, except that significant medical data will be handled in accordance with CSC regulations and NASA Control Schedule 11.

System manager(s) and address: Director, Office of Occupational Medicine, Location 1.

Subsystem Managers: Research Assistant to the Director, Location 2; Director of Man/Systems Integration Division, Location 3; Assistant Director for Life Sciences, Space and Life Sciences Directorate, Location 5; Director, Biomedical Office, Location 6; Director, Management Services Office, Location 9; Manager, White Sands Test Facility, Location 13. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the system or subsystem manager named above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Experimental test subjects, physicians, principal investigators and other researchers, and previous experimental test or research records.

System name: Inspections Division Case Files - NASA.

System location: National Aeronautics and Space Administration, Washington, DC 20546.

Subsystem Locations: Locations 2, 5, 6, and 9 as set forth in Appendix A.

Categories of individuals: Current and former employees of NASA, contractors and sub-contractors, and others whose actions have affected NASA.

Categories of records in the system: Case files pertaining to matters including, but not limited to, the following classifications of cases: (1) Fraud against the Government, (2) Theft of Government property, (3) Bribery, (4) Lost or stolen lunar samples, (5) Misuse of Government property, (6) Conflict of interest, (7) Complaints of discrimination, (8) Waiver of claim for overpayment of pay, (9) Leaks of Source Evaluation Board information, (10) Improper personal conduct, (11) Irregularities in awarding contracts.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; 28 U.S.C. 535 (b); 4 C.F.R. 91; Executive Order 11478.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for: (1) Providing management with information which will serve as a possible basis for appropriate administrative action or the establishment of NASA policy; (2) Providing management with information relevant to the complaint issue to provide a basis for a determination in a complaint of discrimination case; and (3) Providing the Administrator of NASA (or the Comptroller General, as appropriate) sufficient information to provide a basis for decision concerning a request for waiver of claim in the case of an erroneous payment of pay.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Responding to the White House regarding matters inquired of; (2) Disclosure to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (3) Providing data to Federal intelligence elements; (4) Providing data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (5) Providing personal identifying data to Federal, State, local or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (6) Disclosing, as necessary, to a contractor, subcontractor, or grantee firm or institution to the extent that the disclosure is in NASA's interest and is relevant and necessary in order that the contractor/subcontractor/grantee is able to take administrative or corrective action; (7) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored in file folders and on index cards.

Retrievability: Information is retrieved by name of individual.

Safeguards: Information is kept in locked metal file cabinets. Access is limited to Inspections Division personnel.

Retention and Disposal: Case files are transferred to the appropriate Federal Record Center 5 years after the case is closed and destroyed after 30 years.

System manager(s) and address: Director of Inspections and Security, Location 1.

Subsystem Managers: Western Regional Inspector, Western Regional Inspections Office, Location 2; Southwestern Regional Inspector, Southwestern Regional Inspections Office, Location 5; Southeastern Regional Inspector, Southeastern Regional Inspections Office, Location 6; South Central Regional Inspector, South Central Regional Inspections Office, Location 9. Locations are as set forth in Appendix A.

Notification procedure: None. System is exempt. See below.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Exempt.

Systems exempted from certain provisions of the Act: The Inspections Division Case Files system of records is exempt from all sections of the Privacy Act of 1974 (5 U.S.C. 552a), EXCEPT the following:

(b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A) through (F) relating to publishing an annual system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10) and (11) relating to agency requirements for maintaining systems; and (i) relating to criminal penalties.

The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212, for the reason that the Inspections Division of the Office of Inspections and Security, NASA, is a component of NASA which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

System name: Payroll System - NASA.

System location: Locations 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 as set forth in Appendix A.

Categories of individuals: Present and former NASA employees.

Categories of records in the system: The data contained in this system of records includes payroll, employee leave, insurance, labor and manpower distribution and overtime information.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; 5 U.S.C. 5501 et seq.; 5 U.S.C. 6301 et seq.; General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 6; Treasury Fiscal Requirements Manual, Part III; Federal Personnel Manual; and NASA Financial Management Manual, Sections 9300 and 9600.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for maintaining the payroll records and related areas.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish to a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions and insurance data with carriers and collection agents; (3) To report to the Civil Service Commission (a) withholdings of premiums for life insurance, health benefits and retirement, and (b) separated employees subject to retirement; (4) To furnish the U. S. Treasury magnetic tape reports on net pay, net savings allotments and bond transmittal pertaining to each employee; (5) To provide the Internal Revenue Service with detail of wages taxable under the Federal Insurance Contributions Act and to furnish a magnetic tape listing on Federal tax withholdings; (6) To furnish various financial institutions itemized listings of employee's pay and savings allotments transmitted to the institutions in accordance with employee requests; (7) To provide various Federal, state, and local taxing authorities itemized listing of withholdings for individual income taxes; (8) To respond to requests by State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation; (9) To report to various Combined Federal Campaign offices total contributions withheld from employee wages; (10) To furnish leave balances and activity to the Civil Service Commission upon request; (11) To furnish data to labor organizations in accordance with negotiated agreements; (12) To furnish pay data to the Department of State for certain NASA employees located outside the United States; and (13) Standard routine uses 1 through 4 inclusive as set forth in Apprndix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, and microfilm.

Retrievability: Records are indexed by name and/or social security number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and Disposal: Records are retained for audit by the General Accounting Office and are transferred to the National Personnel Records Center, St. Louis, Missouri, anywhere from one to three years. Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook - NHB 1441.1A.

System manager(s) and address: Director, Office of Financial Management, Office of the Comptroller, Location 1.

Subsystem Managers: Chief, Financial Management Division, Locations 2, 4, 5, and 7; Financial Management Officer, Locations 3; Chief, Financial Management Office, Location 6; Director of Resources Management, Location 8; Director, Financial Management Office, Location 9; Chief, Resources and Financial Management Office, Location 11; and Head, Financial Management Branch, Location 12. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained, personnel office, and the individual's supervisor.

System name: Standards of Conduct Counselling Case Files - NASA.

System location: National Aeronautics and Space Administration, Washington, DC 20546.

Categories of individuals: Current, former, and prospective NASA employees, who have sought advice or have been counselled regarding conflict of interest requirements for government employees.

Categories of records in the system: Depending upon the nature of the problem, information collected may include employment history, financial data, and information concerning family members.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C 3101; 18 U.S.C. 201, 203, 205, 207-209; 5 U.S.C. 7324-7327; Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in the system of records is used within NASA for the purpose of counseling employees regarding conflict of interest problems. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) U. S. Civil Service Commission: for investigation of possible violations of standards of conduct which the commission directly oversees; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are documentary and maintained in loose leaf binders or file folders.

Retrievability: By name of individual.

Safeguards: Restricted access to a few authorized persons; stored in combination lock safe.

Retention and Disposal: Retained indefinitely.

System manager(s) and address: Assistant General Counsel for General Law, Code GG, NASA Headquarters, Washington, DC 20546.

Notification procedure: Information may be obtained from the System Manager.

Record access procedures: Requests from individuals should be addressed to the System Manager and must include employee's full name and NASA installation where employed.

Contesting record procedures: The NASA regulations and procedures for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Information collected directly from individual and from his official employment record.

System name: Security Records System - NASA.

System location: Locations 1 through 9 inclusive and Location 11, 12, and 15 as set forth in Appendix A.

Categories of individuals: Employees, applicants, NASA committee members, NASA consultants, NASA experts, NASA Resident Research Associates, guest workers, contractor employees, detailees, visitors, correspondents (written and telephonic), Faculty Fellows, sources of information.

Categories of records in the system: Personnel Security Records, Criminal Matter Records, Traffic Management Records.

Authority for maintenance of system: National Aeronautics and Space Act, P.L. 85-568; Espionage and Information Control Statutes, 18 U.S.C. 793 through 799; Sabotage Statutes, 18 U.S.C. 2151 through 2157; Conspiracy Statute, 18 U.S.C. 371; 18 U.S.C. 202-208 and 3056; Internal Security Act of 1950, 5 U.S.C. 781 through 798; Atomic Energy Act of 1954, P.L. 703; Executive Order 11653, Classification and Declassification of National Security Information and Material; Executive Order 10865, Safeguarding Classified Information Within Industry; Executive Order 10450, Security Requirements for Government Employees; P.L. 81-733; Executive Order 11490, Assigning Emergency Preparedness Functions to Federal Departments and Agencies; Federal Property Management Regulation, Subpart 101-9.5; Federal Personnel Manual, Chapters 732 and 736; Federal Register, Part 1203a, Chapter V (March 28, 1973); 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel Security Records: The information contained in this category of records is used within NASA for the purpose of granting security clearances; for determining qualifications, suitability, and loyalty to the United States Government; for determining qualifications for access to classified information, security areas, and NASA installations, and for determining qualifications to travel to Communist controlled areas.

In addition to the internal uses of the information contained in this category of records, the following are routine uses outside of NASA: (1) To determine eligibility to perform classified visits to other Federal agencies and contractor facilities; (2) To provide data to Federal intelligence elements; (3) To provide data to any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested; (4) To provide a basis for determining preliminary visa eligibility; (5) To respond to White House inquiries; (6) Disclosures may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; (7) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (8) Disclosure to a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Criminal Matter Records: The information contained in this category of records is used within NASA for providing management with information which will serve as a possible basis for administrative action. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Traffic Management Records: The information contained in this category of records is used within NASA to provide designated officials and employees with data concerning vehicle ownership, traffic accidents, violation of traffic laws, suspension of driving privileges, traffic control, vehicle parking, and car pools. In addition to the internal uses of the information contained in this category of records, the routine uses outside of NASA are: (1) To provide personal identifying data to Federal, State, local, or foreign law enforcement representatives seeking confirmation of identity of persons under investigation; (2) To provide a NASA contractor, subcontractor, grantee, or other government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or State statute or NASA regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other government organization; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, punch cards, microfilm, and film.

Retrievability: Records are indexed by name, file number, organization, place of origin, badge number, decal number, date of event, space number, payroll number, and social security number.

Safeguards: Access to Personnel Security Records is controlled by Government personnel exclusively. Access to Criminal Matter Records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. After presenting proper identification and requesting a file or record, a person with a need-to-know and, if appropriate, a proper clearance may have access to a file or record only after it has been retrieved and approved for release by a NASA security representative. These records are secured in security storage equipment.

Traffic Management Records: Access to these records is controlled by either Government personnel or selected personnel of NASA contractor guard forces. Access to these records is permitted after a determination has been made that the requestor has an official interest. These records are stored in locked containers.

Retention and Disposal: Records, depending upon type, are retained from 6 months to 30 years before being destroyed. When current immediate need no longer exists, records are either transferred to the appropriate Federal Records Center or destroyed in accordance with records disposal instructions.

System manager(s) and address: Director of Security, Location 1.

Subsystem Managers: Chief, Security Branch, Locations 2, 4, and 5; Security Officer, Location 3; Chief, Security Office, Location 6; Security Officer, Locations 7, 8, 11, and 12; Chief, Security Division, Location 9; Safety and Security Officer at Location 15. Locations are as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above. Requests must contain the following identifying data concerning the requestor: first, middle, and last name; date of birth; social security number; period and place of employment with NASA, if applicable.

Record access procedures: Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 522a (k) (5) from the access provisions of the Act.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a (k) (2) from the access provisions of the Act.

Traffic Management Records: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: For Personnel Security Records and Criminal Matters Records see Access, above. For Traffic Management Records, the NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: Personnel Security Records: Exempt

Criminal Matter Records: Exempt

Traffic Management Records: Employees, civil investigative agencies, civil law enforcement agencies, Federal and local judicial systems, medical records.

Systems exempted from certain provisions of the Act: Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal

the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (5) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a (k) (2) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

Records subject to the provisions of 5 U.S.C. 552 (b) (1) (required by Executive order to be kept secret in the interest of national defense or foreign policy) are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:

(c) (3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e) (1) relating to the type of information maintained in the records; (e) (4) (G) (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552A (k) (1) and Subpart 7 of the NASA regulations appearing in 14 C.F.R. Part 1212.

System name: System of Medical Records - NASA

System location: In Health Clinics/Units at locations 1 through 15 inclusive as set forth in Appendix A.

Categories of individuals: NASA Civil Service employees & applicants; other Agency civil service & military employees working at NASA; visitors to field installations; on-site contractor personnel who receive job related examinations or come to clinic for emergency or first aid treatment; space flight personnel and their families.

Categories of records in the system: General medical records of first aid, emergency treatment, examinations, exposures, and consultations.

Information resulting for physical examinations, laboratory and other tests, and medical history forms; treatment records; screening examination results; immunization records; administration of medications prescribed by private/personal physicians; statistical records; examination schedules; daily log of patients; correspondence; radiation exposure records; alcohol/drug patient information; consultation records.

Astronauts and their families - more detailed and complex physical examinations.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; OMB Circular A-72; Public Law 92-255; Public Law 79-658; Public Law 91-66.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the following purposes: Reference by examining physicians in conduct of physical examinations; review by physicians in consideration of fitness for duty; evaluation for physical disability retirement; statistical data development; patient recall; in-space medical evaluation for astronauts; exposure data for radiation/toxic exposure limits, compliance and examinations; consultations; evaluation of employees, applicants, and contractor employees for specialized or hazardous duties.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Referral to private physicians designated by the individual when requested in writing; (2) Patient referrals; (3) Referral to CSC, OSHA and other Federal agencies as required in accordance with these special program responsibilities; (4) Referral of information to a non-NASA individual's employer; (5) Evaluation by medical consultants; (6) Standard routine use 4 as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in file folders, punch cards, electrocardiographic tapes and x-rays.

Retrievability: By name, date of birth and social security number.

Safeguards: Access limited to concerned medical personnel on a need-to-know basis. Computerized records are identified by code number and records are maintained in locked rooms or files. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and Disposal: In accordance with CSC regulations and NASA Control Schedule II. Records on astronauts are retained permanently.

System manager(s) and address: Director, Office of Occupational Medicine, Location 1

Subsystem Managers: Medical Director or Medical Administrator at Locations 1 through 15 inclusive as set forth in Appendix A.

Notification procedure: Information may be obtained from the cognizant system or subsystem manager listed above.

Record access procedures: Requests from individuals should be addressed to the same address as stated in the notification section above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: Individuals, physicians and previous medical records of individuals.

System name: Special Personnel Records - NASA

System location: Locations 1 through 9 inclusive and Locations 11 and 12 as set forth in Appendix A.

Categories of individuals: Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees.

Categories of records in the system: Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, including alcohol and drug abuse, life and health insurance, retirement, upward mobility, and work injury counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education, Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory appraisals under Merit Promotion Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of station; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activi-

ties of NASA employees; (7) Placement follow-ups; (8) Pre-employment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning deaths, retirement records, and other information pertaining to separated employees; (13)Special planning, analysis, and administrative information; (14) Work performance records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files; (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records.

Agencywide and installation automated personnel information.

Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations.

All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the U. S. Civil Service Commission publishes Privacy Act notices in the FEDERAL REGISTER, including Appeals, Grievances, and Complaints Records; General Personnel Records; and Recruiting, Examining and Placement Records.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used by officials and employees within NASA for preview, planning, review and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage. The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

Retrievability: Records are indexed by any one or a combination of name, birthdate, social security number, or identification number.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and Disposal: Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

System manager(s) and address: NASA Director of Personnel, Location 1

Subsystem Managers: Director, Headquarters Personnel Division, Location 1; Director of Personnel, Locations 2, 3, 4, 5, 6, 7, 8, 9, and 12; Deputy Manager, Location 11. Locations are as set forth in Appendix A.

Notification procedure: Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

Record access procedures: Same as notification procedures above.

Contesting record procedures: The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 C.F.R. Part 1212.

Record source categories: Individuals to whom the records pertain, NASA employees, other Federal employees, other organizations and individuals.

System name: Exchange Records on Individuals - NASA

Security classification: Locations 6, 7, 8, 9, and 12 as set forth in Appendix A.

Categories of individuals: Present and former employees of, and applicants for employment with, NASA Exchanges, Recreational Associations, and Employees' Clubs at NASA installations. Individuals with active loans or charge accounts at one or more of the several organizations.

Categories of records in the system: Exchange Employees' personnel and payroll records, including injury claims, unemployment claims, biographical data, performance evaluations, annual and sick leave records, and all other employee records. Credit records on NASA employees with active accounts.

Authority for maintenance of system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for (1) maintaining exchange employees' payroll, leave, and other records; (2) determining pay adjustment eligibility; (3) determining Federal, State, and City tax withholdings; (4) determining leave eligibility; (5) determining person to notify in emergency; (6) certification of unemployment or injury claims; (7) determining eligibility for employment and promotion; and (8) determining credit standing.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) To furnish a third party a verification of an employee's status upon written request of the employee; (2) To facilitate the verification of employee contributions for insurance data with carriers and collection agents; (3) To provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) To respond to State employment compensation requests for wage and separation data on former employees; (5) To report previous job injuries to workmen's compensation organizations; (6) For emergency notice to person designated by employee; (7) To report unemployment record to appropriate State and local authorities; (8) When requested, provide other employers with work record; and (9) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. part 1212.

Retention and Disposal: Exchange personnel records are permanent.

System manager(s) and address: Associate Administrator - NASA Comptroller, Location 1.

Subsystem Managers: Chairman, Exchange Council, Locations 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Location 9; Head, Administrative Management Branch, Location 12. Locations are as set forth in Appendix A.

Notification procedure: Individuals may obtain information from the cognizant subsystem managers listed above.

Record access procedures: Requests from individuals should be directed to the same address as stated in the notification section above.

Contesting record procedures: The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained and the individual's supervisor.

System name: LeRC Occupational Radiation Exposure Records - NASA.

System location: NASA/Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135.

Categories of individuals: Present and former LeRC employees and contractor personnel who may be exposed to radiation.

Categories of records in the system: Name, date of birth, exposure history, name of license holder, Social Security Number, employment and training history.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, 2201; Title 10 Code of Federal Regulations, Part 20.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to inform individuals of their radiation dosage.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Standard routine uses 1 through 4 inclusive as set forth in Appendix B and (2) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Records are personally supervised during the day and locked in the office at night.

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and Disposal: Records are retained as long as the user custodian is employed in NASA programs and as long thereafter as required by regulations of the Nuclear Regulatory Commission.

System manager(s) and address: Chief, Office of Environmental Health, address same as shown for system location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual is sole source.

System name: GSFC Radiation Safety Committee Records - NASA

System location: Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, Maryland 20771.

Categories of individuals: Radiation users and custodians under GSFC cognizance.

Categories of records in the system: Employment and training history.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; USNRC License and GHB 1860.1, 'Radiation Safety Handbook'; GHB 1860.2 'Radiation Safety Radio-Frequency.'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this sytem of records is used within NASA for review and approval of custodians and users of ionizing radiation by the Radiation Safety Committee. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources; (2) Occupational Safety and Health Administration (Federal and State) may inspect records pursuant to fulfilling their responsibilities under the Occupational Safety and Health laws. (3) The Environmental Protection Agency may inspect records pursuant to fulfilling their responsibilities under the Environmental Protection laws and executive order; (4) The Food and Drug Administration, DHEW, may inspect records pursuant to fulfilling their responsibilities respecting use of lasers and x-rays; (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name only.

Safeguards: Records are located in locked metal file cabinet in locked room with access limited to those whose official duties require access.

Retention and Disposal: Records are kept for two years. If employee does not wish to be renewed for position at the end of 2-year period, his record is removed and placed in inactive file.

System manager(s) and address: Chief, Health and Safety Engineering Office; address same as shown for system location.

Notification procedure: Individuals may obtain information from the system manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Employees

System name: Wallops Flight Center Base Housing Tenant Record - NASA.

System location: Wallops Flight Center, National Aeronautics and Space Administration, Wallops Island, Virginia 23337

Categories of individuals: Tenants of Wallops Housing area.

Categories of records in the system: Housing Rental Agreements, records of rent receipts and records of dormitory occupants.

Authority for maintenance of system: 42 U.S.C. 2473 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for control of family housing and dormitory facilities. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside NASA: (1) To furnish to a third party a verification of an employee's tenant status upon a written request of tenant; (2) To furnish verification of residency to various Federal, State, and local authorities; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and card files.

Retrievability: Records are indexed by name and/or room number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and Disposal: Records are retained and destroyed in accordance with the policies and procedures outlined in NASA Records Disposition Handbook, NHB 1441.1A.

System manager(s) and address: Head, Administrative Management Branch, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Tenants and dormitory occupants and Administrative Management records.

System name: MSFC Federal Housing Administration (FHA) 809 Housing Program - NASA.

System location: George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, Alabama 35812.

Categories of individuals: MSFC Civil Service and contractor personnel who have applied for FHA 809 housing.

Categories of records in the system: Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, MSFC, and FHA.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and index cards.

Retrievability: Records are indexed by certificate number and person's name.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and Disposal: Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

System manager(s) and address: Director, Manpower Office, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained.

System name: JSC Exchange Activities Records - NASA.

System location: Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, Texas 77058.

Categories of individuals: Employees and past employees of JSC Exchange Operations, applicants under the JSC Exchange Scholarship Program, and JSC employees or JSC contractor employees participating in sports or special activities sponsored by the Exchange.

Categories of records in the system: For present and past employees of the JSC Exchange Operations, the system includes a variety of records relating to personnel actions and determinations made about an individual while employed by the NASA Exchange-JSC. These records contain information about an individual relating to birth date; social security number; home address and telephone number; marital status; references; veteran preference, tenure, handicap; position description, past and present salaries, payroll deductions, leave; letters of commendation and reprimand; adverse actions, charges and decisions on charges; notice of reduction-in-force; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer and separation; minority group; records relating to life insurance, health and retirement benefits; designation of beneficiary; training; performance ratings; physical examinations; criminal matters; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

For successful applicants under the JSC Exchange Scholarship Program, the system contains information supplied by individual Center employees who have applied for an Exchange Scholarship for their son or daughter and includes, but is not limited to, education, financial transactions or holdings, employment history, medical data and other related information.

For participants in social or sports activities sponsored by the Exchange, information includes employees' or contractors' employee identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; NASA Management Issuance 9050.6; Treasury Fiscal Requirement Manual, Part III, Payroll Deductions and Withholdings; Federal Personnel Manual; JSCM 1712, Exchange Activities Manual, dated December 1973; Exchange Operations Manual, dated February 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for the following purposes: (1) With respect to past or present employees of the JSC Exchange Operations, information in the system is used to: (a) pay employees and advise employees through Leave and Earnings Statements, (b) provide for promotion opportunities, disciplinary actions, staffing controls, budget requirements, employee fringe benefits, and other related personnel managerial purposes, and (c) submit reports in accordance with legal or policy directives and regulations to center management and NASA Headquarters; (2) With respect to successful applicants under the JSC Scholarship Program, the information in the system is used to award scholarships to the sons and daughters of NASA-JSC employees; and (3) With respect to participants in the social or sports activities sponsored by the Exchange, the information maintained in the system is used to facilitate participation in such activities.

In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA for information maintained on JSC Exchange Operations employees only: (1) Provide information in accordance with legal or policy directives and regulations to the Internal Revenue Service, Department of Labor, Department of Commerce, Texas State Government Agencies, labor unions; (2) Provide information to insurance carriers with regard to workman's compensation, health and accident, and retirement insurance coverages; (3) Provide employment or credit information to other parties as requested by a current or former employee of the JSC Exchange Operations; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: For Exchange employees, records are maintained by name and filed as current or past employee. For Scholarship applicants, records are maintained by name. For participants in social or sports activities, records are maintained by name.

Safeguards: Records are located in locked metal file cabinets with access limited to those whose official duties require access.

Retention and Disposal: For employees of JSC Exchange Operations, Personnel Records are retained indefinitely to satisfy payroll, reemployment, unemployment compensation, tax and employee retirement purposes.

For successful applicants under the JSC Exchange Scholarship Program, records are maintained until completion of awarded scholarship and then destroyed. Records pertaining to unsuccessful applicants are returned to them.

For participants in social or sports activities, records are maintained for a stated participation period, and are then destroyed.

System manager(s) and address: Manager, Exchange Operations, NASA Exchange - JSC, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in 14 C.F.R. Part 1212.

Record source categories: For employees of the JSC Exchange Operations, information is obtained from the individual employee,

the employee references, insurance carriers, JSC Health Services Division, JSC Security, employment agencies, Texas Unemployment Commission, credit bureaus, and creditors.

With respect to the JSC Exchange Scholarship Program, the information is obtained from the parents or guardians of the scholarship participants.

For JSC employees and JSC contractor employees participating in social or sports activities sponsored by the Exchange, information is obtained from the individual participant.

System name: WSTF Federal Housing Administration (FHA) 809 Housing Program - NASA.

System location: JSC White Sands Test Facility, National Aeronautics and Space Administration, P. O. Drawer MM, Las Cruces, New Mexico 88001.

Categories of individuals: WSTF Civil Service and contractor personnel who have applied for FHA 809 housing.

Categories of records in the system: Contains personal (name, home address, home phone, age, marital status), realtor/mortgage and employment data. Contains certification by employee, WSTF, and FHA.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; and 12 U.S.C. 1748h-1 (Section 809, National Housing Act).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA for identification of employees who have applied for and received or not received FHA 809 certificates. In addition to the internal uses of the information contained in this system of records, the following are routine uses outside of NASA: (1) Disclosures to the Federal Housing Administration to facilitate their issuing or denying 809 housing certificates; (2) Disclosures to realtors and builders to facilitate their activities with respect to the real estate transaction; and (3) Standard routine uses 1 through 4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and index cards.

Retrievability: Records are indexed by certificate number and person's name.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and Disposal: Certificates are held for five years after issuance and then destroyed by shredding. Index cards are held indefinitely in order that an employee will not be authorized more than one certificate.

System manager(s) and address: Chief, Administration Office, address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual on whom the record is maintained.

System name: KSC Radiation Training and Experience Summary - NASA

System location: John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

Categories of individuals: Custodians or users of radioactive materials or ionizing radiation-producing devices. Applicable to all users or custodians at KSC and NASA or NASA contractor personnel at Cape Canaveral Air Force Station, Florida, or Vandenberg Air Force Base, California.

Categories of records in the system: Name and nuclear related experience.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2111, 2201, 2232, 2233, Title 10 Code of Federal Regulations, Part 33 for Federal Licensee, and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to determine the suitability of individuals for specific assignments dealing with ionizing radiation and to preclude unnecessary exposure to self and others.

In addition to the internal uses of the information contained in this system of records, routine uses outside of NASA include: (1) Disclosure to Air Force Radiation Protection Officers at Cape Canaveral Air Force Station, Florida, and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices to facilitate protection of the individual and the public; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B; (3) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Duplicate copies of the records are maintained for Kennedy Space Center by Pan American World Airways Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or Pan American World Airways consist of 8 1/2 x 11 inch paper files.

Retrievability: Both files are indexed by name.

Safeguards: Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the applicable NASA regulations at 14 C.F.R. Part 1212.

Retention and Disposal: Records are retained as long as the user custodian is employed in NASA programs and then destroyed.

System manager(s) and address: KSC Radiation Protection Officer; address same as shown for System Location.

Notification procedure: Individuals may obtain information from the system manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual is sole source.

System name: KSC Shuttle Training Certification System (YC 04)

System location: John F. Kenndey Space Center Systems Training and Employee Development Branch Kenndey Space Center, FL 32899

Categories of individuals: KSC Civil Service, KSC contractor, and DOD personnel who have received systems, skills, or safety training in support of KSC or Space Shuttle Operations.

Categories of records in the system: Records of training attendance and certifications, including certifications of physical ability to perform hazardous tasks.

Authority for maintenance of system: 42 U.S.C. 2473, 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to determine training needs, and the operational readiness of the work force, to provide data for badging and access control to hazardous areas or critical operations, to determine the size of individual protective equipment and to identify personnel with needed skill combinations. In addition to the internal uses the information contained in this systems of records, the following are routine uses outside of NASA: (1) Disclosure is made of information on employees of KSC contractors to those contractor organizations and to the Computer Sciences Corporation to facilitate the performance of the contracts. These disclosures are made by Boeing Services International which compiles these training records for KSC; (2) Standard routine uses 1-4 inclusive as set forth in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained for KSC by Computer Services Corporation on computer tape with printouts made quarterly. Complete printouts are filed in the KSC Systems Training and Employee Development Branch, and The Boeing Services International Training Office. Records containing raw data on course attendance and trainee statistics are maintained by Boeing Services International for KSC.

Retrievability: Indexed by name, organization, and skill.

Safeguards: These listings are automated systems, skills, and safety training records maintained under administrative control of responsible organizations in areas that are locked when not in use. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and Disposal: Outdated records are destroyed.

System manager(s) and address: Chief, Systems Training and Employee Development Branch, Kennedy Space Center, FL 32899

Notification procedure: Individuals may obtain information from the Systems Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and for appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Information is obtained from class rosters, operational records, reports of physical examination completions and actions or certification boards.

System name: KSC USNRC Occupational External Radiation Exposure History for Nuclear Regulatory Commission Licenses - NASA.

System location: John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, Florida 32899.

Categories of individuals: KSC civil servants and KSC contractor personnel who have received exposure approximating or exceeding statutory limits.

Categories of records in the system: Name, date of birth, exposure history, name of license holder, social security number.

Authority for maintenance of system: 42 U.S.C. 2473; 44 U.S.C. 3101; 42 U.S.C. 2021, 2073, 2093, 2095, 2111, 2133, 2134, and 2201; 10 C.F.R., Part 20 for Federal Licensee; and Florida Administrative Code, Chapter 10 D-56 for State Licensee.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this system of records is used within NASA to inform individuals of their approaching or exceeding radiation dose limits.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosure to Air Force Radiation Protection Offices at Cape Canaveral Air Force Station, Florida and Vandenberg Air Force Base, California, to governmental and private license holders, and to NASA contractors using radioactive materials or ionizing radiation producing devices, to facilitate the protection of individuals; (2) Standard routine uses 1 through 4 inclusive as set forth in Appendix B; (3) The Nuclear Regulatory Commission (formerly Atomic Energy Commission) may inspect records pursuant to fulfilling their responsibilities in administering and issuing licenses to use radiation sources.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Duplicate copies of the records are maintained for Kennedy Space Center by Pan American World Airways Occupational Medicine and Environmental Health Services. All records maintained by the KSC Biomedical Office or Pan American World Airways consist of 8 1/2 x 11 inch paper files.

Retrievability: Both files are indexed by name.

Safeguards: Records are personally supervised during the day and locked in the office at night. Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 C.F.R. Part 1212.

Retention and Disposal: Records are retained as long as the user custodian is employed in NASA programs and then destroyed.

System manager(s) and address: KSC Radiation Protection Officer; address same as shown for System Location.

Notification procedure: Individuals may obtain information from the System Manager.

Record access procedures: Same as above.

Contesting record procedures: The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appear at 14 C.F.R. Part 1212.

Record source categories: Individual is sole source.

APPENDIX A.

LOCATION NUMBERS AND MAILING ADDRESSES OF NASA INSTALLATIONS AT WHICH RECORDS ARE LOCATED.

Location 1.
National Aeronautics and Space Administration
Washington, DC 20546

Location 2
Ames Research Center
National Aeronautics and Space Administration
Moffett Field, CA 94035

Location 3
Hugh L. Dryden Flight Research Center
National Aeronautics and Space Administration
P. O. Box 273
Edwards, CA 93523

Location 4
Goddard Space Flight Center
National Aeronautics and Space Administration
Greenbelt, MD 20771

Location 5
Lyndon B. Johnson Space Center
National Aeronautics and Space Administration
Houston, TX 77058

Location 6
John F. Kennedy Space Center
National Aeronautics and Space Administration
Kennedy Space Center, FL 32899

Location 7
Langley Research Center
National Aeronautics and Space Administration
Langley Station
Hampton, VA 23665

Location 8
Lewis Research Center
National Aeronautics and Space Administration
21000 Brookpark Road
Cleveland, OH 44135

Location 9
George C. Marshall Space Flight Center
National Aeronautics and Space Administration
Marshall Space Flight Center, AL 35812

Location 10
NASA Resident Procurement Branch-JPL
National Aeronautics and Space Administration
4800 Oak Grove Drive
Pasadena, CA 91103

Location 11
National Space Technology Laboratories
National Aeronautics and Space Administration
Bay St. Louis, MS 39529

Location 12
Wallops Flight Center
National Aeronautics and Space Administration
Wallops Island, VA 23337

Location 13
JSC White Sands Test Facility
National Aeronautics and Space Administration
P.O. Drawer MM
Las Cruces, NM 88001

Location 14
LeRC Plum Brook Station
National Aeronautics and Space Administration
Sandusky, OH 44870

Location 15
Michoud Assembly Facility
National Aeronautics and Space Administration
P.O. Box 29300
New Orleans, LA 70129

APPENDIX B
STANDARD ROUTINE USES - NASA

The following routine uses of information contained in systems of records subject to the Privacy Act of 1974 are standard for many NASA systems. They are cited by reference in the paragraph 'Routine uses of records maintained in the system, including categories of users and the purpose of such uses' of the FEDERAL REGISTER notice on those systems to which they apply.

Standard Routine Use No. 1 - LAW ENFORCEMENT - In the event that this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2 - DISCLOSURE WHEN REQUESTING INFORMATION - A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Standard Routine Use No. 3 - DISCLOSURE OF REQUESTED INFORMATION - A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4 - COURT PROCEEDINGS - In the event there is a pending court or formal administrative proceeding, any records which are relevant to the proceeding may be disclosed to the Department of Justice or other agency for purposes of representing the Government, or in the course of presenting evidence, or they may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery. 0

[FR Doc. 78-23546 Filed 8-25-78; 8:45 am]

federal register

MONDAY, AUGUST 28, 1978
PART III



DEPARTMENT OF STATE

■

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish off Coasts of the United States

[4710-09]

DEPARTMENT OF STATE

[Public Notice 621]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1978 have been received from the Government of Mexico and the Federal Republic of Germany and are published herewith.

Dated: August 11, 1978.

JAMES A. STORER,
Director,
Office of Fisheries Affairs.

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHERY CONSERVATION ZONE OF THE UNITED STATES

No. _____

In accordance with the provisions of the Fishery Conservation and Management Act of 1976, the Government of Federal Republic of Germany hereby submits this application for permits for vessels under its jurisdiction to fish within the Fishery Conservation Zone of the United States, or beyond that zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States, during the year 1978.

Fishing Vessel Identification Forms will be submitted in support of this application. The fishery plans, species, and catch contemplated for vessels of the Federal Republic of Germany flag are as follows:

Fishery Plans	Target Species	Total Tonnage Requested For Each Species (MT)
		Allocations
Northwest Atlantic	longfinned squid	500

Submitted: 3/7/1978 (Date)

Signature of Authorized Official

Regierungsdirektor
Title

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0047

1. Name of Vessel CIEISA 13
2. Visual Identifier (Call Sign) _____
3. Type of Vessel STERN TRAWLER
4. Length 44 M.
5. Gross Tonnage 462
6. Net Tonnage 220
7. Maximum Speed (knots) 12
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A. DE C.V.
HOMERO 1804 7to. Piso, Mexico 10, D.F., Mexico
9. Types of Processing Equipment Freezer
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	Long Finned Squid Short Finned Squid	Bottom Trawl and Mid Water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. GE-78-0011

1. Name of Vessel REGULUS
2. Visual Identifier (Call Sign) DFCZ
3. Type of Vessel Factory/Sterntrawler
4. Length 86,87 m
5. Gross Tonnage 3.183
6. Net Tonnage 1.368
7. Maximum Speed (knots) 15,5
8. Owner's Name and Address Hochseefischerei Nordstern AG.
2850 Bremerhaven - F., Am Seedeich
9. Types of Processing Equipment Heading, Gutting, Skinning, Filleting and Freezing Equipment, Fishmeal and Oil plant
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	long-finned squid	pelagic trawl	x	x	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0048

1. Name of Vessel CIEISA 14
2. Visual Identifier (Call Sign) _____
3. Type of Vessel STERN TRAWLER
4. Length 44 M
5. Gross Tonnage 462
6. Net Tonnage 220
7. Maximum Speed (knots) 12
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A. DE C.V.
HOMERO 1804 7to. Piso, MEXICO 10, D.F. MEXICO
9. Types of Processing Equipment Freezer
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	Long Finned Squid Short Finned Squid	Bottom Trawl and Mid Water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0049

1. Name of Vessel CIEISA 15 2. Visual Identifier (Call Sign)
3. Type of Vessel STERN TRAWLER 4. Length 44 M
5. Gross Tonnage 462 6. Net Tonnage 220 7. Maximum Speed (knots) 12
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A. DE C.V.
HOMERO 1804 7to. PISO, MEXICO 10, D.F., MEXICO
9. Types of Processing Equipment Freezer

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Activity: Processing	Activity: Other Support
NWA	Long Finned Squid Short Finned Squid	Bottom Trawl and Mid Water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:

☑ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0050

1. Name of Vessel CIEISA 16 2. Visual Identifier (Call Sign)
3. Type of Vessel STERN TRAWLER 4. Length 44 M
5. Gross Tonnage 462 6. Net Tonnage 220 7. Maximum Speed (knots) 12
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A. DE C.V.
HOMERO 1804 7to. PISO, MEXICO 10, D.F., MEXICO
9. Types of Processing Equipment Freezer

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Activity: Processing	Activity: Other Support
NWA	Long Finned Squid Short Finned Squid	Bottom Trawl and Mid Water Trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:

☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. MX-78-0051

1. Name of Vessel CIEISA 17 2. Visual Identifier (Call Sign)
3. Type of Vessel STERN TRAWLER 4. Length 44 M.
5. Gross Tonnage 462 6. Net Tonnage 220 7. Maximum Speed (knots) 12
8. Owner's Name and Address MEXICANA Y ESPAÑOLA DE PESCA S.A. de C.V.
HOMERO 1804 7to. Piso, MEXICO 10, D.F., Mexico
9. Types of Processing Equipment Freezer

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Activity: Processing	Activity: Other Support
NWA	Long Finned Squid Short Finned Squid	Bottom Trawl and Mid Water TRawl.	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:

☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

[FR Doc. 78-24067 Filed 8-25-78; 8:45 am]

federal register

MONDAY, AUGUST 28, 1978
PART IV



ENVIRONMENTAL PROTECTION AGENCY

■

STATE SOLID WASTE MANAGEMENT PLANS

Guidelines for Development and Implementation

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 256]

[FRL 922-1]

GUIDELINES FOR DEVELOPMENT AND IMPLEMENTATION OF STATE SOLID WASTE MANAGEMENT PLANS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed regulation contains guidelines for the development and implementation of State solid waste management plans. These guidelines are required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (the "Act"). States are eligible to receive financial assistance under subtitle D of the Act if the State plan has been approved by EPA. This proposed regulation establishes the requirements for State plans and recommends methods and procedures to meet those requirements. As set forth in the Act, the State plan must provide for the identification of State, local, and regional responsibilities for solid waste management, the encouragement of resource recovery and conservation and the application and enforcement of environmentally sound disposal practices.

DATE: Comments must be received on or before November 27, 1978.

ADDRESS: The mailing address for all comments is Office of Solid Waste (WH-564), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Mr. George Garland, docket 4002(b).

Public hearing and meetings: A public hearing will be held on October 26, 1978, at the Main Auditorium, General Services Administration Building, 18th and F Streets NW., Washington, D.C., from 9 a.m. to 5 p.m.; registration at 8:30 a.m.

Ten public meetings will be held on the dates and at the locations shown below. The public meetings will consist of a presentation on the proposed guidelines, followed by a discussion session.

Date, time, and location

September 13, 1978, 1 to 5 p.m. and 7 to 9 p.m., Radisson Muehlebach Hotel, Towers Room 22, 12th and Baltimore Streets, Kansas City, Mo.

September 18, 1978, 9 a.m. to 3 p.m., EPA Regional Office, 1200 Sixth Avenue, Room 12-A, Seattle, Wash.

September 19, 1978, 1 to 5 p.m. and 7 to 9 p.m., EPA Regional Office, 215 Fremont Street, Sixth Floor, Nevada Conference Room, San Francisco, Calif.

September 21, 1978, 9 a.m. to 3 p.m., EPA Regional Office, 1860 Lincoln Street, Elm Room, Ninth Floor, Denver, Colo.

September 26, 1978, 9 a.m. to 3 p.m., Sheraton Biltmore, 817 West Peachtree Street NE., Atlanta, Ga.

October 4, 1978, 10 a.m. to 3:30 p.m., Continental Plaza Hotel, 909 North Michigan Avenue, Windsor Room, Chicago, Ill.

October 5, 1978, 9 a.m. to 3 p.m., Ford Foundation, 320 East 43d Street, New York, N.Y.

October 11, 1978, 9 a.m. to 3 p.m., EPA Regional Office, John F. Kennedy Federal Building, Room 2003, Boston, Mass.

October 13, 1978, 10 a.m. to 3:30 p.m., Annapolis Hilton, Compromise and St. Mary's Streets, Annapolis, Md.

October 24, 1978, 9 a.m. to 3 p.m., EPA Regional Office, 1201 Elm Street, First International Building, 28th Floor, Dallas, Tex.

Oral or written comments may be submitted at the public hearing and meetings. Requests to participate in the public hearing should be directed to Ms. Gerri Wyer, Public Participation Officer, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Persons interested in attending only the public meetings need not make a request to participate.

FOR FURTHER INFORMATION CONTACT: Mr. George Garland at the above address, 202-755-9125. The official record of rulemaking (docket 4002(b)) is located in Room 2107, EPA (WH-564), 401 M Street SW., Washington, D.C. 20460, and is available for viewing 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. All comments received will be filed in this docket.

SUPPLEMENTARY INFORMATION:

Objectives of the Act and Requirements for State Plans

The objectives of the Act are to promote the protection of health and the environment and to conserve valuable material and energy resources. In order to accomplish this, the Act sets forth a national program to improve solid waste management, including control of hazardous wastes, resource conservation, resource recovery, and establishment of environmentally sound disposal practices. This is to be carried out through a cooperative effort among Federal, State, and substate governments and private enterprise.

The broad scope of this program is exemplified by the definitions of "solid waste," "solid waste management," and "disposal" in section 1004 of the Act:

Solid waste: Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

Solid waste management: The systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste, including planning and management respecting resource recovery and resource conservation.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters including ground waters.

Section 4002(b) requires the Administrator to promulgate guidelines for the development and implementation of State solid waste management plans. States are eligible for financial assistance under subtitle D if the State plan has been approved by EPA. Section 4003 establishes the minimum requirements for approval of State plans. These requirements include: (1) The identification of the responsibilities of State, local, and regional authorities in the development and implementation of the State plan; (2) the prohibition of new open dumps, and the requirement that all solid waste be utilized for resource recovery or disposed of in an environmentally sound manner; (3) the closing or upgrading of existing open dumps; (4) the establishment of State regulatory powers necessary to implement the State plan; (5) the elimination of State or local prohibitions of long-term contracts for the supply of solid waste to resource recovery facilities; and (6) the provision of resource conservation, resource recovery, or environmentally sound disposal practices.

Regulations to be promulgated under sections 4004 and 1008(a)(3) will provide criteria to be used by the States in defining those solid waste disposal practices that constitute open dumping and are to be prohibited under the State plan according to sections 4003 (2) and (3). Section 4005(b) requires EPA to publish an inventory of all disposal facilities in the United States which are open dumps within the meaning of the Act. Section 4005(c) provides that any facility listed in the inventory as an open dump must be closed or upgraded within 5 years according to a State-established schedule containing an enforceable sequence of actions leading to compliance.

GUIDELINES ORGANIZATION

The guidelines contain seven subparts (A-G). Subpart A presents the purpose and scope of the guidelines and the State plan. It also contains the procedures for State adoption and revision and EPA approval of the State plan. In addition, important terms are defined.

Subparts B, C, D, and E discuss, respectively, (1) the identification of State, local, and regional responsibilities, (2) the development of the State disposal program, (3) the development of the State resource conservation and recovery program, and (4) facility planning and development.

Each of these subparts lists the overall requirements for plan approval, which are based upon the requirements of the Act. The requirements sections are followed by a discussion of recommended procedures. The requirements use the term "shall." The recommendations, which are advisory, use the term "should." The recommendations are provided to assist the States in developing and implementing the State plan. Any process which complies with the requirements of these guidelines will be acceptable to EPA for purposes of approval of the State plan.

Subpart F discusses coordination with other programs. The broad definitions of solid waste and disposal make this coordination especially important. Subpart F emphasizes coordination with planning for residuals management under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288), with the National Pollutant Discharge Elimination System (NPDES), under section 402 of that Act (33 U.S.C. 1342), and with the surface impoundments assessment and State underground injection control program under the Safe Drinking Water Act (42 U.S.C. § 300f et seq.).

Subpart G lists the requirements for public participation in the development and implementation of State and substate plans.

SCOPE OF STATE PLANS

These guidelines propose that the State plan address all solid wastes in the State that pose potential adverse effects on health or the environment or provide opportunity for resource conservation or recovery. The plan should address residential, commercial, and institutional solid waste, hazardous, industrial, mining, and agricultural wates, waste water and treatment sludges, septic tank pumpings, and other pollution control residues. It should explore the nature and severity of these categories of solid wastes and establish priorities for their management.

The State plan should set forth planning and implementation activities to be carried out by State and substate agencies.

Planning. Planning is defined in these guidelines as the process of "identifying problems, defining objectives, collecting information, analyzing alternatives, and determining the necessary activities and courses of action." The includes analysis of solid waste generation rates and assessment of the adequacy of existing resource recovery and disposal facilities and the need for new or expanded facilities. It also includes setting priorities for the management of different wastes, identifying responsibilities, developing the necessary legislation and administrative powers to implement the plan, and planning for State resource conservation, recovery, and disposal programs.

Many of these planning activities will be carried out by State agencies. However, substate agencies may need to conduct specific types of planning concerning the number and kinds of facilities needed in particular areas and the different institutions needed (e.g., solid waste authorities or districts) for managing solid wastes. Substate planning may also be necessary for establishing coordinated management of different waste streams (e.g., coincineration of residential solid waste and municipal sewage sludge) or for establishing disposal or recovery facilities for new waste streams (e.g., industrial pretreatment residues).

Substate agencies may need to develop more detailed plans for resource recovery and disposal facilities. These could include technology assessments, analysis of markets for recovered resources, economic feasibility studies, evaluation of alternative sites, geological and hydrogeological investigation, and preliminary engineering and design studies.

Implementation. Implementation is defined in these guidelines as "putting the plan into practice by carrying out planned activities or insuring such activities are carried out." One aspect of plan implementation is carrying out the necessary regulatory activities to insure that solid wastes are managed and disposed of in a manner that is protective of public health and the environment. This includes developing health or environmental standards for facilities, assessing and inspecting facilities, conducting a permit or registration program, and carrying out the necessary enforcement activities. For the most part, such programs have been conducted by State agencies, although certain responsibilities (such as inspections) are sometimes delegated to local public health agencies.

The State plan will also result in activities to encourage resource conservation and resource recovery. This will include activities to eliminate institutional barriers to recovery facilities (such as prohibitions to long-term contracts for supplying wastes); activities to develop markets for recovered materials (such as State procurement of products composed of such materials); and other technical assistance, training, information development, and financial assistance activities. Such activities require State, substate, and private sector involvement.

State plan implementation will also include actual site preparation and the construction and operation of resource recovery and disposal facilities. In many parts of the country, these services are provided entirely by the private sector. However, there are also substate and State agencies that are involved in aspects of facility implementation.

Given the broad scope of the State plan and the necessary involvement of a number of agencies and parties, it is expected that planning and implementation will be time-phased over a number of years.

TIME-PHASING OF PLANNING AND IMPLEMENTATION UNDER THE STATE PLAN; PLAN APPROVAL

These guidelines require that the State plan be developed within 18 months, that it cover a minimum of a 5-year time period, and that it be adopted by the State. (Comment is invited on whether State administrative procedures adequately address adoption procedures for State plans or whether approval should be by the Governor or State legislature.) The State is to review the plan and, where necessary, revise and readopt it at least every 3 years. EPA is to approve or disapprove State plans and to provide financial assistance to States if the State plan has been approved, continues to be eligible for approval, and is being implemented by the State.

It will be difficult to completely fulfill the requirements of the guidelines in the near term, given the broad definitions of disposal and solid waste and the ambitious goals of insuring environmentally sound solid waste disposal and encouraging resource recovery and conservation. Time-phasing involves setting priorities among waste categories and making decisions concerning activities within a category. Time-phasing should provide for coordination of planning, regulatory program implementation, and facility implementation.

These guidelines require the State plan to describe the activities to be undertaken within the 5-year period. Those activities are to be set forth as specifically as possible and are to include detailed schedules and milestones.

The overall goal of the State planning process is to address planning

and implementation activities for all waste categories that pose potential adverse effects on health or the environment or provide opportunity for resource conservation or recovery. However, the plan may postpone planning and implementation activities for certain waste categories due to the need to focus resources on higher priority categories. The State should determine which waste categories and activities have high priority based on: The current level of management, planning, and implementation within the State; the extent of the solid waste management problem; the known health, evnironmental, and economic impacts; and the resources and management approaches available. The State plan may initially concentrate planning and implementation activities on the high priority waste categories.

EPA may approve a State plan which provides for time-phasing of activities in this manner, and which proposes less than full development of State planning and implementation activities over the 5-year period, providing satisfactory justification is included in the State plan.

Annual Work Program

The annual work program, submitted with a State's application for financial assistance under section 4008(a)(1) of the Act, will provide a basis for determining whether the State plan continues to be eligible for approval and is being implemented by the State. The annual work program (which is described in the grant regulations (40 CFR Part 35)) summarizes the current year's program and sets forth activities for the coming year. Each year, a State's priorities and activities should be examined to insure that the program is directed at achieving the desired health, enviornmental, and resource conservation results.

The annual work program represents a joint agreement between EPA and the State and presents a mutually satisfactory statement of reasonable progress in meeting the requirements of the Act as expressed in these guidelines. It represents a State's obligation incurred by acceptance of financial assistance and must be developed in consultation with local elected officials and with public participation.

In order to demonstrate that the State plan is being implemented, a number of items developed under the State plan are to be included by reference in the annual work program. These include substate plans, plans for the development of facilities, and compliance schedules for upgrading or closing open dumps. Such items are to be individually listed in the annual work program and be made available for review by EPA and by the public.

EPA is considering consolidation of State work program submissions for various environmental programs into a single State/EPA agreement. Comment is invited on the concept of including the State solid waste work program submission in such a consolidated agreement.

Financial Assistance

Sections 4008 and 4009 of the Act provide for financial assistance under subtitle D (funding of authorized State hazardous waste regulatory programs is provided under subtitle C of the Act). Section 4008(a)(1) authorizes financial assistance for the development and implementation of State plans. The Act states that for this purpose, implementation does not include the acquisition, leasing, construction or modification of equipment or facilities, or the acquisition, leasing, or improvement of land. Funds appropriated under this section are to be allotted to the States in proportion to population and are to be distributed by States to State and substate agencies based upon the responsibilities of the respective parties.

Section 4008(a)(2) authorizes financial assistance to public solid waste management agencies and authorities for implementation of programs to provide solid waste management, resource recovery and resource conservation services and hazardous waste management. This assistance also does not cover construction, equipment or land. Assistance is authorized for items such as facility planning and feasibility studies, consultation, surveys, and analyses, technology assessments, legal expenses, construction feasibility studies, and economic studies. These grants may be provided either directly to substate agencies or through the State. Financial assistance under section 4008(a)(2) may only be provided for programs certified by the State as consistent with the State of substate solid waste management plan.

Section 4009 authorizes grants to certain rural communities based upon population and income. Such funds may be provided only to communities that cannot comply with the open dumping prohibition and cannot feasibly be included in a regional solid waste management facility. These funds may be used for construction and equipment. Section 4008(e) also authorizes financial assistance for improvement, conversion or construction of disposal facilities for communities having disposal facilities in which more than 75 percent of the solid waste disposal is from areas outside of the jurisdiction of the community. The Act limits the latter assistance program to not more than one community in every State.

In summary, the Act authorizes financial assistance for public agencies to improve the management of solid wastes through the development and implementation of programs to regulate solid waste disposal and hazardous waste management, programs to encourage resource recovery and conservation, and programs to plan for solid waste processing, disposal or recovery facilities. Except for a limited number of communities and in special circumstances, the Act does not authorize financial assistance for construction and equipment. There are no funds authorized for acquisition of land or for the operation or maintenance of facilities. These costs will have to be borne directly by State and substate governments and by solid waste generators and facility users.

Other Important Issues

There are a number of important issues raised by these proposed guidelines that require further elaboration and explanation. These issues, discussed below, are the open dump inventory, abandoned sites, State, and substate agency roles in facility planning and implementation, hazardous waste management and resource conservation and recovery.

THE OPEN DUMP INVENTORY AS PART OF THE STATE PLAN

These guidelines require the State plan to provide for the classification of disposal facilities according to the criteria for classification of solid waste disposal facilities (the criteria; 40 CFR Part 257) and provide this information to EPA for publication in the inventory of open dumps. Section 4005(b) requires EPA to publish an inventory of disposal facilities that are open dumps but does not specify who is to conduct the analysis, evaluation and classification of facilities for that purpose. However, section 1008(a)(3) states that the criteria are to be used by the States to define practices which constitute open dumping. Furthermore, section 4003 requires State plans to provide for the closing or upgrading of open dumps under the requirements of 4005. Therefore, in order for States to comply with the minimum requirements for State plan approval, they must classify facilities in accordance with the criteria. Such classifications are a necessary precursor to State compliance schedules and other enforcement activities. The grant regulations (40 CFR Part 35) provide for financial assistance of up to 100 percent of the allowable costs of conducting the inventory of open dumps.

Since the listing of a facility in the open dump inventory will mean that the facility is in violation of Federal criteria, adequate evidence, documentation, and due process are necessary.

Therefore, EPA will develop guidance for conducting facility classifications. This guidance will attempt to utilize existing State regulatory approaches and inspection procedures whenever feasible.

While the Act calls for publication of the inventory within 1 year, the complexity of the effort and the time required to carry it out make it necessary to time-phase the classification of facilities and the publication of the inventory. These guidelines establish procedures for such phasing. The classification of facilities should be coordinated with the development of regulatory powers needed for taking enforcement actions and with the facility planning needed for replacement capacity for open dumps. The State plan should provide for time-phasing of facility classifications in a manner so as to assert State control over all solid wastes and disposal categories within the shortest practicable time, and in a manner which provides for health and environmental protection.

ABANDONED FACILITIES

Abandoned, inactive disposal facilities have caused significant adverse health and environmental effects. Therefore, these guidelines state that abandoned facilities that continue to produce such effects are subject to classification as open dumps and publication in the inventory. The State plan need not provide for statewide surveillance and monitoring to determine locations of all abandoned facilities; rather the investigation of abandoned facilities should be directed at those sites with a high potential for causing severe health or environmental problems, such as leachate contamination of drinking water supplies and explosions for accumulated gases.

It is recognized that it may be very difficult to take enforcement action with respect to abandoned facilities because ownership may have been transferred or relinquished, and legal liability and financial responsibility may be difficult to establish. Therefore, if corrective actions by facility owners or operators cannot be brought about, public agencies should take the necessary measures to protect public health and safety. This should include, as a minimum, notification of adjacent residents and other affected parties of the potential health or environmental hazards.

Recognizing the difficulties of correcting or upgrading abandoned facilities, preventive measures should be taken before facilities become inactive. The guidelines require the State plan to provide for facility closure procedures to eliminate or minimize adverse health or environmental effects. Facility owners or operators should be required to comply with such procedures through the facility permit or registration.

STATE AND SUBSTATE AGENCY RESPONSIBILITIES FOR FACILITY PLANNING AND IMPLEMENTATION

These guidelines require that the State plan provide for adequate resource recovery and disposal facilities and practices necessary to use or dispose of solid waste in an environmentally sound manner. These guidlines also recommend a number of actions that could be undertaken to help assure that the necessary facilities and services are in fact provided for.

In complying with this requirement, it is important to strike an appropriate balance between public and private sector activities. These guidelines do not favor one over the other. In some parts of the country, private sector initiatives may be sufficient to insure that the needed facilities are available. However, in other instances, there may be a need for greater involvement of State or substate governments. This involvement should include an awareness of private sector activities in order to determine whether public sector involvement in facility planning and implementation is necessary.

EPA recognizes that there is an established solid waste management industry offering a wide range of services, including the design, construction, and operation of processing, treatment, transport, disposal, and recovery facilities. It is not the intent of these guidelines that the public sector needlessly supplant or duplicate activities of the private sector. State and substate agencies are encouraged to establish policies for free and unrestricted movement of solid waste across jurisdictional boundaries and procedures for sharing information useful to prospective and established entrepreneurs, as well as to provide relevant planning information to industry regarding population and waste generation trends, environmental conditions and other topics that would assist in the establishment of financially and environmentally sound facilities.

The guidelines recommend a statewide assessment of the adequacy of existing facilities and an evaluation of the need for new or expanded facilities. The guidelines purposely leave it up to State discretion whether this needs assessment is to be conducted by State or substate agencies or by a combination of the two. Where facilities and practices are found to be inadequate, actions should be taken to help insure that needed facilities are developed by State or substate agencies or by the private sector. For areas found to have 5 or fewer years of capacity remaining, more detailed planning should be carried out, including evaluation of technologies and site locations. Implementation schedules also should be developed.

Where there is less than 2 years' projected capacity, the State should have the authority to acquire facilities or cause facilities to be acquired. It is recognized that facility acquisition activities have traditionally been the responsibility of regional and local governments. However, recent experience indicates that it is becoming more and more difficult for substate governments to obtain sites for solid waste disposal facilities. This is especially true for facilities that store, treat, or dispose of hazardous wastes. Therefore, it is important for the State plan to explore options for more direct State control over siting and facility development if local government and private sector initiatives fail. EPA invites comment on methods for the State to obtain greater control over facility acquisition; such methods could include obtaining the authority to override local zoning laws or to contract directly for facilities and services, requiring facility permits to conform to regional plans developed under the State plan, or instituting a public utility agency to regulate the supply of services.

HAZARDOUS WASTE MANAGEMENT

Subtitle C of the Act provides for the authorization of State programs for regulating hazardous waste management and for financial assistance for such programs. Guidelines for the development and implementation of hazardous waste programs are to be promulgated under section 3006 of the Act. Therefore, the guidelines proposed in this rulemaking defer to the section 3006 guidelines for the requirements for authorized State hazardous waste regulatory programs. However, there are a number of hazardous waste management activities that are not regulatory in nature and, thus, not covered by the section 3006 guidelines. Such activities are to be carried out under the authorities of subtitle D and are subject to these guidelines for State plans. In general, the State plan is to describe how hazardous wastes will be managed in the State including identification of responsibilities for that management and provision of necessary hazardous waste treatment, storage, and disposal facilities.

With regard to hazardous waste facility planning, there are certain special factors to be considered. Most hazardous waste recovery, treatment, storage, and disposal facilities are privately operated. Hazardous waste generators are often large industries with heavy capital investments in plant and equipment into which onsite hazardous waste management facilities have been integrated. In addition, there are over 100 private offsite hazardous

waste management facilities which provide service to many industries.

The State plan should provide for adequate hazardous waste recovery, treatment, storage, and disposal facilities, including public facilities where necessary. States should develop implementation schedules which will insure siting of the necessary hazardous waste management facilities within the State borders. State plans should also encourage waste exchanges and other waste utilization practices for hazardous wastes.

RESOURCE CONSERVATION AND RECOVERY

One of the major objectives of the Act is to encourage resource recovery and resource conservation. These terms are defined in the Act as follows:

Resource recovery: The recovery of material and energy from solid waste.

Resource conservation: The reduction of the amounts of solid waste that are generated, the reduction of overall resource consumption, and the utilization of recovered resources.

These guidelines establish several requirements for State plans directed toward achieving this objective.

The guidelines require the State plan to provide for the development of a policy and strategy to encourage resource recovery and resource conservation. This strategy should focus on removing existing technical, economic, and institutional constraints that impede increased resource recovery and conservation. State activities in this area could include technical assistance, training, information development and dissemination, financial support programs, and programs to develop markets for recovered materials and energy.

The Act requires State plans to insure that local governments are not prohibited under State or local law from entering into long-term contracts for supplying solid wastes to resource recovery facilities. This section reflects the concern that the development of resource recovery facilities has been hindered by restrictive procurement laws. The guidelines recommend that the State plan provide for State agency review of pertinent State and local statutes, and for the development of a strategy for eliminating the long-term contracting restrictions. It is recognized that States and State agencies may have limited ability to modify local procurement laws. Therefore, cooperation of local governments and public education and participation are important in meeting this requirement.

Section 6002 of the Act requires State agencies to purchase items composed of the highest percentage of recovered materials practicable, whenever Federal funds are used for such purchases. Although section 6002 is entitled "Federal Procurement," the requirement in section 6002(c) applies to State procuring agencies by virtue of definition (17) in section 1004. These guidelines allow States to delay in complying with the requirement until EPA issues additional guidelines under section 6002(e) which will recommend procedures for purchasing recovered materials and provide information on their availability and uses. These guidelines also recommend that the State plan provide for the development of a policy to encourage procurement of recovered materials and examination of potential uses of recovered materials by State purchasing agencies.

It is recognized that State solid waste management agencies are generally not involved in procurement practices and policies. Therefore, the State plan should identify the agencies with responsibility in this area and provide for the necessary actions by such agencies in order to meet this requirement.

The guidelines recommend resource recovery and resource conservation as the preferred methods of solid waste management whenever technically and economically feasible. While resource recovery and conservation may reduce land disposal needs, however, these methods will not eliminate the need for land disposal. It is expected that in the near future, resource recovery and conservation will have only a limited impact on the solid waste generated nationwide. Therefore, there will continue to be a need for environmentally sound land disposal facilities in order to meet the objectives of the Act.

COORDINATION WITH OTHER ACTS, GUIDELINES, AND REGULATIONS

These guidelines should be considered along with certain other guidelines and regulations being promulgated under the Act and with the provisions of several other Acts.

COORDINATION WITH WATER QUALITY MANAGEMENT AGENCIES

Subpart F of these guidelines addresses the requirements for coordinating the State plan with programs under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288). Section 208 provides for the identification of complex water quality problem areas and for the designation of areawide agencies in those areas to conduct water quality management planning. The State is responsible for such planning in all areas of the State for which an areawide agency has not been identified and for coordination of all water quality management activities within the State. As part of this effort, State and areawide agencies are to identify a process to control the disposition of all residual (solid) waste which affects water quality. After completion of such planning, the Governor is to designate agencies to implement various elements of the plan.

Subpart F discusses the need to consider water quality management agencies when making agency identifications for solid waste planning and implementation. It also discusses the need to establish coordination procedures when separate agencies are identified. The following types of coordination should take place:

1. Use of a common data base (e.g. demographic and population projections and geographic boundaries);
2. Use of compatible report formats, maps, scales, legends, and so forth;
3. Formulation of consistent policies for a sludge and residuals management;
4. Coordinated identification of State legislative changes needed for implementation; and
5. Coordination of program development, implementation strategies, and public participation programs.

COORDINATION WITH SURFACE IMPOUNDMENT STUDIES

Section 1442(a)(8)(C) of the Safe Drinking Water Act, as amended (SDWA) (42 U.S.C. 300j-1) requires a study of the nature and extent of the impact on underground water of ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas. In partial fulfillment of this requirement, EPA intends to conduct, through grants to State agencies, an assessment of surface impoundments and their effects on ground water.

There is the potential for confusion and duplication of effort between the studies of surface impoundments to be conducted under the SDWA and the inventory of open dumps to be conducted under the Solid Waste Disposal Act. Therefore, the State financial assistance programs under both Acts must be closely coordinated. The studies and assessments planned under the SDWA should be used as the basis for identifying those surface impoundments that have the greatest potential for adverse effects and should be used by the States in developing the open dump inventory. Those impoundments which are identified as having the greatest potential for serious impact on ground water quality should be considered high priority for development of the inventory. Such impoundments which are found to violate the criteria should be listed in the inventory and be liable for closure or upgrading. Those surface impoundments that receive hazardous wastes are subject to the regulations for hazardous

waste disposal facilities promulgated under subtitle C of the Act.

While the inventory process and subtitle C regulations will begin to bring such facilities under State control under the Solid Waste Disposal Act, EPA has not yet determined the best regulatory approach to the control of surface impoundments. EPA will continue to explore and reevaluate its authorities under the Solid Waste Disposal Act, the Safe Drinking Water Act, the Clean Water Act, and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) in order to determine the best regulatory approach under any or a combination of these various authorities. If these authorities are not sufficient to assure the adequate control of the disposal of wastes through surface impoundments, EPA will seek additional legislative authority. States and the general public will be allowed ample opportunity to comment on the most effective means of regulating surface impoundments such as pits, ponds, and lagoons.

COORDINATION WITH THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

Section 402 of the Clean Water Act, as amended (33 U.S.C. 1342) describes the National Pollutant Discharge Elimination System (NPDES) governing discharge of pollutants into navigable waters. Permits issued under section 402 should be coordinated with hazardous waste and solid waste management permits, where applicable. The following aspects of the NPDES system should be taken into account:

1. State or Federal issuance of NPDES permits for facilities disposing or utilizing municipal waste water treatment sludge, including new facility permits and compliance schedules under existing permits.

2. State or Federal issuance of NPDES permits for facilities disposing or utilizing industrial pollution control sludges, including new and existing facilities.

3. State or Federal supervision of pretreatment programs requiring facilities to comply with requirements and compliance schedules before discharging into municipal sewer systems.

COORDINATION WITH MINING REGULATORY AGENCIES

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) provides for the establishment of a fund for reclamation of abandoned mining lands. To be eligible to receive this funding, States must first develop an enforcement program for wastes from active mines, subject to Department of the Interior and EPA approval (title V). All mine wastes must be disposed in accordance with performance standards to be promulgated by the Office of Surface Mining, Department of the Interior. Coordination between these EPA and Department of the Interior programs will facilitate the inventory of mining wastes and may increase the beneficial use of sludge as a soil conditioner in reclamation of abandoned lands.

COORDINATION WITH OTHER GUIDELINES AND REGULATIONS

Other guidelines and regulations developed under the Act which should be considered in conjunction with these guidelines for State plans include:

1. Interim regulations to implement the Resource Conservation and Recovery Act of 1976 (40 CFR Part 35). These regulations establish procedures and policies for grants and financial assistance programs.

2. Identification of regions and agencies for solid waste management, interim guidelines (40 CFR Part 255). These guidelines present criteria and procedures for identification of regional boundaries and responsible agencies for solid waste planning and implementation.

3. Proposed regulations for public participation (40 CFR Part 25). Section 7004(b) of the Act requires EPA and the States to provide for, encourage, and assist public participation in the development, revision, implementation, or enforcement of any regulation, guideline, information, or program under the Act. The current guidelines for public participation in solid waste management (40 CFR Part 249) will be superseded by a new EPA regulation, to be codified as 40 CFR Part 25. The proposed part 25 contains general public participation requirements for programs under the Solid Waste Disposal Act, as amended by RCRA, as well as for the programs under the Clean Water Act, as amended (33 U.S.C. 1251 et seq.) and the Safe Drinking Water Act, as amended (42 U.S.C. 300f et seq.). Since part 25 does not contain public participation requirements specific to solid waste plans, subpart G of this part addresses public participation in the development and implementation of State and substate plans. Subpart G references the proposed part 25 requirements. If part 25 is not promulgated as a final rule prior to this part 256, part 249 will take precedence until part 25 is promulgated.

4. Solid waste disposal facilities, proposed criteria for classification (40 CFR Part 257). This regulation proposes minimum criteria for determining which solid waste land disposal facilities shall be classified as posing no reasonable probability of adverse effects on health or the environment.

5. State hazardous waste programs, proposed guidelines (40 CFR Part 250). This rule describes the various provisions and capabilities a State hazardous waste program must have in order to qualify for authorization under the Act. Other regulations for hazardous waste management developed under subtitle C of the Act should also be considered.

6. Resource recovery facility guidelines (40 CFR Part 245). These guidelines apply to Federal agencies' planning and establishment of resource recovery facilities.

ECONOMIC IMPACT

NOTE.—EPA has determined that this document does not require an economic impact analysis statement under Executive Order 12044 and OMB Circular A-107.

Dated: August 23, 1978.

DOUGLAS M. COSTLE,
Administrator.

Title 40 CFR is proposed to be amended to add a new part 256 reading as follows:

PART 256—GUIDELINES FOR DEVELOPMENT AND IMPLEMENTATION OF STATE SOLID WASTE MANAGEMENT PLANS

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256.03 State plan submission, adoption, and revision.
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AUTHORITY: Secs. 4002(b) and 4003 of the Solid Waste Disposal Act, as amended, Pub. L. 94-580; 90 Stat. 2813, 2814; 42 U.S.C. 6942(b), 6943.

Subpart A—Purpose, General Requirements, Definitions

§ 256.01 Purpose and scope of the guidelines.

(a) The purpose of these guidelines is to assist in the development and implementation of State solid waste management plans, in accordance with section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6942(b)) (the "Act"). These guidelines contain methods for achieving the objectives of enviromentally sound management and disposal of solid and hazardous waste, resource conservation, and maximum utilization of valuable resources.

(b) These guidelinges address the minimum requirements for approval of State plans as set forth in section 4003 of the Act. These are:

(1) The plan shall identify, in accordance with section 4006(b), (i) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (ii) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (iii) the means for coordinating regional planning and implementation under the State plan.

(2) The plan shall, in accordance with section 4005(c), prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste (including solid waste originating in other States, but not including hazardous waste) shall be (i) utilized for resource recovery or (ii) disposed of in sanitary landfills (within the meaning of section 4004(a)) or otherwise disposed of in an environmentally sound manner.

(3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 4005.

(4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.

(5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

(6) The plan shall provide for resource conservation or recovery and for the disposal of solid waste in sanitary landfills or for any combination of practices so as may be necessary to use that is environmentally sound.

(c) These guidelines address the requirement of section 4005(c) that a State plan:

shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule of compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed 5 years from the date of publication of the inventory).

(d) These guidelines also describe certain hazardous waste planning activities not included in the section 3006 guidelines for authorized State hazardous waste programs. The planning activities described in these guidelines are to be included in the State plan.

§ 256.02 Scope of the State solid waste management plan.

(a)(1) The State plan shall address all solid waste in the State that poses potential adverse effects on health or the environment or provides opportunity for resources conservation or resource recovery. The plan shall consider:

(i) Hazardous wastes; (ii) Residential, commercial, and institutional solid waste; (iii) Wastewater treatment sludge; (iv) Pollution control residuals; (v) Industrial wastes; (vi) Mining wastes; (vii) Agricultural wastes; (viii) Water treatment sludge; and (ix) Septic tank pumpings.

(2) The State plan shall consider the following aspects of solid waste management:

(i) Collection; (ii) Source separation; (iii) Storage; (iv) Transportation; (v) Transfer; (vi) Processing; (vii) Treatment; (viii) Resource conservation; (ix) Resource recovery; and (x) Disposal.

(b) The State plan shall establish and justify priorities and timing for actions. These priorities shall be based on the current level of solid waste management planning and implementation within the State, the extent of the solid waste management problem, the health, environmental and economic impacts of this problem, and the resources and management approaches available.

(c) The State plan shall set forth an orderly and manageable process for achieving the objectives of the Act and meeting the requirements of these guide- lines. This process shall describe as specifically as possible the activities to be undertaken, including detailed schedules and milestones.

(d) The State plan shall cover a minimum of a 5-year time period from the date submitted to EPA for approval.

(e) The State plan shall identify existing State legislative authorities for solid waste management and shall provide for the identification and acquisition of additional legislative authorities and regulatory, administrative, and judicial powers as may be necessary to meet the requirements of these guidelines. The plan shall contain a schedule for obtaining these authorities and powers.

§ 256.03 State plan submission, adoption, and revision.

(a) To be considered for approval, the State plan shall be submitted to EPA within 18 months after final promulgation of these guidelines.

(b) Prior to submission to EPA, the plan shall be adopted by the State pursuant to State administrative procedures.

(c) The plan shall be developed in accord with public participation procedures required by 40 CFR Part 25 and other guidance for public participation that may be issued by EPA.

(d) The plan shall contain procedures for revision. The State plan shall be revised by the State, after notice and public hearings, when the Administrator, by regulation, or the State determines, that:

(1) The State plan is not in compliance with the requirements of these guidelines;

(2) Information has become available which demonstrates the inadequacy of the plan; or

(3) Such revision is otherwise necessary.

(e) The State plan shall be reviewed by the State and, where necessary, revised and readopted not less frequently than every 3 years.

§ 256.04 State plan approval, financial assistance.

(a) The Administrator shall, within 6 months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that:

(1) It meets the requirements of these guidelines which address sections 4003 (1), (2), (3), and (5), and

(2) It contains provisions for revision pursuant to § 256.03.

(b) The Administrator shall review approved plans from time to time, and if he determines that revisions or corrections are necessary to bring such plan into compliance with all of the requirements of these guidelines, including the requirements which address sections 4003 (4) and (6) and any new or revised requirement established by amendment to this part, he shall notify the State and provide an opportunity for such revisions and corrections and for an appeal and public hearing. If the plan continues to remain out of compliance, he shall withdraw his approval of such plan.

(c) Such withdrawal of approval shall cease to be effective upon the Administrator's determination that the State plan complies with the requirements of these guidelines.

(d) The Administrator shall approve a State application for financial assistance under subtitle D of the Act, and make grants to such State, if the Administrator determines that the State plan continues to be eligible for approval and is being implemented by the State.

(e) Upon withdrawal of approval of a State plan, the Administrator shall withhold Federal financial and technical assistance under subtitle D (other than such technical assistance as may be necessary to assist in obtaining reinstatement of approval) until such time as approval is reinstated. (Procedures for termination of financial assistance and for settlement of disputes are contained in 40 CFR 30, appendix A, articles 7 and 8.)

§ 256.05 Annual work program.

(a) The annual work program submitted for financial assistance under section 4008(a)(1) and described in the grant regulations (40 CFR Part 35) shall be reviewed by the Administrator in order to determine whether the State plan is being implemented by the State.

(b) The Administrator and the State shall agree on the contents of the annual work program. The Administrator will consider State initiatives and priorities, in light of the goals of the Act, in determining annual work programs for each State. The annual work program represents a State's obligation incurred by acceptance of financial assistance.

(c) Annual guidance for the development of State work programs will be issued by EPA. While this guidance will establish annual national priorities, flexibility will be provided in order to accommodate differing State priorities.

(d) The following items developed under the State plan shall be included by reference in the annual work program:

(1) Substate, regional, and local solid waste management plans,

(2) Plans for the development of facilities and services, including hazardous waste management facilities and services,

(3) Compliance schedules for upgrading or closing open dumps necessary to meet the requirements of sections 4003(3) and 4005(c).

(e) The annual work program shall itemize the distribution of Federal funds to agencies responsible for the development and implementation of the State plan.

§ 256.06 Definitions.

Terms not defined below have the meanings assigned them by section 1004 of the Act.

"Abandoned facility" means an inactive solid waste disposal facility which poses a reasonable probability of adverse effects on health or the environment.

"The Act" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

"Closed facility" means a facility which has been properly closed so as to eliminate or minimize adverse effects on health or the environment.

"Criteria" means the "Criteria for Classification of Solid Waste Disposal Facilities," 40 CFR part 257, promulgated under section 4004(a) of the Act.

"Facility" refers to a solid waste proc- essing or disposal facility or a resource recovery facility, including land used for solid waste disposal within the meaning of the Act. Examples include sanitary landfills, surface impoundments, landspreading operations, incinerators, transfer stations, pyrolysis plants, refuse fired boilers, et cetera.

"Implementation" means putting the plan into practice by carrying out planned activities, including compliance and enforcement activities, or insuring such activities are carried out.

"Inventory of open dumps" means the inventory required under section 4005(b) and is defined as the list published by EPA of those disposal facilities which do not meet the criteria.

"Operator" includes facility owners and operators.

A "permit" is an entitlement to commence and continue operation of a facility as long as both procedural and performance standards are met. The term "permit" includes any functional equivalent such as a registration or license.

"Planning" includes identifying problems, defining objectives, collecting information, analyzing alternatives and determining necessary activities and courses of action.

"Provide for" in the phrase "the plan shall (should) provide for" means explain, establish or set forth steps or courses of action.

The term "shall" denotes requirements for the development and implementation of the State plan.

The term "should" denotes recommendations for the development and implementation of the State plan.

"Substate" refers to any public regional, local, county, municipal, or intermunicipal agency, or regional or local public (including interstate) solid or hazardous waste management authority, or other public agency below the State level.

Subpart B—Identification of Responsibilities; Distribution of Funding

§ 256.10 Requirements.

(a) In accordance with sections 4003(1) and 4006 and the guidelines for identification of regions and agencies for solid waste management (40 CFR Part 255), the State plan shall provide for:

(1) The identification of the responsibilities of State and substate (regional, local and interstate) authorities in the development and implementation of the State plan;

(2) The means of distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and

(3) The means for coordinating substate planning and implementation.

(b) Responsibilities shall be identified for the classification of disposal facilities for the inventory of open dumps.

(c) Responsibilities shall be identified for development and implementation of the State regulatory program describes in subpart C of this part.

(d) Responsibilities shall be identified for the development and implementation of the State resource conservation and resource recovery program described in Subpart D of this part.

(e) State, substate and private sector responsibilities shall be identified for the planning and implementation of solid and hazardous waste management facilities and services.

(f) Financial assistance under section 4008(a)(1) shall be allocated by the State to State and substate authorities carrying out planning and implementation of the State plan. Such allocation shall be based on the responsibilities of the respective parties as determined under section 4006(b).

§ 256.11 Recommendations.

(a) Responsibilities should be identified for each of the solid waste types listed in § 256.02(a)(1).

(b) Responsibilities should be identified for each of the aspects of solid

waste management listed in § 256.02 (a)(2).

(c) Responsibilities should be identified for planning and designation of ground water use as provided for in the criteria for classification of solid waste disposal facilities (40 CFR Part 257) and for assessing other factors critical to Criteria classifications.

(d) Responsibilities should be identified for the development and implementation of the authorized State hazardous waste management program under subtitle C of the Act.

(e) The State plan should include a schedule and procedure for the continuing review, reassessment and reassignment of responsibilities.

Subpart C—Solid Waste Disposal Programs

NOTE.—This Subpart addresses the requirements contained in sections 4003 (2), (3) and (4) of the Act. Section 4003(4), which covers the establishment of State regulatory powers necessary to implement the plan, is addressed first. The requirement of section 4003(3), that the plan provide for the closing or upgrading of open dumps, is addressed as one application of those regulatory powers. The requirement in section 4003(2), that the plan prohibit the establishment of new open dumps, is addressed as the second application of those powers.

§ 256.20 Requirements for the State regulatory powers.

The State plan shall provide for the establishment of such State regulatory powers as may be necessary to prohibit new open dumps and close or upgrade all existing open dumps. These regulatory powers:

(a) Shall be based on solid waste disposal standards which are equivalent to or more stringent than the criteria for classification of solid waste disposal facilities (40 CFR Part 257). Such standards shall be determinable, achievable and enforceable and the methodology for establishing compliance shall be specified.

(b) Shall include surveillance capabilities necessary to detect adverse environmental effects from solid waste disposal facilities. Such capabilities shall include access for inspection and monitoring by regulatory officials and the authority to establish operator monitoring and reporting requirements.

(c) Shall utilize assessment procedures for the evaluation of facilities which compare the surveillance findings to the standards, note all discrepancies, and prescribe satisfactory remedial measures.

(d) Shall make use of a permit or registration program which ensures that the establishment of new open dumps is prohibited.

(e) Shall have administrative and judicial enforcement capabilities, including enforceable orders, fines and other administrative procedures, as necessary to achieve compliance with standards including closure or upgrading of all open dumps. The enforcement capabilities shall insure expeditious closure or upgrading of the facilities in a manner so as to minimize or bring under control adverse environmental or health effects.

§ 256.21 Recommendations for State regulatory powers.

The following are recommendations for State regulatory powers as may be necessary to prohibit new open dumps and close or upgrade all existing open dumps.

(a) Solid waste disposal standards:

(1) Should be based on the health and environmental impacts of disposal facilities.

(2) Should specify design and operational standards.

(3) Should take into account the climatic, geologic and other relevant characteristics of the State.

(b) Surveillance systems should establish monitoring requirements for facilities.

(1) Every facility should be evaluated for potential adverse health and environmental effects. Based on this evaluation, instrumentation, sampling, monitoring, and inspection requirements should be established.

(2) Inspectors should be trained and provided detailed instructions for checking on the procedures and conditions that are specified in the engineering plan and site permit. Provisions should be made to insure chain of custody for evidence.

(c) Facility assessment and prescription of remedial measures should be carried out by adequately trained or experienced professional staff, including engineers and geologists.

(d) The State permit system should provide the administrative control to prohibit the establishment of new open dumps and to assist in meeting the requirement that all wastes be used or disposed in an environmentally sound manner.

(1) Permitting procedures for new facilities should require applicants to demonstrate that the facility will comply with the criteria.

(2) The permit system should specify, for the facility operator, the location, design, construction, operational, monitoring, reporting, completion and maintenance requirements.

(3) Administrative procedures should be adequate for assuring due process of law and withstanding judicial review.

(4) Permits should only be issued to facilities that are consistent with the State plan, or with substate plans developed under the State plan.

(e) The enforcement system should provide both administrative procedures and judicial remedies to enforce the prohibition of open dumping and the compliance schedules and closure procedures for open dumps.

(1) Procedures should be established to facilitate court access, and to obtain court orders and other rulings. Permits, surveillance, and enforcement system capabilities should be designed for supporting court action.

(2) Detection capabilities and penalties for false reporting should be provided for.

§ 256.22 Requirements for closing or upgrading open dumps.

In meeting the requirement of section 4003(3) for closing or upgrading open dumps:

(a) The State plan shall provide for the classification of existing solid waste disposal facilities according to the Criteria. This classification shall be submitted to EPA, and facilities classified as open dumps shall be published in the inventory.

(b) The classification of facilities as open dumps shall be sufficiently documented to withstand judicial review.

(c) Each operator shall (1) be notified of the State's intent to submit the name of the facility to EPA for publication as an open dump in the inventory, (2) be provided a summary of the evidence upon which the classification is based, and (3) be provided with an opportunity to appeal in accordance with State laws and regulations.

(d) The State plan shall provide that any facility classified as an open dump is prohibited except in the case of a facility under a timetable or schedule of compliance as established in paragraph (e) of this section.

(e) The State plan shall provide for the establishement of a procedure by which any entity which demonstrates that it has considered other public or private alternatives to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, may obtain a timetable or schedule for compliance which specifies a schedule of remedial measures, and an enforceable sequence of actions, leading to compliance within a reasonable time (not to exceed 5 years from the date of publication of that facility in the inventory.)

(f) The State plan shall provide for an orderly time-phasing of the disposal facility classifications described in paragraph (a) of this section. The determination of priorities for the classification of disposal facilities shall be based upon:

(1) The potential health and environmental impact of the solid waste or disposal facility;

(2) The availability of State regulatory and enforcement powers; and

(3) The availability of Federal and State resources for this purpose.

(g) Each facility classified as an open dump shall be issued a schedule for closure or upgrading which shall be incorporated by reference into the annual work program and be made publicly available. The schedule may be revised in accord with State procedures and without prior notification of EPA. Schedule revisions shall be referenced in subsequent annual work programs.

(h) For each open dump to be closed, the State plan shall provide for closure procedures to eliminate or minimize adverse health or environmental effects.

(i) Provisions for long-term monitoring and contingency plans for corrective actions shall be instituted where necessary.

(j) Planning for new facilities and services as described in subpart E of this part shall give priority to establishing replacement capacity for open dumps.

(k) Abandoned facilities that continue to produce adverse health or environmental effects shall be subject to classification according to the criteria and publication in the inventory of open dumps. The State plan shall provide for measures to insure that adverse health of environmental effects from abandoned facilities are minimized or eliminated. Such measures may include actions by disposal facility owners and operators, notification of the general public, adjacent residents and other affected parties, and notification of agencies responsible for public health and safety. Paragraphs (d), (e), (g), (h), and (j) of this section do not apply to abandoned facilities.

§ 256.23 Recommendations for closing or upgrading open dumps.

(a) Each disposal facility in the State should be considered to determine the potential for non-compliance with the criteria. All facilities with a reasonable probability for non-compliance should be evaluated in detail and classified according to the criteria.

(b) All sources of information available to the State should be used to aid in the classification of facilities. Records of previous inspections and monitoring, as well as new inspections and new monitoring, should be considered.

(c) For each facility classified as an open dump, a determination should be made whether there are any alternatives which could be utilized for all or part of the solid waste volume. Such alternatives should include processing and disposal at other facilities, upgrading the open dump, resource recovery and resource conservation. This determination should be based on damages from allowing continued open dump operation, the cost of alternatives, and the ability of the operator of or the entity served by an open dump to utilize the alternative. The assessment of alternatives should be coordinated with the facility needs assessment described in § 256.41.

(d) A determination should be made of the feasibility of resource recovery or resource conservation to reduce the solid waste volume entering a facility classified as an open dump; and, feasible measures to achieve that reduction should be implemented.

§ 256.24 Requirements to prohibit the establishment of new open dumps.

In meeting the requirements of section 4003(2) the State plan shall provide that:

(a) The necessary State legislative or administrative authorities are obtained to prohibit the establishment of new open dumps and require that all solid waste disposal be carried out in compliance with the criteria.

(b) The State regulatory powers necessary to control the disposal of solid waste (as described in § 256.20) are employed to insure that this requirement is complied with.

(c) The identification of responsibilities, (as described in subpart B of this part) and the planning for new facilities and practices (as described in subpart E of this part) are carried out as necessary to support this requirement.

Subpart D—Resource Conservation and Resource Recovery Programs

NOTE.—This subpart addresses requirement (5) of section 4003 and the requirement in section 6002 for the procurement of products containing materials recovered from solid waste. This subpart also addresses requirements (2) and (6) of section 4003 as they pertain to resource conservation and recovery.

§ 256.30 Requirements.

(a) In order to comply with sections 4003 (2) and (6), the State plan shall provide for a policy and strategy for encouragement of resource recovery and conservation activities.

(b) In order to comply with section 4003(5), the State plan shall provide that no local Government within the State is prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

(c) In order to comply with section 4003(6) and section 6002, the State plan shall provide that State procurement practices require the purchase of items composed of the highest percentage of recovered materials practicable, consistent with satisfactory levels of competition, availability, performance standards and cost, whenever Federal funds are used for such purchase. This requirement is subject to the exclusions and conditions of section 6002 of the Act, and compliance with this requirement may be delayed until after the Administrator issues guidelines for procuring agencies under section 6002(e).

§ 256.31 Recommendations for developing and implementing resource conservation and recovery programs.

(a) In order to encourage resource recovery and conservation, the State plan should provide for technical assistance, training, information development and dissemination, financial support programs, market studies and market development programs.

(b) In order to comply with the requirement of § 256.30(b) regarding long-term contract prohibitions, the State plan should provide for:

(1) Review of existing State and local laws and regulations pertinent to contracting for resource recovery services or facilities.

(2) Reporting of all laws and regulations found to be in violation of this requirement to the executive officer of the governing body responsible for the statute.

(3) Development of an administrative order or a revised law or regulation or any other preliminary step for the removal or amending of a law or regulation in violation of this requirement.

(4) Development of a strategy for passage of legislation, execution of an administrative order, or other action that would prohibit and/or remove from State or local law provisions in violation of this requirement.

(c) In meeting the requirement of § 256.30(c) concerning procurement of products containing recovered materials the State plan should provide for:

(1) The development of a policy statement encouraging the procurement of recovered materials, wherever feasible;

(2) The identification of the key purchasing agencies of the State, along with potential uses of recovered materials by these agencies;

(3) The development of a plan of action to promote the use of recovered materials through executive order, legislative initiative, or other action that the State deems necessary.

(d) In order to encourage resource recovery and conservation, the State plan should provide for the elimination, to the extent possible, of restrictions on the purchases of goods or services, especially negotiated procurements, for resource recovery facilities. This should include:

(1) Review of existing State and local laws pertinent to the procurement of equipment and services for the design, construction and operation of resource recovery facilities;

(2) Listing of all laws that limit the ability of localities to negotiate for the procurement of the design, construction, or operation of resource recovery facilities.

(3) Development of administrative orders or legislation or other action that would eliminate these restrictions.

(4) Development of a strategy and plan of action for the execution of administrative orders, the enactment of legislation, or other actions that would eliminate these restrictions.

(e) The State plan should encourage the development of resource recovery and resource conservation facilities and practices as the preferred means of solid waste management whenever technically and economically feasible. The State plan should provide for the following activities:

(1) The composition of wastes should be analyzed with particular emphasis on recovery potential for material and energy, including fuel value, percentages of recoverable industrial wastes, grades of wastepaper, glass, and non-ferrous and ferrous metals.

(2) Available and potential markets for recovered materials and energy should be identified, including markets for recoverable industrial wastes; wastepapers; ferrous and nonferrous metals; glass; solid, liquid, or gaseous fuels; sludges; and tires. The following should be evaluated: Location and transportation requirements, materials and energy specifications of user industries, minimum quantity requirements, pricing mechanisms and long-term contract availability.

(3) Resource recovery feasibility studies should be conducted in regions of the State in which uses or markets for recovered materials or energy are identified. These studies should review various technological approaches, environmental considerations, institutional and financial constraints, and economic feasibility.

(4) Source separation, recycling and resource conservation should be utilized whenever technically and economically feasible.

(5) Mixed waste processing facilities for the recovery of energy and materials should be utilized whenever technically and economically feasible.

(6) Source separation, resource conservation and mixed waste processing capacity should be combined to achieve the most effective resource conservation and economic balance.

Subpart E—Facility Planning and Implementation

NOTE.—This subpart addresses requirement (6) of section 4003 as it pertains to facility planning and implementation.

§ 256.40 Requirements.

(a) In order to comply with section 4003(6), the State plan shall provide for adequate disposal facilities and for resource recovery and conservation facilities and practices necessary to use or dispose of solid waste in an environmentally sound manner.

(b) The State plan shall provide for adequate and appropriate recovery, storage, treatment and disposal capacity for any wastes determined to be hazardous wastes.

§ 256.41 Recommendations for assessing the need for resource recovery and disposal facilities.

(a) In meeting the requirement for adequate disposal and resource recovery facilities, the State plan should provide for an assessment of the adequacy of existing facilities for recovery and disposal and the need for new or expanded facilities.

(b) The needs assessment should be based on current and projected waste generation rates and on the capacities of presently operating and planned facilities.

(c) Special handling needs should be determined for all solid waste categories.

(d) Impact on facility capacities due to predictable changes in waste quantities and characteristics should be estimated.

(e) Environmental, economic, and other constraints on continued operation of facilities should be assessed.

(f) Diversion of wastes due to closure of open dumps should be anticipated.

(g) Facilities and practices planned or provided for by the private sector should be assessed.

(h) The State plan should provide for the identification of areas which require new capacity development.

§ 256.42 Recommendations for assuring facility development.

(a) The State plan should address facility planning and acquisition for all areas which are determined to have insufficient recovery and disposal capacity in the assessment of facility needs.

(b) Where facilities and practices are found to be inadequate, the State plan should provide for the necessary facilities and practices to be developed by responsible State and substate agencies or by the private sector.

(c) For all areas found to have five or fewer years of capacity remaining, the State plan should provide for (1) the development of estimates of waste generation by type and characteristic, (2) the evaluation and selection of resource recovery, conservation or disposal methods, (3) selection of sites for facilities and, (4) development of schedules of implementation.

(d) The State plan should encourage private sector initiatives in order to meet the identified facility needs.

(e) The State plan should provide for the State to acquire facilities or cause facilities to be acquired in any area having fewer than 2 years of projected capacity.

(f) The State plan should provide for the initiation and development of environmentally sound facilities (including resource recovery facilities) as soon as practicable to replace all open dumps found to be without alternatives.

(g) The State plan should provide for the State, in cooperation with substate or regional agencies, to establish procedures for choosing which facilities will get priority for technical or financial assistance or other emphasis. Highest priority should be given to facilities developed to replace or upgrade open dumps.

(h) The State plan should provide for substate or regional cooperation and policies for free and unrestricted movement of solid waste across State and local boundaries.

§ 256.43 Recommendations for hazardous waste facility planning and development.

(a) The State plan should provide that facilities are available for the recovery, treatment, storage or disposal of all hazardous wastes generated or disposed of in the State.

(b) Upon determination of the existence of markets for hazardous waste materials or energy usage, the State plan should contain a strategy for encouraging such utilization of hazardous wastes.

Subpart F—Coordination With Other Programs

§ 256.50 Requirements.

Section 4003(1) requires the State solid waste management plan to identify means for coordinating regional planning and implementation under the State plan. Section 1006 requires the Administrator to integrate all provisions of this Act (including approval of State plans) with other Acts that grant regulatory authority to the Administrator in order to prevent duplication of administrative and enforcement efforts. In order to meet these requirements:

(a) The State solid waste management plan shall be developed in coordination with Federal, State, and substate programs for air quality, water quality, water supply, waste water treatment, pesticides, ocean protection, toxic substances control, noise control, and radiation control.

(b) The State plan shall provide for coordination with programs under section 208 of the Clean Water Act, As amended (33 U.S.C. 1288). In identifying agencies for solid waste management planning and implementation, the State shall review the solid waste management activities being conducted by water quality planning and management agencies designated under section 208 of the Clean Water Act. Where feasible, identification of such

agencies should be considered in the identification process subpart B of this part. Where solid waste management and water quality agencies are separate entities, necessary coordination procedures shall be established.

(c) The State plan shall provide for coordination with the National Pollutant Discharge Elimination System (NPDES) established under section 402 of the Clean Water Act, as amended (33 U.S.C. 1342). The classification of a facility for purposes of the open dump inventory and the issuance of State compliance schedules for closing or upgrading of a facility classified as an open dump shall be timed, where practicable, to coordinate closely with the issuance of a new or revised NPDES permit for such facility.

(d) The State plan shall provide for coordination with activities for municipal sewage sludge disposal and utilization conducted under the authority of section 405 of the Clean Water Act, as amended (33 U.S.C. 1345), and with the program for construction grants for publicly owned treatment works under section 201 of the Clean Water Act, as amended (33 U.S.C. 1281).

(e) The State plan shall provide for coordination with State pretreatment activities under section 307 of the Clean Water Act, as amended (33 U.S.C. 1317).

(f) The State plan shall provide for coordination with agencies conducting assessments of the impact of surface impoundments on underground sources of drinking water under the authority of section 1442(a)(8)(C) of the Safe Drinking Water Act (42 U.S.C. 300j-1).

(g) The State plan shall provide for coordination with State underground injection control programs (40 CFR Part 146) carried out under the authority of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and with the designation of sole source aquifers under section 1424 of that Act.

(h) The State plan shall provide for coordination, where practicable, with programs under:

(1) The Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(2) The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 1362 et seq.).

(3) The Clean Air Act, as amended (42 U.S.C. 7401 et seq.) (incineration and open burning limitations under State implementation plans).

(4) The Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1420 et seq.).

(i) The State plan shall provide for coordination, where practicable, with programs of other Federal agencies, including:

(1) Army Corps of Engineers (NPDES permits, wetlands, flood plains);

(2) Department of the Interior

(i) Fish and Wildlife Service (wetlands),

(ii) Office of Endangered Species and Fish and Wildlife Service (solid waste disposal in critical habitats),

(iii) Bureau of Mines and Office of Surface Mining (mining waste disposal and use of sludge in reclamation),

(iv) U.S. Geological Survey (wetlands, floodplains, ground water);

(3) Department of Commerce, NOAA (coastal zone management plans);

(4) Water Resources Council (flood plains, surface and ground waters);

(5) Department of Agriculture, including Soil Conservation Service (land spreading solid waste on food chain croplands);

(6) Federal Aviation Administration (locating landfills near airports);

(7) Department of Housing and Urban Development (701 comprehensive planning program, flood plains mapping);

(8) Department of Defense (resource recovery and solid waste disposal programs at various installations); and

(9) Department of Energy (State energy conservation plans under the Energy Policy and Conservation Act (42 U.S.C. 6321)).

Subpart G—Public Participation

§ 256.60 Requirements for public participation in State and substate plans.

(a) Public participation in the development and implementation of State and substate plans shall be in accord with 40 CFR Part 25.

(b) State and substate planning agencies shall:

(1) Maintain a current list of agencies, organizations, and individuals affected by or interested in the plan,

(2) Establish an advisory group, in accord with 40 CFR 25.3(d)(4), to make recommendations on major policy and program decisions to officials responsible for plan development, and

(3) Provide depositories of relevant information in one or more locations convenient to the interested or affected public.

(c) State and substate planning agencies shall provide information and consult with the public and the advisory group, established under paragraph (b)(2) of this section, on plan development and implementation. Provision of information and consultation shall occur both early in the planning process (including the preparation and distribution of a summary of the proposed plan) and on major policy decisions made during the course of plan development, revision and implementation. Planning agencies shall:

(1) Publicize information in news media having broad audiences in the geographic area,

(2) Place information in depositories maintained under paragraph (b)(3) of this section,

(3) Send information directly to agencies, organizations and individuals on the list maintained under paragraph (b)(1) of this section, and

(4) Prepare and make available to the public a summary of public participation in the plan in accord with 40 CFR 25.15.

(d) State and substate planning agencies shall conduct public hearings (and public meetings, where the agency determines there is sufficient interest) in accord with 40 CFR 25.3(d)(2) and (3) and all applicable State administrative procedures. The purpose of the hearings and meetings is to solicit reactions and recommendations from interested or affected parties and to explain major issues within the proposed plan. Following the public hearings, a summary of agency response to public views shall be prepared and made available to the public in accord with 40 CFR 25.15.

§ 256.61 Requirements for public participation in the annual State work program.

(a) Public participation in the development of the annual State work program shall be in accord with 40 CFR Part 25.

(b) A public participation work plan developed in accord with 40 CFR 25.11(b) shall be included in the annual State work program.

(c) The State shall consult with the public, including the advisory group established under § 256.60(b)(2), in the development of the annual work program. One month prior to submission of the draft work program to the Regional Administrator, as required by 40 CFR Part 35, the draft work program shall be made available to the public at the State information depositories maintained under § 256.60(b)(3). The public shall be notified of the availability of the draft work program, and a public meeting shall be held if the planning agency determines there is sufficient interest.

(d) The State shall comply with the requirements of Office of Management and Budget Circular No. A-95.

(e) Copies of the final work program shall be placed in the State information depositories maintained under § 256.60(b)(3).

§ 256.62 Requirements for public participation in State regulatory development.

(a) Public participation in the development of State regulatory powers shall be in accord with 40 CFR Part 25.

(b) The State shall conduct public hearings (and public meetings where the State determines there is sufficient interest) on all proposed State

legislation and regulations, in accord with 40 CFR 25.3(d) (2) and (3) and all applicable State administrative procedures, to solicit reactions and recommendations. Following the public hearings, a summary of agency response to public views shall be prepared and made available to the public in accord with 40 CFR 25.15.

(c) In advance of the hearings and meetings required by paragraph (b) of this section, the State shall prepare a fact sheet on proposed regulations or legislation, mail the fact sheet to agencies, organizations and individuals on the list maintained under § 256.60(b)(1), and place the fact sheet in the State information depositories maintained under § 256.60(b)(3).

§ 256.63 Requirements for public participation in the permitting of facilities.

(a) Before a permit application for a resource recovery or disposal facility is approved by the State, a public hearing shall be conducted to solicit public reaction and recommendations on the proposed permit application.

(b) This hearing shall be held in accord with 40 CFR 25.3(d)(2) and all applicable State and local administrative procedures.

[FR Doc. 78-24166 Filed 8-25-78; 8:45 am]

Federal Register

MONDAY, AUGUST 28, 1978
PART V



DEPARTMENT OF ENERGY

Office of Hearings and Appeals

■

GULF OIL CORPORATION— SETTLEMENT OF CLAIMS

Issuance of Interim Decision and Order, and Request for Comments Regarding Final Decision

[3128-01]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

GULF OIL CORP. REFUNDS—SETTLEMENT OF CLAIMS

Issuance of Interim Decision and Order and Request for Comments Regarding Final Decision

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of interim decision and order and request for comments regarding decision.

SUMMARY: The Department of Energy (DOE) hereby gives notice of the issuance of an interim decision and order establishing procedures for making refunds to firms and individuals who purchased refined petroleum products from the Gulf Oil Corp. (Gulf) during the period August 1, 1973, through January 31, 1976. Gulf had agreed to remit $42,240,000 to the Department of Energy in order to settle certain claims for pricing violations described in a proposed consent order signed by Gulf and the DOE Office of Special Counsel on July 26, 1978 (43 FR 34185 (August 3, 1978). In the event the proposed consent order is issued in final form, this sum, less amounts attributable to products that Gulf itself consumed or that were exempt from pricing regulations, will be available for refunds to purchasers. Pending settlement of claims, the total sum available from Gulf will be placed in an escrow account. The escrow agent will administer the account in accordance with the directives of the Office of Hearings and Appeals.

The interim decision and order indicates that applications for refunds shall be submitted to the Office of Hearings and Appeals. In view of the nature of the proceeding and in order to establish efficient and effective procedures for adjudicating claims, the Office of Hearings and Appeals will utilize several presumptions. The first presumption is that the $42,240,000 to be remitted by Gulf was applied evenly on a volumetric basis to all refined petroleum products that Gulf produced during the period beginning August 1, 1973, and ending January 31, 1976, and was proportionately reflected during that period in the prices that Gulf charged for all such products. The second presumption is that resellers who purchased Gulf products during this period would have passed through to their own customers 60 percent of the benefits of any price reduction which would have occurred if Gulf had determined its prices in accordance with applicable DOE regulations.

It is further presumed that ultimate consumers who purchased Gulf products during the relevant period purchased them after two prior sales had occurred to wholesalers or retailers. Consumers may rebut this presumption by proving that they purchase products directly from Gulf or after only one prior sale.

Routine refund claims will be handled by an administrator who will be appointed and supervised by the Office of Hearings and Appeals. A limited review will be provided within the Office of Hearings and Appeals from adverse decisions of the administrator. All applications for refunds must contain adequate documentation of the volume of purchases of covered products from Gulf. Claims for amounts totaling less than $5 by individual consumers and less than $100 by business entities will be considered to be de minimis and will not be processed.

Public comment on the interim decision and order and on the procedures contained in the appendix is invited. The Office of Hearings and Appeals is particularly interested in comments regarding the form of notice that it should employ after it publishes the final decision and order, and the type of material that Gulf should be directed to make available to substantiate applications for refunds.

A public hearing will also be convened in Washingtron, D.C., on September 26, 1978, to consider the refund procedures. Persons who desire to make an oral presentation at the hearing concerning the interim decision and order must submit a request to speak which indicates the speaker and the amount of time requested. All persons submitting such requests will be notified by the DOE prior to the date that their prepared oral statements are to be submitted to the DOE.

Pending consideration of comments and hearing proceedings, a determination of the procedures to be followed in handling Gulf refund claims is being issued on an interim basis.

DATES: Written comments by September 18, 1978; requests to speak at public hearing by September 15, 1978; witnesses notified September 20, 1978: prepared statements by September 22, 1978; public hearing to be held at 9:30 a.m., September 26, 1978.

ADDRESS: Written comments (15 copies required), requests to speak and statements (100 copies required) should reference case No. DSG-0028 and shall be submitted to the following address: Office of Public Hearing Management, Box VH, 2000 M Street NW., Room 2313, Washington, D.C. 20461. The public hearing will be held at the same location in Room 2105.

FOR FURTHER INFORMATION CONTACT:

Debra Kidwell, DOE Office of Public Hearing Management, Box VH, 2000 M Street NW., Room 2313, Washington, D.C. 20461, 202-254-5201.

George B. Breznay, Deputy Director, Office of Hearings and Appeals, 2000 M Street NW., Room 8014, Washington, D.C. 20461, 202-254-9681.

SUPPLEMENTARY INFORMATION:

Public Hearing and Comment Procedure

Any interested person may participate in this proceeding by submitting data, views, or suggestions as to whether the refund procedures stated in the interim decision and order should be modified or whether alternative procedures should be adopted. Comments should be submitted by 4:30 p.m., e.d.t., September 18, 1978, to the Office of Public Hearing Management at the address indicated above and should be identified on the outside envelope and on the document with the designation: "Refund Procedures Case No. DGS-0028." Fifteen copies should be submitted.

Any information or data submitted which are considered to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of such information or data and to treat it according to our determination.

The DOE has scheduled a public hearing in order to receive oral comments on the effectiveness of the refund procedures and suggestions regarding the possible modification of those procedures. The hearing will be held on September 26, 1978, at 2000 M Street NW., Room 2105, Washington, D.C., at 9:30 a.m. Any person who wishes to make an oral presentation at the hearing should submit a request to speak, including the name and title of the speaker, and the amount of time requested, to the Office of Public Hearing Management by September 15, 1978, at the address provided at the beginning of this notice. The Office of Hearings and Appeals reserves the right to limit the number of persons to be heard and to establish the procedures governing the conduct of the hearing. Those individuals selected to make oral presentations will be notified by September 20, 1978. The Director of the Office of Hearings and Appeals or his designee will preside at the hearing.

If any person wishes to ask a question of any person who has made an oral presentation at the hearing, he or she may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for an answer. Any further

procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and may be purchased from the reported. The DOE will retain the entire record of the hearing and will make it available for inspection at the Office of Hearings and Appeals Public Docket Room, Room B-120, 2000 M Street NW., Washington, D.C. 20461, between the hours of 1 p.m. and 5 p.m., Monday through Friday.

Issued in Washington, D.C., August 22, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

INTERIM DECISION AND ORDER OF THE DEPARTMENT OF ENERGY

PETITION FOR SPECIAL REDRESS

Name of petitioner: Office of Special Counsel for Compliance, Department of Energy.

Date of filing: August 11, 1978.

Case No.: DSG-0028.

This proceeding involves the procedures which the Department of Energy intends to use in directing refunds to certain customers of the Gulf Oil Corp. The total amount of the potential refunds is $42,240,000.

On August 11, 1978, the Special Counsel for Compliance of the Department of Energy (OSC) filed a petition for special redress. In that petition the OSC requested that the Office of Hearings and Appeals adopt interim procedures for the disposition of a refund remitted to the United States by Gulf Oil Corp. (Gulf). This refund would be paid pursuant to a proposed consent order entered into by Gulf and the OSC on July 26, 1978, notice of which was published for comment. 43 FR 34185 (August 3, 1978); see 10 CFR 205.199J.

In the proposed consent order, the OSC and Gulf reached an agreement to settle a compliance proceeding which had been instituted against Gulf in April 1977 by a notice of probable disallowance (NOPD). The Federal Energy Administration alleged in the NOPD that Gulf had overstated its costs with respect to interaffiliate imported crude oil transactions by $79.6 million for the period October 1973 through May 1975. The DOE subsequently reduced the amount of disallowance by $5.7 million on the basis of subsequent corrections to information which had been reported to the DOE and adjustments to maximum and representative prices for crude oil which had been transferred by Gulf. The OSC and Gulf agreed in the proposed consent order to settle the disallowance claim and any overrecoveries for Indonesian Katapa crude oil purchased by Gulf through a foreign affiliate from August 1973 through January 1976. The proposed consent order also referred to overrecoveries alleged in a notice of probable violation issued to Gulf on May 8, 1974.

Under the terms of the proposed consent order, Gulf will tender $42,240,000 to the United States in lieu of any further remedial action with respect to these matters. However, the proposed consent order states that: Gulf and DOE recognize that the time periods involved and the determination of proper costs allowable make it most difficult to determine whether any person sustained an overcharge in the purchase of covered products from Gulf.* * *

In view of the difficulties perceived in the determination of whether any person was overcharged as a result of the activities set forth in the proposed consent order, the DOE further agreed to accept responsibility for establishing an administrative procedure for evaluating claims for a portion of the refund and making restitution to persons presenting valid claims. In the present petition, the OSC requests the establishment of an ad hoc adjudicatory procedure within the Office of Hearings and Appeals for the consideration and disposition of any such claim.

I. AUTHORITY

The OSC states in its petition that the Secretary of Energy has the authority to issue the proposed consent order and to establish procedures for considering claims by persons for a portion of the payment specified in the order. We agree with that position. The authority of the FEA and the DOE to issue remedial orders requiring refunds to purchasers has been consistently sustained. *Shell Oil Company,* 3 FEA Par. 80,545 (January 6, 1976); *accord, Southwestern Exploration Consultants, Inc.,* 1 DOE Par. 80,257 (May 9, 1978); *MacKellar, Inc.,* 5 FEA Par. 80,655 (June 8, 1977). The basis for these holdings was expressed in *Shell Oil Company* in the following manner:

The Congress was well aware of the fact that the Cost of Living Council had issued remedial orders requiring price rollbacks and refunds under the authority of the ESA [Economic Stabilization Act of 1970, as amended], and that this practice had been recognized as a legitimate exercise of regulatory authority by the Federal courts. See e.g., *University of Southern California* v. *Cost of Living Council,* 472 F. 2d 1065 (T.E.C.A. 1972), cert. denied, 410 U.S. 928 (1973); and *De Rieux* v. *Five Smiths, Inc.,* 499 F. 2d 131 (T.E.C.A. 1974). As the successor to the Cost of Living Council with respect to the administration of price controls covering the petroleum industry, the FEO (and later the FEA) was also created to meet a national crisis and received the same broad discretionary powers for the enforcement of price controls. See Exec. Order No. 11748, 3 CFR 376 (1974); see also *Note, Phase V: The Cost of Living Council Reconsidered,* 62 Geo. L. J. 1663, 1665 (1974). In enacting the EPAA, the Congress authorized the FEA to promulgate a regulatory program in order to insure, to the maximum extent feasible, that equitable prices would be charged for refined petroleum products throughout the United States. EPAA, sections (4)(a) and 4(b)(1).
Shell Oil Company, 3 FEA at 80,690.

Moreover, section 7(a) of the Federal Energy Administration Act of 1974 (FEAA), 15 U.S.C. 766(c), expressly authorizes the FEA Administrator to "promulgate such rules, regulations and procedures as may be necessary to carry out the functions vested in him. * * *" Those functions include a directive to "promote stability in energy prices to the consumer * * * [and] prevent unreasonable profits within various segments of the energy industry. * * *" FEAA 5(b)(5), 15 U.S.C. 764(b)(5). The responsibilities involved also extend to promulgating regulations providing for the "equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices among all the regions and areas of the United States and sectors of the petroleum industry. * * *" Emergency Petroleum Allocation Act of 1973, section 4(b)(1)(F).

Pursuant to section 301 of the Department of Energy Organization Act, 42 U.S.C. 7151, all the functions formerly vested by law in the FEA Administrator have been transferred to the Secretary of Energy. The regulation authorizing the issuance of the proposed consent order, 10 CFR 205.1991, was promulgated pursuant to that authority. 43 FR 3995, 4001 (January 31, 1978). The proposed consent order was in turn issued pursuant to section 205.1991 and is designed to prevent the retention of revenues by a party who allegedly violated mandatory price regulations and to compensate the customers that have been overcharged. See *Shell Oil Company,* 3 FEA at 80,691.

Gulf is a major integrated petroleum firm engaged in the production, transportation, refining, and marketing of crude oil and refined petroleum products. Gulf sells an extensive schedule of petroleum products. Since it is one of the largest petroleum firms in the United States, the purchasers of its products number in the millions. Because of the nature of the particular pricing practices alleged in the NOPD, which concern a fundamental element in a refiner's calculation of maximum permissible prices, each purchaser of Gulf products was potentially affected. However, the flexibility accorded refiners under the refiner price rule of the mandatory petroleum regulations makes it extremely difficulat to allocate specific overcharges to any particular sales transaction or to identify the specific customers who were overcharged. That determination is further complicated in this case by the fact that the practices in question occurred as long ago as 5 years.

Under these circumstances it would appear necessary to implement an administrative claims procedure in order to insure that the statutory objectives referred to above are fulfilled. It would, for example, be exceedingly difficult for the DOE to insure that prices for petroleum products are established in an equitable manner unless an efficient and effective remedy exists for directing refunds to parties that have been overcharged. It would appear essential to do so in this case on the basis of a special claim procedure because of the difficulties discussed above which a particular claimant would otherwise experience in establishing the amount of overchares that should properly be attributable to a purchase that he made. In other words, even though it is very likely that overcharges occurred, the discretion which Gulf possessed as to the manner in which it could determine its prices makes it very unlikely that any particular claimant could prove the nature and extent fo its direct injuries. Unless a special claims procedure is adopted, there would appear to be little likelihood that individual purchasers and consumers would be able to obtain refunds. This situation would occur despite the fact that purchasers and consumers as a class are entitled to refunds. In view of these considerations we have concluded that the statutory provisions referred to above provide implicit authority for the DOE to implement an administrative claims procedure under the facts presented in this case.

Moreover, even aside from this authority which derives from the statutory objectives which the DOE has been directed to fulfill,

other recently enacted statutory provisions would appear to provide an even more direct expression of the Secretary's authority to establish and administer a claims procedure. Section 644 of the Department of Energy Organization Act (DEOA), 42 U.S.C. 7254, authorizes the Secretary to "prescribe such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him." Those functions certainly encompass the statutory objectives discussed above of insuring that equitable prices are charged to consumers and to all sectors of the petroleum industry. The Secretary may in turn delegate the promulgation of procedures or rules for doing so to the Office of Hearings and Appeals. DEOA, section 642, 42 U.S.C. 7252.

We are therefore satisfied that sufficient authority exists to support the establishment of the type of procedure that the OSC has requested. We are also persuaded that such a procedure is necessary and appropriate in this case. The petition will therefore be granted and the specific procedures set forth in the appendix will be adopted by the Office of Hearings and Appeals for adjudicating individual claims for refunds in the Gulf proceeding.

II. PROCEDURAL MATTERS

As a result of Gulf's recording of excessive costs to reflect certain of its crude oil purchases, every purchaser of a covered product refined by Gulf during the relevant period has potentially been affected. Consequently, there are special problems associated with the establishment of an ad hoc procedure for adjudicating claims.

The large number of potential claimants first presents the question of the proper form of notice which should be given of the procedures for requesting a refund. We believe that such notice should include publication in the FEDERAL REGISTER and the preparation of appropriate press releases. The procedures described in the appendix of this decision specifically provide for that type of notice. We are also considering providing further notice through advertisements in newspapers and periodicals of general circulation, announcements in trade and professional journals and direct notice to various trade associations and to selected Gulf customers. Funds could be appropriated for this purpose from the refund remitted by Gulf.

A more fundamental question presented by the large number of potential claimants in this case concerns the manner in which claims should be administered. It would not be feasible for the Office of Hearings and Appeals to deal individually with thousands of claims, many of which could be for relatively small amounts. On the other hand, we would not wish to adopt any procedure that effectively prevents small firms or ultimate consumers from presenting legitimate claims for refunds. Consequently, we intend to establish a procedure under which only a small number of claims would be considered directly by the Office of Hearings and Appeals. All other claims will be directed to an administrator who is appointed and supervised by the Office of Hearings and Appeals. The Administrator will reach a determination as to those claims under guidance and supervision provided by the Office of Hearings and Appeals. The procedures will also establish a limited right to appeal adverse decisions of the Administrator to the Office of Hearings and Appeals.

A de minimis rule will also be established. Under that rule, claims will be considered from individual consumers only if the claim amounts to $5 or more. Claims from business consumers or resellers will be considered only if the claim amounts to $100 or more.

III. STANDARDS FOR EVALUATION

Any claim for a refund should logically consist of two elements. The applicant should first be able to show that he was in fact injured as a result of the practices cited in the proposed consent order, and secondly, he should be able to demonstrate with a reasonable degree of certainty the extent of the injury.

A. *Whether an Injury Was Sustained.* For purposes of this proceeding, a consumer will generally be able to satisfy the first criterion by showing only that he purchased covered Gulf products during the relevant period. However, because of the nature of their business activities, resellers and consumers in certain regulated industries will have to make a greater showing to establish that they were injured by the Gulf practices than the mere showing that they purchased covered Gulf products.

Insofar as resellers are concerned, this requirement stems from the fact that a reseller might well have had an obligation under the DOE regulatory program to pass through to its own customers the entire benefit of the price reductions which it would have received if Gulf had in fact followed the correct pricing procedures. For example, the maximum price which a reseller can charge for a covered product is based to a substantial extent on the cost which it incurs in buying that product from its supplier. If a reseller was already selling a product at the maximum permissible selling price and then received a price reduction from its supplier, the reseller would be obligated to pass that reduction on to its own customers on a dollar-for-dollar basis. Since a reseller in that position could not have retained the benefit of the price reductions, the reseller involved would not appear to have been injured by the price Gulf charged.

Consequently, in order to qualify for a refund, a reseller should be prepared to demonstrate that it was selling a Gulf product at a price that was below its maximum permissible selling price during the period of time covered by the proposed remedial order.

Similarly, in the case of firms whose selling prices were regulated by governmental agencies, refunds would be contingent upon showing that the applicant had not already passed through the cost increases to its customers. Public utilities, regulated airlines, railroads and possibly others would be included in this category. Firms regulated in that manner, however, might still be able to obtain a refund despite having passed through all cost increases, if they are able to give satisfactory assurances that any refunds received will be passed on to their customers in an equitable manner.

B. *Measurement of Injury.* The second element of the claims procedure involves a determination of the extent of the injury which a particular claimant experienced as a result of the Gulf transfer pricing practices. As the discussion below indicates, the nature of a crude oil cost disallowance makes it exceedingly difficult to establish with precision the exact amount by which a particular firm or person was overcharged. Consequently, it will be necessary to establish presumptions as to the amount of refunds which should be paid to a particular reseller or consumer.

The inherent difficulty in determining with precision the overcharges to a particular claimant is in substantial part a result of the nature of the proposed consent order. As stated above, the proposed consent order does not concern a pricing violation per se, but instead involves a proposed disallowance of crude oil costs which Gulf utilized in calculating the maximum permissible prices of the refined petroleum products that it sold. The disallowance proceeding concerned the manner in which Gulf established the cost of crude oil purchased in transactions with Gulf affiliates.[1]

In general, the price rule applicable to refiners provided that a refiner could not charge a price for an item which exceeded the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, "plus increased product costs incurred between the month of measurement and the month of May 1973 and measured pursuant to the provisions of section 212.83." 10 CFR 212.82(b)(1) (1974).[2] Increased product costs, such as increased transfer costs of crude oil, were placed in a pool of costs which could then be utilized by the refiner in the manner specified in section 212.83. Section 212.83 in general required an equal allocation of those costs to several broad product categories and among classes of purchasers for each product within a category. Each refiner, however, was given considerable discretion with regard to the manner in which it distributed increased costs among products within a single category, and was also permitted in some instances to transfer costs from one category to another. Furthermore, a refiner was not required to recover all increased product costs in the first period in which they were available for recovery under section 212.83, but could instead "bank" some of those costs for recovery in subsequent periods. A refiner was thus left a considerable amount of discretion in deciding when to pass through costs as well. The discretion given refiners under the refiner price rule thus makes it most difficult to determine with any degree of certainty the maximum price that could have been established for a Gulf product if the firm had appropriately calculated its imported oil costs.

A further problem in determining the precise amount of an overcharge to a particular

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[1] Various aspects of the crude oil transfer pricing program have been discussed in several DOE Freedom of Information Act proceedings. See, e.g., *Kerr-McGee Corp.; Standard Oil Co. (Indiana)*, 1 DOE Par. 80,155 (December 15, 1977); *Gulf Oil Corp.*, 1 DOE Par. 80,103 (October 7, 1977); *Sun Co., Inc.*, 4 FEA Par. 80,573 (November 19, 1976); *Sun Oil Co.*, 3 FEA Par. 80,528 (December 11, 1975). The program prescribes the standards which refiners are required to use in establishing the cost of imported crude oil purchased in transactions between affiliated entities and the standards which the DOE shall use to disallow or to reallocate landed costs pursuant to 10 CFR 212.83(b).

[2] 39 FR 42,368 (December 5, 1974). Prior to January 15, 1974, the refiner price rule was set forth in 6 CFR 150.355(b), and prior to November 1, 1973 in 6 CFR 150.358(a).

purchaser of Gulf products arises because many purchasers did not buy those products directly from Gulf, but bought them instead from independent resellers. A reseller may not have been required to pass through cost reductions to its customers under the reseller price provisions of the mandatory petroleum price regulations, or it may have been required to pass through only a portion of the reduction. Furthermore, regardless of the requirements of the regulations, a reseller may have voluntarily chosen to pass through all or part of any reduction in its product costs, either to meet the prices charged by competitors, or pursuant to contractual provisions, or simply as a customary practice.

While it is unquestionably difficult to determine the exact amount by which any particular purchaser was overcharged, it is nonetheless most likely that, as a class, purchasers of Gulf products during the period in question were injured to some extent. As we stated in *Shell Oil Co.*, 3 FEA at 80,691, as a general matter "[t]he benefit of the remedial action should inure wherever possible to the category of purchaser that was overcharged." In order to do so in this case, certain presumptions will be made regarding the manner in which the disallowed costs were passed through by Gulf and the extent to which resellers incurred an injury as a result of Gulf's actions.

First, we have presumed that Gulf allocated the entire refund amount to the products it sold or used during the period in which it recognized the disallowed costs, namely during the period August 1, 1973 through January 31, 1976. We have also presumed that the costs were apportioned equally on a volumetric basis to all petroleum products which Gulf produced. We have not yet been provided conclusive data as to the total volume of petroleum products produced during the relevant period. However, the data presently available indicate that the total volume of petroleum products produced during the period was approximately 30,354,354,618 gallons. Consequently, we shall assume that the total amount of the overcharge was approximately $0.00139 per gallon ($42,240,000 ÷ 30,354,354,618 gallons).

The further presumption has been made that if Gulf had reduced its prices to resellers during the relevant period to reflect the transfer prices provided in section 212.84, each reseller would in turn have passed through 60 percent of the benefit of those price reductions to its own customers. Thus a conclusive presumption will be made that the maximum possible injury which a reseller who purchased directly from Gulf could sustain is the number of gallons purchased during the relevant period multiplied by the total refund per gallon of approximately $0.00139 multiplied by 40 percent.

Based on the presumptions previously discussed, the maximum refund amount that a reseller at the second level of distribution could be entitled to receive would be equal to the volume of petroleum products purchased during the relevant period × approximately $0.00139 (the per gallon refund amount) × 60 percent (the portion of the price reduction benefit which the primary level reseller would have passed through to the secondary reseller) × 40 percent (the amount of the price reduction benefit which the secondary reseller would have retained rather than passing through to its own customers). In order to implement a claims procedure in an administratively feasible manner it will also be presumed that any reseller who did not purchase petroleum products directly from Gulf purchased the products at the second level of distribution.[3] The presumptions applied with regard to resellers are not rebuttable.

With respect to ultimate consumers, an initial rebuttable presumption will be made. It will be presumed that each consumer purchased petroleum products after two prior sales to resellers. That presumption may be rebutted by the presentation of alternative facts. Thus if a consumer demonstrates that he purchased products directly from Gulf during the August 1973 to January 1976 period, he will be entitled to a refund that is equal to approximately $0.00139 per gallon. A consumer that establishes that he purchased Gulf products from a reseller that purchased the products directly from Gulf will be entitled to a refund amounting to approximately $0.00139 per gallon × 60 percent. All other ultimate consumers will be entitled to a refund amounting to approximately $0.00139 per gallon × 36 percent (100 percent less the 40 percent retained by the reseller at the primary level less the 24 percent retained by the reseller at the secondary level).[4]

It is of course true that the use of these presumptions will only approximate actual behavior. However, for the reasons discussed above conclusive findings can not be made as to the precise amount a particular purchaser has been overcharged. It is simply not possible to ascertain the precise manner in which Gulf would have determined the prices of its products to a particular purchaser over a two-and-a-half-year period if it had in fact calculated its imported crude oil costs properly. In our view the presumptions which we have adopted represent the most appropriate method of disbursing the refund by Gulf. This procedure will result in refunds to purchasers in all Gulf customer categories and will serve to apportion the refund among all such customers in an equitable manner.

In apportioning refund amounts, a further allocation must be made. Under the applicable pricing rules, Gulf would have been required to apportion a certain part of its increased costs to exempt products. In addition, Gulf retained for its own purposes some of the petroleum products it refined. It would be anomalous for Gulf to be able to claim any portion of the refund amount for the products it used since the entire refund amount arose from alleged improper conduct by Gulf. With respect to exempt products, it is not theoretically possible for any customer to claim a refund based on an "overcharge" since Gulf could have charged any price it wished for those products. consequently, the refunds calculated on a per gallon basis and attributable to exempt products produced during the relevant period of time and products that Gulf used for its own purposes will be remitted to the United States Treasury.

IV. NO OTHER ADMINISTRATIVE REMEDY

Under the terms of the proposed consent order, Gulf will be deemed to have complied with the applicable regulations with respect to the alleged violations after it has paid the refund and complied with the other terms and conditions of the consent order. Therefore, the procedures set forth in the appendix to this Decision will be the only administrative remedy available to persons injured as a result of the alleged violations by Gulf of the transfer pricing regulations. No further DOE compliance proceeding will be instituted against Gulf with regard to these matters.

However, neither the consent order nor the administrative remedy that appears in the appendix to this decision is designed to affect any right that person might have to obtain a refund from Gulf for past overcharges outside the administrative context. Consequently, the failure of any person to file an application for a refund under the procedures set forth in the Appendix, or the denial of all or part of his claim, will not affect his right to seek damages or obtain any other remedy through a judicial action.

Finally, it should be noted that the procedures set forth in the appendix require that all applications for refund be filed within 90 days of the date of issuance of the final procedures. This provision appears necessary in order to insure that all applications are considered and all refunds made in an expeditious manner. It is also our expectation that the entire claims procedures will, if possible, be completed and refunds made to eligible customers of Gulf within 6 months of the publication of a final decision and order.

It is therefore ordered that: The procedures set forth in the appendix to this decision are hereby adopted by the Department of Energy.

Date: August 22, 1978.

MELVIN GOLDSTEIN
Director,
Office of Hearings and Appeals.

REFUND PROCEDURES

1. ESCROW ACCOUNT

The Department of Energy shall issue an order providing for the establishment of an appropriate interest-bearing escrow account into which shall be placed the funds remitted by Gulf Oil Corp. pursuant to the issuance in final form of a proposed consent order (the "consent order") that the Office of Special Counsel of the Department of Energy published for comment on July 28,

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[3] For purposes of the claims procedure, commissioned agents will not be considered to be resellers. Consequently, a firm or individual that purchased Gulf products from a commissioned agent of Gulf will be considered to have purchased the product from Gulf itself. Correspondingly, commissioned agents of Gulf will not be eligible for any portion of the refund amount.

[4] As stated above, the $0.00139 per gallon refund amount has been calculated on the basis of presently available production data. It appears that the stated quantity of 30,354,354,618 gallons of refined petroleum products during the period August 1, 1973 through January 31, 1976, does not include the petroleum products produced by Gulf during that period and retained for its own use. When a final calculation of the refund amount is made the production data will be increased by the volume of products which Gulf used for its own purposes. We do not, however, contemplate that the revised data will alter by a substantial amount the refund amount of $0.00139 per gallon. Thus, the typical consumer, who will be entitled to 36 percent of the total overcharge, will be able to obtain a potential refund of approximately $0.00050 per gallon ($0.00139 × 0.36).

1978. Funds shall be disbursed from the escrow account by the escrow agent only upon receipt of an order signed by the Director of the Office of Hearings and Appeals or his designee.

2. NOTICE

The Office of Hearings and Appeals shall publish an appropriate notice describing the procedures which shall be available to persons who wish to obtain a refund based on the consent order. A notice of this type shall be published in the FEDERAL REGISTER and in such other manner as the Office of Hearings and Appeals deems necessary or desirable. Other methods of publication may include advertisements in major newspapers and trade journals, direct mailings to certain Gulf customers and to trade and professional associations, and press releases.

APPLICATION FOR REFUND; FILING

Any person who believes that he has been injured as a direct result of the pricing practices upon which the consent order was based may file an application for refund with the Office of Hearings and Appeals of the Department of Energy, 2000 M Street NW., Washington, D.C. 20461. All applications must be filed in duplicate, signed by the applicant and clearly labeled "application for refund—Gulf Oil Corp. consent order No. NOOROOOO7." All applications will be available for public inspection in the DOE Public docket Room at 2000 M Street, NW., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the claims is confidential has been deleted. A statement must also be provided specifying why any such information is privileged or confidential.

FILING DEADLINE

An application for refund must be filed on or before the date that the Department of Energy specifies in the notices issued pursuant to section 2. The filing deadline shall not be less than 90 days from the date of publication of the notice in the FEDERAL REGISTER. the Office of Hearings and Appeals or its designee may grant extensions of time, for good cause shown, of the deadline. Requests for extension must be in writing and submitted prior to the deadline.

5. CONTENTS OF APPLICATION

An application shall contain a a full and complete statement of all relevant facts pertaining to the claim, including:

(a) The name of the applicant;

(b) His address;

(c) His telephone number;

(d) A complete statement of the basis for the claim (including the applicant's Gulf acount number and other identifying information);

(e) The total quantity of covered petroleum products purchased from Gulf or from a reseller of Gulf products during the period August 1, 1973 through January 31, 1976;

(f) with respect to each type of product, the quantities and periods of time during which the purchases were made;

(g) Copies of all receipts, invoices, contracts, agreements, instruments or other documents necessary to establish the validity of the claim, including documents necessary to prove the quantities of covered Gulf petroleum products purchased during the period August 1, 1973 through January 31, 1976;

(h) A statement of whether the applicant has ever filed with the Department of Energy any other application for refund involving Gulf products and whether he is currently or has been a party in any court proceeding involving alleged crude oil pricing violations by Gulf; and

(i) A notarized declaration by the applicant that all statements made in the application are true and correct to the best of the applicant's knowledge and belief.

6. CRITERIA FOR EVALUATION

(a) An application for refund may be granted if an applicant has persuasively demonstrated (i) that he was in fact injured as a result of the alleged pricing practices upon which the consent order was based, and (ii) the nature and extent of the injury.

(b) In determining the amoung of injury to any direct or indirect purchaser of covered products from Gulf, the Office of Hearings and Appeals or its designee shall utilize the following presumptions:

(i) The $42,240,000 which Gulf is required to remit pursuant to the consent order represents costs that were applied evenly by Gulf on a volumetric basis to all refined petroleum products and residual fuel oil it produced, and that the prices of products sold by Gulf reflected those costs during the combined periods specified in the consent order, i.e. August 1, 1973 through January 31, 1976.

(ii) All refined petroleum products and residual fuel oil sold by Gulf passed through two levels of distribution before being purchased by a consumer, and

(A) A reseller at the first level of distribution, i.e. one who purchased directly from Gulf, was injured to the extent of 40 percent of the total overcharge,

(B) A reseller at the second level of distribution, i.e. one who purchased Gulf products from another reseller, was injured to the extent of 40 percent of the remaining overcharge, or 24 percent of the total overcharge, and

(C) A consumer of products produced by Gulf was injured to the extent of the remaining portion of the total overcharge, or 36 percent.

The presumptions stated in section 6(b)(i) and 6(b)(ii)(A) and (B) shall be regarded as conclusive. The presumption stated in section 6(b)(ii)(C) may be rebutted by the presentation of persuasive evidence.

7. PROCESSING OF APPLICATION

(a) The Office of Hearings and Appeals or its designee may initiate an investigation of any statement made in an application and may require verification of any document submitted in support of a claim. The Office of Hearings and Appeals or its designee may solicit and accept submissions from third parties, including Gulf Oil Corp. and the Office of Special Counsel, relevant to any application. In evaluating an application, the Office of Hearings and Appeals or its designee may consider information obtained from any other source and may on its own initiative convene a hearing or conference if, it its discretion, it decides that a hearing or conference will advance its evaluation of an application.

(b) The Director of the Office of Hearings and Appeals or his designee shall conduct any hearing or conference that is convened with respect to an application for refund and will specify the time and place for the hearing or conference and notify the applicant. The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

8. DECISION OF THE DEPARTMENT OF ENERGY

Upon consideration of the application and other relevant information received or obtained during the course of the proceeding, the Office of Hearings and Appeals or its designee shall issue an order granting or denying the application. The order shall contain a concise written statement of the relevant facts and the legal basis for the order. A copy of the order, with such modification as is necessary to ensure the confidentiality of information protected from public disclosure by 18 U.S.C. 1905, shall be served upon the applicant and any person who participated in the proceeding.

9. EFFECT OF FAILURE TO FILE APPLICATION FOR REFUND

Any application not filed on a timely basis may be summarily dismissed, and the applicant shall not be entitled to any portion of the funds submitted pursuant to the consent order.

10. ADDITIONAL PARTIES

Gulf Oil Corp. and the Office of Special Counsel shall be deemed to be parties to all proceedings concerning applications for refund. Gulf will assist in the evaluation of applications for refund by submitting any documents or information that the Office of Hearings and Appeals or its designee determines is relevant to its evaluation of a claim. An applicant may submit to the Office of Hearings and Appeals a request that information or documents believed to be in the possession of Gulf Oil Corp. and necessary to the evaluation of his claim be furnished to him. The Office of Hearings and Appeals or its designee may issue an order granting the request if it determines that the requester seeks relevant and material evidence.

11. LIMITATIONS

(a) The aggregate amount of all refunds authorized by the Office of Hearings and Appeals shall not exceed the amount to be remitted to the Department of Energy by Gulf Oil Corp., plus interest accrued in the escrow account, reduced by any administrative costs authorized by the Office of Hearings and Appeals. In the event that the aggregate amount of the claims filed exceeds the amount remitted by Gulf, the Office of Hearings and Appeals may award refunds to applicants on a pro rata basis. The Office of Hearings and Appeals may delay payment of any refunds until all applications have been processed.

(b) A claim by an individual consumer will not be processed if it amounts to less than $5. A claim by a business consumer or reseller will not be processed if it amounts to less than $100.

(c) No entity owned or controlled by Gulf Oil Corp. shall be eligible for a refund.

(d) The portion of the total refund attributable to exempt products sold by Gulf during the period August 1, 1973 to January 31, 1976, and to products which Gulf produced during that period but did not sell, shall be remitted to the United States Treasury. The Office of Hearings and Appeals shall issue an appropriate order effectuating this provision.

12. INTERIM AND ANCILLARY ORDERS

The Director of the Office of Hearings and Appeals or his designee may issue any interim or ancillary orders, or make any rulings or determinations necessary to ensure that the refund proceedings, including the operations of the administrator and escrow agent appointed in connection with these proceedings, are conducted in an appropriate manner and are not unduly delayed.

13. REMAINING FUNDS

Any funds, including any accumulated interest, remaining in the escrow account after the disposition of all timely applications for refund and approved expenses of administering the refunds shall be remitted to the United States Treasury. The Director of the Office of Hearings and Appeals shall issue an order to the escrow agent directing him to disburse the funds in this manner.

[FR Doc. 78-24180 Filed 8-24-78; 8:45 am]

MONDAY, AUGUST 28, 1978
PART VI



federal register

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

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GRANTS FOR MINING AND MINERAL RESOURCES, RESEARCH INSTITUTES AND MINERAL RESEARCH PROJECTS

Policies and Procedures

[4310-05]

Title 30—Mineral Resources

CHAPTER VII—OFFICE OF SURFACE MINING, RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

PART 890—GRANTS FOR MINING AND MINERAL RESOURCES, RESEARCH INSTITUTES AND MINERAL RESEARCH PROJECTS

Policies and Procedures

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Final rules.

SUMMARY: The regulations in this chapter set out the policies and procedures that will be followed by the Department of the Interior in administering title III of the Surface Mining Control and Reclamation Act of 1977. That title provides for the establishment of, and financial assistance to, mining and mineral resources research institutes in each State and for scholarships, fellowships, and mining and mineral research projects at those institutes.

EFFECTIVE DATE: Augst 21, 1978.

ADDRESS: Office of Surface Mining Reclamation and Enforcement, Department of Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

David Maneval, Assistant Director for Technical Services and Research, 202-343-4264.

SUPPLEMENTARY INFORMATION: Title III of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. No. 95-87, 30 U.S.C. 1221, et seq., requires the Secretary of the Interior to prescribe rules and regulations to implement the provisions of that title. Title III provides for annual allotments to one institute in each State for 7 years and for research funds to each institute for mineral research grants, scholarships, and fellowships. Title III specifies the categories of research to be conducted, the funding criteria and the requirements for institutes to qualify for such funding.

Proposed regulations to implement title III were published in the FEDERAL REGISTER on June 5, 1978 (43 FR 24326). Twenty-one written responses were received on the proposed regulations. In large measure, the comments received were favorable with suggestions directed toward further clarification of terms or the simplification of procedures needed to implement the title III funding programs.

All comments have been reviewed and considered in the development of these final regulations. Responses to the comments have been summarized and listed below according to the section numbers of the subchapter. In this manner, the Office of Surface Mining hopes that the public will understand the response to each comment and therefore have a better understanding of the bases and purposes of the final regulations. Major or significant changes are treated below first, followed by specific comments directed to particular sections of the regulations.

Sections 880.1, et seq., have been redesignated 890.1, et seq. This redesignation is deemed minor and is discussed below after the substantive comments to avoid confusion. In order to remain consistent with the section number of the comments, the responses below are based on the old designation with the new section number indicated in parentheses.

CHANGES IN THE REGULATIONS

Based upon the comments received and the need to expand and clarify certain paragraphs, the Office has made three modifications.

First: In paragraph 880.8, eligibility for scholarships and fellowships (890.8), the requirements for filing applications for scholarship funds were included in this paragraph of the proposed regulations. To avoid the confusion caused by this combination of the eligibility and application criteria and to allow greater clarity and explanation of the requirements for filing applications, a new § 890.13 was created. Accordingly, the filing requirements have been deleted from § 880.8 (890.8) and this paragraph is now limited solely to the criteria for eligibility. These criteria have not been altered to any significant degree.

Under the new section for filing applications (890.13), however, a change has been instituted. This new section requires all institutes to file separate applications for scholarship funding. This change should facilitate the processing of scholarship requests and provide the Office with greater documentation and control over the expenditure of these funds.

The second revision concerns the modification of the filing deadlines and the grant amounts established in § 880.18 (890.20). Both the proposed filing deadline for the initial year and the grant limitations were impractical. In order to allow the advisory committee to recommend to the Director all eligible institutes and to allow the Assistant Director time to inform all such designated institutes of the precise funds available, the August 15, 1978, deadline has been replaced by a provision authorizing the Director to establish a reasonable deadline following designation proceedings by the advisory committee and notification by the Assistant Director to the institutes of the grant limitations.

The precise figures on grant limitations in § 880.18 (890.20) have also been deleted. Proper computation of these amounts is possible only by first establishing the specific number of eligible institutes. Accordingly, under the new provisions of § 890.20, this information will also be provided to the institutes after the advisory committee has completed its designation decisions. The institutes will have a reasonable time thereafter to submit their applications.

The third modification concerns the problem of joint funding. Numerous responses were received on this subject. Some suggestions called for direct Federal funding of noninstitute schools and others advocated funding only institutes but allowing the institutes to arrange for noninstitute participation. Under section 301 of the Act, the Office is prohibited from funding more than one institute per State and under section 302, research funds can only be made available to those institutes. An institute, on the other hand, is not similarly constrained. Section 303(b) specifically authorizes an institute to plan, conduct, administer, and pay for programs with noninstitute universities and individuals if such arrangements contribute to the solution of mining and mineral resources problems. To implement this provision, a new § 890.14, "Permissible Transfers of Institute Funds" has been added.

SPECIFIC COMMENTS

SECTION 880.2 (890.2)

1. One commenter suggested that, given the emphasis in title III on the training function of the institute, the regulations should include an operational definition of "training," including continuing education programs and those designed to transform basic research into operational realities. This comment has been rejected because the term "training," as used in title III and proposed regulations, already encompasses these activities as well as all other activities reasonably related to training. In the final regulations, this term is meant to have the widest application, unrestricted by limiting definitions.

2. A number of commenters suggested changes in the objectives listed in paragraph 880.2(e) (890.2(e)). Several persons suggested enlarging the list to include their specialties, while others argued persuasively for a narrowing of emphasis to reflect the primary concern for mining and mineral technol-

ogy research as opposed to research in an "allied field." Both changes have been rejected, however. Under the specific language of title III, research may involve the areas listed but is not limited specifically to them. The listing in paragraph 880.7(b) (890.7(b)) likewise is not all inclusive; it thus allows funding in areas not specifically mentioned. There is no need, therefore, to include on each list every conceivable area of study.

3. Some comments advocated the primary importance of a few fields of study. They have also been rejected. The intent of title III, as expressed in section 301(b), is to fund research not only in mining and mineral resources but also in their allied fields. Title III suggests no intent to limit the scope of the research to only a few of those fields or certain problems within those fields.

SECTION 880.5 (890.5)

1. One commenter suggested that, given the definition of "Institute" as a competent and qualified research institute established in accordance with the provisions of title III, the regulations should be consistent in their use of the word "Institute" (upper case "I") as opposed to its noncapitalized form. This suggestion has been rejected. The capitalized word has no added significance; both forms refer to an "institute" as defined in paragraph 880.5(e) (890.5(e)).

2. Two comments were received requesting that the definition of "Scientists and Engineers" in paragraph 880.5(g) (890.5(g)) be changed. One individual suggested the inclusion of a more detailed definition of "engineer" and the other suggested that the definition be rewritten to emphasize the primary importance of mineral technology. Both suggestions have been rejected, however. The definition of "engineer" will be kept as broad as possible to remain consistent with the intent of section 301(b) authorizing the institutes to draw upon the abilities of many academic disciplines to solve the problems confronting mining and mineral extraction. For the same reason, the definitions will not be changed to show a primary emphasis on the mining and mineral extraction fields. There is no similar limitation expressed in section 301(b).

3. Two comments suggested that the definition of "mineral resource research" be changed to include: (a) another discipline, and (b) to reflect and emphasize mineral technology. Both suggestions have been rejected. The Office believes that this paragraph is consistent with the language of section 301(b).

SECTION 880.6 (890.6)

1. Numerous responses were received concerning our interpretation of the term "matching funds" as used in § 880.6(e) (890.6(e)). Most individuals responding feared that this provision required newly allocated funds from the institutes over and above their present budgets to match all Federal funds on a dollar-for-dollar basis. This impression is wrong, however; no such restrictions have been placed on this term. "Matching funds" refers to all funds, new or existing, which are in some way directly allocated or related to the functioning or the operation of the mineral institute. If this nexus is already present at a level equal to or greater than the Federal funds to be received, then the requirements of this section have been satisfied.

2. Several commenters have also raised a related question about whether a university could appropriate certain grant funds to help defray general university expenses. The answer is no. The Office recognizes that a mineral institute is only a subunit of a much larger institution or university and that certain general expenses must be assumed by the institution itself. Sections 301 and 302 of the Act clearly provide, however, that the funds may be used for only three purposes: (1) To assist the mineral institute, (2) to fund research and related projects, and (3) to provide scholarship and fellowship programs. Appropriation of funds for matters unrelated to these activities is therefore prohibited.

Title III envisions a good-faith effort on the part of the States to help build and develop the mineral research institutes and future funding levels will be specifically reviewed by the Office to ascertain whether a State has met this good-faith effort. This review will take into consideration: (1) Past, present, and future budget levels for the mineral institutes, (2) the State's and university's commitment to the mineral institute, and (3) the effective use of prior Federal funds. This criterion has been added to § 880.13 (890.15(b)(4)) concerning approval of allotments and award of grants.

3. One commenter raised the question concerning the role the Governor of a State played in determining an eligible institute under § 880.6 (890.6). As provided in section 301(a) and restated in §§ 880.6 (d) and (f) (890.6 (d) and (f)), the Advisory Committee on Mining and Mineral Resources has primary responsibility for determining the eligibility of colleges and universities. If the committee determines that more than one public college or university in a State is eligible, then the Governor may, in the absence of a designation to the contrary by the State legislature, designate which university will serve as the State "institute" for purposes of this Act. A prior designation of an institution by a Governor cannot preempt the advisory committee's responsibility to make an eligibility determination. In short, designation by a Governor is not necessary unless the committee determines that more than one public college or university in a State is eligible to be the institute.

4. One commenter suggested that § 880.6 (890.6) be enlarged to allow joint funding of noninstitute schools. This funding for only one institute per State. It is, however, possible for an institute to transfer some of its funds to other institutions to carry out part of its research programs. Under section 303(b) of the Act, institutes are authorized to plan and conduct their title III programs "in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved." Furthermore, moneys appropriated under Title III are available for paying the expenses of planning, coordinating, and conducting such cooperative research. To implement this provision more clearly, a new paragraph 890.14 has been added to the final regulations.

5. One commenter asked for clarification of the eligibility requirements for institutes. The specific question was whether an institute must be part of a university capable of accepting graduate and doctoral level students in some or all of the academic disciplines encompased by title III. There is no such specific requirement in the title III or these regulations. Section 301(a) requires only that "a college or university have an eligible school of mines or division or department conducting a program of substantial instruction and research in mining or mineral extraction wherein education and research in mining or engineering fields are being carried out and wherein at least four full-time permanent faculty members are being employed." If an institute meets these requirements but its facilities are limited in some degree or area, an institute may use funds, made available under title III, to finance a portion of its research or programs at other facilities, as specifically explained by § 890.14.

SECTION 880.7 (890.7)

1. One commenter asked whether law enforcement problems were proper academic topics. The Office has rejected all proposals to limit the scope of title III. One of the primary objectives of the title III programs is to support research and training in mining and mineral resources problems related to the mission of the Department of the Interior. Law enforce-

ment is an integral part of this mission and is therefore a proper and necessary topic for study. Furthermore, legal studies related to mining and reclamation are specifically authorized in section 301(b) of the Act.

2. Several commenters suggested that § 880.7(b) (890.7(b)) be modified to allow private industry and/or academic institutions to submit research topics. No revision is deemed necessary, however. The submission of research topics for review and approval by the Director and the Advisory Committee is not limited to the Department. Paragraph 880.7(b) already includes a provision for the submission of research proposals not listed or identified by the Department if fully explained and justified. On the other hand, if this provision is relaxed to allow unlimited submission of topics, the Director and Advisory Committee would lose their ability to orient the title III programs toward solving the specific problems faced by the Department. Because this is one of the primary objectives of title III, suggestions limiting Department control have been rejected.

SECTION 880.8 (890.8)

One commenter pointed out that the section number for the annual institute status report was miscited. This error has been corrected and the proper section number has been inserted.

SECTION 880.9 (890.9)

Two comments were received concerning this section. One comment suggested that the programs listed in paragraph (b) should reflect the institutes' primary concern for mining and mineral technology as opposed to certain allied fields. Another commenter suggested the inclusion of continuing education programs. These suggestions have been addressed in sections 880.2 and 880.5 above. The provision of the section for an institute to share its funds with another component of the same college or university has been moved to new § 890.14(a).

SECTION 880.10 (890.10)

1. One comment questioned whether the term "institution" should be substituted for the term "institute" in § 880.10 (890.10) because this section refers to initial allotments needed to permit an institution to form an institute. This suggestion has been rejected. The wording in the proposed regulations is correct. The word "institute" as defined in § 880.5(e) (890.5(e)) means "a competent and qualified mining and mineral resources institute, center, or component of a college or university, established in accordance with the provisions of title III of this Act." Under § 880.10 (890.10) only "institutes," i.e., those institutions found to be eligible under the requirements of § 880.6 (890.6), may apply for initial allotments. The term "institute" is therefore proper.

2. Under §§ 880.10(c) (4) and (5) (890.10(c) (4) and (5)), several interpretive problems have developed concerning material required by an application. For instance, §§ 880.10(c)(4)(ii) (890.10(c)(4)(ii)) requires that an application include a description of the facilities that will be utilized by an institute. Some commenters feared that this would require a description of all facilities which are used or could be used by the institute for its programs, in addition to the institute's facilities. This voluminous interpretation, however, is not the intent of the regulations. It is understood that universities have other resources available to aid their mineral institute departments. The application should include only a short and concise listing of those facilities that will be directly and primarily utilized by the institute.

Similar interpretative problems have also arisen concerning § 880.10(4)(c)(iii) (890.10(4)(c)(iii)) requiring a list of staff personnel. Again, the intent of the regulations is to require only the submission of information which directly involves the institute. Accordingly, staff personnel refers to the institute's faculty and staff and in some cases might also include those individuals whose work or research is primarily derived from the institute.

3. One commenter asked for clarification of the § 880.10(4)(c)(iv) (890.10) requiring mineral institutes to disclose all sources of non-Federal funds. This paragraph requires specific documentation of an institute's budget clearly identifying all sources of non-Federal funds. As in § 880.6(e) (890.6(e)), the term "funds" is to be interpreted broadly and should include a description of any activity from which the institute derives a financial benefit. Accordingly, this requires evidence of any activity furnished on a quid pro quo or other cost sharing or cost reimbursement agreement.

4. One commenter noted that the September date for filing the annual report provided for in § 880.10(c)(4)(ii) is inconsistent with the dates described in § 880.15(a) (890.17(a)). The date in this subsection has therefore been changed.

5. Numerous comments concerned the stringent patent requirements of § 880.10(c)(5)(v) (890.10(c)(5)(v)). The requirements of this section cannot be modified, however, for the language of the regulation succinctly and explicitly follows the mandate of section 306(d) of the Act. This provision requires that "all uses, products, processes, patents and other developments" derived from research financed under this Act are to be made "available promptly to the general public." This requirement is quite strict and all institutes and other groups which conduct work under title III must carefully review all funding arrangements in light of this requirement. The Secretary of the Interior does have the ability to vary the provisions of a patent agreement in unusual circumstances. This discretion is severely limited, however, and should not be relied on by the respective institutes when submitting their applications.

6. Several commenters expressed concern over the fact that the patent provision discussed above requires a statement that the institute is willing to enter into an agreement recognizing the patent provisions of title III. Aside from the strict nature of these provisions, commenters questioned whether an institute is the proper authority to sign such an agreement. The board of regents or board of trustees of a university have been recommended as appropriate substitutes. This suggestion has been rejected, because, under § 800.13 (890.15), approval of allotments can only be given if the institute is legally authorized to enter into an agreement acceptable to the Secretary. This authority should include such patent agreements and § 880.13(b)(3) (890.15(b)(3)) has been clarified to make this requirement explicit. The Office believes that it is proper to obtain this agreement from the entity which will have direct control over the research funds. Accordingly, if an institute lacks sufficient authority, it should seek the necessary authorization from the appropriate authorities.

7. One commenter asked whether the term "funds" as used in § 880.10(c)(5)(v) (890.10(c)(5)(v), refers to all Federal moneys generated under title III. This interpretation is correct; the patent provision applies to all funds, including allotments, research grants, scholarships, and fellowships.

SECTION 880.12 (890.12)

1. One commenter questioned the appropriateness of the title for this paragraph because the regulations refer to a variety of projects, grants, demonstrations, and research. To avoid confusion over the scope of this paragraph, the title has been changed to "Application for Research Grants" and refers to all types of research grants authorized by section 302. Scholarship and fellowship grant applications are treated separately in new § 890.13.

2. One individual suggested that the language of § 880.12(c) (890.12(c)) might require "institutes to match dollar for dollar all Federal funds authorized for research grants. This interpretation is incorrect. Under title

III, funding is made available for three distinct purposes: (a) Allotments to mineral institutes, (b) research grants, and (c) scholarships and fellowships. Only the first category requires matching funds. The reference in § 880.12(c) (890.12(c)) to the provision requiring matching funds refers only to evidence showing that the mineral institute, which desires "research grants," meets the requisite requirements for a "mineral institute." This proof is used solely as a prerequisite for research grant applications and should not be viewed as subjecting this type of application to any requirement for matching funds.

SECTION 880.13 (890.15)

1. One commenter has suggested that the Director give due consideration to the commercial application of any sponsored research when reviewing research grant proposals. Although not listed specifically in § 880.13(c) (890.15(c)), this factor is part of the "overall merits" of any research grant and will therefore be considered by the Director. A separate distinct reference is not appropriate, however. The emphasis of the Act should remain focused on the research and training considerations.

2. Several comments were received concerning the errors in the paragraph numbers. The errors in § 880.13(c)(7) (890.15(c)(7)) have been corrected.

SECTION 880.15 (890.17)

A large majority of the negative comments on the proposed regulations concerned this section requiring quarterly technical progress reports. It was felt that quarterly reports are too burdensome a task for the institutes and that they should be replaced with semiannual or annual reports. Furthermore, there was a certain degree of confusion over the wording that the grant agreement would specify the kind, frequency and content of reports to be submitted. It was suggested that the grant agreement might apply different report procedures.

Due regard was given to each comment received on this subject. Nevertheless, because of the amount of money involved and the extent of the cooperative programs which might be funded, it was considered necessary to keep strict accounting of all funds appropriated. The quarterly reporting procedures have therefore been retained. The institutes should note, however, that such reports can be brief.

Furthermore, the regulation correctly provides that these quarterly reports are in addition to those reports specified in the grant agreement. These quarterly reports will function as a monitoring device so that financial arrangements can be geared to the successive stages of demands of each project. Again, such reports need not be overly burdensome on the institute; they should be kept brief and to the point.

SECTION 880.18 (890.20)

Numerous responses were received on this section. Some comments questioned the appropriateness of the August 15, 1978, deadline and other concerned the adequacy of the financial commitments. These concerns are valid and have led to revision of this section. The August 15, 1978, deadline was unrealistic and has been eliminated. In the final regulations, designated institutes will be given a reasonable time to file applications for the fiscal year 1978. The financial commitment figures have also been deleted. Realistic computations are dependent upon first ascertaining the specific number of institutes which will share all appropriated funds. The total number of institutes designated will determine this figure. The final version of this section therefore provides that all financial data needed by the institutes will be furnished after the Director's designation decisions and prior to the deadline for applications.

RENUMBERING OF SECTIONS

Part 880 is being renumbered as part of the total reorganization of chapter 7. Part 880 has now been redesignated as follows:

(A) part 880 is renumbered as Part 890. Sections 880.1 through 880.12 are renumbered as §§ 890.1 through 890.12.

(B) Sections 880.13 and 880.14 are renumbered as §§ 890.15 and 890.16 respectively. Two new sections, 890.13 and 890.14 have been added.

(C) Sections 880.15 through 880.21 have been renumbered §§ 890.17 through 890.23.

INFORMATION COLLECTION PROVISIONS

A number of these regulations require the States or permittees to collect, submit, or retain certain information. By publication of these final regulations, this Department has determined that such information is necessary to the performance of its responsibilities under the Act and must be collected, submitted or retained. Accordingly, these requirements, included in regulation §§ 890.10, 890.11, 890.12, 890.13, 890.17, 890.18, are adopted subject only to review by the General Accounting Office, pursuant to 44 U.S.C. 3512, to assure that a minimum burden is imposed upon States or permittees in the manner in which such information is proposed to be obtained. These specific regulatory provisions will be effective October 5, 1978, unless notified to the contrary. Interested colleges and universities are not precluded from applying for these grants immediately.

ENVIRONMENTAL IMPACTS

OSM has determined that these regulations do not constitute a major Federal action significantly affecting the quality of the human environment and therefore do not require preparation of an environmental impact statement under section 102(2)(c) of the National Environmental Policy Act (NEPA). These regulations are largely procedural and ministerial in nature and OSM believes that they will not produce any significant environmental impacts. Moreover, these rules do not propose any specific actions entailing a commitment of resources at this time. Rather, they establish procedures for consideration of commitments in the future. When those commitments are made, in the form of grants for specific research projects, OSM will review them to determine whether they should be subject to the NEPA process.

DRAFTING INFORMATION

Principal authors of part 890 are David R. Maneval, Office of Surface Mining, Suellen T. Keiner and Christopher W. Warner, Office of the Solicitor.

NOTE.—The Department of the Interior has determined that these regulations do not constitute significant rules requiring preparation of a regulatory analysis under Executive Order 12044.

Dated: August 21, 1978.

JOAN DAVENPORT,
Assistant Secretary,
Energy and Minerals.

30 CFR Chapter VII is amended by adding new part 890 reading as follows:

Sec.
890.1 Scope.
890.2 Objectives.
890.3 Authority.
890.4 Responsibility.
890.5 Definitions.
890.6 Eligibility for mineral institute allotments.
890.7 Eligibility for research grants.
890.8 Eligibility for scholarships and fellowships.
890.9 Programs of institutes.
890.10 Applications for initial allotments to institutes.
890.11 Applications for allotments after the first fiscal year.
890.12 Applications for research grants.
890.13 Applications for scholarships and fellowships.
890.14 Permissible transfers of research and institute assistance funds.
890.15 Approval of allotments and award of grants.
890.16 Other Federal requirements.
890.17 Progress and accomplishment reports.
890.18 Fiscal and accounting.
890.19 Audits and inspections.

Sec.

890.20 Filing deadlines and amounts of grants.
890.21 Grant agreements.
890.22 Grant amendments.
890.23 Grant reduction and termination.

AUTHORITY: Pub. L. 95-87; 30 U.S.C. 1221, et seq.

§ 890.1 Scope.

This part sets forth policies and procedures for grants to estalbish and assist Mining and Mineral Resources Research Institutes and to support mining and mineral research projects.

§ 890.2 Objectives.

The objectives of the assistance under this part are:

(a) To support research and training in mining and mineral resources problems related to the mission of the Department of the Interior.

(b) To contribute to a comprehensive nationwide program of mining and mineral research having due regard for the protection and conservation of the environment.

(c) To support specific mineral research and demonstration projects of industrywide application.

(d) To assist the States in carrying on the work of competent and qualified mining and mineral resources research institutes.

(e) To provide scholarships, graduate fellowships and postdoctoral fellowships in mining and mineral resources, and allied fields such as mining engineering, civil engineering, soil conservation, hydrology, geology, chemistry, ecology, wildlife biology, land use planning, and resources management.

§ 890.3 Authority.

(a) Section 301 of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87) authorizes the Secretary to make grants available to assist the States in carrying on the work of competent and qualified mining and mineral resources research institutes.

(b) Section 302(a) of the Act authorizes the Secretary to make grants available to institutes to meet the expenses of mineral research and demonstration projects and of research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior which may be deemed desirable and are not otherwise being studied.

(c) Section 302(c) of the Act authorizes the Secretary to provide scholarships, graduate fellowships, and postdoctoral fellowships.

(d) Section 309 of the Act authorizes the Secretary to appoint an Advisory Committee on Mining and Mineral Resources Research and to designate the chairman of the Advisory Committee.

§ 890.4 Responsibility.

(a) The Secretary of the Interior is responsible for administering the program authorized under title III—State Mining and Mineral Resources and Research Institutes—of the Act and may delegate this authority for all sections, with the exception of section 309 (a) and (b), for the administration of activities and operations established therein.

(b) The Director shall administer the programs for mining and mineral resource research institutes, for mineral research and demonstration projects and for scholarships, graduate fellowships and postdoctoral fellowships.

§ 890.5 Definitions.

As used in this chapter, the term—

(a) *Act* means the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87),

(b) *Title* means title III of the act concerning State Mining and Mineral Resources and Research Institutes,

(c) *Secretary* means the Secretary of the Interior or his authorized representative,

(d) *Advisory Committee* means the Advisory Committee on Mining and Mineral Resources Research appointed by the Secretary,

(e) *Institute* means a competent and qualified mining and mineral resources research institute, center, or component of a college or university, established in accordance with the provisions of title III of the act,

(f) *Director* means the Director of the Office of Surface Mining Reclamation and Enforcement,

(g) *Scientists* and *Engineers* means individuals in any professional discipline in the life, physical, or social sciences,

(h) *Allotment* means the funds made available to an institute on a matching basis in a particular fiscal year pursuant to section 301 of the Act and regulations in this chapter,

(i) *Office* means the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240,

(j) *Assistant Director* means the Assistant Director for Technical Services and Research of the Office,

(k) *Mineral resource research* means research, investigations, demonstrations, experiments or training in: (1) Mineral exploration, extraction, processing, and development, (2) production of mineral resources; (3) mining and mineral technology; (4) mineral supply and demand; (5) conservation and best use of available supplies of minerals and other resources affected by mineral extraction; and (6) the economic, legal, social, engineering, recreational, biological, geographic, ecological, and land use aspects of mining, mineral resources, and mineral reclamation.

§ 890.6 Eligibility for mineral institute allotments.

To be eligible for financial assistance under section 301(a) of the Act, a college or university must meet all of the following criteria:

(a) Be either (1) a public college or university or (2) a private college or university in a State which does not have an eligible public college or university, and met all other requirements of this paragraph;

(b) Have had in existence on August 3, 1977, a school of mines, division or department conducting a program of substantial instruction and research in mining or mineral extraction, or have established a school of mines, division or department conducting a program of substantial instruction and research in mining or mineral extraction subsequent to August 3, 1977, which has been in existence for at least 2 years prior to the date of application for financial assistance;

(c) Employ at least four full-time permanent faculty members in the school of mines, division or department conducting instruction and research in mining and mineral extraction;

(d) Determined to be eligible for assistance in accordance with section 301 of the Act and these regulations by the advisory committee and designated by the Director;

(e) Has monies available to support the institute which match the Federal share with non-Federal funds on a dollar-to-dollar basis and are at least equal to the Federal share; and

(f) Designated by the Governor of the State if there is more than one eligible college or university in a State, provided there is no designation to the contrary by act of the State legislature.

§ 890.7 Eligibility for research grants.

(a) Under section 302(a) of the Act and subject to the availability of appropriations, additional funds may be made available to the institute for:

(1) Research into any aspects of mining and mineral resources problems, including reclamation and enforcement, which are related to the mission of the Department of the Interior, and are deemed desirable and are not otherwise being studied;

(2) Specific mineral research and demonstration projects of industrywide application, which could not otherwise be undertaken; and

(3) Expenses of planning and coordinating regional mining and mineral resources projects by two or more institutes.

(b) The Assistant Director will assemble from the Office and other of-

fices, bureaus, and agencies of the Department of the Interior a listing of mining and mineral resources problems, including reclamation and enforcement. After consulting with the advisory committee and obtaining approval of the Director, the Assistant Director will make available to the institutes a list of topics for research. In special cases, studies not included on this list may be considered and approved if justified and deemed desirable under §§ 890.7(a)(2) or 890.7(a)(3) of this chapter.

§ 890.8 Eligibility for scholarships and fellowships.

Under section 302 (b) and (c) of the act, additional funds may be made available to the institute to:

(a) Provide opportunity for training individuals as mineral scientists and engineers, and

(b) Provide undergraduate scholarships, graduate fellowships, and postdoctoral fellowships for mining and mineral engineering and closely allied fields.

§ 890.9 Programs of institutes.

(a) It shall be the duty of each institute to plan and conduct or arrange for the conduct of:

(1) Competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources, and

(2) Training of mining and mineral engineers and scientists through such research, investigations, demonstrations, and experiments.

(b) Such research, investigations, demonstrations, experiments, and training may include, without being limited to:

(1) The exploration, extraction, processing, development, and production of mineral resources;

(2) Mining and mineral technology;

(3) Supply and demand for minerals;

(4) Conservation and best use of available supplies of minerals; and

(5) The economic, legal, social, engineering, recreational, biological, geographical, ecological, and other aspects of mining, mineral resources and mineral reclamation.

§ 890.10 Applications for intitial allotments to institutes.

(a) In order to obtain an initial allotment under section 301, an institute must submit to the Assistant Director an application (in six copies).

(b) The institute shall use and follow the standard form for Federal assistance and other procedures specified by the Office of Management and Budget Circular No. A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations" (41 FR 32016; July 30, 1976). No preapplication is required.

(c) The institute shall include on form 424 in section IV of the standard application:

(1) Evidence that the institute conforms to each requirement or criterion listed in paragraph 890.6 of this chapter;

(2) Evidence of the appointment by the governing authority of the institute of an officer to receive and account for all funds paid under the provisions of this title and to make annual reports to the Secretary on or before the first day of October of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this title during the preceding fiscal year and of its disbursements on schedules prescribed by the Secretary;

(3) Evidence that the institute has plans and will conduct, or will arrange for a component or components of the college or university with which it is identified, to conduct:

(i) Competent research, investigations, demonstrations and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources research, and

(ii) Training of mining and mineral engineers and scientists through such research, investigations, demonstrations and experiments;

(4) Evidence that the institute has, or may reasonably be expected to have, the capability of doing effective work in one or more of the various mining and mineral resources programs specified in paragraph 890.9 above, which evidence shall include:

(i) The proposed general plan of operation of the institute, showing its organization and a summary of the institute's program activities, by project or other appropriate headings, which includes information concerning the substantive character and the anticipated magnitude, in man-years, of proposed activities,

(ii) Description of the facilities to be utilized,

(iii) A list of staff personnel with specific details as to academic and professional training, research experience and other pertinent qualifications, and the time they will devote to research, training or other activities of the institute, and

(iv) The sources of non-Federal funds; and

(5) Evidence that the institute is giving due regard to:

(i) Mining and mineral resources research projects being conducted (or supported) by agencies of the Federal and State governments and other institutes,

(ii) The interrelation on the natural environment,

(iii) The varying needs and conditions of the respective States,

(iv) The advice and assistance as provided by the Secretary, and

(v) A statement that the institute is willing to enter into an agreement, in a form approved by the Secretary, that all information, uses, products, processes, patents, and other developments resulting from any scientific or technological research or development activity financed with funds supplied pursuant to this title will (with such exceptions and limitations as the Secretary may determine) be made available promptly to the general public.

§ 890.11 Applications for allotments after the first fiscal year.

(a) After the first fiscal year, in order to obtain subsequent allotments, an institute shall submit to the Assistant Director a request for an annual allotment (in six copies) containing information and materials on form 424 to supplement any previously submitted application as may be needed to make it currently applicable and to reaffirm eligibility. Such requests shall be submitted 6 months prior to the end of the fiscal year and shall include evidence that all reports due under paragraph 890.17 have been submitted or are in preparation for submission.

(b) The request shall include: (1) Evidence that, if any monies received by the authorized receiving officer of any institute under the provisions of this title shall by any action or contingency have been found by the Secretary to have been improperly diminished, lost or misapplied, they must be replaced by the institute concerned; and until so replaced, no subsequent appropriation shall be allotted or paid to the institute;

(2) An outline explaining any changes in its program planned by the institute during the forthcoming fiscal year;

(3) A financial plan relating expenditures to scheduled activity and rate of effort to be expended and indicating the times at which there will be need for specified amounts of allotted Federal funds; and

(4) Evidence that the institute's program is effective, giving due regard to mining and mineral resources problems specified above.

§ 890.12 Applications for research grants.

(a) A separate application for a research grant under section 302 of the Act shall be submitted in six copies to the Assistant Director, at least one of which shall contain the original signatures of the principal investigator, of the relevant department head, and of an official authorized to commit the

institution in business and financial affairs.

(b) The institute shall use and follow the standard form for Federal assistance and other procedures specified by Office of Management and Budget circular No. A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and other Non-Profit Organizations" (41 FR 32016; July 30, 1976). No preapplication is required.

(c) The institute shall include on form 424 in section IV of the standard application evidence that the institute, conforms to each requirement or criterion listed in § 890.6 of this chapter.

(d) Such proposals must set forth for each project:

(1) The nature and scope of the project to be undertaken,

(2) The period during which it will be pursued,

(3) The names and qualifications of the senior professional personnel who will direct and conduct the project,

(4) The estimated costs of the project, with a breakdown of the costs per year,

(5) The importance of the project to the Nation, region, or State concerned, its relation to other known research projects theretofore pursued or being pursued and the anticipated applicability of the research results,

(6) The extent to which it will provide opportunity for the training of mining and mineral engineers and scientists,

(7) The extent of participation by nongovernmental sources in the project, and

(8) Assurance that no portion of any grant awarded under this section shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

§ 890.13 Applications for scholarships and fellowships.

(a) Under section 302(c) of the Act, an institute may apply for a grant to provide undergraduate scholarships, graduate fellowships, and postdoctoral fellowships in mining and mineral resources and closely allied fields. In order to obtain a grant for such scholarships and fellowships, an institute must submit (in six copies) to the Assistant Director a plan for awarding this financial aid based on academic ability.

(b) The institute shall use and follow the standard form for Federal assistance required in subparagraph 890.10(b). No preapplication is required.

(c) The institute shall include on form 424 in section IV of the standard application:

(1) Evidence that the institute has or is presently submitting a similar form 424 for financial assistance under sections 890.10 or 890.11, and that such form has been supplemented where need be to make it currently applicable.

(2) Evidence of the appointment by the governing authority of the institute of a committee to supervise the awarding of scholarship and fellowship funds based on academic ability.

(d) The scholarship committee shall be required to submit, at the Assistant Director's request, a report of financial assistance. This report shall contain:

(1) Criteria used by the Committee to review applicants and award financial assistance,

(2) Statistical records showing number of applicants reviewed, major fields of interests, degree sought (undergraduate, graduate, doctoral, etc.) and amount of assistance requested;

(3) Brief accounting of individuals receiving assistance, including name, field of study, degree sought, and the amount of assistance awarded; and

(4) All other items relating to financial assistance that may be requested by the Assistant Director.

(e) The institute must assure full compliance with title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d. An annual report of financial assistance provided and persons aided shall be included in the annual institute status report required by § 890.17.

(f) All individuals, departments, and subdivisions of a university that receive assistance under § 890.13 shall be subject to the patent requirements set forth in § 890.16(f).

(g) An institute may plan, conduct and award scholarship and fellowship funds in conjunction with other departments or subdivisions of its university or with other noninstitute organizations or universities under the following conditions:

(1) The institute scholarship committee retains supervisory control over the use of their funds;

(2) The committee must determine that all programs to be funded contribute to the solution of mining and mineral resources problems and have been approved by the officer appointed under subparagraph 890.10(c)(2);

(3) All organizations, universities, and individuals who receive assistance through this section shall be subject to the patent provisions in § 890.16(f);

(4) All participating organizations, universities, and individuals shall agree not to apply any portion of the funds to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building; and

(5) All participating organizations, universities, and individuals agree to supply all interim and final reports as may be required by the institute scholarship committee or the institute officer appointed under § 890.14(a).

§ 890.14 Permissible transfers of research and institute assistance funds.

(a) Under section 303(b) of the act, institutes are authorized and encouraged to plan and conduct programs under title III in cooperation with each other, with other components of the same college or university or with such other agencies and individuals as may contribute to the solution of the mining and mineral resources problems involved. Institute funds received under § 890.10 and 890.11 (institute assistance), 890.12 (research grants) and 890.13 (scholarships and fellowships) may be utilized by the institutes to administer and pay for programs conducted by noninstitute organizations, universities or individuals.

(b) Institutes may utilize their funds provided by §§ 890.10, 890.11, and 890.12 to pay for other projects under the following limitations:

(1) The officer appointed under § 890.10(c)(2), or his designated representative, shall administer, conduct, and supervise all noninstitute funded programs.

(2) All proposals to fund noninstitute activities shall be specifically set forth in all grant proposal applications required under §§ 890.10, 890.11, 890.12, and 890.13.

(3) Neither the approval of a program nor the payment of all or part of the program funds by the administering institute shall commit or obligate the institute, over and above those funds in the amount and for the purposes stated in the funding agreement, to award any continuation of funds or to enter into any other grant or funding agreement, including agreements to cover cost overruns.

(4) No portion of any funds provided by the institute will be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

(5) Participating organizations, universities or individuals shall supply all reports as are requested by the institute scholarship committee or by the supervising officer appointed in paragraph (a) of this section.

(6) All organizations, universities or individuals funded under this section are subject to the patent requirements under § 890.16(f).

(7) Copies of all agreements for funding of programs conducted by noninstitute organizations, universities, or individuals shall be attached in an appendix to the final annual re-

ports submitted by institutes under § 890.17(a).

(c) Funds authorized under § 890.13 may be used to fund scholarship and fellowship programs conducted by noninstitute universities or organizations under the conditions of § 890.13(g).

§ 890.15 Approval of allotments and award of grants.

(a) Upon receipt of an application for an allotment grant, contract or other financial assistance, the Assistant Director shall determine whether the submission conforms to the requirements of § 890.10, 890.11, 890.12, or 890.13 as appropriate. Nonconforming submissions will be returned to the institute with statements of the reasons thereof.

(b) The Director or his designated representative, may approve proposals submitted under these regulations after determining:

(1) That a reasonable relationship exists between the cost to the Government and the probable results to be achieved,

(2) That a college or university as the institute for the State, meets all the requirements for eligibility prescribed in § 890.6, including the evidence of the availability of matching non-Federal funds,

(3) That the applicant has expressed willingness and is legally authorized to enter into agreements acceptable to the Secretary, including an agreement for public availability of research results as provided in § 890.10(c)(5)(v), and

(4) That the State and the university have shown a good-faith effort to expand and improve the mineral institute.

(c) The Director or his designated representative shall approve a research grant on the basis of its overall merits, including consideration of:

(1) The need for the knowledge it is expected to produce when completed,

(2) The opportunity it provides for the training of mining and mineral engineers and scientists,

(3) The probability that it will be pursued with competence and completed within a reasonable time,

(4) Freedom from unnecessary duplication of work being performed by others,

(5) Evidence that the proposed projects could not be undertaken without the aid of the proposed grant,

(6) Evidence that previous research projects have been performed in a satisfactory manner and completed on schedule,

(7) Evidence that the proposal for a research project award meets all the requirements set forth in §§ 890.7 and 890.12, and

(8) Evidence that the proposal for a research project was properly endorsed by duly authorized officials of the applicant institute as well as by the principal investigators involved.

§ 890.16 Other Federal requirements.

Each institute receiving assistance in accordance with these regulations must comply with the following provisions which are conditions of each grant:

(a) The requirements of title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. 2000d) which provides that no person in the United States shall, on the ground of race, color, religion, sex or national origin, be excluded from participation in, denied benefits of, or subjected to discrimination under, any program or activity receiving Federal financial assistance and the implementing regulations issued by the Secretary of the Interior with the approval of the President (43 CFR part 17).

(b) The Hatch Act, 5 U.S.C. 1501 et seq. as amended, which relates to certain political activities of certain State and local employees. State and local government grantees must ensure compliance on the part of their employees who are covered by the Hatch Act. A State or local officer or employee is covered by the Hatch Act on political activity if his principal employment is in connection with an activity which is financed in whole or part by loans or grants made by the United States or a Federal agency. He is subject to the Act, if as a normal and foreseeable incident to his principal job or position, he performs duties in connection with an activity financed in whole or in part by Federal loans or grants. Specifically excluded is an individual who exercises no functions in connection with that activity or an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

(c) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq., which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of or subjected to discrimination under any education program or activity receiving Federal financial assistance.

(d) Executive Order 11246, dated September 24, 1965, as amended by Executive Order 11375, which requires that employees or applicants for employment not be discriminated against because of race, creed, color, sex, or national origin.

(e) The Clean Air Act (42 U.S.C. 7401, et seq., as amended by Pub. L. 91-604 and 95-95) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Pub. L. 92-500), which provide for compliance with clean air and water standards at facilities used for the performance of projects supported with Federal funds.

(f) Section 504 of the Rehabilitation Act of 1973, as amended by Executive Order 11914, nondiscrimination with respect to the handicapped in federally assisted programs.

(g) Institutes shall comply with the requirements of title V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) for all projects approved by the Director involving coal or lignite.

(h) All uses, products, processes, patents, and other developments resulting from any research, demonstration or experiment performed under grants awarded pursuant to this chapter of these regulations shall be made available promptly to the public, with such exception, or limitation, if any, as the Secretary may find necessary in the public interest. Nothing contained in this limitation shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent. In carrying out this provision, the Office will make use of and adhere to the Statement of Government Patent Policy promulgated by the President (36 CFR 16887, August 26, 1971), as implemented by the Federal Procurement Regulations (41 CFR 1-9.107) and the Interior Procurement Regulations (Interior Procurement Bulletin No. 11, revised; March 2, 1976).

(i) No portion of any grant awarded under paragraphs 890.6 or 890.7 of this Chapter shall be applied to the acquisition by purchase or lease of any land or interests therein or to the rental, purchase, construction, preservation, or repair of any buildings.

§ 890.17 Progress and accomplishment reports.

(a) *Annual institute status reports*—On or before the first day of October of each year, the officer of each institute who has been duly appointed by its governing authority to receive and account for all funds shall make an annual report to the Director on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provision of this chapter during the preceding fiscal year, and of its disbursements on schedules prescribed by the Director.

(b) *Quarterly technical progress reports for institute projects*—It shall be the duty of each institute to make a brief quarterly technical report on the progress being made on the research,

investigations, demonstrations, experiments, and training that it conducts under the provisions of section 301(b). In general, this report will be a summary of the technical activities of the institute.

(c) *Reports on research projects*—The grant agreement for each project funded under section 302 of this title shall specify the kind, frequency, and content of reports to be submitted on research projects. In addition, each specific mineral research and demonstration project of industrywide application and research into any aspect of mining and mineral resource problems shall submit a quarterly technical report of progress made to date in an annual report which shall include—

(1) A description of research accomplished and the findings, results, and conclusions relating thereto,

(2) Supplementary information suitable for project demonstration purposes,

(3) A listing of project-related publications or reports issued and papers presented (with copies of such publications being attached to each copy of the annual report), and

(4) Statements of project work remaining to be accomplished.

(d) *Final report*—Upon completion of a research study, there shall be prepared a cumulative final report including recommendations, conclusions, and applicability of the findings to the Office of Surface Mining, the Department of the Interior, and the mining or mineral resource issues of the Nation. The final report shall be prepared in accordance with ANSI Z39.18-1974, American national standard guidelines for format and production of scientific and technical reports, and will be required for each project so that the Secretary may promptly disseminate the findings of these publicly supported projects. The technical project officer assigned to each grant will provide detailed guidance about the preparation, format, and submission of required technical reports.

§ 890.18 Fiscal and accounting.

(a) Grant awards under §§ 890.6 and 890.7 shall be subject to the uniform administrative requirements including the financial management systems and financial reporting requirements of the current edition of Office of Management and Budget circular No. A-110 and all attachments thereto.

(b) Advances will be made by the letter of credit method provided the grantee meets all of the requirements specified in attachment I to the Office of Management and Budget circular No. A-110. If the grantee meets all of the specified requirements, but the total grant amount is less than $120,000, advance payments will be made by Treasury check. If the grantee does not meet the specified requirements, payment will be made by reimbursement with Treasury check. Vouchers may be submitted monthly or any regular less frequent period such as quarterly, at the option of the grantee.

§ 890.19 Audits and inspections.

(a) In addition to the internal audits which the grantee will perform or have performed in accordance with specifications in attachment F to the Office of Management and Budget circular No. A-110, representatives of the Secretary of the Interior and of the Comptroller General of the United States may conduct onsite audits and inspections of grantee which have received Federal funds under this title.

(b) Audits conducted at the direction or on behalf of the Secretary of the Interior will extend to a determination and appropriate finding of fact concerning compliance with the provisions of the grant, the regularity and accuracy of financial transactions and records, the adequacy of property accountabiltiy and control, and the reliability of financial reporting.

(c) *Inspections*—In relation to the substantive scientific and administrative operations of grantees, the Secretary of the Interior may, with such personnel as he considers qualified and with such procudures as he determines to be suitable, perform inspections of activities authorized and financed pursuant to these regulations. Such inspections will cover acceptability of progress, consistency with approved plans and other factors he deems important to enable him to discharge his responsibilities for achievements consistent with purposes of this title.

§ 890.20 Filing deadlines and amounts of grants.

(a) For the Federal fiscal year ending September 30, 1978, all of the designated institutes determined to be eligible for funding under § 890.6 will be notified by the Director, as soon as practical after designation, as to the filing deadline for financial assistance under §§ 890.10, 890.12, and 890.13 and as to the amount of funds to be made available for each type of assistance.

(b) Grants for the initial year and all future years may be awarded by the Office based on the number of eligible institutes and available funds.

(c) In all future years (beginning in fiscal year 1979), the Director will advise, on January 1 of each year, all designated institutes, as determined under § 890.6, concerning the maximum amount of funds available under §§ 890.10, 890.12, and 890.13.

(d) Beginning in fiscal year 1979, the deadline for filing applications for funding under § 890.10 (new institute allotments), § 890.11 (renewal of allotments), § 890.12 (research grants), and § 890.13 (scholarships and fellowships) will be March 31 of each year.

§ 890.21 Grant agreements.

(a) If the Director approves an institute's application for funding, the Office shall prepare a grant agreement which includes—

(1) The approved scope of the program to be covered by the grant;

(2) The approved budget, including the Federal share;

(3) Commencement and completion dates for the segment of the program covered by the grant and for major phases of the program to be completed during the grant period.

(b) The Assistant Director shall transmit four copies of the grant agreement by certified mail, return receipt requested, to the institute for signature. The institute shall execute the grant agreement and return all copies of it within 3 calendar weeks after receipt, or within an extension of such time that may be granted by the Assistant Director.

(c) The Director or his designated representative shall sign the grant upon its return from the institute and return one copy to the institute. The grant is effective and constitutes an obligation of Federal funds in the amount and for the purpose stated in the grant agreement at the time that the Director signs the agreement.

(d) Neither the approval of a program nor the award of any grant will commit or obligate the United States to award any continuation grant or enter into any grant amendment, including grant increases to cover overruns.

§ 890.22 Grant amendments.

(a) A grant amendment is a written alteration in the grant amount, grant terms or conditions, budget or period or other administrative, technical, or financial agreement whether accomplished on the initiative of the institute or the office, or by mutual action of the agency and the office.

(b) The institute shall promptly notify the Assistant Director in writing by certified mail, return receipt requested, of events or proposed changes which may require a grant amendment, such as—

(1) Rebudgeting,

(2) Changes which may affect the approved scope or objective of a program, or

(3) Changes which may increase or substantially decrease the total cost of a program;

(c) The Director or his designated representative shall approve or disapprove each proposed amendment within 30 days of receipt, or as soon

thereafter as possible, and shall notify the institute in writing of the approval or disapproval of the amendment; and

(d) The grant amendment establishes the effective date of the action. If no date is specified in the grant amendment, then the date the Director or his designated representative signs the amendment will be the effective date of the action.

§ 890.23 Grant reduction and termination.

(a) Conditions for reduction or termination.

(1) If an institute violates the terms of a grant agreement, the Director may reduce or terminate the grant.

(2) If an institute fails to implement, enforce, or maintain an approved program or agreement, the Director shall terminate the institute's grant or any research grant.

(3) If an institute fails to implement or maintains only a part of the program, the Director shall reduce the grant to the amount of the program being operated by the institute.

(4) If an institute is not in compliance with the following nondiscrimination provisions, the Director shall terminate the grant—

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) Nondiscrimination in Federal Assisted Programs, which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance, and the implementing regulations at 43 CFR 17;

(ii) Executive Order 11246, as amended by Executive Order 11375, Equal Employment Opportunity, requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex, or national origin, and the implementing regulations at 41 CFR 60;

(iii) Section 504 of the Rehabilitation Act of 1973, as amended by Executive Order 11914, nondiscrimination with respect to the handicapped in federally assisted programs;

(iv) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq., which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any educational program or activity receiving Federal financial assistance.

(b) Grant reduction and termination procedures.

(1) The Director shall give at least 10 days' written notice to the institute by certified mail, return receipt requested, of intent to reduce or terminate a grant. The Director shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) The Director shall afford the institute opportunity for consultation and remedial action prior to reducing or terminating a grant.

(3) The Director shall notify the institute of the termination or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination the institute shall refund or credit to the United States that portion of the grant money paid or owed to the institute and allocated to the terminated portion of the grant. However, any portion of the grant that is required to meet commitments made prior to the effective date of termination shall be retained by the institute.

(5) The institute shall reduce the amount of outstanding commitments insofar as possible and report to the Assistant Director the uncommitted balance of funds awarded under the grant.

(6) Upon notification of intent to terminate, the institute shall not make any new commitments without the approval of the Director.

(7) The Director may allow termination costs as determined by applicable Federal cost principles listed in Federal Management circular No. 74-4.

(c) Appeals. An institute may appeal the decision to reduce or terminate a grant to the Director within 30 days. An institute shall include in an appeal—

(1) The decision being appealed, and

(2) The facts which the institute believes justify a reversal or modification of the decision. The Director shall act upon appeals within 30 days of their receipt, or as soon thereafter as possible, and his decision shall be final for the purposes of further appeal.

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