Vol. 43—No. 191
10-2-78
PAGES
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Federal Register

MONDAY, OCTOBER 2, 1978

highlights

HOW TO USE THE FEDERAL REGISTER

Resumption of regularly scheduled workshops Washington, D.C.

See inside cover for details.

CONTINUED INSIDE

"The Federal Register—What It Is and How To Use It"

FOR: Any person who uses the Federal Register and the Code of Federal Regulations.

WHAT: Resumption of free Friday workshops presenting:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHEN: October 13, 27; November 3, 17; or December 1, 15—from 9–11:30 a.m.

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

federal register

Area Code 202 Phone 523–5240

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202-523-5240.**

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reminders

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

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DOT/FHWA—Lower location of rear side marker lamps; large semitrailers and full trailers 38830; 8-31-78
NHTSA—Federal motor vehicle safety standards; headlamp adjustability requirements 32416; 7-27-78
EPA—Grants; minimum procurement standards 10342; 3-13-78
[Originally published at 42 FR 8089, 2-8-77; 42 FR 53600, 10-3-77]
GSA—Construction contracts; list of subcontractors 40227; 9-11-78
HEW/FDA—Definition and distribution of antibitic reference standards 41194; 9-15-78
OE—Cooperative Education Programs; rules governing awards for planning, establishing, expanding or carrying out programs 18674; 5-2-78
Interior/FWS—Determination of critical habitat for two endangered California plants 39042; 831-78
Secy: Youth conservation corps programs; grants to States 41004; 9-13-78
ICC—Energy Policy and Conservation Act of 1975; implementation 29946; 7-12-78; 36640; 8-18-78
Household goods carriers; agency relationships 32303; 7-26-78
Justice/PC—Paroling, recommitting and supervising Federal Prisoners (4 documents) 38821-3; 8-31-78
Labor/MSHA—Coal mine noise exposure; use of noise dosimeters permitted 40760; 9-12-78
PS—Conduct on postal property 38824; 8-31-78
USDA/AMS—Milk in the Eastern Ohio-Western Pennsylvania Marketing area 38797; 8-31-78
Milk Marketing orders; Southern Michigan Marketing area 36045; 8-15-78
APHIS—Importation of birds, financial responsibility for costs associated with maintenance and operation of approved quarantined facilities 35458; 8-9-78
FmHA—Grants for community domestic water and waste disposal systems 40199; 9-11-78
FS—Youth conservation corps programs; grants to States 40998; 9-13-78

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EPA—Bay Area, Calif. air pollution control district; updating regulations 38825; 8-31-78
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GSA—Use of small purchase procedures and schedule contracts for Automatic Data Processing requirements 40015; 9-8-78
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Interior/BIA—Procedures for acknowledging certain American Indian tribes exist. 39361; 9-5-78

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

[Last Listing: September 29, 1978]

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list of cfr parts affected in this issue

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

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Table of Effective Dates and Time Periods—October 1978

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. January dates are in 1979.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
October 2	October 17	November 1	November 16	December 1	January 2
October 3	October 18	November 2	November 17	December 4	January 2
October 4	October 19	November 3	November 20	December 4	January 2
October 6	October 23	November 6	November 20	December 5	January 4
October 10	October 25	November 9	November 24	December 11	January 8
October 11	October 26	November 13	November 27	December 11	January 9
October 12	October 27	November 13	November 27	December 11	January 10
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October 17	November 1	November 16	December 1	December 18	January 15
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October 26	November 13	November 27	December 11	December 26	January 24
October 27	November 13	November 27	December 11	December 26	January 25
October 30	November 14	November 29	December 14	December 29	January 29
October 31	November 15	November 30	December 15	January 2	January 29

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SEA—Science and Education Administration
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
EAB—Bureau of Economic Analysis
EDA—Economic Development Administration
FTZB—Foreign-Trade Zones Board
ITA—Industry and Trade Administration
MA—Maritime Administration
MBEO—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DCAA—Defense Contract Audit Agency
DIA—Defense Intelligence Agency
DIS—Defense Investigative Service
DLA—Defense Logistics Agency
EC—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT

BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration
EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission
OHADOE—Hearings and Appeals Office, Energy Department

SEPA—Southeastern Power Administration
SWPA—Southwestern Power Administration
WAPA—Western Area Power Administration

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

AC—Aging Federal Council
ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
ESNC—Educational Statistics National Center
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
MSI—Museum Services Institute
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals, Interior Department
RB—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office
SS—Secret Service

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
FCA—Farm Credit Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/OFR—Office of the Federal Register
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/OFR—Office of the Federal Register
GSA/PBS—Public Buildings Service
ICA—International Communications Agency
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
MB—Metric Board
MWSC—Minimum Wage Study Commission
MWSC—Minimum Wage Study Commission
NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH—National Foundation for the Arts and the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OMB—Office of Management and Budget
OMB/FPPO—Federal Procurement Policy Office

OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

IMPROVING GOVERNMENT REGULATIONS

SCHEDULE OF SEMIANNUAL AGENDAS OF REGULATIONS

Executive order 12044, Improving Government Regulations, (43 FR 12661) requires that executive agencies publish semiannual agendas of significant regulations under development. At a minimum each agenda is to describe the regulations being considered by the agency, the need for and legal basis for the action being taken, the name and telephone number of a knowledgeable agency official, and the status of regulations previously published.

The agencies have chosen the following dates to publish their agendas. The Office of the Federal Register compiled this schedule as a public service.

If necessary, additions to the following schedule will be published on Tuesday, October 10, 1978.

ACTION	Jan. 8, 1979; July 9, 1979.
Administrative Committee of the Federal Register	Jan. 8, 1979; July 9, 1979.
Agriculture Department	Nov. 15, 1978; May 15, 1979.
American Battle Monuments Commission	Nov. 6, 1978; May 7, 1979.
Commerce Department	Feb. 15, 1979; Aug. 15, 1979.
Committee for Purchase from the Blind and Other Severely Handicapped	Dec. 1, 1978; June 1, 1979.
Community Services Administration	Nov. 10, 1978; May 11, 1979.
Defense Department	Nov. 30, 1978; May 30, 1979.
Energy Department	Oct. 31, 1978; Apr. 30, 1979.
Environmental Protection Agency	Nov. 1, 1978; Feb. 1, 1979; May 1, 1979; Aug. 1, 1979.
Environmental Quality Council	Jan. 5, 1979; July 5, 1979.
Equal Employment Opportunity Commission	Jan. 31, 1979; July 31, 1979.
Farm Credit Administration	Oct. 31, 1978; Mar. 30, 1979.
Federal Mediation and Conciliation Service	May 1, 1979; Oct. 1, 1979.
General Services Administration	Nov. 17, 1978; May 18, 1979.
Health, Education, and Welfare Department	Dec. 1, 1978; June 1, 1979.
Housing and Urban Development Department	Dec. 15, 1978; June 15, 1979.
Interior Department	Jan. 15, 1979; July 16, 1979.
Justice Department	Mar. 1, 1979; Sept. 1, 1979.
Management and Budget Office	Dec. 1, 1978; June 1, 1979.
National Aeronautics and Space Administration	Oct. 2, 1978; April 2, 1979.
National Credit Union Administration	Dec. 15, 1978; June 30, 1979.
National Foundation on the Arts and the Humanities	Nov. 1, 1978; Apr. 2, 1979.
National Science Foundation	Dec. 1, 1978; June 1,, 1979.
Pension Benefit Guaranty Corporation	Dec. 22, 1978; June 22, 1979.
Railroad Retirement Board	Jan. 31, 1979; July 31, 1979.
Renegotiation Board	Nov. 20, 1978; May 21, 1979.
Small Business Administration	Jan. 25, 1979; July 25, 1979.
State Department	Mar. 30, 1979; Oct. 30, 1979.
Tennessee Valley Authority	Nov. 6, 1978; Apr. 2, 1979.
Transportation Department	Feb. 26, 1979; Aug. 27, 1979.
Treasury Department:	
Government Financial Operations Bureau	Mar. 31, 1979; Sept. 30, 1979.
Internal Revenue Service	Mar. 31, 1979; Sept. 30, 1979.
Public Debt Bureau	Apr. 15, 1979; Oct. 15, 1979.
Veterans Administration	Dec. 18, 1978; June 18, 1979.
Water Resources Council	Jan. 19, 1979; July 20, 1979.

presidential documents

[3195-01]

Title 3—The President

Executive Order 12085 • **September 28, 1978**

Creating an Emergency Board To Investigate a Dispute Between the Norfolk and Western Railway Company and Certain of its Employees

A dispute exists between the Norfolk and Western Railway Company and certain of its employees represented by the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes, a labor organization;

This dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

This dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), it is hereby ordered as follows:

1-101. *Establishment of Board.* There is established a board of three members to be appointed by the President to investigate this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

1-102. *Report.* The board shall report its finding to the President with respect to the dispute within 30 days from the date of this Order.

1-103. *Maintaining Conditions.* As provided by Section 10 of the Railway Labor Act, as amended, from this date and for 30 days after the board has made its report to the President, no change, except by agreement, shall be made by the Norfolk and Western Railway Company, or by its employees, in the conditions out of which the dispute arose.

Jimmy Carter

THE WHITE HOUSE,
September 28, 1978.

[FR Doc. 78-27914 Filed 9-28-78; 5:00 pm]

rules and regulations

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

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

[1505-01]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977/1978 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1977 and 1978. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $400 domestic, $100 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1978):

Title	Price
1	$2.75
2 [Reserved]	
3	4.25
4	4.75
5	5.00
7 Parts:	
0-52	6.00
53-209	4.50
210-699	6.75
700-749	4.25
750-899	2.40
900-944	4.75
945-980	3.50
981-999	3.50
1000-1059	4.75
1060-1119	4.75
1120-1199	4.00
1200-1499	4.75
1500-2799	6.50
2800-2851	5.50
2852	6.00
2853-end	4.00
8	3.50
9	6.00
10 Parts:	
0-199	5.00
200-end	6.25
12 Parts:	
1-299	8.25
300-end	6.75
13	4.75
14 Parts:	
1-59	5.75
60-199	6.75
200-1199	5.75
1200-end	3.75
15	5.75
16 Parts:	
0-149	5.00
150-999	4.75
1000-end	5.25

CFR Unit (Rev. as of Apr. 1, 1978):

20 Parts:	
1-399	$3.50
500-end	4.50
21 Parts:	
1-99	4.00

CFR Unit (Rev. as of July 1, 1977):

28	$4.25
29 Parts:	
0-499	5.75
500-1899	6.00
1900-1919	6.00
1920-end	4.50
30	6.00
31	5.75
32 Parts:	
1-39 (V. I) (Rev. 7/1/76)	4.75
(V. II) (Rev. 7/1/76)	7.50
(V. III) (Rev. 7/1/76)	5.25
40-399	6.25
400-589	5.00
590-699	4.00
700-799	8.25
800-999	5.75
1000-1399	2.75
1400-1599	4.25
1600-end	2.75
32A	3.75
33 Parts:	
1-199	7.00
200-end	5.30
34	1.70
35	4.00
36	4.50
37	3.00
38	6.00
39	3.50
40 Parts:	
0-49	4.25
50-59	5.75
60-99	5.00
100-399	4.75
400-end	5.75
41 Chapters:	
1-2	5.25
3-6	5.50
7	2.75
8	2.30
9 (Rev. 9/26/77)	5.00
10-17	4.25
19-100	4.50
101-end	5.75
CFR INDEX & finding aids	4.75

CFR Unit (Rev. as of Oct. 1, 1977):

42 Parts:	
1-399	$5.50
400-end	4.75
43 Parts:	
1-999	4.00
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	4.25
100-149	5.50
150-199	4.75
200-499	3.50
500-end	6.00
46 Parts:	
1-29	3.00
30-40	3.25
41-69	4.50
70-89	3.25
90-109	3.00
110-139	3.00
140-165	4.75
166-199	3.75
200-end	6.00
47 Parts:	
0-19	5.75
20-69	5.25
70-79	*5.00
80-end	6.00
48 [Reserved]	
49 Parts:	
1-99	3.00
100-199	8.25
200-999	8.75
1000-1199	4.50
1200-1299	*8.00
1300-end	4.25
50	5.50

*Previously announced prices of $4.75 and $8.75 for these volumes, listed in the FEDERAL REGISTER of July 1, 1978, were in error.

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

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

Delegation of Authority Under Capper-Volstead Act

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture has determined that, in order better to carry out the functions conferred upon him by section 2 of the Capper-Volstead Act, authority to perform certain of such functions—including the issuance of a complaint against a cooperative association of producers—should be delegated to the Director of Economics, Policy Analysis and Budget.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Siegler, Deputy Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, 202-447-6035.

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended by adding to § 2.27 the following new paragraph (b)(13) to read as follows:

§ 2.27 Delegations of authority to the Director of Economics, Policy Analysis and Budget.

* * * * *

(b) *Related to farmer cooperatives, economics research, and statistical reporting.* * * *

(13) Exercise the functions vested in the Secretary by the first sentence of section 2 of the Capper-Volstead Act (7 U.S.C. 292), i.e., all functions of the Secretary under that section up through and including issuance of a complaint requiring an association of producers to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade.

* * * * *

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

Dated: September 25, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-27669 Filed 9-29-78; 8:45 am]

[3410-02]

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 29—TOBACCO INSPECTION

U.S. Type 31—Burley Tobacco; Experimental Sales in Untied Form

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: Exclusively for the 1978-79 burley marketing season, the Official Standard Grades for Burley Tobacco, U.S. Type 31, grown primarily in Kentucky, Tennessee, Ohio, Indiana, Virginia, North Carolina, West Virginia, and Missouri are amended to permit burley tobacco, heretofore eligible for all official grades only when marketed tied in hands, to be also eligible for all official grades when marketed untied in bales in limited quantities and during specified times during the season for educational and research purposes.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Ford, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7235.

SUPPLEMENTARY INFORMATION: A notice was published on July 6, 1978, (43 FR 29129) that the Department was considering a modification of the Official Standard Grades for Burley Tobacco, U.S. Type 31, pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731, U.S.C. 511 et seq.).

During the 1974-75 and 1975-76 burley marketing seasons, the Department cooperated with the University of Kentucky which was conducting experimental sales of untied baled burley tobacco. In these experiments, Federal tobacco graders applied unofficial grades to the tobacco. This unofficial grading involved a determination by the Federal grader as to the official grade a particular lot of tobacco would have warranted if the lot had been properly prepared for market and displayed as part of a regularly scheduled auction. In the 1976-77 season, experimental sales were conducted, using both baled tobacco and tobacco packed loose on burlap sheets, by the Universities of Kentucky and Tennessee and various State farm bureaus. Again, only unofficial grades were applied by Government graders. Experimental sales were discontinued during the 1977-78 season and the Council for Burley Tobacco appointed a committee to further study the entire project. Subsequent to this study the Council made recommendations to the Secretary of Agriculture for the conducting of further experimental sales of baled barley tobacco in the 1978-79 marketing year.

Based on numerous requests from the burley industry and, particularly, on the recommendations of the Council, the Department proposed solely for the 1978-79 season and solely for experimental purposes, that on certain days during the season Federal graders apply official grades eligible for price-support to limited quantities of untied burley tobacco packed straight in bales and offered for sale at auction throughout the entire burley production area.

Numerous comments on the proposal were received by the Department. After a thorough analysis and evaluation of those comments, the Department is hereby modifying the Official Standard Grades for Burley Tobacco as proposed with certain clarifications.

The majority of comments received favored the amendment as proposed. The points made by these commentators include:

1. Increased cost pressures caused by the large amount of labor required to grow burley tobacco have already forced many small producers to abandon the crop in favor of other commodities that lend themselves to one or two-man farming. This alone could pose a threat to the stability of this country's burley supplies. Also, the lack of availability of farm labor in burley growing areas has placed an added squeeze on farmers. Preliminary research efforts indicate that untied sales could result in substantial savings in farmers' labor requirements compared to the traditional tied-in-hands method.

2. Bales require less skill on the part of workers in the stripping room, therefore, burley could be stripped in a drier condition; grading in the barn is easier, and loading and unloading for the trip to market is faster and easier.

The major objection voiced by opponents was that the quality of untied, baled tobacco would deteriorate in comparison to the traditionally tied-in-hands method of marketing. This objection, of course, is one the Department has been aware of since "untied" burley sales were first requested in 1974. The possible quality deterioration exists and producers will require an advance educational program stressing quality maintenance in order to avoid it. Experimental sales are to be in effect for one full marketing season, 1978-79. During this time, the Department will observe, particularly, the quality of the product, and it will be one of the factors considered in determining whether permanent changes in the Burley Standards should be made.

Many commentors recommended that sales of burley loose on burlap sheets also be permitted. However, the Council for Burley Tobacco, after its study of various packaging alternatives, declined to recommend such inclusion. The Department in its determination to cooperate with the Council, therefore, declines to expand the one-year experimental program to include sheeting of tobacco.

The majority of the buying concerns remained neutral on the "tied-untied" burley issue, but expressed concern over not having recourse to growers when some bales in a lot are inferior to the one inspected. This experimental program contemplated by the Council for Burley Tobacco and adopted by the Secretary will provide adequate recourse by the buyer to the particular warehouse, along with adequate recourse by the warehouse to the particular producer. The Department feels that educational programs, for the benefit of growers, conducted by the land-grant colleges will alleviate the greater part of this problem. The integrity of the producer must be respected and, as stated in the proposal, "the producer, by offering baled

burley tobacco for sale, certifies that the bale inspected by a grader is representative of the grade of all the tobacco in that lot * * *." Based on the one-year experimental nature of this change in marketing practices, if certain bales in a lot are found to be inferior this would point out that further educational programs are needed and different requirements on the grower submitting baled tobacco for sale might be necessary.

Several commentors recommended that a referendum be held to determine if producers favored the untied, baled burley tobacco program. The Tobacco Inspection Act does not contain authority for the holding of a binding referendum on this point. Of course, this does not preclude the holding of an advisory referendum in the future if the 1978-79 experimental phase proves acceptable to the industry and the Department determines it is in the best interests of all concerned to proceed with amending its regulations to provide for sales of "untied" burley tobacco.

Several commentors objected to restrictions, in the definition of "rework," by the words, "that the bales do not contain any foreign matter or material." The commentors' objection to this phrase was based on their belief that even if one sucker, stalk, string, rubberband, etc., was found in the bale during the inspection process that the entire lot would be graded "No-G." This is not the case, however, as substantiated by Rule 8 of the Official Standard Grades for Burley Tobacco which reads: "In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked." Rule 8 would apply to both methods of burley tobacco marketing: baled or the traditional "tied-in-hands" method. Therefore, no change in wording is necessary, and the portion of "rework" in question is hereby adopted as proposed.

In response to other comments received and upon further consideration of the proposed modifications, the following shall be included in the definition of "rework" § 29.3050, for the 1978-79 marketing season only.

(1) The leaves in the bales must not be tied in hands;

(2) The bales may contain only untied tobacco packed straight; and

(3) The size of the bales must be approximately 1 x 2 x 3 feet in size. Additionally, a fourth point will be included as follows:

(4) Only untied, baled tobacco which is identified by filed certifications under 7 CFR, Part 1464, of the regulations governing the price support program as being part of the experiment will receive an official, price-supported grade.

Such baled burley tobacco shall be officially graded only during 5 sales days at each warehouse during the 1978-79 season. Such sale dates shall be determined by the Burley Sales Committee or other appropriate organization, however, three of the sale dates shall be during 3 separate weeks preceding the Christmas holiday recess and two of the sale dates shall be during 2 separate weeks after the recess.

Responsibilities imposed upon warehousemen and producers, respectively, by the adoption of the Department's proposal include:

1. It is the responsibility of the operator of a warehouse to open the particular bale in a lot of tobacco chosen by a grader for inspection and to reseal that bale after inspection; and

2. The producer is responsible for certifying that the bale inspected by a grader is representative of the grade of all the tobacco in that lot, and that the leaf was stalk-cured, that the bales do not contain any foreign matter or material and that the bales are not nested.

The Department's instructions to graders will be amended to conform to these understandings.

Accordingly, § 29.3050 of the regulations is hereby amended as follows:

§ 29.3050 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not tied in hands, not packed straight, not properly tied, or otherwise not properly prepared for market: *Provided*, That during the burley marketing season which will begin in November or December 1978 and end by April 1979, burley tobacco which is offered for sale in bales shall not be considered to require rework if the tobacco in said bales is not tied in hands, is packed straight, the size of the bale is approximately 1 x 2 x 3 feet and is identified by filed certifications under 7 CFR, Part 1464 of the regulations governing the price support program as being part of the experiment. *Provided further*, That: (1) Tobacco marketed untied in bales will be officially graded only during 5 sales days at each warehouse which sale dates may be determined by the Burley Sales Committee or other appropriate organization; however, three of the sale dates shall be during 3 separate weeks preceding the Christmas holiday recess and two of the sale dates shall be during 3 separate weeks after the recess; (2) the operator of any warehouse at which baled burley tobacco is offered for sale shall open and later close and secure the particular bale, in a lot of tobacco, chosen by a grader for inspection; and (3) the producer, by offering baled burley tobacco for sale, certifies that the bale inspected by a grader is representative of the grade of all the tobacco in that lot, that the leaf was stalk-cured, that the bales do not contain any foreign matter or material and are not nested.

Dated: September 26, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78-27668 Filed 9-29-78; 8:45 am]

[3410-02]

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

[Pear Reg. 17, Amdt. 1]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Extension of Effective Period for Minimum Quality Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through November 1, 1978, certain quality requirements applicable to fresh shipments of Beurre D'Anjou pears shipped from designated areas of Oregon and Washington. This action is necessary to assure that the pears shipped will be of suitable quality in the interest of consumers and producers.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Notice was published in the FEDERAL REGISTER issue of August 1, 1978 (43 FR 33732), that the Depart-

ment was giving consideration to a proposal submitted by the Control Committee to amend § 927.317 by changing the expiration date thereof from October 1, 1978, to November 1, 1978. The notice invited interested persons to submit written data, views, or arguments on the proposal not later than September 8, 1978. No such material was received.

This amendment to pear regulation 17 is to be issued under the applicable provisions of the amended marketing agreement and Order No. 927 (7 CFR part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The regulation requires that Beurre D'Anjou variety of pears shipped from Oregon and Washington be accompanied by a certificate indicating that core temperatures have been lowered to 35 degrees fahrenheit or less; and those pears for domestic shipment must have an average pressure test of 14 pounds or less. The quality regulation hereinafter provided is necessary to prevent the handling during the specified period of any Beurre D'Anjou pears of lower quality than specified so as to provide satisfactory quality fruit in the interest of producers and consumers consistent with the declared policy of the act.

After consideration of all relevant matters presented, including the recommendations made by the committee and other available information, it is hereby found that the regulation, as hereinafter set forth, is in accordance with the said amended 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 regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of D'Anjou pears are currently in progress and to effectuate the declared policy of the act, the regulation, as hereinafter amended, should be extended without interruption during the specified period; (2) compliance with the regulation will not require any special preparation on the part of handlers which cannot be completed by the effective time hereof; and (3) the provisions of this amendment are identical with the recommendation of the committee which was published in the aforesaid notice.

The provisions of § 927.317 (Pear Regulation 17; 43 FR 31119) are hereby amended to read as follows:

§ 927.317 Pear regulation 17.

(a) During the period August 1 through November 1, 1978, no handler shall ship any Beurre D'Anjou variety of pears, grown in the following Districts, unless such pears are handled in accordance with paragraph (1) of this section:

(1) Beurre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees fahrenheit or less and any such pears for domestic shipment shall have an average pressure test of 14 pounds or less.

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

Dated: September 27, 1978.

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

[FR Doc. 78-27789 Filed 9-29-78; 8:45 am]

[3410-02]

PART 966—TOMATOES GROWN IN FLORIDA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $122,000 and establishes a rate of assessment of one-half cent ($0.005) per 30-pound equivalent of tomatoes for the functioning of the Florida Tomato Committee. The regulation will enable the committee to collect assessments from first handlers on all assessable tomatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing order No. 966, as amended (7 CFR Part 966), regulating the handling of tomatoes grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable tomatoes handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

The regulation is as follows:

§ 966.215 Expenses, rate of assessment and carryover of unexpended funds.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1979, by the Florida Tomato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $122,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-half cent ($0.005) per 30-pound container or equivalent quantity, of tomatoes handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 966.44(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

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

Dated: September 26, 1978.

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

[FR Doc. 78-27681 Filed 9-29-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-SO-59, Amdt. No. 39-3309]

PART 39—AIRWORTHINESS DIRECTIVES

Gulfstream American Corp. Model GA-7

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the removal of original fuel system valves and replacement with a modified, reidentified fuel selector valve in Gulfstream American Model GA-7 airplanes. The AD is needed to prevent locking of the fuel selector valve in one position, thus preventing its being moved to another position, adversely affecting operation of the fuel system.

DATES: Effective date—October 9, 1978.

ADDRESSES: The applicable Service Bulletin No. ME-10 may be obtained from the Gulfstream American Corp. (formerly Grumman American Aviation Corp.), P.O. Box 2206, Savannah, Ga. 31402. A copy of that service bulletin is contained in room 264, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

W. S. Thomas, Engineering and Manufacturing Branch, Flight Standards Division, FAA, 3400 Whipple Street, East Point, Ga. 30320, telephone 404-763-7435.

SUPPLEMENTARY INFORMATION: The FAA has determined that on fuel selector valves installed in Gulfstream American Model GA-7 airplanes an accumulation of tolerances on a ball detent that maintains the valve in selected positions may permit a ball to enter the detent position sufficiently that excessive force is required to reposition the valve. In one instance, the valve could not be moved. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which will require the removal of the original fuel selector valves and replacement with redesigned and reidentified fuel selector valves on Gulfstream American Model GA-7 airplanes.

Since a situation exists that requires the 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, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Gulfstream American Corp. (GAC) (formerly Grumman American Aviation Corp.) (GAAC): Applies to Model GA-7 serial Nos. GA7-001 through GA7-0039.

Compliance is required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent a hazard to the airplane caused by excessive force required to move the fuel selector valve from one position to another position, accomplish the following:

(1) Remove the two original fuel selector valves, Gerdes Part No. A980-5, and install two new improved fuel selector valves, Gerdes Part No. A980-7, utilizing the procedures and precautions contained in GA-7 maintenance manual, section 28-2-1, pages 202 and 204, fuel selector valve removal, and fuel selector valve installations.

(2) After the Gerdes Part No. A980-7 fuel selector valve installation has been completed in accordance with the above maintenance manual procedures, set each selector to ON, OFF, and CROSSFEED positions while observing each selector valve to insure that the valve operates correctly, no fuel leakage occurs, and a positive detent is noted at each position selected on the valve.

(Gulfstream American Service Bulletin No. ME-10, dated Aug. 16, 1978, applies to this same subject.)

This amendment becomes effective October 9, 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 East Point, Ga., September 21, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-27719 Filed 9-29-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-31]

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

Alteration of Transition Area: Georgetown, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Georgetown, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Georgetown Municipal Airport. The circumstance which created the need for the action was the establishment of a nondirectional radio beacon (NDB) on the airport to provide capability for flight under instrument flight rules (IFR) procedures to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 27, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 32435) stating that the Federal Aviation Administration proposed to alter the Georgetown, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. We received no objections to the proposal. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation regulations (14 CFR 71) alters the Georgetown, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing the newly established instrument approach procedure to the Georgetown Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, 71.181 (43 FR 440), the following transition area is altered to read:

GEORGETOWN, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Georgetown Municipal Airport (latitude

30°40'45" N., longitude 97°40'45" W.), within 3.5 miles each side of the 358° bearing from the NDB (latitude 30°41'03" N., longitude 97°40'45" W.) extending from the 5-mile radius to 11.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

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; Mar. 8, 1978).

Issued in Fort Worth, Tex., on September 21, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-27689 Filed 9-29-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-14]

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

Alteration of Transition Area—Larned, 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 Larned, Kans., to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Larned-Pawnee County Airport which is based on an existing nondirectional radio beacon (NDB), a navigational aid installed on the airport.

EFFECTIVE DATE: December 28, 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 Larned-Pawnee County Airport, Larned, Kans., is being established utilizing an NDB installed on the airport. The establishment of a new instrument approach procedure based on this navigational aid entails alteration of the transition area at Larned, 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 28208 and 28209 of the FEDERAL REGISTER dated June 29, 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 alter the transition area at Larned, 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, § 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., December 28, 1978, by altering the following transition area:

LARNED, KANS.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Larned, Kans. NDB located at latitude 38°12'16" N, longitude 99°05'17" W, and within 3 miles either side of the 276° bearing from the NDB, extending from 5.5-mile radius to 8 miles west of the NDB, and within 3 miles either side of the 001° bearing from the NDB extending from the 5.5-mile radius to 8 miles north 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; Mar. 8, 1978).

Issued in Kansas City, Mo., on September 18, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-27445 Filed 9-29-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-CE-71]

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

Designation of Transition Area—Marysville, 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 Marysville, Kans., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Marysville Municipal Airport, Marysville, Kans., which is based on a nondirectional radio beacon (NDB) navigational aid installed on the airport.

EFFECTIVE DATE: December 28, 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 Marysville, Kans., has installed a nondirectional radio beacon (NDB) on the airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Marysville, 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 page 28209 of the FEDERAL REGISTER dated June 29, 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 Marysville, 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, § 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., December 28, 1978, by adding the following new transition area:

MARYSVILLE, KANS.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Marysville Municipal Airport, Marysville, Kans.; latitude 39°51'12" N., longitude 96°37'49" W.; within 3 miles each side of the Marysville NDB 357° bearing extending from the 5.5-mile radius area to 8 miles north of the airport; and within 3 miles each side of the Marysville NDB 147° bearing extending from the 5.5-mile radius area to 8 miles southeast 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 September 18, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-27448 Filed 9-29-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-AL-11]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates two area high routes over the Gulf of Alaska to provide additional routings between Anchorage, Alaska, and Seattle, Wash. This action will increase the efficiency of airspace use by permitting uninterrupted climb/descent for air traffic between Anchorage and Seattle.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 20, 1978, the FAA proposed to amend subpart D of part 75 of the Federal Aviation Regulations (14 CFR Part 75) to designate two area high routes southeast of Anchorage to provide additional routings for air traffic operating between Anchorage and Seattle (43 FR 31163). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comment received expressed no objection. This amendment is that proposed in the notice. Section 75.400 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 730).

THE RULE

This amendment to part 75 of the Federal Aviation Regulations (14 CFR Part 75) designates J-886R and J-997R southeast of Anchorage to provide better air traffic handling between Anchorage and Seattle. Aircraft departing/landing Anchorage via current routings are frequently stair-stepped during climb/descent until conflicting traffic is no longer a factor. Designation of these routes will provide lateral airspace for uninterrupted climb/descent to/from cruising altitudes.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart D of part 75 of the Federal Aviation regulations (14 CFR Part 75) as republished (43 FR 730) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

§ 75.400 [Amended]

Under § 75.400, the following is added:

J-886R Anchorage, Alaska, to Yakutat, Alaska:

Waypoint, Name, Location, and Reference Facility
NOWEL, 60°29'01" N., 148°38'01" W., Anchorage, Alaska.
ARISE, 60°00'02" N., 146°09'06" W., Middleton Island, Alaska.
KONKS, 59°33'04" N., 144°00'00" W., Middleton Island, Alaska.
KILLA, 58°45'00" N., 140°35'00" W., Yakutat, Alaska.

J-997R Anchorage, Alaska, to Annette Island, Alaska:

Waypoint Name, Location, and Reference Facility
NOWEL, 60°29'01" N., 148°38'01" W., Anchorage, Alaska.
TONTS, 59°51'06" N., 146°18'00" W.., Middleton Island, Alaska.
DUNKS, 57°58'07" N., 140°14'00" W., Yakutat, Alaska.
HOLLI, 56°40'00" N., 137°00'00" W., Biorka Island, Alaska.
MOCHA, 54°29'05" N., 133°00'02" W., Annette Island, Alaska.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

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

Issued in Washington, D.C., on September 21, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-27690 Filed 9-29-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart K—Employment—Wages—Self—Employment—Self—Employment Income

DEEMED FILING OF WAIVER OF TAX EXEMPTION BY RELIGIOUS, CHARITABLE, OR OTHER ORGANIZATION DESCRIBED IN SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE

AGENCY: Social Security Administration, HEW.

ACTION: Final regulation.

SUMMARY: Certain religious, charitable, educational, or other organizations are excluded from social security coverage unless they file a waiver certificate of tax exemption from taxes under the Federal Insurance Contributions Act (FICA). Some of these organizations did not file a waiver certificate but nevertheless paid social security taxes under the Federal Insurance Contributions Act (FICA) on the wages paid to their employees. These amendments add a provision which reflects legislation allowing these organizations, under certain circumstances, to be deemed to have elected to cover the services of their employees under social security even though the organization failed to file the waiver certificate or was granted a refund of the taxes paid on the reported wages.

EFFECTIVE DATE: The regulations are effective October 2, 1978.

COMMENTS DUE: Consideration will be given to any comments submitted in writing on or before December 1, 1978.

ADDRESSES: Send comments to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. Copies of all comments received in response to the regulations will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth J. Dyer, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7454.

SUPPLEMENTARY INFORMATION: Services performed as an employee of a religious, charitable, educational, or other organization that is exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1954 (IRC), are excluded from social security coverage. However, the employing organization may file a certificate (see sec. 3121(k) of the IRC) waiving its tax exempt status from social security taxes. A study by the General Accounting Office in 1975 revealed that a substantial number of these organizations had not filed waiver certificates with the Internal Revenue Service. The study further showed that these organizations were nevertheless reporting wages and paying social security taxes on them. Pub. L. 94-563, approved on October 19, 1976, made it possible for employees of such organizations to receive social security coverage for the reported wages.

Pub. L. 94-563 amended both the Social Security Act and the IRC. It provides that if the organization failed to file the waiver certificate but paid social security taxes under the Federal Insurance Contribution Act on wages paid its employees for three or more consecutive calendar quarters after 1972, it will be deemed to have filed the certificate. Section 312 of Pub. L. 95-216, further amended only section 3121(k) of the IRC, to change social security tax provisions in light of Pub. L. 94-563.

Public Law 94-563 and Pub. L. 95-216 are discussed only in general terms since the provisions relating to the filing of a waiver certificate, the collection and refund of social security taxes and coverage of organizations and their employees' taxes, are contained in the Internal Revenue Code of 1954 and are the responsibility of the Internal Revenue Service. Consequently, the regulations refer the user to the appropriate IRC provisions. The regulations are being published as final regulations since a notice of proposed rulemaking is unnecessary in that the regulations merely reflect the provisions of statutes already in effect.

Accordingly, the amendments are adopted as set forth below.

(Secs. 205, and 1102 of the Social Security Act, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 42 U.S.C. 405 and 1302 as amended.)

(1977 Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security—Disability Insurance, 13.803, Social Security—Retirement Insurance; 13.804, Social Security—Special Benefits for Persons Age 72 and Over; and 13.805, Social Security—Survivors Insurance.)

Dated: August 15, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: September 27, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 404 of title 20 of the Code of Federal Regulations is amended as set forth below:

1. In § 404.1016 the heading and paragraph (a) are revised to read as follows:

§ 404.1016 Election of coverage by religious, charitable, educational, or other organizations exempt from income tax.

(a) *General.* Services performed by an employee in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from income tax under section 501(a) of the Internal Revenue Code of 1954 (sec. 101(6) of the Internal Revenue Code of 1939) are excepted from employment. This exception does not apply to services performed during the period for which a form SS-15, Certificate Waiving Exemption From Taxes Under the Federal Insurance Contributions Act, is filed under paragraph (a)(1) of this section, or an organization is deemed to have filed a waiver certificate under paragraph (a)(2) of this section.

(1) *Formal election of coverage—Filing of form SS-15, Certificate Waiving Exemption From Taxes Under the Federal Insurance Contributions Act, and form SS-15a, List of Concurring Employees.* Form SS-15 and form SS-15a, filed under section 3121(k) of the Internal Revenue Code of 1954, have the effect of covering services performed by an employee:

(i) Whose signature appears on the form SS-15a, List of Concurring Employees (or a supplemental list); or

(ii) Who became an employee of the organization after the calendar quarter in which the form SS-15 was filed; or

(iii) Who became a member of a group of employees as described in section 3121(k)(1)(E) of the Internal Revenue Code of 1954 after the calendar quarter in which the form SS-15 was filed with respect to that group.

(2) *No certificate filed—deemed filing of waiver certificate.* Under certain conditions, an organization which has never filed a waiver certificate but has reported wages and paid social security taxes for its employees shall be deemed: (i) To have filed a waiver certificate waiving its social security tax exemption, and (ii) to have elected to cover the services of its employees under social security. Each employee listed on the filed wage reports shall be deemed to have concurred in the filing of the certificate and/or having his or her services covered. The authority and conditions with respect to the deemed filing of a waiver certificate and employee coverage for social security purposes are found in section 3121(k) of the Internal Revenue Code of 1954.

(3) *Coverage of individual employees.* In order for the remuneration for services performed by employees of organizations described in paragraph (a)(2) of this section to be considered wages from covered employment as defined in § 404.1026(a)(2), the employee (or his or her representative) must:

(i) Request that the remuneration be considered wages from covered employment when a deemed filed certificate is not effective for certain periods because of section 3121(k)(4)(C) of the Internal Revenue Code; or

(ii) Request that the remuneration be considered wages from covered employment when, for periods between March 31, 1972, and the date a deemed filed certificate is effective, the remuneration was reported for social security purposes and the employer has obtained a refund or credit for the social security taxes paid on that remuneration.

The request must be in writing and filed with either the Social Security Administration or the Internal Revenue Service on or before April 15, 1980. The written request should identify the employer or employers, the periods in which the services were performed and the approximate amount of wages paid in these periods. The employee must show that he has paid to the Internal Revenue Service his share of the social security taxes due on his wages or that he has made arrangements with the Internal Revenue Service to make the required payment.

[FR Doc. 78-27794 Filed 9-29-78; 8:45 am]

[8320-01]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

RATING CONSIDERATIONS RELATIVE TO SPECIFIC DISEASES

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its regulations governing service connection for tuberculosis. The law currently provides that active tuberculosis developing within 3 years from the date of separation from active service may be presumptively service connected. The Veterans Administration, by regulation, added additional presumptive periods of 6 months for minimally advanced tuberculosis, 9 months for moderately advanced tuberculosis, and 12 months for far advanced tuberculosis. This was done on the advice of medical authorities on the theory that those degrees of advancement indicated preexistence of the disease by the specified periods. This theory is no longer tenable. "Diagnostic Standards and Classification of Tuberculosis and Other Mycobacterial Diseases" published by the American Lung Association has discontinued classification of tuberculosis as minimal, moderate, or far advanced and such classifications are no longer taught or used in modern medical practice. The major effect of this change is to remove the regulatory presumptions of 6, 9, and 12 months which are in addition to the 3-year statutory presumption. This brings the regulation into accord with the statute and current medical standards.

EFFECTIVE DATE: September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

T. H. Spindle, 202-389-3005.

SUPPLEMENTARY INFORMATION: On pages 28824-28826 of the FEDERAL REGISTER of July 3, 1978, there was published a notice of proposed regulatory development to amend §§ 3.307, 3.370, 3.371, 3.374, 3.375, and 3.378 relative to abrogating the presumptions that tuberculosis manifest during the fourth year after service may be considered to be service connected.

Interested persons were given 30 days to submit comments, suggestions, or objections to the proposed regulation changes. Four comments were received. The first commentator favored retaining the 4-year presumptive period but offered no evidence or argument to support her position. The second commentator wanted the "change in time limit to also be related to all other diseases * * *" but did not explain what was meant by that comment. The third commentator wanted the 4-year presumptive period extended to 10 years but cited no medical evidence to warrant adoption of his proposal. The fourth commentator suggested that the Veterans Administration use Mantoux skin tests to determine whether a case of tuberculosis was service connected. The procedure would require that the test be given at induction and then 90 days after discharge. This suggestion cannot be adopted because the Mantoux skin test has not been universally given at induction and the Veterans Administration has no authority to require a former service member to report for such a test 90 days after discharge.

The proposed regulatory changes are adopted without amendment.

Approved: September 19, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 3.307, paragraph (c) is revised to read as follows:

§ 3.307 Presumptive service connection for chronic, tropical, or prisoner of war related disease; wartime and service on or after January 1, 1947.

* * * * *

(c) *Prohibition of certain presumptions.* No presumptions may be invoked on the basis of advancement of the disease when first definitely diagnosed for the purpose of showing its existence to a degree of 10 percent within the applicable period. This will not be interpreted as requiring that the disease be diagnosed in the presumptive period, but only that there be then shown by acceptable medical or lay evidence characteristic manifestations of the disease to the required degree, followed without unreasonable time lapse by definite diagnosis. Symptomatology shown in the prescribed period may have no particular significance when first observed, but in the light of subsequent developments it may gain considerable significance. Cases in which a chronic condition is shown to exist within a short time following the applicable presumptive period, but without evidence of manifestations within the period, should be developed to determine whether there was symptomatology which in retrospect may be identified and evaluated as manifestation of the chronic disease to the required 10-percent degree. The consideration of service incurrence provided for chronic diseases will not be interpreted to permit any presumption as to aggravation of a preservice disease or injury after discharge.

* * * * *

2. In § 3.370, paragraph (b) is revised to read as follows:

§ 3.370 Pulmonary tuberculosis shown by X-ray in active service.

* * * * *

(b) *Inactive disease.* Where the veteran was examined at time of entrance into active service but X-ray was not made, or if made, is not available and there was no notation or other evidence of active or inactive reinfection type pulmonary tuberculosis existing prior to such entrance, it will be assumed that the condition occurred during service and direct service connection will be in order for inactive pulmonary tuberculosis shown by X-ray evidence during service in the manner prescribed in paragraph (a) of this section, unless lesions are first shown so soon after entry on active service as to compel the conclusion, on the basis of sound medical principles, that they existed prior to entry on active service.

* * * * *

3. In § 3.371, paragraphs (a) and (c) are revised to read as follows:

§ 3.371 Presumptive service connection for tuberculous disease; wartime and service on or after January 1, 1947.

(a) *Pulmonary tuberculosis.* (1) Evidence of activity on comparative study of X-ray films showing pulmonary tuberculosis within the 3-year presumptive period provided by § 3.307(a)(3) will be taken as establishing service connection for active pulmonary tuberculosis subsequently diagnosed by approved methods but service connection and evaluation may be assigned only from the date of such diagnosis or other evidence of clinical activity.

(2) A notation of inactive tuberculosis of the reinfection type at induction or enlistment definitely prevents the grant of service connection under § 3.307 for active tuberculosis, regardless of the fact that it was shown within the appropriate presumptive period.

* * * * *

(c) *Tuberculous pleurisy and endobronchial tuberculosis.* Tuberculous pleurisy and endobronchial tuberculosis fall within the category of pulmonary tuberculosis for the purpose of service connection on a presumptive basis. Either will be held incurred in service when initially manifested within 36 months after the veteran's

separation from service as determined under § 3.307(a)(2).

* * * * *

4. In § 3.374, paragraph (d) is revoked.

§ 3.374 Effect of diagnosis of active tuberculosis.

* * * * *

(d) [Revoked]

5. In § 3.375, paragraph (a) is revised to read as follows:

§ 3.375 Determination of inactivity (complete arrest) in tuberculosis.

(a) *Pulmonary tuberculosis.* A veteran shown to have had pulmonary tuberculosis will be held to have reached a condition of "complete arrest" when a diagnosis of inactive is made.

* * * * *

6. Section 3.378 is revised to read as follows:

§ 3.378 Changes from activity in pulmonary tuberculosis pension cases.

A permanent and total disability rating in effect during hospitalization will not be discontinued before hospital discharge on the basis of a change in classification from active. At hospital discharge, the permanent and total rating will be discontinued unless (a) the medical evidence does not support a finding of complete arrest (§ 3.375), or (b) where complete arrest is shown but the medical authorities recommend that employment not be resumed or be resumed only for short hours (not more than 4 hours a day for a 5-day week). If either of the two aforementioned conditions is met, discontinuance will be deferred pending examination in 6 months. Although complete arrest may be established upon that examination, the permanent and total rating may be extended for a further period of 6 months provided the veteran's employment is limited to short hours as recommended by the medical authorities (not more than 4 hours a day for a 5-day week). Similar extensions may be granted under the same conditions at the end of 12 and 18 months periods. At the expiration of 24 months after hospitalization, the case will be considered under § 3.321(b) if continued short hours of employment is recommended or if other evidence warrants submission.

[FR Doc. 78-27288 Filed 9-29-78; 8:45 am]

[8320-01]

PART 4—SCHEDULE FOR RATING DISABILITIES

Updating the Schedule for Rating Disabilities

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its regulations to provide additional ratings for prosthetic implants to both the upper and lower extremities, to redefine the criteria for the 100-percent evaluation for rheumatic, hypertensive, and arterioschlerotic heart disease and to include a rating for coronary artery bypass. Also, the degrees of advancement of tuberculosis have been eliminated and instructions for continuing the total rating for malignant growths of the brain and spinal cord for 2 years following cessation of treatment have been included. These changes were made to conform to advances in medical science and surgery and to make the evaluations for the various heart diseases more realistic. Also additional charts for rating multiple losses of extremities, and loss of vision due to concentric contraction of field vision have been included. In compliance with Pub. L. 94-168, the "Metric Conversion Act of 1975," all measurements on the rating schedule have been metricated.

EFFECTIVE DATE: September 22, 1978. An amendment to appendix A, table of amendments and effective dates since 1946, is added to include effective dates.

FOR FURTHER INFORMATION CONTACT:

Robert C. Macomber, Chief, Rating Policy Staff, Compensation and Pension Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2635.

SUPPLEMENTARY INFORMATION: On pages 28826 through 28840 of the FEDERAL REGISTER of July 3, 1978, the Veterans Administration published a notice of proposed regulatory development to amend 38 CFR part 4 to include the additional material summarized above.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. Three written comments were received. The first commentator requested information relative to the discontinuance of the various degrees of advancement of pulmonary tuberculosis, particularly how this change would affect claims pending adjudication. The inquirer was informed that all claims pending on the effective date of approval of the change will be adjudicated under the criteria in effect prior to the change. Only those claims received after the effective date of this change will be adjudicated under the new criteria; and, all claims adjudicated under the old criteria and properly on the rolls will remain undisturbed insofar as service connection is concerned. The second comment was complimentary in nature, took no exception to the proposed changes but objected to the fact that the Veterans Administration did not grant service connection for his several claimed disabilities. The third comment was received from the American Optometric Association requesting that the requirement of an ophthalmologist to conduct the muscle function test described in § 4.77 of the rating schedule be changed since optometrists are qualified to conduct that examination. We are in agreement with the suggestion and have changed ophthalmologist to examiner.

In conformity with Pub. L. 94-168, the "Metric Conversion Act of 1975," diagnostic code 7802 has been included to metricate the measurement of 1 square foot, which was inadvertently omitted in the proposed change of July 3, 1978. Also the heading immediately preceding codes 6701 through 6724 has been changed to read "Ratings for Pulmonary Tuberculosis Entitled on August 19, 1978," and put in abbreviated language to conform to a similar heading for pulmonary tuberculosis entitled after August 19, 1978.

Approved: September 22, 1978.

MAX CLELAND,

Administrator of Veterans Affairs.

1. Section 4.17 is revised to read as follows:

§ 4.17 Total disability ratings for pension based on unemployability and age of the individual.

All veterans who are basically eligible and who are unable to secure and follow a substantially gainful occupation by reason of disabilities which are likely to be permanent shall be rated as permanently and totally disabled. For the purpose of pension, the permanence of the percentage requirements of § 4.16 is a requisite. The percentage requirements, however, are reduced on the attainment of age 55 to a 60 percent rating for one or more disabilities, with no percentage requirements for any one disability. The requirement at age 60 through 64 will be a 50 percent rating for one or more disabilities. A veteran who has become 65 years of age or older, or became unemployable after age 65, is conclusively presumed to be permanently and totally disabled by statute; hence, rating action for this purpose is unnecessary. When the reduced percentage require-

ments are met, and the disabilities involved are of a permanent nature, a rating of permanent and total disability will be assigned if the veteran is found to be unable to secure and follow substantially gainful employment by reason of such disability. Prior employment or unemployment status is immaterial if in the judgment of the rating board the veteran's disabilities render him or her unemployable. In making such determinations, the following guidelines will be used:

(a) Marginal employment, for example, as a self-employed farmer or other person, while employed in his or her own business, or at odd jobs or while employed at less than half the usual remuneration will not be considered incompatible with a determination of unemployability, if the restriction, as to securing or retaining better employment, is due to disability.

(b) Claims of all veterans who fail to meet the percentage standards but who meet the basic entitlement criteria and are unemployable, will be referred by the rating board to the Adjudication Officer under § 3.321(b)(2) of this chapter.

§ 4.17a [Amended]

2. Section 4.17a is amended by deleting the sentence following paragraph (b).

§ 4.18 [Amended]

3. Section 4.18 is amended by deleting the word "cases" and inserting the word "claims" in the third sentence.

§ 4.19 [Amended]

4. Section 4.19 is amended by adding a semicolon after the word "disability" and deleting the word "cases" and inserting the word "claims" in the first sentence.

5. Section 4.53 is revised to read as follows:

§ 4.53 Muscle patterns.

Every movement calls into action the muscles necessary for that movement constituting a definite muscle pattern which is invariable for that movement. None of the muscles can be left out of action in performing the movement nor can any other muscle be called into play to execute the movement. Every movement requires full efficiency, the full complement of muscles included in its specific pattern. If one, or more, of the group is injured or destroyed the efficiency of the movement is permanently impaired. It is the distortion of the intricate mechanism of muscle structures, the intermuscular binding, the obliteration of fascial planes and welding of aponeurotic sheaths that results in permanent residual disabilities. The typical symptoms associated with severe muscle injuries are: Fatigue rapidly coming on after moderate use of the affected muscle groups; pain occurring shortly after the incidence of fatigue sensations, the type of pain being that which is characteristic of and normally associated with prolonged severe muscular effort (fatigue-pain); inability to make certain movements with the same degree of strength as before injury; uncertainty in making certain movements, particularly when made quickly. When the subjective evidence in an individual claim appears as the natural result of a pathological condition shown objectively, and particularly when consistent from time of first examination, i.e., when obviously not based upon information given to the claimant by previous examiners or relayed to him or her from the claims file, it will be given due weight.

§ 4.54 [Amended]

6. Section 4.54 is amended by adding the words "of disability" after the word "type" in the first, fifth, and sixth sentences.

7. In § 4.55, paragraph (b) is revised to read as follows:

§ 4.55 Principles of combined ratings.

* * * * *

(b) Two or more severe muscle injuries affecting the motion (particularly strength of motion) about a single joint may be combined but not in combination receive more than the rating for ankylosis of that joint at an "intermediate" angle, except that with severe injuries involving the shoulder girdle and arm, the combination may not exceed the rating for unfavorable ankylosis of the scapulohumeral joint. Claims of an unusually severe degree of disability involving the shoulder girdle and arm or the pelvic girdle and thigh muscles wherein the evaluation under the criteria in this section appears inadequate may be submitted to the Director, Compensation and Pension Service for consideration under § 3.321(b)(1) of this chapter.

* * * * *

8. Section 4.56 is amended as follows:

(a) By amending "History and complaint" in paragraph (c) as set forth below:

(b) By deleting the word "Faradism" and inserting "faradic current" in the sixth sentence of "Objective findings" in paragraph (d).

§ 4.56 Factors to be considered in the evaluation of disabilities residual to healed wounds involving muscle groups due to gunshot or other trauma.

* * * * *

(c) *Moderately severe disability of muscles.*

* * * * * *

History and complaint. Service department record or other sufficient evidence showing hospitalization for a prolonged period in service for treatment of wound of severe grade. Record in the file of consistent complaint of cardinal symptoms of muscle wounds. Evidence of unemployability because of inability to keep up with work requirements is to be considered, if present.

* * * * *

§ 4.60 [Revoked]

9. Section 4.60 is revoked.

§ 4.63 [Amended]

10. Section 4.63 is amended by adding "(8.9 cms.)" after "3½ inches" in paragraph (a).

§ 4.71 [Amended]

11. Section 4.71 is amended by adding "(See Plate III)" after the word "joints" and deleting the word "inches" and inserting "centimeters" in the last sentence.

12. In § 4.71a, the following revisions and additions are made to read as follows:

(a) Diagnostic code 5003 is revised;

(b) A new center title, Prosthetic Implants, and diagnostic codes 5051, 5052, 5053, 5054, 5055, and 5056 are added;

(c) Following diagnostic code 5111, a new Table II is added;

(d) Under "Amputations: Lower Extremity," diagnostic code 5166 is revised and diagnostic code 5174 is revoked;

(e) Under "The Elbow and Forearm," diagnostic codes 5211 and 5212 are revised;

(f) Under "The Wrist," the NOTE following diagnostic code 5214 is revised;

(g) Under "Multiple Fingers: Unfavorable Ankylosis", subparagraph (3) preceding diagnostic code 5216 and paragraph (b) following diagnostic code 5219 are revised;

(h) Under "Multiple Fingers: Favorable Ankylosis", subparagraph (3) preceding diagnostic code 5220 and paragraph (a) following diagnostic code 5223 are revised;

(i) Under "Ankylosis of Individual Fingers", the NOTE following diagnostic code 5227 is revised;

(j) Under "The Knee and Leg", diagnostic code 5264 is revoked; and

(k) Under "Shortening of the Lower Extremity", diagnostic code 5275 is revised.

§ 4.71a Schedule of ratings—musculoskeletal system.

ACUTE, SUBACUTE, OR CHRONIC DISEASES

* * * * *

	Rating
5003 Arthritis, degenerative (hypertrophic or osteoarthritis).	
Degenerative arthritis established by X-ray findings will be rated on the basis of limitation of motion under the appropriate diagnostic codes for the specific joint or joints involved (DC 5200 etc.). When however, the limitation of motion of the specific joint or joints involved is noncompensable under the appropriate diagnostic codes, a rating of 10 pct is for application for each such major joint or group of minor joints affected by limitation of motion, to be combined, not added under diagnostic code 5003. Limitation of motion must be objectively confirmed by findings such as swelling, muscle spasm, or satisfactory evidence of painful motion. In the absence of limitation of motion, rate as below:	
With X-ray evidence of involvement of 2 or more major joints or 2 or more minor joint groups, with occasional incapacitating exacerbations	20
With X-ray evidence of involvement of 2 or more major joints or 2 or more minor joint groups	10

NOTE (1). The 20 pct and 10 pct ratings based on X-ray findings, above, will not be combined with ratings based on limitation of motion.

NOTE (2). The 20 pct and 10 pct ratings based on X-ray findings, above, will not be utilized in rating conditions listed under diagnostic codes 5013 to 5024, inclusive.

* * * * *

PROSTHETIC IMPLANTS

	Rating	
	Major	Minor
5051 Shoulder replacement (prosthesis).		
Prosthetic replacement of the shoulder joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe, painful motion or weakness in the affected extremity	60	50
With intermediate degrees of residual weakness, pain or limitation of motion, rate by analogy to diagnostic codes 5200 and 5203		
Minimum rating	30	20
5052 Elbow replacement (prosthesis).		
Prosthetic replacement of the elbow joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe painful motion or weakness in the affected extremity	50	40

PROSTHETIC IMPLANTS—Continued

	Rating	
	Major	Minor
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to diagnostic codes 5205 through 5208.		
Minimum evaluation	30	20
5053 Wrist replacement (prosthesis).		
Prosthetic replacement of wrist joint:		
For 1 year following implantation of prosthesis	100	100
With chronic residuals consisting of severe, painful motion or weakness in the affected extremity	40	30
With intermediate degrees of residual weakness, pain or limitation of motion, rate by analogy to diagnostic code 5214.		
Minimum rating	20	20

NOTE.—The 100 pct rating for 1 year following implantation of prosthesis will commence after initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

	Rating
5054 Hip replacement (prosthesis).	
Prosthetic replacement of the head of the femur or of the acetabulum:	
For 1 year following implantation of prosthesis	100
Following implantation of prosthesis with painful motion or weakness such as to require the use of crutches	[1]90
Markedly severe residual weakness, pain or limitation of motion following implantation of prosthesis	70
Moderately severe residuals of weakness, pain or limitation of motion	50
Minimum rating	30
5055 Knee replacement (prosthesis).	
Prosthetic replacement of knee joint:	
For 1 year following implantation of prosthesis	100
With chronic residuals consisting of severe painful motion or weakness in the affected extremity	60
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to diagnostic codes 5256, 5261, or 5262.	
Minimum rating	30
5056 Ankle replacement (prosthesis).	
Prosthetic replacement of ankle joint:	
For 1 year following implantation of prosthesis	100
With chronic residuals consisting of severe painful motion or weakness	40
With intermediate degrees of residual weakness, pain or limitation of motion rate by analogy to 5270 or 5271.	
Minimum rating	20

[1] Also entitled to special monthly compensation.

NOTE (1). The 100 pct rating for 1 year following implantation of prosthesis will commence after initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

NOTE (2). Special monthly compensation is assignable during the 100 pct rating period the earliest date permanent use of crutches is established.

TABLE II

RATINGS FOR MULTIPLE LOSSES OF EXTREMITIES
WITH DICTATOR'S RATING CODE AND VA REGULATION

IMPAIRMENT OF ONE EXTREMITY	IMPAIRMENT OF OTHER EXTREMITY					
	ANAT. LOSS OR LOSS OF USE BELOW ELBOW	ANAT. LOSS OR LOSS OF USE BELOW KNEE	ANAT. LOSS OR LOSS OF USE ABOVE ELBOW (PREVENTING USE OF PROSTHESIS)	ANAT. LOSS OR LOSS OF USE ABOVE KNEE (PREVENTING USE OF PROSTHESIS)	ANAT. LOSS NEAR SHOULDER PREVENTING USE OF PROSTHESIS	ANAT. LOSS NEAR HIP PREVENTING USE OF PROSTHESIS
ANAT. LOSS OR LOSS OF USE BELOW ELBOW	L CODES L-1 a b or c VAR 1350 (B) (38 CFR 3.350 (b))	L CODES L-1 g h i or j VAR 1350 (B) (38 CFR 3.350 (b))	L½ CODE L-2 a VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	M CODE M-3 a VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3 c VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))
ANAT. LOSS OR LOSS OF USE BELOW KNEE	L CODES L-1 g h i or j VAR 1350 (B) (38 CFR 3.350 (b))	L CODES L-1 d e or f VAR 1350 (B) (38 CFR 3.350 (b))	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 c VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	M CODE M-3 c VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3 b VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))
ANAT. LOSS OR LOSS OF USE ABOVE ELBOW (PREVENTING USE OF PROSTHESIS)	L½ CODE L-2 a VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	M CODE M-1 a VAR 1350 (C) (38 CFR 3.350 (c))	M CODE M-2 a or b VAR 1350 (C) (38 CFR 3.350 (c))	M½ CODE M-4 a VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	M½ CODE M-4 c or d VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))
ANAT. LOSS OR LOSS OF USE ABOVE KNEE (PREVENTING USE OF PROSTHESIS)	L½ CODE L-2 b or d VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	L½ CODE L-2 c VAR 1350 (F)(1)(a) (38 CFR 3.350 (f)(1)(i))	M CODE M-2 a or b VAR 1350 (C) (38 CFR 3.350 (c))	M CODE M-1 b VAR 1350 (C) (38 CFR 3.350 (c))	M½ CODE M-4 c or d VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	M½ CODE M-4 b VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))
ANAT. LOSS NEAR SHOULDER PREVENTING USE OF PROSTHESIS	M CODE M-3 a VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3 c VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M½ CODE M-4 a VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	M½ CODE M-4 c or d VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	N CODE N-1 VAR 1350 (D) (38 CFR 3.350 (d))	N CODE N-2 VAR 1350 (D) (38 CFR 3.350 (d))
ANAT. LOSS NEAR HIP PREVENTING USE OF PROSTHESIS	M CODE M-3 c VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M CODE M-3 b VAR 1350 (F)(1)(b) (38 CFR 3.350 (f)(1)(ii))	M½ CODE M-4 c or d VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	M½ CODE M-4 b VAR 1350 (F)(1)(c) (38 CFR 3.350 (f)(1)(iii))	N CODE N-2 VAR 1350 (D) (38 CFR 3.350 (d))	N CODE N-1 VAR 1350 (D) (38 CFR 3.350 (d))

NOTE: Need for aid and attendance or permanently bedridden qualifies for subpar. L. Code L-1 k or L - VAR 1350 (B) (38 CFR 3.350 (b)). Paraplegia with loss of use of both lower extremities and loss of anal and bladder sphincter control qualifies for subpar. O. Code O-1 VAR 1350 (E) (38 CFR 3.350 (e)). Any of the above plus additional disabilities rated 50% or 100% qualifies for the next intermediate or full rate Code P-1 or Code P-2 respectively - VAR 1350 (F)(3) and (4) (38 CFR 3.350 (f)(3) and (4)).

AMPUTATIONS: LOWER EXTREMITY

* * * * *

	Rating
5166 Forefoot, amputation proximal to metatarsal bones (more than one-half of metatarsal loss)	[3]40

[3] Also entitled to special monthly compensation.

* * * * *

5174 [Revoked.]

THE ELBOW AND FOREARM

* * * * *

	Rating	
	Major	Minor
5211 Ulna, impairment of.		
Nonunion in upper half, with false movement:		
With loss of bone substance (1 inch (2.5 cms.) or more) and marked deformity	40	30
Without loss of bone substance or deformity	30	20
Nonunion in lower half	20	20
Malunion of, with bad alignment	10	10
5212 Radius, impairment of.		
Nonunion in lower half, with false movement:		
With loss of bone substance (1 inch (2.5 cms.) or more) and marked deformity	40	30
Without loss of bone substance or deformity	30	20
Nonunion in upper half	20	20
Malunion of, with bad alignment	10	10

* * * * *

THE WRIST

5214 Wrist, ankylosis of

* * * * *

NOTE.—Extremely unfavorable ankylosis will be rated as loss of use of hands under diagnostic code 5125.

* * * * *

MULTIPLE FINGERS: UNFAVORABLE ANKYLOSIS

* * * * *

(3) With only one joint of a digit ankylosed or limited in its motion, the determination will be made on the basis of whether motion is possible to within 2 inches (5.1 cms.) of the median transverse fold of the palm; when so possible, the rating will be for favorable ankylosis, otherwise unfavorable.

* * * * *

5219 * * *

(b) The ratings for codes 5216 through 5219 apply to unfavorable ankylosis or limited motion preventing flexion of tips to within 2 inches (5.1 cms.) of median transverse fold of the palm.

* * * * *

MULTIPLE FINGERS: FAVORABLE ANKYLOSIS

* * * * *

(3) With only one joint of a digit ankylosed or limited in its motion, the determination will be made on the basis of whether motion is possible to within 2 inches (5.1 cms.) of the median transverse fold of the palm; when so possible, the rating will be for favorable ankylosis, otherwise unfavorable.

* * * * *

5223 * * *

(a) The ratings for codes 5220 through 5223 apply to favorable ankylosis or limited motion permitting flexion of the tips to within 2 inches (5.1 cms.) of the transverse fold of the palm. Limitation of motion of less than 1 inch (2.5 cms.) in either direction is not considered disabling.

* * * * *

ANKYLOSIS OF INDIVIDUAL FINGERS

* * * * *

5227 * * *

NOTE.—Extremely unfavorable ankylosis will be rated as amputation under diagnostic codes 5152 through 5156.

THE KNEE AND LEG

* * * * *

5264 [Revoked]

SHORTENING OF THE LOWER EXTREMITY

	Rating
5275 Bones, of the lower extremity, shortening of:	
Over 4 inches (10.2 cms.)	[3]60
3½ to 4 inches (8.9 cms. to 10.2 cms.)	[3]50
3 to 3½ inches (7.6 cms. to 8.9 cms.)	40
2½ to 3 inches (6.4 cms. to 7.6 cms.)	30
2 to 2½ inches (5.1 cms. to 6.4 cms.)	20
1¼ to 2 inches (3.2 cms. to 5.1 cms.)	10

[3] Also entitled to special monthly compensation.

NOTE.—Measure both lower extremities from anterior superior spine of the ilium to the internal malleolus of the tibia. Not to be combined with other ratings for fracture or faulty union in the same extremity.

§ 4.73 [Amended]

13. Section 4.73 is amended as follows:

(a) The spelling of the word "Maissiat's" is corrected in diagnostic codes 5314 and 5317.

(b) The spelling of the word "iliacus" is corrected in diagnostic code 5316.

(c) Footnote 4 in diagnostic code 5317 is revised to read: "[4] If bilateral, see § 4.64 for consideration of special monthly compensation for loss of use of buttocks."

14. Section 4.76 is revised and § 4.76a, Table III, Figure 1 and example of computation of concentric contraction are added so that the revised and added material reads as follows:

§ 4.76 Examination of field vision.

Measurement of the visual field will be made when there is disease of the optic nerve or when otherwise indicated. The usual perimetric methods will be employed, using a standard perimeter and 3 mm. white test object. At least 16 meridians 22½ degrees apart will be charted for each eye. (See Figure 1. For the 8 principal meridians, see Table III.) The charts will be made a part of the report of examination. Not less than 2 recordings, and when possible, 3 will be made. The minimum limit for this function is established as a concentric central contraction of the visual field to 5°. This type of contraction of the visual field reduces the visual efficiency to zero. Where available the examination for form field should be supplemented, when indicated, by the use of target screen or campimeter. This last test is especially valuable in detection of scotoma.

§ 4.76a Computation of average concentric contraction of visual fields.

The extent of contraction of visual field in each eye is determined by recording the extent of the remaining visual fields in each of the eight 45 degree principal meridians. The number of degrees lost is determined at each meridian by subtracting the remaining degrees from the normal visual fields given in Table III. The degrees lost are then added together to determine total degrees lost. This is subtracted from 500. The difference represents the total remaining degrees of visual field. The difference divided by eight represents the average contraction for rating purposes.

TABLE III.—*Normal visual field extent at 8 principal meridians*

Meridian:	*Normal degrees*
Temporally	85
Down temporally	85
Down	65
Down nasally	50
Nasally	60
Up nasally	55
Up	45
Up temporally	55
Total	500

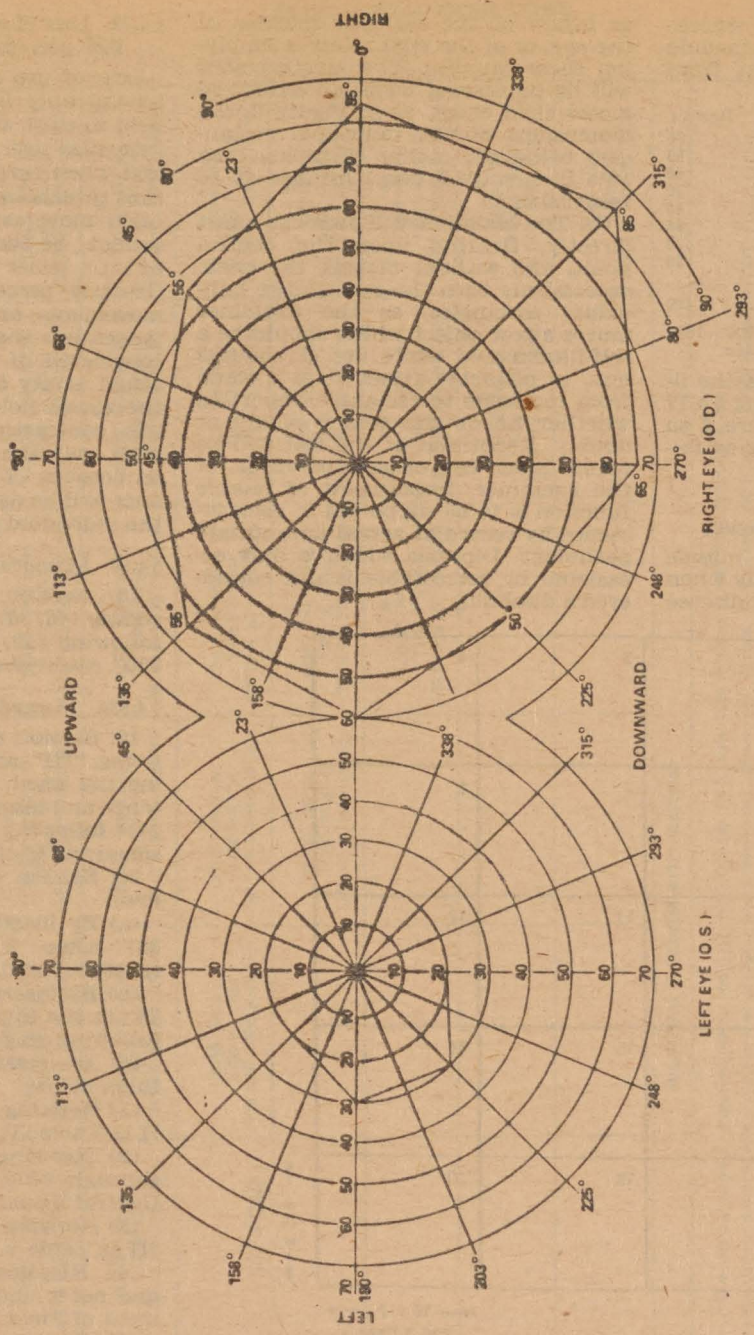


Figure 1. Chart of visual field showing normal field right eye and abnormal contraction visual field left eye.

Example of computation of concentric contraction under the schedule with abnormal findings taken from Figure 1.

Loss:	*Degrees*
Temporally	55
Down temporally	55
Down	45
Down nasally	30
Nasally	40
Up nasally	35
Up	25
Up temporally	35
Total loss	320

Remaining field 500° minus 320°=180°. 180°÷8=22½° average concentric contraction.

15. Section 4.77 is revised and the illustration immediately following § 4.77 is revised and designated Figure 2 so that the revised material reads as follows:

§ 4.77 Examination of muscle function.

(a) The measurement of muscle function will be undertaken only when the history and findings reflect disease or injury of the extrinsic muscles of the eye, or of the motor nerves supplying these muscles. The measurement will be performed using an industrial motor field chart, as in Figure 2, the dimensions of the individual rectangles being 8⅜ inches (21.3 cms.) by 10½ inches (26.7 cms.) for use at 10 feet (3.0 m.).

(b) The claimant will face the chart directly, fixating upon the central point, and without moving the head, successively turn the eyes to the individual rectangles, as the examiner moves a test object which should be a self-illuminated white dot of about 3 mm. in diameter attached to a wand from rectangle to rectangle, reporting whether he or she sees it singly or doubly. Repetition of the test will be made under the close supervision of the examiner. Impairment of muscle function is to be supported in each instance by record of actual appropriate pathology. Diplopia which is only occasional or correctable is not considered a disability.

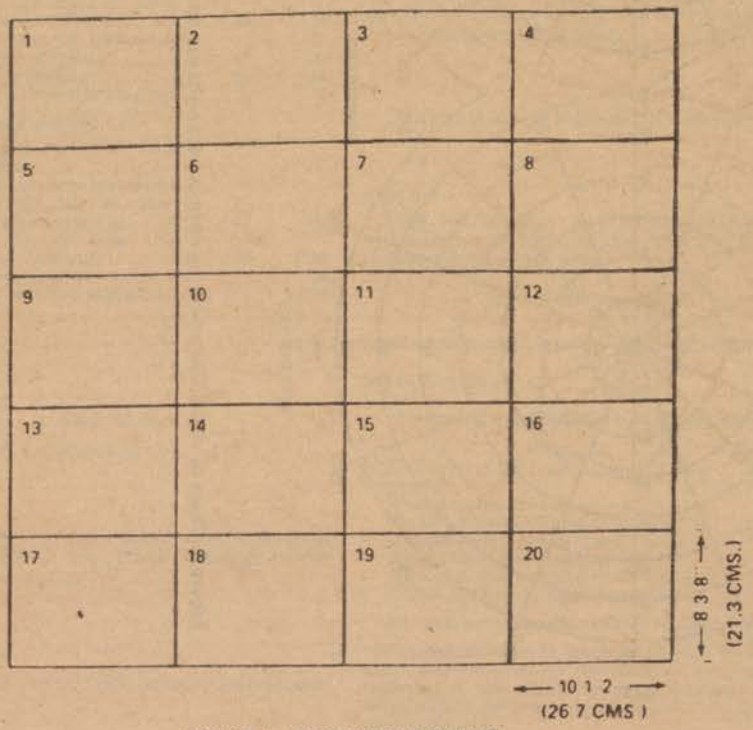


FIGURE 2 MOTOR FIELD CHART

§ 4.78 [Amended]

16. Section 4.78 is amended by deleting "38 U.S.C. 360" and inserting "§ 3.383(a) of this chapter" in the last line.

17. Section 4.79 is revised to read as follows:

§ 4.79 Loss of use of one eye, having only light perception.

Loss of use or blindness of one eye, having only light perception, will be held to exist when there is inability to recognize test letters at 1 foot (.30m.) and when further examination of the eyes reveals that perception of objects, hand movements or counting fingers cannot be accomplished at 3 feet (.91m.), lesser extents of visions, particularly perception of objects, hand movements, or counting fingers at distances less than 3 feet (.91 m.), being considered of negligible utility. With visual acuity 5/200 (1.5/60) or less or the visual field reduced to 5° concentric contraction, in either event in both eyes, the question of entitlement on account of regular aid and attendance will be determined on the facts in the individual case.

§ 4.83 [Amended]

18. Section 4.83 is amended by adding "(6/30)", "(6/21)" and "(6/30)" following "20/100", "20/70", and "20/100" respectively in the last sentence.

§ 4.83a [Amended]

19. Section 4.83a is amended by deleting "III" and inserting "V" following the word "table" in the first sentence and inserting "(1.5/60)" and "(6/21)" following "5/200" and "20/70" respectively in the second sentence.

20. Section 4.84a is amended as follows:

(a) By inserting "(1.5/60)" and "(6/30)" after "5/200" and "20/100" respectively in diagnostic code 6019.

(b) By inserting "(6/21)": after "20/70" in the fourth sentence of the note following diagnostic code 6029.

(c) By making the changes as set forth below:

(1) Revising and redesignating Table II as Table IV.

(2) Revising diagnostic codes 6061 through 6079 under "Impairment of Central Visual Acuity."

(3) Revising and redesignating Table III as Table V.

(4) Revising diagnostic code 6080 and notes under "Ratings for Impairment of Field Vision."

(5) Revising diagnostic code 6090 and notes under "ratings for Impairment of Muscle Function."

§ 4.84a Schedule of ratings — eye.

* * * * *

TABLE IV

TABLE FOR RATING BILATERAL BLINDNESS
WITH DICTATOR'S RATING CODE AND VA REGULATION

VISION ONE EYE	VISION OTHER EYE						
	5/200 (1.5/60) OR LESS	LIGHT PERCEPTION ONLY	NO LIGHT PERCEPTION PLUS PHTHISIS BULBI	NO LIGHT PERCEPTION PLUS DEFORMITY	NO LIGHT PERCEPTION PLUS DISFIGUREMENT	NO LIGHT PERCEPTIONS PLUS EVISCERATION	ANATOMICAL LOSS
5/200 (1.5/60) OR LESS	L* CODE LB 1 1350 (B)(2) (38 CFR 3.350 (b) (2))	L+½* CODE LB 2 1350 (F)(2)(a) (38 CFR 3.350 (f)(2)(i))	M CODE MB 2 b (1) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))	M CODE MB 2 b (3) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))	M CODE MB 2 b (4) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))	M CODE MB 2 b (2) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))	M CODE MB 2 (a) 1350 (F)(2)(b) (38 CFR 3.350 (f)(2)(ii))
LIGHT PERCEPTION ONLY		M CODE MB 1 a 1350 (C) (38 CFR 3.350 (c))	M+½ CODE MB 3 b (1) 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))	M+½ CODE MB 3 b (3) 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))	M+½ CODE MB 3 b (4) 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))	M+ CODE MB 3 b (2) 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))	M+½ CODE MB 3 a 1350 (F)(2)(c) (38 CFR 3.350 (f)(2)(iii))
NO LIGHT PERCEPTION PLUS PHTHISIS BULBI			N CODE NB 2 a 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB 2 a&c 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB 2 a&d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB 2 a&b 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))
NO LIGHT PERCEPTION PLUS DEFORMITY				N CODE NB 2 c 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB 2 c&d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB 2 b&c 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))
NO LIGHT PERCEPTION PLUS DISFIGUREMENT					N CODE NB 2 d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N CODE NB 2 b&d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))
NO LIGHT PERCEPTION PLUS EVISCERATION						N CODE NB 2 d 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))	N SEE NOTE 1350 (F)(2)(d) (38 CFR 3.350 (f)(2)(iv))
ANATOMICAL LOSS							N CODE NB 1 1350 (D) (38 CFR 3.350 (d))
BILATERAL BLINDNESS WITH DEAFNESS							
Any of the above plus service connected total deafness one ear add ½ rate (limit O) code PB 1 VAR 1350 (F)(2)(e) 1 (38 CFR 3.350 (f)(2)(v)(a)). Any of the above plus bilateral deafness, 40% or more, at least one ear service connected add full step (limit O) code PB 2 VAR 1350 (F)(2)(e) (38 CFR 3.350(f)(2)(v)). Any of the above plus service connected deafness, 60% or more, at least one ear service connected qualifies for Subpar O code OB VAR 1350 (E) (38 CFR 3.350(e)).							

* With need for aid and attendant qualifies for Subpar M code MB-1-b VAR 1350 (C). (38CFR3.350 (c)).

NOTE No specific dictators rating code provided, code NB 2 should be modified to fit the conditions shown.

IMPAIRMENT OF CENTRAL VISUAL ACUITY

		Rating
6061	Anatomical loss both eyes	[5]100
6062	Blindness in both eyes having only light perception	[5]100
	Anatomical loss of 1 eye:	
6063	In the other eye 5/200 (1.5/60)	[5]100
6064	In the other eye 10/200 (3/60)	[5]90
6064	In the other eye 15/200 (4.5/60)	[5]80
6064	In the other eye 20/200 (6/60)	[5]70
6065	In the other eye 20/100 (6/30)	[5]60
6065	In the other eye 20/70 (6/21)	[5]60
6065	In the other eye 20/50 (6/15)	[5]50
6066	In the other eye 20/40 (6/12)	[5]40
	Blindness in 1 eye, having only light perception:	
6067	In the other eye 5/200 (1.5/60)	[5]100
6068	In the other eye 10/200 (3/60)	[5]90
6068	In the other eye 15/200 (4.5/60)	[5]80
6068	In the other eye 20/200 (6/60)	[5]70
6069	In the other eye 20/100 (6/30)	[5]60
6069	In the other eye 20/70 (6/21)	[5]50
6069	In the other eye 20/50 (6/15)	[5]40
6070	In the other eye 20/40 (6/12)	[5]30
	Vision in 1 eye 5/200 (1.5/60):	
6071	In the other eye 5/200 (1.5/60)	[5]100
6072	In the other eye 10/200 (3/60)	90
6072	In the other eye 15/200 (4.5/60)	80
6072	In the other eye 20/200 (6/60)	70
6073	In the other eye 20/100 (6/30)	60
6073	In the other eye 20/70 (6/21)	50
6073	In the other eye 20/50 (6/15)	40
6074	In the other eye 20/40 (6/12)	30
	Vision in 1 eye 10/200 (3/60):	
6075	In the other eye 10/200 (3/60)	90
6075	In the other eye 15/200 (4.5/60)	80
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	50
6076	In the other eye 20/50 (6/15)	40
6077	In the other eye 20/40 (6/12)	30
	Vision in 1 eye 15/200 (4.5/60):	
6075	In the other eye 15/200 (4.5/60)	80
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	40
6076	In the other eye 20/50 (6/15)	30
6077	In the other eye 20/40 (6/12)	20
	Vision in 1 eye 20/200 (6/60):	
6075	In the other eye 20/200 (6/60)	70
6076	In the other eye 20/100 (6/30)	60
6076	In the other eye 20/70 (6/21)	40
6076	In the other eye 20/50 (6/15)	30
6077	In the other eye 20/40 (6/12)	20
	Vision in 1 eye 20/100 (6/30):	
6078	In the other eye 20/100 (6/30)	50
6078	In the other eye 20/70 (6/21)	30
6078	In the other eye 20/50 (6/15)	20
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/70 (6/21):	
6078	In the other eye 20/70 (6/21)	30
6078	In the other eye 20/50 (6/15)	20
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/50 (6/15):	
6078	In the other eye 20/50 (6/15)	10
6079	In the other eye 20/40 (6/12)	10
	Vision in 1 eye 20/40 (6/12):	
	In the other eye 20/40 (6/12)	0

[5] Also entitled to special monthly compensation.
[6] Add 10% if artificial eye cannot be worn; also entitled to special monthly compensation.

TABLE V

RATINGS FOR CENTRAL VISUAL ACUITY IMPAIRMENT

(With Diagnostic Code)

VISION IN ONE EYE			VISION IN OTHER EYE						
	20/40 (6/12)	20/50 (6/15)	20/70 (6/21)	20/100 (6/30)	20/200 (6/60)	15/200 (4.5/60)	10/200 (3/60)	5/200 (1 5/60)	LIGHT PERCEPTION ONLY ANATOMICAL LOSS
20/40 (6/12)	0								
20/50 (6/15)	10 (6079)	10 (6078)							
20/70 (6/21)	10 (6079)	20 (6078)	(6078)						
20/100 (6/30)	10 (6079)	20 (6078)	30 (6078)	50 (6078)					
20/200 (6/60)	20 (6077)	30 (6076)	40 (6076)	60 (6076)	70 (6075)				
15/200 (4 5/60)	20 (6077)	30 (6076)	40 (6076)	60 (6076)	70 (6075)	80 (6075)			
10/200 (3/60)	30 (6077)	40 (6076)	50 (6076)	60 (6076)	70 (6075)	80 (6075)	90 (6075)		
5/200 (1 5/60)	30 (6074)	40 (6073)	50 (6073)	60 (6073)	70 (6072)	80 (6072)	90 (6072)	[5]100 (6071)	
LIGHT PERCEPTION ONLY	[5]30 (6070)	[5]40 (6069)	[5]50 (6069)	[5]60 (6069)	[5]70 (6068)	[5]80 (6068)	[5]90 (6068)	[5]100 (6067)	[5]100 (6062)
ANATOMICAL LOSS OF ONE EYE	[6]40 (6066)	[6]50 (6065)	[6]60 (6065)	[6]60 (6065)	[6]70 (6064)	[6]80 (6064)	[6]90 (6064)	[5]100 (6063)	[5]100 (6061)

5 ALSO ENTITLED TO SPECIAL MONTHLY COMPENSATION

6 ADD 10 PERCENT IF ARTIFICIAL EYE CANNOT BE WORN ALSO ENTITLED TO SPECIAL MONTHLY COMPENSATION

RATINGS FOR IMPAIRMENT OF FIELD VISION

	Rating
6080 Field vision, impairment of:	
Homonymous hemianopsia	30
Field, visual, loss of temporal half:	
Bilateral	30
Unilateral	10
Or rate as 20/70 (6/21).	
Field, visual, loss of nasal half:	
Bilateral	20
Unilateral	10
Or rate as 20/50 (6/15).	
Field, visual, concentric contraction of:	
To 5°:	
Bilateral	100
Unilateral	30
Or rate as 5/200 (1.5/60).	
To 15° but not to 5°:	
Bilateral	70
Unilateral	20
Or rate as 20/200 (6/60)	
To 30° but not to 15°:	
Bilateral	50
Unilateral	10
Or rate as 20/100 (6/30)	
To 45° but not to 30°:	
Bilateral	30
Unilateral	10
Or rate as 20/70 (6/21):	
To 60° but not to 45°:	
Bilateral	20
Unilateral	10
Or rate as 20/50 (6/15).	

NOTE (1). Correct diagnosis reflecting disease or injury should be cited.

NOTE (2). Demonstrable pathology commensurate with the functional loss will be required. The concentric contraction ratings require contraction within the stated degrees, temporally; the nasal contraction may be less. The alternative ratings are to be employed when there is ratable defect of visual acuity, or a different impairment of the visual field in the other eye. Concentric contraction resulting from demonstrable pathology to 5 degrees or less will be considered on a parity with reduction of central visual acuity to 5/200 (1.5/60) or less for all purposes including entitlement under § 3.350(b)(2) of this chapter; not however, for the purpose of § 3.350(a) of this chapter. Entitlement on account of blindness requiring regular aid and attendance, § 3.350(c) of this chapter, will continue to be determined on the facts in the individual case.

* * * * *

RATINGS FOR IMPAIRMENT OF MUSCLE FUNCTION

	Rating
6090 Muscle function, ocular, impairment of:	
Producing diplopia in 19-20 rectangles. Rate as 5/200 (1.5/60).	
Producing diplopia in 17-18 rectangles. Rate as 10/200 (3/60).	
Producing diplopia in 14-16 rectangles. Rate as 15/200 (4.5/60).	
Producing diplopia in 12-13 rectangles. Rate as 20/200 (6/60).	
Producing diplopia in 9-11 rectangles... Rate as 20/100 (6/30).	
Producing diplopia in 6-8 rectangles..... Rate as 20/70 (6/21).	
Producing diplopia in 3-5 rectangles..... Rate as 20/50 (6/15).	
Producing diplopia in 0-2 rectangles..... Rate as 20/40 (6/12).	

NOTE (1). Correct diagnosis reflecting disease or injury should be cited.

NOTE (2). The ratings under diagnostic code 6090 are to be applied only to the poorer eye if both have ratable impairment of visual acuity or visual field; if only one eye has a ratable impairment, to that eye, but not in combination with any other eye rating.

* * * * *

21. Section 4.85 is revised to read as follows:

§ 4.85 Hearing impairments reported as a result of regional office or authorized audiology clinic examinations.

(a) If the results of controlled speech reception tests are used, the letter, A through F, designating the impairment in efficiency of each ear separately, will be ascertained from table VI. Table VI indicates six areas of impairment in efficiency. The literal designation of impaired efficiency (A, B, C, D, E, or F) will be determined by intersecting the horizontal row appropriate for percentage of discrimination and the vertical column appropriate to the speech reception decibel loss; thus, with a speech reception decibel loss of 62 db and a percentage discrimination of 72 percent the literal designation is "D"; if the speech reception decibel loss is 62 db and the percentage discrimination is 70 percent, the literal designation is "E".

(b) The percentage evaluation will be found from table VII by intersecting the horizontal row appropriate for the literal designation for the ear having the better hearing and the vertical column appropriate to the literal designation for the ear having the poorer hearing. For example, if the better ear has a literal designation of "B" and the poorer ear has a literal designation of "C", the percentage evaluation is in the second horizontal row from the bottom and in the third vertical column from the right and is 10 percent and the diagnostic code is 6293.

(c) If the results of pure tone audiometry are used, the equivalent literal designation for each ear, separately, will be ascertained from table VII, and the percentage evaluation determined in the same manner as for speech reception impairment in paragraph (b) of this section. For example, if the average pure tone decibel loss for the frequencies 500, 1,000 and 2,000 is not more than 57 db and there is no loss more than 70 db for any of these three frequencies, the equivalent literal designation is "C"; if in the other ear, the average is not more than 79 db, and there is no loss more than 90 db, the equivalent literal designation is "D". The percentage evaluation is therefore found in the horizontal row opposite "C", and in the vertical column under "D", and is 20 percent and the diagnostic code is 6289. Note that if in the first instance any of the 3 frequencies has a loss of more than 70 db, or in the second instance more than 90 db, the literal designation will be higher, i.e., further from "A" in the alphabetical series.

§ 4.86a [Amended]

22. Section 4.86a is amended.

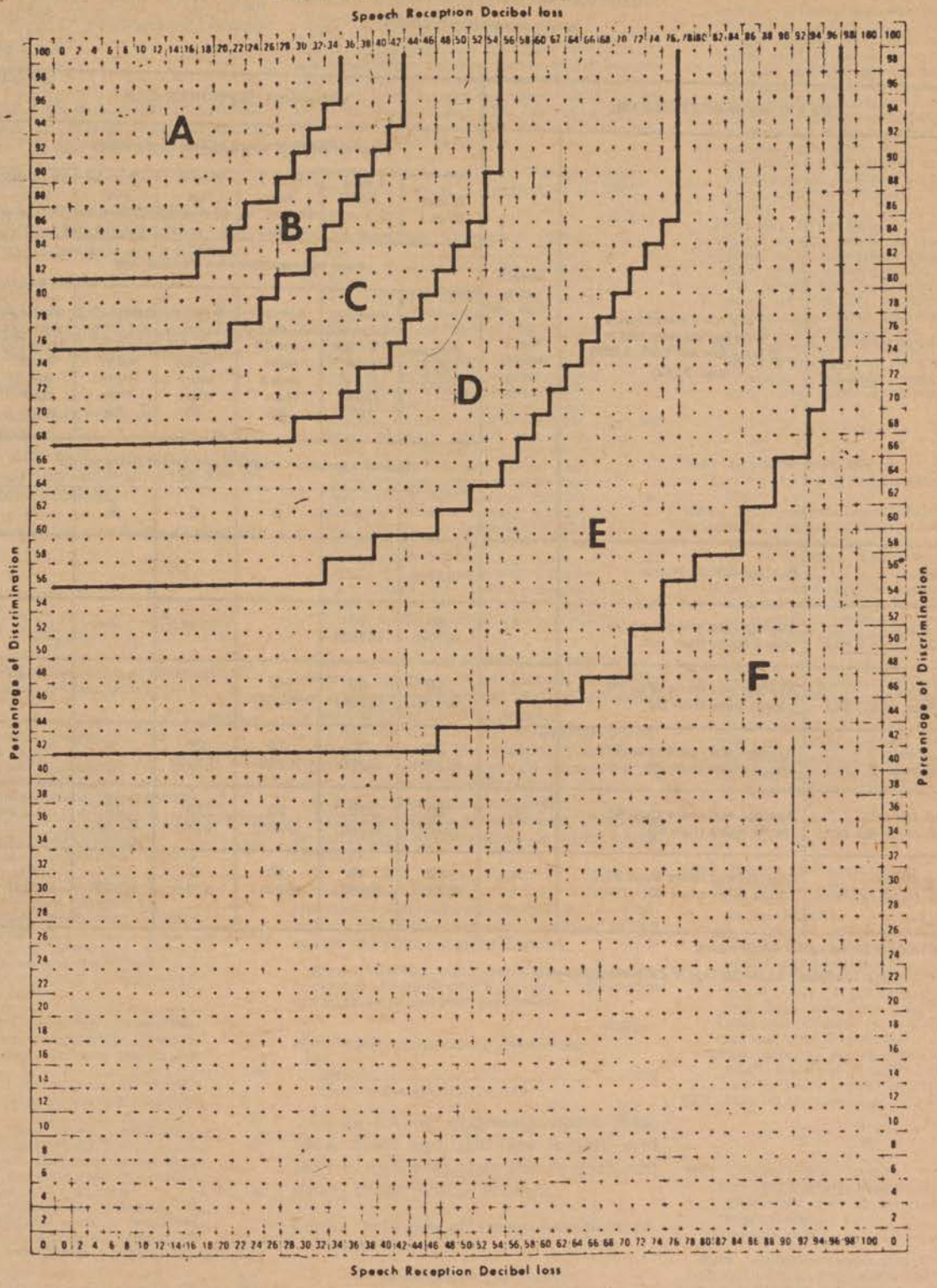
(a) By adding "(meters)" after the word "feet" in the first sentence;

(b) By adding "(metric)" after the word "footage" and deleting "V" and inserting "VII" in the third sentence.

23. Following § 4.87, Tables IV and V are revised and redesignated Tables VI and VII respectively as follows:

TABLE VI

Literal Designation of Hearing Impairment



(This chart showing the literal designation of hearing loss is based on the ANSI norm.)

TABLE VII

RATINGS FOR HEARING IMPAIRMENT

(with diagnostic code)

HEARING IN BETTER EAR			HEARING IN POORER EAR					
			Conversational voice in feet and meters					
			0 feet (0 m.)	1 to 4 feet (0.3 m. to 1.2 m.)	5 to 7 feet (1.5 m. to 2.1 m.)	8 to 9 feet (2.4 m. to 2.7 m.)	10 to 14 feet (3.0 m. to 4.3 m.)	15 to 40 feet (4.6 m. to 12.2 m.)
			Pure tone audiometry decibel loss					
Conversational	Pure tone audiometry average decible loss at 3 frequencies 500, 1,000 and 2,000	Speech reception impairment literal designation	Average 100 or more	Average not more than 99, none more than 105	Average not more than 79, none more than 90	Average not more than 57, none more than 70	Average not more than 45, none more than 55	Average not more than 37, none more than 45
			Speech reception impairment literal designation					
			F	E	D	C	B	A
0 feet (0 m.)	Average 100 or more	F	[7] 80 (6277)					
1 to 4 feet (0.3 m. to 1.2 m.)	Average not more than 99, none more than 105	E	60 (6278)	60 (6283)				
5 to 7 feet (1.5 m. to 2.1 m.)	Average not more than 79, none more than 90	D	40 (6279)	40 (6284)	40 (6288)			
8 to 9 feet (2.4 m. to 2.7 m.)	Average not more than 57, none more than 70	C	30 (6280)	30 (6285)	20 (6289)	20 (6292)		
10 to 14 feet (3.0 m. to 4.3 m.)	Average not more than 45, none more than 55	B	20 (6281)	20 (6286)	20 (6290)	10 (6293)	10 (6295)	
15 to 40 feet (4.6 m. to 12.2 m.)	Average not more than 37, none more than 45	A	10 (6282)	10 (6287)	10 (6291)	0 (6294)	0 (6296)	0 (6297)

This chart is based upon ANSI norm.

[7] ENTITLED TO SPECIAL MONTHLY COMPENSATION

§ 4.87a [Amended]

24. Section 4.87a is amended by deleting "V" and inserting "VII" after the word "Table" in diagnostic codes 6277 through 6297.

§ 4.88 [Amended]

25. Section 4.88 is amended by deleting "quinine or other" and inserting "medication" in the last sentence.

§ 4.88a [Amended]

26. Section 4.88a is amended by inserting "(Hansen's Disease)" after "Leprosy" in diagnostic code 6302.

§ 4.89 [Amended]

27. Section 4.89 is amended by deleting the word "NOTE" preceding "Pub. L. 90-493" following the section title.

§ 4.94 [Revoked]

28. section 4.94 is revoked.

29. In § 4.97 under "Diseases of the Lungs and Pleura-Tuberculosis," diagnostic codes 6701 through 6732 are revised to read as follows:

§ 4.97 Schedule of ratings—respiratory system.

* * * * *

DISEASES OF THE LUNGS AND PLEURA—TUBERCULOSIS

RATINGS FOR PULMONARY TUBERCULOSIS ENTITLED ON AUGUST 19, 1978

	Rating
6701 Tuberculosis, pulmonary, chronic, far advanced, active	
6702 Tuberculosis, pulmonary, chronic, moderately advanced, active	
6703 Tuberculosis, pulmonary, chronic, minimal, active	
6704 Tuberculosis, pulmonary, chronic, active, advancement unspecified	100
6721 Tuberculosis, pulmonary, chronic, far advanced, inactive	
6722 Tuberculosis, pulmonary, chronic, moderately advanced, inactive	
6723 Tuberculosis, pulmonary, chronic, minimal, inactive	
6724 Tuberculosis, pulmonary, chronic, inactive, advancement unspecified	
General Rating Formula for Inactive Pulmonary Tuberculosis:	
For 2 years after date of inactivity, following active pulmonary tuberculosis, which was clinically identified during active service, or subsequently	100
Thereafter, for 4 years, or in any event, to 6 years after date of inactivity	50
Thereafter, for 5 years, or to 11 years after date of inactivity	30
Following far advanced lesions diagnosed at any time while the disease process was active, minimum	30
Following moderately advanced lesions, provided there is continued disability, emphysema, dyspnea on exertion, impairment of health, etc	20
Otherwise	0

NOTE (1). The 100 pct rating under codes 6701 through 6724 is not subject to a requirement of precedent hospital treatment. It will be reduced to 50 percent for failure to submit to examination or to follow prescribed treatment upon report to that effect from the medical authorities. When a veteran is placed on the 100 pct rating for inactive tuberculosis, the medical authorities will be appropriately notified of the fact, and of the necessity under 38 U.S.C. 356 to notify the Adjudication Division in the event of failure to submit to examination or to follow prescribed treatment.

NOTE (2). The graduated 50 pct and 30 pct ratings and the permanent 30 pct and 20 pct ratings for inactive pulmonary tuberculosis are not to be combined with ratings for other respiratory disabilities. Following thoracoplasty the rating will be for removal of ribs combined with the rating for collapsed lung. Resection of ribs incident to thoracoplasty will be rated as removal.

RATINGS FOR PULMONARY TUBERCULOSIS INITIALLY ENTITLED AFTER AUG. 19, 1968

	Rating
6730 Tuberculosis, pulmonary, chronic, active	100
6731 Tuberculosis, pulmonary, chronic, inactive:	
For 1 year after date of attainment of inactivity of tuberculosis	100
Thereafter, rate residuals attributable to tuberculosis:	
Pronounced: Advanced fibrosis with severe ventilatory deficit manifested by dyspnea at rest, marked restriction of chest expansion, with pronounced impairment of bodily vigor	100
Severe; extensive fibrosis, severe dyspnea on slight exertion with corresponding ventilatory deficit confirmed by pulmonary function tests with marked impairment of health	60
Moderate; with considerable pulmonary fibrosis and moderate dyspnea on slight exertion, confirmed by pulmonary function tests	30
Definitely symptomatic with pulmonary fibrosis and moderate dyspnea on extended exertion	10
Healed lesions, minimal or no symptoms	0

Active pulmonary tuberculosis will be considered permanently and totally disabling for non-service-connected pension purposes in the following circumstances:

(a) Associated with active tuberculosis involving other than the respiratory system.

(b) With severe associated symptoms or with extensive cavity formation.

(c) Reactivated cases, generally.

(d) With definite advancement of lesions on successive examinations or while under treatment.

(e) Without retrogression of lesions or other evidence of material improvement at the end of 6 months hospitalization or without change of diagnosis from "active" at the end of 12 months hospitalization.

NOTE.—"Material improvement" means lessening or absence of clinical symptoms, and X-ray findings of a stationary or retrogressive lesion.

	Rating
6732 Pleurisy, tuberculous, active or inactive:	
Active	100
Inactive: See §§ 4.88b and 4.89.	

30. In § 4.104, diagnostic codes 7000, 7004, 7005, and 7007 are revised and 7017 is added so that the revised and added codes read as follows:

§ 4.104 Schedule of ratings—cardiovascular system.

DISEASES OF THE HEART

	Rating
7000 Rheumatic heart disease:	
As active disease and, with ascertainable cardiac manifestation, for a period of 6 months	100
Inactive:	
Definite enlargement of the heart confirmed by roentgenogram and clinically; dyspnea on slight exertion; rales, pretibial pitting at end of day or other definite signs of beginning congestive failure; more than sedentary employment is precluded	100
The heart definitely enlarged; severe dyspnea on exertion, elevation of systolic blood pressure, or such arrhythmias as paroxysmal auricular fibrillation or flutter or paroxysmal tachycardia; more than light manual labor is precluded	60
From the termination of an established service episode of rheumatic fever, or its subsequent recurrence, with cardiac manifestations, during the episode or recurrence, for 3 years, or diastolic murmur with characteristic EKG manifestations or definitely enlarged heart	30
With identifiable valvular lesion, slight, if any dyspnea, the heart not enlarged; following established active rheumatic heart disease	10

* * * * *

7004 Syphilitic heart disease:	
Rate as rheumatic heart disease, inactive.	
7005 Arteriosclerotic heart disease:	
During and for 6 months following acute illness from coronary occlusion or thrombosis, with circulatory shock, etc	100
After 6 months, with chronic residual findings of congestive heart failure or angina on moderate exertion or more than sedentary employment precluded	100
Following typical history of acute coronary occlusion or thrombosis as above, or with history of substantiated repeated anginal attacks, more than light manual labor not feasible	60
Following typical coronary occlusion or thrombosis, or with history of substantiated anginal attack, ordinary manual labor feasible	30

* * * * *

7007 Hypertensive heart disease:	
With definite signs of congestive failure, more than sedentary employment precluded	100
With marked enlargement of the heart, confirmed by roentgenogram, or the apex beat beyond midclavicular line, sustained disastolic hypertension, diastolic 120 or more, which may later have been reduced, dyspnea on exertion, more than light manual labor is precluded	60
With definite enlargement of the heart, sustained diastolic hypertension of 100 or more, moderate dyspnea on exertion	30

* * * * *

7017 Coronary artery bypass:	
For 1 year following bypass surgery	100
Thereafter, rate as arteriosclerotic heart disease.	
Minimum rating	30

NOTE.—Authentic myocardial insufficiency with arteriosclerosis may be substituted for occlusion.

NOTE.—The 100 pct rating for 1 year following bypass surgery will commence after the initial grant of the 1-month total rating assigned under § 4.30 following hospital discharge.

31. In § 4.118, diagnostic code 7801 and 7802 are revised to read as follows:

§ 4.118 Schedule of ratings—skin.

* * * * *

	Rating
7801 Scars, burns, third degree:	
Area or areas exceeding 1 square foot (0.1 m.²)	40
Area or areas exceeding one-half square foot (0.05 m.²)	30
Area or areas exceeding 12 square inches (77.4 cm.²)	20
Area or areas exceeding 6 square inches (38.7 cm.²)	10

NOTE (1). Actual third degree residual involvement required to the extent shown under 7801.

NOTE (2). Ratings for widely separated areas, as on two or more extremities or on anterior and posterior surfaces of extremities or trunk, will be separately rated and combined.

* * * * *

	Rating
7802 Scars, burns, second degree:	
Area or areas approximating 1 square foot (0.1 m.²)	10

NOTE.—See NOTE (2) under diagnostic code 7801.

* * * * *

32. In § 4.124a, following diagnostic codes 8002 and 8021 a note is added to read as follows:

§ 4.124a Schedule of ratings—neurological conditions and convulsive disorders.

* * * * *

	Rating
Brain, new growth of:	
8002 Malignant	100
NOTE.—The rating in code 8002 will be continued for 2 years following cessation of surgical, chemotherapeutic or other treatment modality. At this point, if the residuals have stabilized, the rating will be made on neurological residuals according to symptomatology. Minimum rating	30

* * * * *

Spinal cord, new growths of:	
8021 Malignant	100
NOTE.—The rating in code 8021 will be continued for 2 years following cessation of surgical, chemotherapeutic or other treatment modality. At this point, if the residuals have stabilized, the rating will be made on neurological residuals according to symptomatology. Minimum rating	30

* * * * *

33. In § 4.150, diagnostic codes 9900 and 9905 are revised to read as follows:

§ 4.150 Schedule of ratings—dental and oral conditions.

	Rating
9900 Maxilla or mandible, osteomyelitis of, chronic:	
Rate as osteomyelitis, chronic under diagnostic code 5000	

* * * * *

9905 Temporomandibular articulation, limited motion of:	
Motion limited to ¼ inch (6.3 mm.)	40
Motion limited to ½ inch (12.7 mm.)	20
Any definite limitation, interfering with mastication or speech	10

* * * * *

APPENDIX A.—TABLE OF AMENDMENTS AND EFFECTIVE DATES SINCE 1946

1. Section 4.71a is revised to read as follows:

Sec.
4.71a Diagnostic Code 5000—60 percent; February 1, 1962.
Diagnostic Code 5000 NOTE (2):
First three sentences; July 10, 1956.
Last sentence; July 6, 1950.
Diagnostic Code 5002—100 percent, 60 percent, 40 percent, 20 percent; March 1, 1963.
Diagnostic Code 5003; July 6, 1950.
Diagnostic Code 5012—NOTE; March 10, 1976.
In sentence following DC 5024: "except gout which will be rated under 5002"; March 1, 1963.
Diagnostic Code 5051;
Diagnostic Code 5052;
Diagnostic Code 5053;
Diagnostic Code 5054; September 9, 1975.
Diagnostic Code 5055; September 9, 1975.
Diagnostic Code 5056;
Diagnostic Code 5164—60 percent; June 9, 1952.
Diagnostic Code 5172; July 6, 1950.
Diagnostic Code 5173; June 9, 1952.
Diagnostic Code 5255 "or hip"; July 6, 1950.
Diagnostic Code 5257—Evaluation; July 6, 1950.
Diagnostic Code 5297—(Removal of one rib) "or resection of 2 or more"; August 23, 1948.
Diagnostic Code 5297—NOTE (2): Reference to lobectomy; pneumonectomy and graduated ratings; February 1, 1962.
Diagnostic Code 5298; August 23, 1948.
4.94 [Revoked]

2. Section 4.94 is revoked;

3. Section 4.104 is revised to read as follows:

4.104 Diagnostic Code 7000—30 percent; July 6, 1950.
Diagnostic Code 7000—100 percent inactive "with signs of congestive failure upon any exertion beyond rest in bed" revoked;
Diagnostic Code 7005—80 percent revoked;
Diagnostic Code 7007—80 percent revoked;
Diagnostic Code 7015—100 percent Evaluation. Criteria for All Evaluations and NOTES (1) and (2); September 9, 1975.
Diagnostic Code 7016; September 9, 1975.
Diagnostic Code 7017;
Diagnostic Code 7100—20 percent; July 6, 1950.
Diagnostic Code 7101 "or more"; September 1, 1960.
Diagnostic Code 7101—NOTE (2); September 9, 1975.
Diagnostic Code 7110—Criteria for 100 percent, NOTE and 60 percent and 20 percent Evaluations; September 9, 1975.
Diagnostic Code 7111—NOTE; September 9, 1975.
Diagnostic Codes 7114, 7115, 7116, and NOTE; June 9, 1952.
Diagnostic Code 7117 and NOTE; June 9, 1952.
NOTE following Diagnostic Code 7120; July 6, 1950.
Diagnostic Code 7121—100 percent Criterion and Evaluation and 60 percent Criterion; March 10, 1976. Criteria for 30 percent and 10 percent and NOTE; July 6, 1950.
Last sentence of NOTE following Diagnostic Code 7122; July 6, 1950.

4. Section 4.124a is revised to read as follows:

4.124a Diagnostic Code 8002, NOTE;
Diagnostic Code 8021, NOTE;
Diagnostic Code 8045; October 1, 1961.
Diagnostic Code 8046; October 1, 1961.
Diagnostic Code 8100—Evaluations; June 9, 1953.
Diagnostic Codes 8910 through 8914; October 1, 1961.
Diagnostic Codes 8910 through 8914 General Rating Formula—Criteria and Evaluations; September 9, 1975.

[FR Doc. 78-27287 Filed 9-29-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 980-1; PP 6F1782, 7F1984, 7F1986, and 7F1987/R171]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methidathion

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

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide methidathion on various raw agricultural commodities. The regulation was requested by Ciba-Geigy Corp. This rule establishes maximum permissible levels for residues of methidathion on various raw agricultural commodities.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James Rea, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington D.C. 20460, 202-755-9315.

SUPPLEMENTARY INFORMATION: On July 6, 1976, August 23, 1977, and

September 28, 1977, notice was given (41 FR 27776, 42 FR 42372, and 42 FR 49839, respectively) that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, N.C. 27409, had filed pesticide petitions (PP 6F1782, 7F1984, 7F1986, and 7F1987) with the EPA.

PP 7F1782 proposed that 40 CFR 180.298 be amended by the establishment of tolerances for residues of the insecticide methidathion (*O,O*-dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one) in or on the raw agricultural commodity almond hulls at 6 parts per million (ppm) and in or on the raw agricultural commodity group nuts at 0.05 ppm.

PP 7F1984 proposed amending 40 CFR 180.298 by establishing tolerances for residues of methidathion in or on the raw agricultural commodities pome and stone fruits at 0.05 ppm.

PP 7F1986 proposed amending 40 CFR 180.298 by establishing tolerances for residues of methidathion in or on the raw agricultural commodity olives at 0.05 ppm.

PP 7F1987 proposed amending 40 CFR 180.298 by establishing a tolerance for residues of methidathion in or on the raw agricultural commodity artichokes at 0.05 ppm. No comments were received in response to these notices of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included 2-year dog feeding studies with no-observable-effect levels (NOEL) of 4 ppm; a rhesus monkey 2-year feeding study with an NOEL of 5 ppm; a rat multigeneration teratology/reproduction study with an NOEL of 32 ppm; a rat teratology study with an NOEL of 5 milligrams (mg)/kilogram (kg) of body weight (bw)/day; a mouse dominant lethal mutagenicity assay, which was negative at up to 45 mg/kg bw; and a hen demyelination study, which was negative at up to 350 mg/kg, the highest dose administered.

Based on the 2-year rat feeding study with a 4-ppm NOEL and using a 10-fold safety factor, the acceptable daily intake (ADI) for man is 0.02 mg/kg bw/day. The theoretical maximal residue contribution (TMRC) in the human diet from the proposed tolerances and the tolerances which have previously been established for residues of methidathion on a variety of raw agricultural commodities at levels ranging from 6 ppm to 0.05 ppm does not exceed the ADI.

Desirable data that is lacking from the petitions is a 24-month oncogenicity study, which is underway and is expected to be completed in early 1979. The petitioner in a letter of July 13, 1978, agreed to voluntarily delete the use of methidathion on almond hulls, nuts, pome fruits, stone fruits, artichokes, and olives from the label should the second oncogenicity study exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of methidathion is adequately understood, and an adequate analytical method (gas chromatography using flame photometric detection) is available for enforcement purposes. No actions are currently pending against continued registration of methidathion, nor are there any other relevant considerations involved in establishing the proposed tolerances. There is no reasonable expectation of residues in eggs, meat, milk, or poultry.

The pesticide is considered useful for the purposes for which tolerances are sought, and it is concluded that the tolerances of 6 ppm on almond hulls and 0.05 ppm on nuts, artichokes, olives, pome fruits, and stone fruits established by amending 40 CFR 180.298 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before November 1, 1978, file written objections with the Hearing Clerk, EPA, room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective October 2, 1978, part 180 is amended as set forth below.

Dated: September 22, 1978.

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

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Part 180, subpart C, § 180.298 is amended by alphabetically inserting almond hulls at 6 ppm and nuts, pome and stone fruits, olives, and artichokes at 0.05 ppm in the table to read as follows:

§ 180.298 Methidathion; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
* * * * *	
Almonds, hulls	6
Artichokes	0.05
* * * * *	
Fruits, pome	0.05
Fruits, stone	0.05
* * * * *	
Nuts	0.05
Olives	0.05
* * * * *	

[FR Doc. 78-27618 Filed 9-29-78; 8:45 am]

[8320-01]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

PART 8-12—LABOR

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: This amendment revises the VA procurement regulations § 8-12.304 to conform the language of the Authorized Variation To The Contract Work Hours And Safety Standards Act to the language currently contained in the pertinent regulations of the Department of Labor. Also, the amendment deletes subpart 8-12.9 of the procurement regulations on the Service Contract Act of 1965 because certain of the sections of those regulations have been superseded by amendments to the Federal Procurement Regulations and others have become obsolete.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

A. G. Vetter, Policy and Interagency Staff, Supply Service, Veterans Administration, Washington, D.C. 20420, 202-389-2334.

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the rulemaking process (§ 1.12, Title 38, Code of Federal Regulations). For the reasons stated above, however, compliance is unnecessary in this instance, as it would serve no useful purpose.

Approved: September 25, 1978.

By direction of the Administrator:

RUFUS H. WILSON,
Deputy Administrator.

1. In subpart 8-12.3, § 8-12.304 is revised.

§ 8-12.304 Variations and tolerances.

When a contract is for nursing home care, the clause prescribed by FPR 1-12.303 will be modified to reflect the

variation set forth in 29 CFR 5.14(d)(3) as follows: "In the performance of any contract entered into pursuant to the provisions of 38 U.S.C. 620 to provide nursing home care of veterans, no contractor or subcontractor under such contract shall be deemed in violation of section 102 of the Contract Work Hours and Safety Standards Act by virtue of failure to pay the overtime wages required by such section for work in excess of 8 hours in any calendar day or 40 hours in the workweek to any individual employed by an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the workweek of 7 consecutive days for the purpose of overtime compensation and if such individual receives compensation for employment in excess of 8 hours in any workday and in excess of 80 hours in such 14-day period at a rate not less than 1½ times the regular rate at which the individual is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended."

Subpart 8-12.9 [Revoked]

2. Subpart 8-12.9 is revoked.

[FR Doc. 78-27820 Filed 9-29-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[SS Docket No. 78-153; FCC 78-658]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Making Frequency 156.875 MHz Available for Exclusive Use for Communications to and From Pilots

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is restricting the use of the frequency 156.875 MHz to communications to and from pilots. We are taking this action because numerous complaints by pilots cite interference from other users during critical communications between pilots on vessels and other support personnel. This rulemaking provides a frequency exclusively for communications by and to pilots and, as a result, substantially improves the reliability of communications during the movement and docking of vessels.

EFFECTIVE DATE: November 3, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER (PROCEEDING TERMINATED)

Adopted: September 19, 1978.

Released: September 28, 1978.

In the matter of amendment of parts 81 and 83 of the rules to make the frequency 156.875 MHz available for exclusive use for communications to and from pilots; SS Docket No. 78-153.

By the Commission: Commissioner Quello absent.

BACKGROUND

1. On May 30, 1978, the Commission released a notice of proposed rulemaking which would restrict the use of the frequency 156.875 MHz (channel 77) to communications concerning the movement and docking of vessels between pilots and other support personnel. Except in an emergency, transmissions on channel 77 would be limited to no more than 1 watt output power. The proposal was published in the FEDERAL REGISTER on June 12, 1978 (43 FR 24863). The period allotted for public comments has passed.

2. This rulemaking was initiated as a result of an informal approach to the Commission by a number of ship's pilots. These pilots basically said:

(a) That they were engaged in the movement and docking of large ships in crowded port areas;

(b) That during the movement and docking of a large ship the pilot must rely on the assistance of tugboat operators and other support personnel;

(c) That communications between pilots and other support personnel are usually conducted over short distances using low powered, hand held VHF "walkie-talkies"; and

(d) That in large port areas communications were frequently interfered with by much higher powered transmitters, even though those transmitters were located some distances away.

Therefore, the pilots requested assistance from the Commission in solving this problem.

3. We agree that low power communications between pilots and other support personnel merit protection. A large, slow moving ship has a very limited amount of maneuverability, and interference-free communications are a necessity. Interference to these critical communications could result in a collision causing widespread damage, pollution and possible loss of life.

4. Therefore we proposed:

(a) The reservation of 156.875 MHz for communications to and from pilots;

(b) A power limitation of 1 watt output power to minimize potential interference;

(c) In emergencies, ship use of up to 25 watts output power, which is the maximum power permitted a ship station, and coast station use of up to 10 watts power; and

(d) On a limited basis, the use of 156.875 MHz for shore to ship communications.

COMMENTS AND COMMENTERS

5. Comments were submitted by the Southern California Marine Radio Council, the American Institute of Marine Shipping (AIMS), the Central Committee on Telecommunications of the American Petroleum Institute (API), the Pacific Merchant Shipping Association (PMSA), the American Waterways Operators, the Portsmouth Pilots, Jacobsen Pilot Service, Inc. and the U.S. Coast Guard. Tug Communications, Inc. submitted a reply comment.

6. All of the commenters supported our proposal. However, several of them requested some minor clarifications and wording changes:

(a) PMSA and AIMS expressed a desire to have the 10-watt limitation in the proposed § 81.356 eliminated so a ship's VHF radio system could be used in emergencies;

(b) AIMS and API suggested that the wording "ship to ship" be changed to "vessel to vessel" because the merchant marine industry considers a tugboat to be a "vessel", not a "ship";

(c) PMSA requested extending the definition of pilot to include "vessel masters who are piloting their own vessels under their Federal Pilots Endorsement"; and

(d) API requested that we insure that 156.875 MHz does not turn into a routine "business" channel for pilots. To this end, they suggested that coast to ship communications should take place on other appropriate frequencies.

CONCLUSION

7. With respect to the comments, we make the following observations.

(a) The 10-watt limitation applies only to a coast station. As explained above, ships are permitted to use 25 watts output power under emergency conditions;

(b) We recognize that the merchant marine industry uses the term "vessel"

when referring to tugboats. However, our rules consistently use the term "ship", not "vessel". Further, it is clear that tugboats are considered ships within the meaning of the Communications Act of 1934, as amended, since section 3(w)(1) of the Act defines "ship" or "vessel" as "* * * every description of watercraft or other artificial contrivance, except aircraft, used or capable of being used as a means of transportation on water, whether or not afloat."

(c) Vessel masters piloting their own ship under their Federal Pilots Endorsement are considered pilots. They are included among the pilots required by the authority of 46 U.S.C. 364 (Vessels Navigating Coastwise and On the Great Lakes).

(d) We agree with API that coast-to-pilot communications are more appropriate on other frequencies. We are therefore not adopting the proposed changes to part 81 which would have permitted coast station use of 156.875 MHz on a secondary basis.

8. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone 202-632-7197.

9. Accordingly, it is ordered, that pursuant to the authority contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth in the attached appendix, effective November 3, 1978.

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

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

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Attachment: Appendix.

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

1. In § 83.6, paragraph (h) is added to read as follows:

§ 83.6 Operational.

* * * * *

(h) *Pilot.* Pilot means a Federal pilot required by 46 U.S.C. 764, a State pilot required under the authority of 46 U.S.C. 211, or a registered pilot required by 46 U.S.C. 216.

2. In § 83.351, paragraph (a) table is amended and (b)(64) is added to read as follows:

§ 83.351 Frequencies available.

(a) * * *

Carrier frequency (kHz)	Conditions of use	
	Section	Limitations
* * * * *		
(MHz)		
* * * * *		
156.850	83.359	40, 41, 48, 57.
156.875	83.359	40, 45, 64.
* * * * *		

(b) * * *

(64) The use of this frequency is limited to communications to and from pilots, concerning the movement and docking of ships. Power used on this frequency shall not exceed 1 watt except under emergency conditions.

3. In § 83.359, table under "Port Operations" and under "Commercial" is amended to read as follows:

[02]0026

§ 83.359 Frequencies in the band 156-162 MHz available for assignment.

* * * * * * *

Channel designator	Frequency (megahertz)		Point of communication
	Ship	Coast	
* * * * * * *			
Port operations			
* * * * * * *			
74	156.725	156.725	Do.
77	156.875		Intership.
20	157.000	161.600	Intership and ship to coast.
* * * * * * *			
Commercial			
* * * * * * *			
11	156.550	156.550	Do.
18	156.900	156.900	Do.
* * * * * * *			
* * * * * * *			

[FR Doc. 78-27655 Filed 9-29-78; 8:45 am]

[1505-01]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-165; Amdt. Nos. 101-1, 102-1, 106-1, 107-4]

PART 106—RULEMAKING PROCEDURES

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

Redesignation and Revision

Correction

In FR Doc. 78-26828, appearing at page 43305 in the issue of Monday, September 25, 1978, make the following changes:

1. On page 43307 in item 14, the third line of Appendix A should read "authorized to conduct rulemaking proceed-".

2. In § 107.205, on page 43308 in the first line of paragraph (b) "be" should read "by".

3. In § 107.373, the seventh line which now reads "reports it to the Office of the Chief", should read "shall report it to the Office of the Chief".

[4910-59]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-03; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE STANDARDS

New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the European Tyre and Rim Technical Organisation (ETRTO) and by the Rubber Manufacturers Association (RMA), this notice amends Federal Motor Vehicle Safety Standard No. 109, New Pneumatic Tires—Passenger Cars, by adding 10 new tire size designations to table I of appendix A of the standard. The amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: November 1, 1978, if objections are not received prior to that date.

ADDRESS: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

John Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20690, 202-426-1714.

SUPPLEMENTARY INFORMATION: According to agency practice, the National Highway Traffic Safety Administration (NHTSA) responds to petitions for adding new tire sizes to table I of appendix A of standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure (October 5, 1968, 33 FR 14964, as amended May 4, 1971, 36 FR 8298; July 22, 1971, 36 FR 13601; and August 13, 1974, 39 FR 28980) provide that these final rules become effective 30 days after their date of publication if no comments objecting to them are received by the agency during this 30-day period. If objections are received, regular rulemaking procedures for issuing and amending motor vehicle safety standards (49 CFR part 553) are to be initiated.

On March 20, 1978, the ETRTO petitioned for the addition of four new English-unit tire size designations to existing tables within table I of appendix A of standard No. 109. On April 11, 1978, April 25, 1978, May 25, 1978, and June 16, 1978, the RMA petitioned for the addition of six new English-unit tire size designations to existing tables within table I of appendix A of standard No. 109. The bases for accepting or denying requests to add new tire size designations are set forth in introductory guidelines to the appendix (October 5, 1968, 33 FR 14964, as amended May 4, 1971, 36 FR 8298; July 22, 1971, 36 FR 13601; and August 13, 1974, 39 FR 28980). In sum, the tests are appropriateness of the information submitted for inclusion in the tire tables, and appropriateness of the requested location within the tables of the requested tire sizes. The 10 new tire size designations requested to be added to standard No. 109 meet these criteria. Accordingly, the ETRTO and the RMA petitions are granted, and the 10 new tire size designations are added to table I of appendix A of the standard pursuant to the abbreviated rulemaking procedure.

In accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) and Executive Order 12044, the NHTSA has reviewed the environmental and economic impacts of these amendments. There should be no negative environmental impacts. Further, since these are minor technical amendments of the standard which will permit the production of four new tire sizes, there should be no costs associated with their implementation. The agency has further concluded that this is not a significant regulation within the meaning of the Executive order.

In consideration of the foregoing, title 49 of the Code of Federal Regulations (part 571.109 (standard No. 109, New Pneumatic Tires—Passenger Cars)) is amended as specified below, subject to the 30-day comment provision discussed above:

§ 571.109 [Appendix amended]

In tables I-X, I-BB, I-DD, I-GG, I-HH, I-JJ, I-LL, and I-MM the following new tire size designations and corresponding values are added:

TABLE I - GG

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/80' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P155/80R15	345	370	395	420	445	465	485	505	525	4 ½	774	157

TABLE I - HH

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/75' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P175/75R15	395	425	455	480	510	535	555	580	600	5	807	177

TABLE I - JJ

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/70' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P175/70R13	315	340	365	385	410	430	445	465	485	5	740	177

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - KK

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/60' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P235/60R14	475	515	550	585	615	645	675	700	730	6 1/2	834	235
P245/60R15	535	580	620	655	690	725	760	790	820	7	907	248

TABLE I - LL

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR "T SERIES" 60LB/IN^2 TIRES

Tire size 1/	Maximum tire load (pounds at 60 psi cold inflation pressure	Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
T125/90D16	1995	4	29.41	5.16

1/ The letter "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified section sidth by more than the amount specified in S4.2.2.2.

TABLE I - X

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR MILLIMETRIC '50' SERIES RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
75/50R13	500	535	565	595	625	655	680	710	735	760	785	810	835	5 1/2	26.67	7.13

/ The letter "H," "S" or "V" may be included in any specfied tire size designation adjacent to the "R."

/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I - BB

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "40 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
205/40R13	460	490	520	545	575	600	625	650	675	695	720	740	765	7	27.13	8.11

TABLE I - DD

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "55 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Sec wid (in
	16	18	20	22	24	26	28	30	32	34	36	38	40			
235/55R15	970	1035	1100	1160	1215	1270	1325	1375	1430	1475	1525	1570	1615	7	34.02	9.4

TABLE I - MM

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "65 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Sectio width 2 (inches
	16	18	20	22	24	26	28	30	32	34	36	38	40			
175/65R14	695	740	785	830	870	910	945	985	1020	1055	1090	1125	1155	5	29.47	6.57

1/ The letter "H," "S: or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

All comments submitted must be limited to 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion. It is requested but not required that 10 copies of comments be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

The principal authors of this notice are John Diehl of the Tire Performance Group and Nancy Eager of the Office of Chief Counsel.

(Secs. 103, 119, 201, and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on September 25, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-27449 Filed 9-29-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

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

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 10—GENERAL PROVISIONS

List of Addresses of Law Enforcement District Offices; Amendment

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Rule.

SUMMARY: This amendment shows a change of address for the Portland, Oreg., district office of the Division of Law Enforcement, U.S. Fish and Wildlife Service.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Branch of Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20236—202-343-9242.

SUPPLEMENTARY INFORMATION: In subpart C of part 10, title 50 of the Code of Federal Regulations, § 10.22, the address list of Law Enforcement district offices, is amended to show a new address for the Portland, Oreg., office.

Since it merely makes changes within a list of addresses in this part, the amendment's effect is administrative and does not change agency procedure, and therefore the "notice" requirements of 5 U.S.C. 533(b) are not applicable. In addition, it is not a substantive rule requiring a delayed effective date pursuant to 5 U.S.C. 553(d).

This amendment was prepared by Margaret C. Cash, Regulations Coordinator, Division of Law Enforcement.

§ 10.22 [Amended]

Section 10.22 of subpart C, part 10, title 50 of the Code of Federal Regulations, is amended by changing the address of the Portland, Oreg., district office to read "Lloyd 500 Building, Suite 1490, 500 Northeast Multnomah Street, Portland, Oreg. 97232 * * *"

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 26, 1978.

ROBERT S. COOK,
Acting Director, Fish and Wildlife Service.

[FR Doc. 78-27680 Filed 9-29-78; 8:45 am]

[4310-55]

PART 18—MARINE MAMMALS

State Laws and Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Regulations are issued which revise subpart F of part 18 of title 50, Code of Federal Regulations. The regulations implement section 109(a) of the Marine Mammal Protection Act which provides for the adoption and enforcement of State laws relating to the protection and taking of marine mammals. The regulations establish procedures for States to follow in requesting review and approval of their marine mammal laws. The regulations also set forth procedures, standards, and criteria that the Service will use in reviewing, approving, monitoring, and superseding the State provisions.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Rupert R. Bonner, Marine Mammal Coordinator, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone: 202-632-2202.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act of 1972 provides that subject to certain exceptions, a State may not adopt or enforce any law or regulation relating to the taking of marine mammals within its jurisdiction. 16 U.S.C. 1379(a)(1). In the case of *Fouke Co.* v. *Mandel*, 386 F. Supp. 1341 (D. Md. 1974), the Act was construed to preempt State laws and regulations relating to importation as well as taking.

However, the Act also provides that a State may adopt and enforce laws and regulations relating to the protection or taking of marine mammal species or population stocks within its jurisdiction if the Secretary reviews such laws and regulations and determines them to be consistent with applicable provisions of the Act and regulations issued thereunder. 16 U.S.C. 1379(a)(2). If the Secretary approves State laws and regulations as being so consistent, they take effect and certain provisions of the Act no longer apply. Id. After approval, the Secretary must, however, continue to monitor and review the State laws, and if they cease to comply with the purposes and policies of the Act, he must supersede them to the extent deemed necessary after notice and opportunity for a hearing. Id. at section 1373(a)(3). The Secretary's authority concerning these functions has been delegated to

the Director of the Service. 242 Int. Dep't. Man. 1-2.

In a notice of proposed rulemaking dated April 9, 1976, the Service published proposed regulations to implement the above provisions of the Act dealing with State laws and regulations (41 FR 15166). The proposed regulations dealt both with State laws and regulations implementing a waiver of the Act's moratorium on taking or importation, see 16 U.S.C. 1371(a), and with State laws and regulations which would not implement a waiver of the moratorium (41 FR 15169-15171). For each type of provision, the proposed regulations set forth procedures for a State to follow in requesting a review of its laws and regulations, criteria the Service would use in approving or disapproving the State provisions, procedures for continuous monitoring and review after approval, and procedures for dealing with changes in approved laws and regulations. Id.

For those laws and regulations implementing a waiver, the proposal further provided for a notice to be published in the FEDERAL REGISTER which would announce approval of the State provisions, summarize the State management program, and set forth the extent of the waiver. For laws and regulations implementing a waiver, the proposal also published enforcement standards for State officials, required the Service to be notified whenever takings under a waiver reached 90 percent of the waiver's numerical quota, and set forth procedures for superseding State provisions found not to comply with the Act's purposes and policies. Id.

The Service received comments on the proposed regulations from a number of environmental and animal welfare organizations.

Three of the organizations commented that to simplify enforcement of the Marine Mammal Act, the Service's regulations should be identical to those of the National Marine Fisheries Service. In all substantive respects, the final regulations published herein are the same as the regulations on State laws published by the National Marine Fisheries Service on August 31, 1976, 50 CFR Part 216, Subpart H; 41 FR 36659.

The same three organizations also indicated that the regulations should define the term "State regulation" and that a State regulation approved by the Service must have the force and effect of law and must not be a "mere policy statement changeable at will" by a State regulatory agency. Section 18.51 of the final regulations adopts as the definition of "State regulation" a definition similar to that set forth in the Federal Administrative Procedure Act, 5 U.S.C. 551(4), for the term "rule."

The above three organizations further indicated that the regulations should set forth the components of a "modern scientific resource management program" as that term is used in 50 CFR 18.55(a). As finally adopted herein, section 18.55(a) specifies that a modern scientific resource management program includes, but is not limited to, research, census, law enforcement, habitat acquisition and improvement, and if appropriate, the periodic or total protection of the species or population stocks which would be affected by the State's marine mammal provisions.

All five of the commenting organizations suggested changes in the procedures for reviewing and approving State marine mammal laws. It was stated that public participation in the review and approval process should not be limited to residents of the State concerned. It was also urged that there should be an opportunity for public comment and for a hearing on the State laws and regulations and on any changes made therein. In addition, it was suggested that determinations of either approval or disapproval of the State provisions should be open to public comment after publication in the FEDERAL REGISTER. Finally, three of the organizations suggested that provision be made for an appeal to the Secretary from any determination of approval or disapproval made by the Director.

To ensure meaningful public participation in the review and approval process, by both residents and nonresidents of the State concerned, § 18.53(c) provides for publication of a notice in the FEDERAL REGISTER setting forth information concerning public inspection and copies of the State laws and regulations. The notice will also provide for the submission of written data, views, comments, or requests for an informal public hearing on the State provisions.

In addition, § 18.53(e) provides that the Director's decision to approve or disapprove the State provisions will be published in the FEDERAL REGISTER. However, the regulations do not provide for any public comment or appeal to the Secretary on the Director's approval or disapproval. Since the Director's decision on any accompanying waiver or Federal regulations would be final, see 50 CFR 18.91(a), his decision to approve or disapprove the State laws and regulations should also be final.

With regard to changes and other aspects of approved State laws and regulations, paragraphs (d) through (h) of § 18.56 provide procedures for public participation which are similar to the procedures outlined above for initial sets of State provisions.

Two of the commenting organizations indicated that the regulations should set forth the role that the Federal Government will play after a State's marine mammal provisions have been approved. Lastly, three of the organizations commented that a State's notice to the Service that takings under a waiver have reached 90 percent of the allowed quota should be published in the FEDERAL REGISTER.

Concerning the general role of the Federal Government after approval of State laws, §§ 18.53(f) and 18.56 of the regulations provide that the Service will continuously monitor and review the State provisions and that any substantial changes in such provisions, other than emergency closings of seasons, must be approved by the Service before they take effect. Section 18.56 further provides for the State provisions to be superseded and the Act to be reinstated if such provisions are found not to be in compliance with the Act or applicable Federal regulations. Also, § 18.57 now provides that a State's notice concerning approach of the waiver quota will be published in the FEDERAL REGISTER.

In addition to changes resulting from public comments, the final regulations make several other changes in the proposed regulations. Specifically, the final regulations make applicable to any State laws submitted for approval a number of provisions which the proposal would have applied only to State laws implementing a waiver. These provisions include enforcement guidelines in § 18.58, procedures in § 18.56 relating to monitoring and review of approved State laws and possible reinstatement of the Act, and publication in the FEDERAL REGISTER under § 18.53(e) of the Director's decisions to approve or disapprove State laws.

The final regulations also clarify the scope provisions of § 18.52, delete as unnecessary proposed § 18.53(a), and delete proposed § 18.53(b) in order to eliminate a possible conflict with proposed subpart H of part 18 on the issue of scientific research and public display permits.

Lastly, aside from the revision of subpart F, the regulations published herein make two additional changes in 50 CFR Part 18. First, § 18.4 is deleted since its provisions are now included in the new § 18.53(a). Also, the introductory text of § 18.11 is amended by including as an exception to the general taking prohibitions the waiver provisions of subpart H of part 18.

These regulations are issued under the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407. They were prepared by David Fisher and Ronald Swan, Office of the Solicitor, Department of the Interior.

NOTE.—The Service has determined that issuance of these regulations is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Therefore, an environmental impact statement is not required.

Accordingly, part 18 of subchapter B of chapter I, Title 50, Code of Federal Regulations, is amended as follows:

§ 18.4 [Deleted]

1. Section 18.4 is deleted.

2. The introductory text of § 18.11 is amended to read as follows:

§ 18.11 Prohibited taking.

Except as otherwise provided in subpart C, D, or H of this part 18, it is unlawful for:

* * * * *

3. Subpart F of the table of sections for part 18 is revised to read as follows:

Subpart F—State Laws and Regulations

Sec.
18.51 Purpose of regulations.
18.52 Scope of regulations.
18.53 Review and approval of State laws and regulations—general.
18.54 Review and approval of State laws and regulations implementing a waiver.
18.55 Criteria for approval of State laws and regulations implementing a waiver.
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18.58 Enforcement of State laws and regulations.
18.59 List of waivers and States with approved laws.

4. Subpart F is revised to read as follows:

Subpart F—State Laws and Regulations

§ 18.51 Purpose of regulations.

The regulations contained in this subpart implement section 109(a) of the Act which provides for the adoption and enforcement of State laws and regulations relating to the protection and taking of marine mammals. As used in this subpart, the term "State regulation" means the whole or a part of a State agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of a State agency and which is duly promulgated in accordance with established procedure.

§ 18.52 Scope of regulations.

(a) Except for §§ 18.54, 18.55, 18.57, and 18.59, which apply only to State laws and regulations that implement a waiver of the moratorium on taking or importation established by section 101 of the Act, the regulations of this subpart apply both to State provisions implementing a waiver of the moratorium and to State provisions not implementing a waiver.

(b) Nothing in this subpart shall prevent (1) the taking of a marine mammal by a State or local government official in accordance with § 18.22 of this part, or (2) the adoption or enforcement of any State law or regulation relating to any marine mammal taken before December 21, 1972.

§ 18.53 Review and approval of State laws and regulations—general.

(a) Any State may obtain a review and consistency determination of its proposed or existing laws and regulations from the Director by submitting a written request to that effect to the Director, U.S. Fish and Wildlife Service, accompanied by the following documents unless otherwise specified by the Director:

(1) A complete set of laws and regulations to be reviewed, certified as complete, true, and correct by the appropriate State official;

(2) A scientific description by species and population stock of the marine mammals to be subjected to such laws and regulations;

(3) A description of the organization, staffing, and funding for the administration and enforcement of the laws and regulations to be reviewed;

(4) A description, where such laws and regulations provide for discretionary authority on the part of State officials to issue permits, of the procedures to be used in granting or withholding such permits and otherwise enforcing such laws; and

(5) Such other materials and information as the Director may request or which the State may deem necessary or advisable to demonstrate the compatibility of such laws and regulations with the policy and purposes of the Act and the rules and regulations issued thereunder.

(b) To assist States in preparing laws and regulations relating to marine mammals, the Director will also, at the written request of any State, make a preliminary review of any proposed laws or regulations. This review will be advisory in nature and shall not be binding upon the Director. Notwithstanding preliminary review by the Director, once any proposed laws and regulations have been prepared in final form, they shall be subject to final review and approval under paragraphs (c) through (g) of this section. To be considered for preliminary review, a State shall submit the same documents required in paragraph (a) of this section, unless specified otherwise by the Director.

(c) Upon receipt of a request submitted in accordance with paragraph (a) of this section, the Director will publish in the FEDERAL REGISTER a notice stating that the State laws and regulations under review will be available for inspection at the locations stated in the notice, and providing information on how copies may be obtained. The notice will also provide that written data, views, comments, or requests for an informal public hearing on the State provisions may be submitted to the Director within the time specified in the notice.

(d) In making a determination with respect to any State laws or regulations, the Director will consider:

(1) Whether such laws and regulations are consistent with the purposes and policies of the Act and the rules and regulations issued thereunder;

(2) The extent to which such laws and regulations are consistent with, or constitute an integrated management or protection program with, the laws and regulations of other jurisdictions whose activities may affect the same species or stocks or marine mammals;

(3) The existence of or preparations for an overall State program regarding the protection and management of marine mammals to which the laws and regulations under review relate; and

(4) Any information received under paragraph (c) of this section.

(e) Upon completion of his review in accordance with paragraphs (c) and (d) of this section, the Director, in consultation with the Marine Mammal Commission, will decide whether or not to approve the State laws and regulations. To be approved, the State provisions must be consistent with (1) any Federal regulations issued under section 103 of the Act for the species or population stocks concerned and (2) any other provisions of the Act or regulations issued thereunder which apply to such species or population stocks. Upon making his decision, the Director will publish in the FEDERAL REGISTER a notice of approval or disapproval. If the State laws and regulations have been approved, the notice will summarize the management program established by the State provisions, specify the date on which the State's annual report it to be submitted under § 18.56(b) of this subpart, and, if necessary, state the extent to which the Act's moratorium on taking or importation is waived in order to allow such State laws and regulations to take effect. If the State laws and regulations have been disapproved, the notice will specify the reasons for the disapproval and will invite the submission of revised provisions under paragraph (a) or (b) of this section.

(f) Any modifications, amendments, deletions, or additions to State laws or regulations approved under paragraph (e) of this section, except emergency closings of seasons, shall, before adoption, require review and approval by the Director pursuant to paragraphs (c) through (h) of § 18.56 of this subpart.

(g) All determinations by the Director under this section shall be final.

§ 18.54 Review and approval of State laws and regulations implementing a waiver.

(a) Any State which requests a determination that its laws and regulations are consistent with the Act and applicable regulations in accordance with § 18.53 of this subpart may also request a waiver of the moratorium on taking and importation imposed by section 101 of the Act to the extent necessary to allow such laws and regulations to take effect.

(b) Where the State laws and regulations would implement a waiver of the moratorium, any waiver granted by the Director shall be contingent upon his approval of such State laws and regulations under § 18.53 of this subpart.

§ 18.55 Criteria for approval of State laws and regulations implementing a waiver.

Any State which applies to the Director for approval of its laws and regulations implementing a waiver of the Act's moratorium on taking or importation must demonstrate, to the Director's satisfaction, that such laws and regulations:

(a) Provide for a modern scientific resource management program, including but not limited to, research, census, law enforcement, habitat acquisition and improvement and, when and where appropriate, the periodic or permanent protection of the species or population stocks of marine mammals that would be affected by the State's laws and regulations;

(b) Establish a program which is based upon the best scientific evidence available on the relevant marine ecosystem and the role of the affected species or stocks of marine mammals in that ecosystem;

(c) Establish a program which is consistent with the Act's primary goal of maintaining the health and stability of the marine ecosystem;

(d) Establish a program which insures that the affected species or population stocks of marine mammals shall not diminish below the range of optimum sustainable population;

(e) Require cessation of taking of the affected species or population stocks of marine mammals, whenever the population is determined to be below the range of optimum sustainable population;

(f) Provide appropriate maximum quotas and seasons, whenever a taking is proposed, unless the State can show that it is more consistent with these criteria to have no quota or season;

(g) Establish quotas, seasons, and other allowances and restrictions as necessary to be consistent with the criteria of this section in accordance with the following factors:

(1) The seasonal distribution of populations;

(2) Segregation within populations by sex and age;

(3) Discreteness of populations;

(4) Population density;

(5) Critical periods in the species life cycle;

(6) Critical habitat areas;

(7) Productivity of the population;

(8) Species interactions;

(9) Percentage of retrieval by hunters;

(10) Maximization of the utilization of the species;

(11) Other uses of the species, such as recreational use or incidental catch; and

(12) Enforceability of the limitations.

(h) Contain suitable limitations on the means and methods of taking which assure that taking will be by humane means and will maximize the utilization of each animal taken.

(i) Contain provisions for significant public participation within the State in the process of implementing the waiver.

(j) Meet the criteria specified in § 18.53 of this subpart, to the extent that such criteria may differ from those prescribed in this section.

§ 18.56 Monitoring and review of approved State laws and regulations; reinstatement of the Act.

(a) All State laws and regulations and the conservation programs established thereby which have been approved shall be monitored and reviewed continuously.

(b) In order to facilitate such a review, each State having approved laws and regulations must submit an annual report not later than 60 days after the close of such State's first full fiscal year following the effective date of the Director's approval of the State laws and regulations and at the same time each following year. The report shall contain the following information current for each reporting period:

(1) Any changes in the State laws or regulations;

(2) Any new data on the marine mammal stocks or species or the marine ecosystems in question;

(3) All available information relating to takings under the terms of a waiver;

(4) A summary of all research activity on the stocks, species, or ecosystem affected by a waiver;

(5) Any changes in the information provided with the original request for approval;

(6) A summary of all enforcement activity, including permits issued, marine mammal parts or products sealed or marked, reports under permits, and investigations undertaken as well as their dispositions;

(7) Present budget and staffing level for the marine mammal activities; and

(8) Any other information which the Director may request, or which the State deems necessary or advisable.

(c) Each State, having approved laws and regulations shall file a special report within 30 days, whenever any of the following occurs:

(1) A proposed change in a relevant State law or regulation (amendments, repealers, or new legislation or regulations), which, with the exception of emergency closings of seasons, shall not be effective until the Director makes a determination pursuant to paragraphs (e) through (h) of this section;

(2) A significant natural or man-made occurrence affecting the marine ecosystems or the species or stocks of marine mammals to which a waiver applies; or

(3) A significant violation of the State management program including any quotas established thereby.

(d) All State laws and regulations and the conservation programs established thereby, as well as annual reports submitted under paragraph (b) and special reports submitted under paragraph (c) of this section, shall be available for inspection and copying at the Office of the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

(e) Upon receipt of any report described in §§ 18.56(b) or 18.56(c), the Director shall, as soon as practicable, in consultation with the Marine Mammal Commission, determine preliminarily whether or not the State laws and regulations and any programs established thereby continue to comply with the requirements of the Act and this subpart.

(f) Whenever the Director preliminarily determines, in consultation with the Marine Mammal Commission, that any substantial aspects of State laws and regulations or programs established thereby are or are not in compliance with the requirements of the Act or this subpart, he shall publish notice of such determination in the FEDERAL REGISTER inviting submission from interested persons, within 30 days of the date of the notice, of written data, views, comments, or requests for an informal public hearing with respect to such preliminary determination.

(g) As soon as practicable after the preliminary determination described

in § 18.56(e) and any 30-day comment period described in § 18.56(f), the Director, in consultation with the Marine Mammal Commission, shall determine whether or not to finally approve or disapprove the State laws and regulations. The Director's determination shall be made within 90 days after publication of any notice described in § 18.56(f), unless a hearing is held.

(h) If the Director makes a final determination to disapprove any proposed changes in State laws and regulations, the State shall, at the Director's sole discretion, have the option of retaining its initially approved laws and regulations, in which case any waiver shall remain in effect. All final determinations of approval or disapproval shall be published in the FEDERAL REGISTER. Upon publication of disapproval, unless a State, at the Director's sole discretion, elects within 30 days to retain its originally approved laws and regulations, any waiver conditioned upon approval of State laws and regulations as provided in this subpart shall terminate, and all provisions of the Act shall be reinstated and supersede such State laws and regulations.

§ 18.57 Notification on waiver quota.

Any State shall immediately notify the Director when the retrieved taking of any species or population stock of marine mammals reaches 90 percent of the numerical extent of the waiver prescribed by subpart H of this part for that species or population stock. The Director shall publish a Notice of Receipt in the FEDERAL REGISTER concerning such notification as soon after receipt thereof as practicable.

§ 18.58 Enforcement of State laws and regulations.

The appropriate official in each State shall utilize such methods as he deems appropriate to assure to the maximum extent practicable that the quotas, seasons, and other limitations in approved State laws and regulations are not exceeded. These methods may include, but are not limited to, patrols, surveillance, investigation, permit recordkeeping and reporting requirements, and tagging and marking requirements.

§ 18.59 List of waivers and States with approved laws.

The following is a list of the States whose laws and regulations have been approved by the Director pursuant to this subpart and the species or population stocks for which the moratorium has been waived within such States:

State, Common Name and Scientific name.
Alaska, Pacific Walrus, *Odobenus rosmarus.*

NOTE.—The Service has determined that issuance of these regulations is not a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 26, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 78-27679 Filed 9-29-78; 8:45 am]

[4310-55]

PART 26—PUBLIC ENTRY AND USE

Special Regulations for Kodiak National Wildlife Refuge, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: These special regulations govern the use of aircraft, motorized land vehicles, specialized watercraft, public and private cabin sites, and special-use permits for commercial use on the Kodiak National Wildlife Refuge in Alaska. The Director has determined that these regulations are consistent with the primary objectives for which the refuge was established and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: These regulations are effective October 2, 1978, through December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert Delaney, Refuge Manager, Kodiak National Wildlife Refuge, P.O. Box 825, Kodiak, Alaska 99615, 907-486-3325.

SUPPLEMENTARY INFORMATION: The primary author of this document is Robert Delaney.

§ 26.34 Special regulations concerning public access, use, and recreation for individual national wildlife refuges.

ALASKA

KODIAK NATIONAL WILDLIFE REFUGE

A. Public access, use, and recreation is permitted in accordance with applicable State and Federal regulations subject to the following conditions:

(1) The landing and operation of aircraft under other than emergency conditions is prohibited except as authorized in the waters of all streams, lakes, lagoons, and bays on or adjacent to the Kodiak National Wildlife Refuge.

(2) Rotary winged aircraft, also known as helicopters, may land on the refuge by Federal permit only. Permits are issued by the Refuge Manager, Kodiak National Wildlife Refuge, P.O. Box 825, Kodiak, Alaska 99615.

(3) The use of motorized land vehicles is prohibited.

(4) The use of boats commonly known as airboats and jet boats is prohibited.

B. Occupancy of cabin sites on national wildlife refuges is subject to the provisions of 43 CFR Part 21 and 50 CFR 26.35. In addition, the following special regulations shall apply:

(1) All commercial use cabin site permittees are required to appear in person at the headquarters on the Kodiak National Wildlife Refuge for issuance of permits.

(2) All commercial fish cabin site permittees are required to hold a valid State limited entry permit for set gill nets in Kodiak Island waters.

(3) No new structures or additions to existing structures shall be allowed.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, Part 26, and occupancy of cabin sites as set forth in Title 43, Code of Federal Regulations, Part 21. The public is invited to offer suggestions and comments at any time.

Dated: September 21, 1978.

LEROY W. SOWL,
Acting Alaska Area Director,
Fish and Wildlife Service.

[FR Doc. 78-27793 Filed 9-29-78; 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

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Reapportionment of Members

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would reapportion the membership of the State of Washington Potato Committee. The proposed reapportionment would provide one handler member and alternate for each of the five districts and would result in more equitable representation on the committee.

DATES: Comments due by November 1, 1978.

ADDRESSES: Comments should be sent to the Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Marketing agreement No. 113 and order 946, both as amended, regulate the handling of Irish potatoes grown in the State of Washington. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

The order provides in § 946.31 that upon recommendation of the committee the Secretary may reestablish districts within the production area and may reapportion committee membership among various districts.

The committee, at its June 7, 1978, organizational meeting, evaluated its handler representation which currently is comprised of two members from district 1, none from district 2, and one each from districts 3, 4 and 5. However, district No. 2, which includes the Quincy-Royal Slope area, has become an important potato shipping area, and is now the third largest shipping district in the production area. The committee decided that reapportioning the committee to provide for one handler member and his alternate for each district would result in more equitable representation on the committee. The change would become effective July 1, 1979.

The proposal is as follows:

Section 946.104 Reapportionment of committee membership is amended to read as follows:

§ 946.104 Reapportionment of committee membership.

(a) * * *

(1) District No. 1—three producer members and one handler member.

(2) District No. 2—two producer members and one handler member.

(3) * * *

(4) * * *

(5) * * *

Dated: September 26, 1978.

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

[FR Doc. 78-27718 Filed 9-29-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of Energy Conservation and Solar Applications

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Revised Schedule for Public Hearings and Submission Dates

AGENCY: Department of Energy.

SUMMARY: This document sets forth the revised schedule for public hearings and submission dates on proposed rulemaking regarding the sampling requirements of appliance test procedures.

DATES AND ADDRESSES: See below.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Department of Energy (DOE) published in the FEDERAL REGISTER a notice of proposed rulemaking regarding the sampling requirements of appliance test procedures (43 FR 40192). Because of the interrelationship of this proposal to a proposal concerning appliance energy cost labeling published by the Federal Trade Commission (FTC) on July 21, 1978 (43 FR 31806), DOE arranged for FTC to receive comments on both proposals, and subsequently to provide DOE with copies of all comments. In addition, DOE arranged that a single public hearing would be held on both proposals, to be conducted by FTC in accordance with FTC hearing procedures, and with appropriate DOE participation.

On September 18, 1978, FTC published a notice in the FEDERAL REGISTER (43 FR 41410) revising the schedule for the public hearings (applicable to both proposals) and extending the written comment period (for the FTC proposal). A summary of the revised schedule is as follows:

September 19, 1978—Deadline for requests to testify at public hearings.

October 2, 1978—Deadline for all written comments pertaining to FTC proposal, identified as "Consumer Appliance Rulemaking Comment."

October 12, 1978—Hearings begin at 9 a.m. in Room 532 of the Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

November 1, 1978—Deadline for all written comments pertaining to DOE proposal, identified as "Consumer Appliance Rulemaking Comment—Test Procedure Sampling." (This date was unaffected by the September 18, 1978 FTC Notice.)

Issued: September 27, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 27696 Filed 9-29-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 78-ASW-44]

AIRWORTHINESS DIRECTIVE

Bell Models 212 and 205A-1 Helicopters

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD)

that would require installation of strengthened float bags (reinforced girts) on certain Bell Models 212 and 205A-1 helicopters that are equipped with emergency flotation (ditching) equipment. The proposed AD is needed to improve the strength of the float bags attachment to the helicopter and preclude tearing, puncturing, and deflation of a float bag. Deflation of a float bag would reduce the capability of the helicopter to remain upright after a ditching.

DATES: Comments must be received by November 3, 1978. Proposed effective date of the AD will be December 13, 1978.

ADDRESSES: Send comments on this proposal in triplicate to: Regional Counsel, Attn. Docket 78-ASW-44, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. Bell service information may be obtained from Bell Helicopter Textron, P.O. Box 482, Fort Worth, Tex. 76101 or from the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Tex. 76101.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone No. 817-624-4911, extension 516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the development of the final rule by submitting such written or oral comments as they desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All comments will be recorded and considered by the Director before taking final action and the proposal may be changed as a result of the comments received. All comments will be available for examination before and after the closing date for comments in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Tex. 76101.

During flotation tests conducted at Bell Helicopter Textron on a Model 212 helicopter, ballasted to a gross weight of 11,200 pounds, the girt assembly of the forward float separated at the support panel. Subsequent analysis disclosed the girt-to-support panel attachment configuration allowed concentrated loading of the girt fabric to occur at corners of the support panel. This load concentration, under a maximum gross weight condition, initiated a puncture that propagated along the girt. A report of a like condition has not been received from operators.

STC SH2395SW was issued for Bell Model 205A-1 helicopters to install emergency flotation equipment that includes the Model 212 float bags.

A modification is available as noted in Bell Service Bulletin No. 212-78-9 to provide additional strength and puncture resistance to the inboard corners of the girt by addition of fabric reinforcement doublers. The modified float bags are identified by different part numbers from the original design.

The proposed AD would require installation of strengthened float bags within 600 hours or 6 months' time in service, whichever comes first, for Bell Model 212 helicopters, serial No. 30501 through 30889, that are equipped with emergency flotation (ditching) equipment and all Model 205A-1 helicopters incorporating STC SH2395SW emergency flotation equipment. The proposed AD is needed to improve the strength of the float bags attachment to the helicopter and to preclude possible tearing, puncturing, and deflation of a float bag. Deflation of a float bag would seriously reduce the capability of the helicopter to remain upright after a ditching.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

BELL: Applies to Bell Model 212 helicopters, serial No. 30501 through 30889, equipped with emergency flotation (ditching) equipment and to Bell Model 205A-1 helicopters equipped with STC SH2395SW emergency flotation equipment, certificated in all categories.

Compliance required within 600 hours' time in service or 6 months after the effective date of this airworthiness directive (AD), whichever comes first, unless already accomplished.

To preclude possible tearing, puncturing, and deflation of a float bag after a ditching, accomplish the following:

Remove the four emergency float bags and install modified or new float bags having the following part numbers: Air Cruisers No. D24650-105 -106 -107, and -108 (Bell No. 212-050-207-5, -6, -7, and -8 respectively) or B.F. Goodrich No. 7MA1002-5, -6, -7, and -8 (Bell No. 212-050-207-9, -10, -11, and -12 respectively).

Air Cruisers or B.F. Goodrich float bags may be modified and reidentified as prescribed by Air Cruisers Co. Service Bulletin No. 120-78-1, dated May 5, 1978, or later FAA approved revision or by B.F. Goodrich, Engineered Systems Division, Service Bulletin No. 01, dated May 8, 1978, or later FAA approved revision, respectively.

(Bell Helicopter Textron Service Bulletin No. 212-78-9 pertains to this subject.)

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85).)

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, Mar. 8, 1978).

Issued in Fort Worth, Tex., on September 18, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-27446 Filed 9-29-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 18316]

AIRWORTHINESS DIRECTIVES

Fokker Model F-27 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an airworthiness directive (AD) that would require inspections, replacements, and modifications, as necessary, of certain components on Fokker-VFW b.v. model F-27 airplanes. The AD is needed to detect and prevent certain unsafe conditions which were found earlier but for which no AD action was taken at the time found because the few Fokker model F-27 airplanes on the FAA Aircraft Registry were operating in foreign countries, and correction of the unsafe conditions were established on an individual basis with the aid of foreign airworthiness authorities. However, the anticipated entry onto the FAA Registry of additional Fokker model F-27 airplanes which are intended for operations in the United States necessitates AD action at this time to insure that such aircraft possess the minimum level of safety required by the regulations.

DATE: Comments must be received on or before November 15, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: rules Docket (AGC-24) Docket No. 18316, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletins may be obtained from: Fokker-VFW b.v., P.O. Box 7600, Schiphol Oost, The Netherlands.

Copies of each of the service bulletins referenced in this AD are contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

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.

In the past, the Netherlands Civil Aviation Department (RLD), in accordance with existing provisions of a bilateral agreement, has notified the FAA of a number of inspection, replacement, and modification requirements which they have imposed upon Netherlands-manufactured and operated Fokker model F-27 airplanes to correct unsafe conditions. Currently, only a few Fokker F-27 airplanes are on the FAA Registry, and those are being operated outside of the United States. For those few aircraft, correction of the unsafe conditions found by the RLD has been confirmed by the FAA with the assistance of the RLD and other foreign airworthiness authorities. However, the FAA believes that additional Fokker model F-27 airplanes may be entered on the FAA Registry in the near future and may be operated within the United States. Based on this belief, the FAA has now evaluated the conditions which gave rise to the special requirements imposed by the RLD. The FAA believes that the requirements presented in this proposed AD, which are based on the special requirements of the RLD, are all related to unsafe conditions. Since these conditions are likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspections, replacements, and modifications, as necessary, on certain Fokker model F-27 airplanes. Each numbered paragraph of this proposed AD identifies the serial numbers of the airplanes affected, the specific unsafe condition to which it is directed, and the related corrective action that would be required for resolution of that unsafe condition.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

FOKKER-VFW b.v. Applies to model F-27 airplanes, all series, certificated in all categories.

Unless already accomplished, compliance is required within the next 25 hours time in service after the effective date of this AD, except as specifically provided in a numbered paragraph of this AD. However, airplanes may be flown in accordance with FAR 21.197 and 21.199 to a base where the work can be performed.

1. Applies to airplanes S/N 10105 through 10110. To prevent jamming of the nose landing gear in the retracted position due to leakage of the shock absorber, install cam, P/N 27.1-5101-001-162, at station 1400 in accordance with the accomplishment instructions of Fokker F-27 modification No. 72, dated April 22, 1959.

2. Applies to airplanes S/N 10105 through 10108. To prevent loss of electrical power in flight due to inadequate attachment of bus bars on panels 1, 2, and 3, modify the bus bar attachment in accordance with the accomplishment instructions of Fokker F-27 modification No. 71, dated April 22, 1959.

3. Applies to airplanes S/N 10105 through 10119, except S/N 10115. To prevent failure of the nose gear steering system due to trapped air in the steering motor, install bypass lines with nonreturn valves over the nosewheel steering circuit followup valve in accordance with Fokker modification No. 86, dated July 23, 1959.

4. Applies to airplanes S/N 10105 through 10110. To prevent loss of electrical power in flight as a consequence of inadequate grounding of generator master switches, replace the grounding cable serving both switches with two separate grounding cables for the port and starboard generator switches respectively, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-14, Issue 2, dated October 1, 1959.

5. Applies to airplanes S/N 10105 through 10125. To prevent loss of electrical power in flight as a consequence of inadequate grounding of generator master switches, install additional grounding provisions for generator control panels in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-19, Issue 2, dated October 1, 1959.

6. Applies to airplanes S/N 10111 through 10114 and 10120 through 10122. To prevent jamming of an emergency door as a consequence of the guide rollers springing from the guide plates, enlarge the door rollers and strengthen the guide plates in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-22, dated October 21, 1959.

7. Applies to airplanes S/N 10105 through 10122 and 10126 through 10135. To prevent unsatisfactory operation of the control systems for controlling engine power, elevator, and rudder trim tabs, gust lock, emergency shutoff valves, and fuel crossfeed, reinforce the attachment of the control cable guide assemblies in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-23, dated November 30, 1959.

8. Applies to airplanes S/N 10105 through 10122, 10127 through 10136, 10138, and 10139. To prevent failure of the elevator main spar, which could result in loss of control of the airplane, reinforce the elevator main spar at station 3979 in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-26, Issue 3, dated January 27, 1960.

9. Applies to airplanes S/N 10105 through 10122 and 10126 through 10141. To prevent engine failure due to fatigue failure of engine control levers, install levers of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. F5, Issue 3, dated May 30, 1960.

10. Applies to airplanes S/N 10105 through 10122, 10126, 10127, 10131 through 10136, 10138, and 10139. To prevent excessive travel and possible damage of the flap drive system, relocate the flap system limit switches in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. C-17, dated January 11, 1960.

11. Applies to airplanes S/N 10105 through 10122 and 10126 through 10135. To prevent asymmetric extension of wing flaps due to certain failures of the mechancial drive system, which could result in loss of control of the airplane, modify the flap control system in accordance with the accomplishment instructions of Fokker F-27 modification No. 74, Issue 2, dated February 3, 1960.

12. Applies to airplanes S/N 10105 through 10122 and 10126 through 10140. To prevent inadequate control of the aircraft due to loosening of pilot and copilot control wheels, modify the control wheel attachment provisions in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. C-18, dated February 3, 1960.

13. Applies to airplanes S/N 10105 through 10122 and 10126 through 10141. To prevent loss of electrical power in flight due to internal short circuits in electrical connectors, replace the connectors with connectors of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-23, Issue 4, dated February 14, 1961.

14. Applies to airplanes S/N 10105 through 10122 and 10126 through 10141 with elevators not reinforced in accordance with Fokker F-27 Service Bulletin No. B-76. To prevent failure of elevator hinge brackets, which could result in the loss of control of the airplane, replace the elevator hinge brackets at stations 3979 and 2460 in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-28, Issue 2, dated July 13, 1960.

15. Applies to airplanes S/N 10105 through 10122 and 10126 through 10141, having elevators not reinforced in accordance with Fokker F-27 Service Bulletin No. B-76. To prevent structural failure of the elevator main spar, which could result in loss of control of the airplane, reinforce the elevator main spar at station 2460 in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-27, Issue 2, dated July 13, 1960.

16. Applies to airplanes S/N 10105 through 10122, 10126 through 10141, and 10143 through 10148. To prevent undue vibration stresses in propeller blades that could result in failure of a propeller blade in flight, restrict the engine idling speed to values above 7,000 r/min by revising the dial marking on the r/min indicators in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. N-3, dated April 11, 1960.

17. Applies to airplanes S/N 10105 through 10148. To prevent failure of an aileron hinge bracket, which could result in loss of the aileron in flight, inspect the aileron hinge brackets, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-32, Issue 4, dated January 18, 1961.

18. Applies to airplanes S/N 10105 through 10122, 10126 through 10141, 10143 through 10148, 10151, and 10153. To prevent a dormant electrical failure that could result in the inability to extend the landing gear following a single failure in the landing gear electrical control circuit, modify the landing gear electrical control circuit in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-26, dated July 26, 1960.

19. Applies to airplanes S/N 10105 through 10122 and 10126 through 10153. To prevent malfunction of the gust lock/engine interference system that possibly could result in takeoff with the flight controls locked, modify the gust lock system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. F-9, dated September 12, 1960.

20. Applies to airplanes S/N 10105 through 10179. To prevent blockage of the pitot-static system due to accumulation and freezing of water, which could jeopardize safety by causing erroneous indications of airspeed and altitude, modify the pitot-static system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. N-7, dated March 2, 1961.

21. Applies to airplanes S/N 10105 through 10188. To prevent deformation of the H.P.C. control lever rub plate, which could impair controllability by preventing feathering of the associated propeller, install a rub plate of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin F-11, Issue 2, dated November 27, 1961.

22. Applies to all Fokker F-27 airplanes incorporating Fokker F-27 Service Bulletin No. H-10. To prevent malfunction of the engine water/methanol system due to malfunction of the nonreturn valve, P/N 27.1—8420-018-001, which could result in a lack of power during takeoff, dismantle and inspect the nonreturn valves, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. H-24, dated October 29, 1962.

23. Applies to airplanes S/N 10105 through 10213. To prevent blockage of the pitot-static system due to the accumulation and freezing of water, which could jeopardize safety by causing erroneous indications of airspeed and altitude, modify the pitot-static system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. N-19, dated December 20, 1962.

24. Applies to airplanes S/N 10145 through 10223. To prevent unwanted propeller auto-feathering in flight due to ingress of moisture in electrical connectors V2609 and V2610, which could result in an engine failure, install electrical connectors of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. J-71, dated May 1, 1963.

25. Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. G-7. To prevent failure of the propeller feathering system due to malfunction of the H.P.C. switches located on the engine firewall, inspect and test the switches, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletion No. G-5, Issue 2, dated October 8, 1963.

26. Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. B-146. To detect possible internal corrosion of the steel tubular structures identified in Service Bulletin No. B-146, which could jeopardize safety by dangerously decreasing the strength of the empennage, the wing flap track support assembly, and the engine mounts, conduct X-ray inspections, and rectify as appropriate, in accordance with section A, planning information, and section B, accomplishment instructions, of Fokker F-27 Service Bulletin No. B-146, dated July 26, 1963, including Amendment No. 1, dated July 30, 1964.

27. Applies to airplanes S/N 10230 and subsequent. To prevent failure of flight control rods due to the accumulation of water and consequent corrosion or bursting due to freezing, inspect the flight control rods, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. C-61, Issue 3, dated October 30, 1964.

28. Applies to airplanes S/N 10105 through 10253. To prevent structural failure of the horizontal stabilizer, inspect the front and rear spar areas for cracks and loose rivets between station 227.5 LH and RH, rectify as appropriate, and apply structural reinforcement in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-150, dated June 18, 1964.

29. Applies to airplanes S/N 10105 through 10274. To prevent fatigue failure of structure supporting the rudder trim tab control brackets, which possibly could jeopardize safety by permitting flutter of the trim tab and rudder failure, replace bracket, P/N 27.1-3401-026-005, with a new bracket of improved design, and reinforce the bracket supporting structure, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-169, Issue 2, dated June 10, 1965.

30. Applies to airplanes S/N 10105 through 10274. To prevent fatigue failure of structure supporting the elevator trim tab control brackets, which possibly could jeopardize safety by permitting flutter of the trim tab, replace bracket, P/N 27.1-3201-041-002, with a new bracket of improved design, and reinforce the bracket supporting structure, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-170, dated May 31, 1965.

31. Applies to airplanes S/N 10249 through 10274 incorporating Fokker F-27 Service Bulletin No. I-26. To prevent failure of the brazed high-pressure tube assemblies, PNEU 370 and PNEU 371, or the pneumatic system (which operates the landing gear, brakes, and nose-wheel steering), modify the pneumatic system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. I-30, dated July 30, 1965.

32. Applies to airplanes S/N 10105 through 10293. To prevent jamming of nose gear doors due to deterioration of the door seals, which has resulted in failure to extend the nose gear, inspect the nose wheel door seals, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. B-185, revision 1, dated August 15, 1967.

33. Applies to airplanes S/N 10105 through 10316. To prevent possible flutter of the horizontal stabilizer due to reduced stiffness of the nose section, which could result in loss of the stabilizer, inspect the attachment angles on the front stabilizer spar for cracks and correct location, and rectify as appropriate, in accordance with the accomplishment instructions, part II, of Fokker F-27 Service Bulletin No. 55-39, revision 3, dated May 15, 1967.

34. Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No. D-56. To prevent failure of the nose gear lock in the extended position due to failure of the light-alloy main actuating piston, replace the light-alloy piston with a new stainless steel piston in accordance with the accomplishment instructions of Dunlop Service Bulletin No. 36-95, revision 1, dated October 21, 1966.

35. Applies to all Fokker F-27 airplanes not incorporating Dowty Rotol accessory gearbox modification No. GB 2294. To prevent failure of an accessory gearbox due to failure of the input bevel gear, which could jeopardize safety by depriving the aircraft of one of the two sources of electrical and pneumatic power, incorporate an input bevel gear of improved design in accordance with Dowty Rotol Service Bulletin No. 83-291, revision 2, dated October 1966, or Fokker F-27 Service Bulletin No. E-35, dated May 15, 1967.

36. Applies to airplanes S/N 10105 through 10264 incorporating Graviner fire extinguisher top caps P/N A126. To prevent malfunction of the engine fire extinguishing systems due to material defects in the top caps, replace top caps, P/N A126, with caps of improved material, identified as P/N A126(2), in accordance with the embodiment instructions of Graviner Service Bulletin No. 26-A20, dated September 30, 1964.

37. Applies to airplanes S/N 10162 through 10335 incorporating a cargo door. To prevent possible failure of the pneumatic system due to inadequate wall thickness of the pneumatic tube located between the main bottle and the pneumatic panel, replace the pneumatic tube, PNEU 341, with a new tube of increased wall thickness, PNEU 428, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No I-33, dated October 2, 1967.

38. Applies to airplanes S/N 10105 through 10350. To prevent failure of an accessory gearbox front mounting flexible link due to misalignment which could result in loss of power, inspect the flexible links of the gearbox front mountings, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 83-14 dated June 24, 1968.

39. Applies to all Fokker F-27 airplanes with pneumatic systems incorporating Dunlop Dehydrator ACM 18952 (bottle P/N ACM 16773), or Dunlop Oil & Watertrap ACM 18048 (bottle P/N ACM 16772). To prevent pneumatic system failure due to

stress corrosion of pressurized bottles, replace bottles P/N ACM 16772 and P/N ACM 16773, manufactured prior to 1959 (date of manufacture is marked on bottle) with serviceable bottles of the same part number but manufactured in 1960 or subsequent, in accordance with Dunlop Service Bulletin No. 36-187, revision 3, dated July 27, 1970.

40. Applies to airplanes S/N 10102 and 10105 through 10360, not incorporating part III of Fokker F-27 Service Bulletin No. 53-96. To detect and prevent cracks in the fuselage bottom skin, which possibly could result in explosive decompression of the cabin, inspect the fuselage bottom skin for cracks, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 53-72 dated April 6, 1967, including revision 2, dated June 30, 1972, and repeat the inspection in accordance with paragraph 1D, "Compliance", of that service bulletin as amended by Fokker F-27 Service Letter No. 277, dated October 25, 1971.

41. Applies to all Fokker F-27 airplanes. To detect and repair cracks in the rabbet area of fuel tank access doors of the lower outer wing area, which possibly could jeopardize safety by reducing the structural strength of the wing, inspect for cracks in the areas of the lower wing skin cut-outs of the fuel tank access doors, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 57-46, dated October 30, 1972.

42. Applies to all Fokker F-27 airplanes not incorporating Fokker F-27 Service Bulletin No 55-49. To detect and repair cracks and corrosion in attachment fittings, which possibly could lead to failure of the vertical stabilizer, inspect the vertical stabilizer attachment fittings for cracks and corrosion, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 55-48, revision 1, dated May 21, 1973.

43. Applies to all Fokker F-27 airplanes that are equipped with Airesearch aileron trim tab actuator (RH), P/N 525458, 540604-1, or 540604-2-1, but that do not incorporate Fokker F-27 Service Bulletin No. 27-105 or Airesearch Service Bulletin F27/20-12. To prevent malfunction of the RH aileron trim tab actuator due to failure of the actuator setscrew, which possibly could jeopardize safety by altering the airplane's lateral trim capability, modify the RH aileron trim tab actuator in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 27-105 dated October 19, 1973.

44. Applies to all Fokker F-27 airplanes. To detect and repair corrosion and cracks in the rear spar attachment fitting of the horizontal stabilizer, which possibly could lead to failure of the horizontal stabilizer, inspect the horizontal stabilizer rear spar attachment fittings for cracks and corrosion, and rectify as appropriate, in accordance with the Accomplishment Instructions of Fokker F-27 Service Bulletin No. 55-50, dated March 22, 1974, or in accordance with the Fokker F-27 maintenance schedule (part 3) and the Fokker F-27 inspection guide, chapter III.

45. Applies to airplanes S/N 10446 through 10504. To prevent premature unlocking of the hatrack panels, which possibly could jeopardize safety by interfering with an emergency evacuation, install panel fasteners of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 25-40, dated August 8, 1974.

46. Applies to Fokker F-27 airplanes incorporating an engine mount P/N 27.1-8101-000-403 with a serial number between 590 and 725. To prevent failure of the engine mount due to use of improper material when manufactured inspect the engine mount upper tubes for cracks adjacent to the welds, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 71-25, revision 1. dated January 30, 1975.

47. Applies to airplanes S/N 10105 through 10522. To prevent loss of aileron control due to an inadequate flange on an aileron cable drum, inspect cable drums, P/N 27.1-5133-002-702, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 27-54 (C-47), dated August 22, 1975.

48. Applies to airplanes S/N 10105 through 10516 incorporating aileron control rod P/N 27.1-1333/1334-001-401 or -403. To prevent possible disconnection of an aileron control rod from the differential sector due to failure of the control rod bearing, install bearings of improved design in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 27-110, revision 1, dated February 16, 1976.

49. Applies to airplanes S/N 10512 and below incorporating the large cargo door. To prevent unwanted opening of the large cargo door in flight due to wear and distortion, inspect the locking and signaling provisions, and rectify as appropriate, in accordance with part I of the accomplishment instructions of Fokker F-27 Service Bulletin No. 52-55, dated August 27, 1975, and reinforce the door stiffening profile in accordance with part II of that service bulletin.

50. Applies to Fokker F-27 airplanes incorporating rudders which have accumulated more than 5,000 flights. To detect possible cracks and loose rivets in the hinge structure of the rudder trim tab and balance tab, which could result in tab flutter and loss of rudder inspect the rudder tab hinge brackets for cracks and loose rivets, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 55-51, dated December 29, 1975.

51. Applies to airplanes S/N 10529, 10534, 10536 through 10541, having IPECO crew seats not incorporating IPECO Service Bulletin NO. A001-25-2. To prevent unwanted movement of crew seats in flight due to wear of the track lock stopblock, incorporate track lock stopblocks of improved design in accordance with the accomplishment instructions, part II, of Fokker F-27 Service Bulletin No. 25-43, dated September 6, 1976.

52. Applies to airplanes S/N 10505 and 10507 through 10515. To prevent instability of the DC generator control system due to interaction with the static inverters, which could result in malfunction of required navigation and communication equipment, modify the AC lighting conversion system in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 24-63, dated October 11, 1976.

53. Applies to airplanes S/N 10408 through 10510. To prevent loosening of the aileron stops due to improper design, which could adversely affect controllability because of improper aileron deflection, modify the aileron stop installations in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 27-112, dated October 18, 1976.

54. Applies to airplanes S/N 10458 and below not incorporating Fokker F-27 Service Bulletin No. 36-26 (Dunlop Service Bulletin No. 36-156). To prevent possible failure of pneumatic system isolating valve bodies, P/N ACM 16724 or ACM 26573 due to cracking, which could deprive the airplane of wheel braking and nosewheel steering, modify the isolating valve body in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 36-26, dated June 13, 1977, or Dunlop Service Bulletin No. 36-156, revision 4.

55. Applies to all Fokker F-27 airplanes having accumulated more than 10,000 flights. Compliance required within the next 500 hours time in service after the effective date of this AD. To detect possible fatigue cracks and loose rivets in the RH horizontal stabilizer torsion box, which could result in failure of the stabilizer, inspect the torsion box structure, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 55-53, dated October 3, 1977.

56. Applies to airplanes S/N 10505 through 10521, 10525 through 10531, 10534 through 10557, 10559, and 10561 through 10564. To prevent loss of the main instrument panel fluorescent lighting system due to short circuiting, inspect the fluorescent lamps, and rectify as appropriate, in accordance with the accomplishment instructions of Fokker F-27 Service Bulletin No. 33-24, dated January 30, 1978.

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. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Fokker-VFW b.v., P.O. Box 7600, Schiphol Oost, the Netherlands. These documents may also be examined at Federal Aviation Administration, Europe, Africa, and Middle East Region c/o American Embassy, Brussels, Belgium, and at FAA headquarters, 800 Independence Avenue SE., Washington, D.C. A historical file in this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and at Brussels, Belgium.

(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 11.85.)

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 Washington, D.C., on September 25, 1978.

[FR Doc. 78-27693 Filed 9-29-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 77-WE-29-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-9, -10, -20, -30, -40, -50 Series (Including Military C-9A, C-9B, and VC-9C) Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections and replacement of the wing flap idler hinge support fitting attachment studs at wing station X_w=333.148 on certain McDonnell Douglas DC-9 airplanes. These inspections and rework are necessary to prevent the hinge fitting from becoming loose and causing partial loss of flap and aileron control and damage to the spoiler and wing structure.

DATES: Comments must be received on or before December 8, 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.

The applicable service information may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: Director, Publications and Training, C1-750, (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, Room 6W14, Federal Aviation Administration, Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

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. Interested persons are also invited to comment on the economic environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted 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.

There have been reported instances of failures of the studs which attach the wing flap outboard idler hinge to the wing rear spar at wing station X_w=333.148. The hinge consists mainly of a support assembly (fitting) and a bracket, both units being joined by a hinge bolt about which the flap bracket, (and flap), pivots.

The support fitting is attached to the rear spar with four studs, two upper and two lower. The studs are made from 8740 steel (180-220 KSI heat treat) material, and threaded at both ends. One threaded end is for the purpose of securing the stud to the wing rear spar; the other threaded end is used to secure the hinge support fitting to the stud.

Preload indicating (PLI) washers are installed on the fitting end of the two lower studs, to obtain proper bolt preload.

The failure mode is such that the lower studs fail first, allowing the support fitting to rotate upwards during flap actuation, and subsequently, causing bending of the two upper studs. Rotation of the fitting allows the flap fixed vane to rub against the spoiler and wing trailing edge. Additionally, the aileron control cables pass through a hole in the support fitting. Excessive rotation of the fitting could cause the control cables to be broken or jammed.

The studs have a life limit of 50,000 landings, (reference: DC-9 TC data sheet A6WE, report MDC-J0005), and have been reported to have failed on airplanes having between 14,000 and 32,600 landings. The failures of the two lower studs are attributed to fatigue which initiated at the surface of the fuse and threaded areas, under load conditions precipitated by the combination of loss of preload and joint rigidity (clampup). The loss of preload and joint rigidity is attributed to the design of the existing "PLI" washer. The diameter and wall thickness of the washer inner-yield-ring is such that the ring, when installed, is in line with a cavity formed by the stud fuse area and the chamfer on the hinge fitting hole. Subsequently, loads applied to the inner ring will force the bottom washer to deflect into the cavity, in a cupping action, with the result that the nut is torqued against a washer in a "spring state". This condition in time, will result in the loss of preload and joint rigidity. If these types of cracks or failures are allowed to go undetected, they could result in structural damage to the spoiler, flap vane and wing structure, and possible loss of airleron control on the affected side if rotation of the support fitting causes jamming or breakage of the cables.

McDonnell Douglas DC-9 Service Bulletin 57-118 provides instructions for:

The inspection and replacement of the studs and PLI washers;

Ultrasonic inspection of the four studs;

Replacement of the two upper studs with new studs of original design;

Replacement of the two lower studs with new design studs made from Hy-Tuf (220-250 KSI Heat Treat) material; and,

The installation of new design PLI washers.

Since this condition is likely to exist or develop in other aircraft of the same type design, the proposed AD would require compliance with the inspection and stud replacement requirements of DC-9 Service Bulletin 57-118.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

MCDONNELL DOUGLAS: Applies to model DC-9-10, -20, -30, -40, -50 series airplanes, including (military C9A, C9B, and VC-9C) airplanes certificated in all categories, fuselage numbers F/N 1 thru F/N 880, which correspond to the factory serial numbers listed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

Compliance required as indicated. To detect fatigue cracks and/or failure of the wing flap outboard idler hinge support fitting attachment studs, accomplish the following:

(a) Within the next 850 landings after the effective date of this AD, or before accumulating 10,000 total landings, whichever occurs later, unless already accomplished within the last 2,550 landings and thereafter at intervals of 3,400 landings from the last inspection, accomplish the ultrasonic inspection in accordance with the instructions in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

NOTE.—Service Bulletin 57-118 dated November 4, 1977 is the only version of this Service Bulletin suitable for compliance with paragraphs (a) and (b) of this AD.

(b) If any one or more studs is found cracked or failed, or has accumulated 50,000 or more landings, before further flight:

1. Replace all four studs, two PLI washers and applicable attaching parts with new original design studs and PLI washers, and applicable attaching parts; or,

2. Replace all four studs, two PLI washers and applicable attaching parts with new studs, (upper two of original design and lower two of new design and higher heat treat), and two new design PLI washers, and applicable attaching parts, per option 1, paragraph 2D1, Accomplishment Instructions, as prescribed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

3. If new parts are installed per (b)1 above, the requirements of this Ad may be discontinued for that idler hinge(s) group of four attachment studs only, until the newly replaced parts have accumulated 10,000 landings, at which time reinstate the program of repetitive inspections and/or corrective actions per this AD.

4. The requirements per this AD may be terminated for that idler hinge(s) group of four attachment studs only, upon compliance with paragraph (b)(2) above, or upon installation of two lower studs of new design and two new design PLI washers, and applicable attaching parts, per option 1, paragraph 2.D.2., Accomplishment Instructions, as prescribed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

5. Compliance with this AD notwithstanding, attachment studs must be replaced in accordance with the schedule specified in Douglas Report MDC-J0005, "DC-9 Safe Life Limits" (Reference DC-9 TC Data Sheet A6WE).

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(d) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the initial and repetitive inspection intervals 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.

(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 September 20, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-27691 Filed 9-29-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-SO-35]

PROPOSED ALTERATION OF CONTROLLED AIRSPACE

Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Florida Transition Area, the South Atlantic Additional Control Area and the South Florida Additional Control Area by redefining the Florida Transition Area and the South Atlantic Area boundaries and by changing the lower limits of the three areas to 1,200 feet. This action would provide additional controlled airspace to serve instrument flight rules (IFR) helicopter operations and would simplify the area description.

DATES: Comments must be received on or before October 25, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 78-SO-35, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24) Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

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 triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. 20636, Atlanta, Ga. 30320. All communications received on or before October 25, 1978 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted 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 notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would redefine the Florida Transition Area and the South Atlantic Additional Control Area. Also, the proposed amendment would reduce the lower limits of these areas and the South Florida Additional Control Area to 1,200 feet. The cumbersome definition of the Florida Transition Area would be reduced to a simple one sentence description. Use of geographic coordinates to redefine the South Atlantic Control Area would precisely describe the area without references to adjacent areas for its boundaries. The reduction of the lower limits of the areas would provide additional controlled airspace for IFR operations at Vero Beach, Fla., and helicopter flights offshore.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by article 12 of and annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic.

Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of annex 11 and its standard and recommended practices. As a contracting state, the United States agreed by article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Drafting Information

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 348 and 440) as follows:

In § 71.163, under South Atlantic, the text is amended to read as follows:

That airspace extending upward from 1,200 feet MSL bounded by a line beginning at lat. 24°00'00" N., long. 80°56'20" W.; to lat. 24°45'40" N., long. 80°48'00" W.; thence northward 3 NM from and parallel to the shoreline to lat. 35°29'30" N., long. 75°24'50" W.; to lat. 34°21'18" N., long. 73°58'53" W.; thence southward along the New York Oceanic CTA/FIR boundary to lat. 32°15'00" N., long. 77°00'00" W.; to lat. 27°00'00" N., long. 77°00'00" W.; to lat. 27°00'00" N., long. 78°53'00" W.; to lat. 26°27'00" N., long. 79°00'00" W.; to lat. 24°40'00" N., long. 79°00'00" W.; to lat. 24°00'00" N., long. 78°00'00" W.; thence to point of beginning.

Under South Florida, "from 2,000 feet" is deleted and "from 1,200 feet" is substituted therefor.

In § 71.181, under Florida, the text is amended to read as follows:

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Florida including the offshore airspace within 3 nautical miles of and parallel to the shoreline of Florida.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA 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 Washington, D.C., on September 21, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-27692 Filed 9-29-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-ANW-18]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the 700-foot transition area airspace in the vicinity of Redmond, Oreg. The alteration would result in an expansion of controlled airspace in that area. The alteration is needed because the present 700-foot transition area in inadequate to provide controlled airspace protection for aircraft executing the proposed ILS instrument approach procedure to Roberts Field, Redmond, Oreg.

DATES: Comments must be received on or before October 29, 1978.

ADDRESSES: Send comments on the proposal, in triplicate, to: Chief, Operations, Procedures, and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108. The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist, Operations, Procedures, and Airspace Branch (ANW-533), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108; telephone 206-767-2610.

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 triplicate to the Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before October 29, 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 official docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Chief, Operation, Procedures and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108 or by calling 206-767-2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) to alter the 700-foot transition area at Redmond, Oreg. An ILS instrument approach procedure to runway 22, Roberts Field, Redmond, Oreg., is being established and additional 700-foot transition area is required to encompass the procedure turn. Accordingly, the Federal Aviation Administration proposes to amend subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) as follows:

Section 71.181 is amended as follows:

Redmond, Oreg.

In § 71.181, subpart G, Redmond, Oreg., delete lines 1 and 2 and that portion of line 3 ending with "21 miles east of the VORTAC" and substitute the following: "That airspace extending upward from 700 feet above the surface within 2 miles north and 13.5 miles south of the Redmond

VORTAC 059 radial to 33 miles east of the VORTAC.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration 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 an implemented by interim Department of Transportation guidelines (43 FR 9582, Mar. 8, 1978).

Issued in Seattle, Wash., on September 19, 1978.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 78-27447 Filed 9-29-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[EDR-350B, EDR-359A, Docket Nos. 32318 and 33093]

[14 CFR Parts 291, 296]

GENERAL RULES FOR ALL-CARGO AIR CARRIERS, CLASSIFICATION AND EXEMPTION OF AIR FREIGHT FORWARDERS, INTERNATIONAL AIR FREIGHT FORWARDERS AND COOPERATIVE SHIPPERS ASSOCIATIONS

Oral Argument

SEPTEMBER 25, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of oral argument.

SUMMARY: This notice advises interested persons that the Board will hold oral argument at its offices on the tariff and other issues involved in the proposed rules in ERD-350 and ERD-359 on air freight forwarders and domestic air freight direct carriers, respectively. The Board is scheduling this oral argument on its own initiative.

DATES: Written requests by: October 6, 1978. Oral argument on: October 19, 1978.

ADDRESSES: Written requests to speak at the oral argument should be sent to: Phyllis T. Kaylor, Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. The oral argument will be held at 2 p.m., in room 1027, at 1825 Connecticut Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

On the proposed rules—Teresa A. Smith, 202-673-5083, or Stephen Babcock, 202-673-5442; on the oral argument—Phyllis T. Kaylor, 202-673-5068, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

By ERD-350 (43 FR 15720, April 14, 1978) and ERD-359 (43 FR 33733, Aug. 1, 1978) we issued proposed rules to govern the operations of air freight forwarders and domestic air freight direct carriers, respectively. The rules proposed in ERD-350 and ERD-359 will, if adopted, remove most of our regulatory requirements for these segments of the aviation industry.

Many of the public comments that we have received oppose the elimination of the requirement that these classes of carriers file tariffs with the Board. We have decided to hear oral argument on this issue before we decide what action to take. While we are particularly interested in the tariff question, we are also interested in hearing the views of the public on any other matters at issue in these two cases.

Anyone who wishes to appear should send a written request to the address shown on this notice, by the date indicated. The letter should state briefly the issues to be discussed and the positions to be taken. Depending on the responses, our staff may establish separate panels of speakers.

Since the time we can devote to oral argument is necessarily limited, we cannot guarantee that all persons wishing to speak will be able to do so. We therefore encourage joint presentations by persons with the same position.

All persons requesting time to speak will be notified of the amount of time allotted to them and how the oral argument will be conducted.

(Secs. 204(a), 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788 (49 U.S.C. 1324 and 1481).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27658 Filed 9-29-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4566]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Drain, Douglas County, Oreg.

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 Drain, Douglas County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at City Hall, City Administrator's Office, Drain, Oreg. Send comments to: Hon. Leroy Farley, Mayor, City of Drain, P.O. Box 158, Drain, Oreg. 97435.

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 Drain, Oreg., 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
Elk Creek	Pir St.—20 ft*	287
	Cedar St.—100 ft*	291
	Footbridge—100 ft*	294
	Southern Pacific RR.—100 ft*.	296
Pass Creek	Southern Pacific RR.—20 ft*.	293
	B St.—100 ft*	296

*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 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27366 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4567]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Elkton, Douglas County, Oreg.

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 Elkton, Douglas County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at City Hall, Elkton, Oreg. Send comments to: Hon. Larry Morrison, Mayor, City of Elkton, P.O. Box 508, Elkton, Oreg. 97436.

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 Elkton, Oreg., 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
Umpqua River	2,400 ft downstream of confluence with Elk Creek.	117
	720 ft downstream of confluence with Elk Creek.	119
Elk Creek	State Highway 38-40 ft upstream of centerline.	120

(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: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27367 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4568]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Marion County, Oreg.

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 Marion County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at Marion County Courthouse, Salem, Oreg. Send comments to: Mr. Pat McCarthy, Chairman, Marion County Commission, Marion County Courthouse, Salem, Oreg. 97301.

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 Marion County, Oreg., 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 require-

ments 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
Willamette River ..	Butteville Rd.—20 ft*.....	96
	City of Salem corporate limits—First downstream crossing.	137
	City of Salem corporate limits—Fourth crossing.	145
Santiam River	Interstate Highway 5—20 ft*.	202
	Jefferson corporate limits—50 ft downstream from downstream crossing.	218
	Jefferson corporate limits—50 ft upstream from upstream crossing.	224
	Confluence with North Santiam River.	231
North Santiam River.	Green Bridge Rd.—100 ft*.	256
	South 1st Ave.—50 ft*.....	439
	City of Mill City corporate limits—100 ft downstream from downstream crossing.	787
	City of Mill City corporate limits—100 ft upstream from upstream crossing.	824
	City of Gates corporate limits—20 ft downstream from downstream crossing.	894
	City of Gates corporate limits—100 ft upstream from upstream crossing.	907
Pudding River	Southern Pacific RR.—20 ft*.	100
	Pacific Highway—20 ft*.	102
Mill Creek (near Woodburn).	Hubbard-Boones Ferry Rd.—20 ft*.	138
	Broadacres Rd.—50 ft* ...	141
	Crosby Rd.—20 ft*.....	150
	Belle Passi Rd.—20 ft*....	173
Senegal Creek.....	City of Woodburn corporate limits—25 ft downstream from downstream crossing.	160
	City of Woodburn corporate limits—25 ft upstream from upstream crossing.	167
	Hillsboro Silverton Highway 214—50 ft*.	167
Butte Creek	Scotts Mills corporate limits—25 ft downstream from downstream crossing.	379
	Scotts Mills corporate limits—25 ft upstream from upstream crossing.	460
Silver Creek	Bush Creek Rd—50 ft* ...	170
	Silverton corporate limits—50 ft downstream from downstream crossing.	219
	Silverton corporate limits—50 ft upstream from upstream crossing.	258
	Central St.—40 ft*.....	267
	Peach St.—50 ft**.....	276
	Peach St.—50 ft*.....	280
	Private Road—Second crossing—50 ft*.	317
Turner Bypass.....	Confluence with Mill Creek.	278
	Turner Cloverdale Rd—25 ft*.	282
Beaver Creek	Confluence with Mill Creek—100 ft*.	304
	75th Pl. SE.—50 ft*	324
	Olney St. SE.—100 ft*.....	335
	Aumsville Highway SE.—50 ft*.	341
	Southern Pacific RR.—75 ft*.	351
	Shaw Aumsville Rd.—100 ft*.	354
Mill Creek	Interstate 5—50 ft*.....	221
	Battle Creek Rd.—20 ft*	277
	Confluence with Turner Bypass.	278
	Turner Marion Rd.—20 ft*.	295
	Confluence with Beaver Creek.	303
	75th Pl. SE.—50 ft*	324
	West Stayton-Aumsville Rd.—50 ft*.	356
	Southern Pacific RR.—20 ft*.	362
	Bishop Rd.—10 ft*.....	373
	Private road—First crossing—50 ft*.	383
	Golf Club Rd.—20 ft*	409
	1st Ave.—75 ft*.....	445
	North Santiam Highway 22—100 ft*.	448

* Upstream of centerline.
** Downstream 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: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27368 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4569]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Riddle, Douglas County, Oreg.

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 Riddle, Douglas County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at City Hall, 647 First Avenue, Riddle, Oreg. Send comments to: Ms. Ione K. Rice, City Recorder, City of Riddle, P.O. Box 143, Riddle, Oreg. 97469.

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 Riddle, Oreg., 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
Cow Creek	Downstream corporate limits.	669
	Main St.—20 ft upstream of centerline.	672

(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 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27369 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4570]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Brady, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Brady, Lycoming County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at the Brady Community Center, R.F.D. 2, Montgomery, Pa. 17752. Send comments to: Mr. Harry C. Bryson, Chairman of Brady, R.F.D. 2, Montgomery, Pa. 17752.

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 township of Brady, Lycoming County, Pa. 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
West Branch Susquehanna River.	Downstream corporate limits.	488
	Confluence of Black Run.	488
	Upstream corporate limits.	489

(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: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27370 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4571]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Everson, Fayette County, Pa.

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 Borough of Everson, Fayette County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 Everson Borough Building, Brown Street, Everson, Pa. 15631. Send comments to: Hon. Joseph V. Eckman, Mayor of Everson, Brown Street, Everson, Pa. 15631.

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 Borough of Everson, Fayette County, Pa. 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
Jacobs Creek.....	2,500 ft downstream of State Route 110.	1,027
	State Route 110	1,028
	Conrail.....	1,029
	Brown Street.....	1,029
	Upstream corporate limits.	1,031

(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: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27371 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4572]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Leet, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Leet, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at the Leet Township Building, 198 Ambridge Avenue, Fair Oaks, Pa. 15003. Send comments to: Mr. Anthony Persuytti, Chairman of the Board of Commissioners of Leet, 309 Ambridge Avenue, Fair Oaks, Pa. 15003.

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 Township of Leet, Allegheny County, Pa. 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
Big Sewickley Creek.	Downstream corporate limits.	711
	Approximately 2,900 ft above downstream corporate limits.	711
	Short St.....	717
	Intersection of Heely St. and Eckert St.	719
	Intersection of Willow St. and Heely St..	720
	Frank St. (extended)	722
	Upstream corporate limits.	726

(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: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27372 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4573]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Millvale, Allegheny County, Pa.

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 Borough of Millvale, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at the Millvale Borough Building, 501 Lincoln Avenue, Millvale, Pa. Send comments to: Mr. Karl Seidl, President of the Council of Millvale, 44 Lawrence Street, Millvale, Pa. 15209.

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 Borough of Millvale, Allegheny County, Pa. 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
Allegheny River	Upstream corporate limits.	739
	Downstream corporate limits.	738
Girty's Run	Upstream corporate limits.	793
	Evergreen Ave (upstream).	790
	North Ave (upstream)	778
	Frederick St (downstream).	765
	Klopper St (upstream)	757
	Fremont St (upstream)	747
	Sherman St (upstream)	738
	Bennett St (downstream).	734

(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: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27373 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4574]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Municipality of Monroeville, Allegheny County, Pa.

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 Municipality of Monroeville, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at the Monroeville Municipal Building, 2700 Monroeville Boulevard, Monroeville, Pa. 15146.

Send comments to: Mr. Marshall W. Bond, Municipal Manager of Monroeville, 2700 Monroeville Boulevard, Monroeville, Pa. 15146.

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 Municipality of Monroeville, Allegheny County, Pa., 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
Turtle Creek	Confluence with Abers Creek.	844
	Upstream corporate limits.	791
	Dam at Westinghouse (upstream).	780
	Dam at Westinghouse (downstream).	778
	Confluence of Brush Creek.	777
	Mosside Blvd. (upstream).	768
	Wall Borough Bridge (upstream).	750
West Thompson Run.	Union RR	948
	Thompson Run Rd. (upstream).	885
	Frey Rd. (upstream)	884
	Confluence with Leak Run.	866
	South McCully Dr. (upstream).	859
	Private Drive 2,450 ft downstream from South McCully Dr. (upstream).	840
	U.S. Route 22 (upstream).	828
	Private drive 1,750 ft downstream from U.S. route 22 (upstream).	809
	Newton Rd. (upstream)	808
	Buena Vista Dr. (upstream).	788
	Downstream corporate limits.	767
Leak Run	Private road 1,950 ft upstream from Evergreen Dr. (upstream).	1,003
	Private road 850 ft upstream from Evergreen Dr. (upstream).	987
	Evergreen Dr. (upstream).	970
	Old William Penn Highway (upstream).	959
	Confluence with West Thompson Run.	866
Unnamed stream along Mosside Blvd.	Private drive 830 ft upstream from State Route 130.	799
	State Route 130 (upstream).	785
Dirty Camp Run	Park Bridge (upstream).	848
	Downstream corporate limits.	836
Abers Creek	Upstream corporate limits.	937
	Municipal road (upstream).	923
	Golden Mile Highway (upstream).	895
	Old Abers Creek Rd. (upstream).	890
	U.S. Route 22 (upstream).	886
	Confluence of East Thompson Run.	878
	Upstream Abers Creek Rd. (upstream).	859
	Downstream Abers Creek Rd. (upstream).	852
	Confluence of Turtle Creek.	844
East Thompson Run.	Upstream U.S. Route 22 (upstream).	965
	Downstream U.S. Route 22 (upstream).	928
Piersons Run	Old Abers Creek Rd	935
	Confluence of Abers Creek.	935

(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: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27374 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4575]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Nescopeck, Luzerne County, Pa.

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 borough of Nescopeck, Luzerne County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at the Nescopeck Zoning Office, 701 East First Street, Nescopeck, Pa. 18635. Send comments to: Mr. Charles O. Van Aken, President of the Council of Nescopeck, 835 East Second Street, Nescopeck, Pa. 18635.

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 borough of Nescopeck, Luzerne County, Pa., 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
Susquehanna River.	State Route 93	500
	Upstream corprate limits (extended).	503
Nescopeck Creek	Downstream corporate limits.	499
	Legislative Route 40017	501
	Upstream corporate limits.	504

(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: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27375 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4576]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Orangeville, Columbia County, Pa.

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 borough of Orangeville, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at the Orangeville Borough Building, Mills Street, Orangeville, Pa. 17859. Send comments to: Mr. Robert Miller, Jr., president of the Council of Orangeville, Main Street, Orangeville, Pa. 17859.

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 borough of Orangeville, Columbia County, Pa., 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
Fishing Creek	Downstream corporate limits.	572
	Upstream corporate limits.	577

(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: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27376 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4577]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of South Versailles, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based (100-year) flood elevations listed below for selected locations in the Township of South Versailles, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at the South Versailles Municipal Building, Tourman Street, South Versailles, Pa. 15131. Send comments to: Mr. Edward Toperzer, President of Commissioners of South Versailles, 111 Horseshoe Drive, Mckeesport, Pa. 15131.

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 Township of South Versailles, Allegheny County, Pa. 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
Youghiogheny River.	Downstream corporate limits.	752
	Eight St	755
	Third St	756
	Upstream Corporate Limits.	758

(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: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27377 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4578]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Wilmerding, Allegheny County, Pa.

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 Borough of Wilmerding, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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 flood elevations are available for review at the Borough of Wilmerding Secretary's Office, Commerce and Station Streets, Wilmerding, Pa. 15148. Send comments to: Mr. James Donner, President of the Council of Wilmerding, P.O. Box 338, Wilmerding, Pa. 15148.

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 Borough of Wilmerding, Allegheny County, Pa. 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
Turtle Creek	Upstream corporate limits.	748
	Wabco Bridge Upstream Side.	748
	Downstream corporate limits.	737

(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: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27378 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4579]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mason, Mason County, Tex.

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 Mason, Mason County, Tex. 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 flood elevations are available for review at City Hall, 124 Moody Street, Mason, Tex. 76856. Send comments to: Mayor Willard Aubrey or Mr. J. Brown, City Secretary, City Hall, 124 Moody Street, Mason, Tex. 76856.

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 Mason, Mason County, Tex., 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
Comanche Creek...	Just downstream of Bickenbach Ave.	1518
	Just downstream of Spring St.	1133
	Mulberry St. (extended)	1547
Gamels Branch	Just upstream of Live Oak St.	1532
	Just downstream of Pecan St.	1544
	Just downstream of Rainey St.	1580
Koocks Branch.....	Just downstream of Robin Ave.	1543
	Just downstream of Ave. F.	1560
Comanche Creek Tributary No. 1.	Northern corporate limits.	1530
Comanche Creek Tributary No. 2.	Just downstream of Mulberry St.	1553
	At Northern corporate limits.	1566

(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: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27379 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4580]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Pownal, Bennington County, Vt.

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 Pownal, Bennington County, Vt. 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 flood elevations are available for review at the Pownal Town Office, Pownal, Vt. 05261. Send comments to: Mr. Bruce Barrington, Chairman of the Board of Selectmen of Pownal, Pownal Town Office, Pownal, Vt. 05261.

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 town of Pownal, Bennington County, Vt. 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
Hoosic River	Upstream corporate limits.	566
	Confluence of Ladd Brook.	545
	Pownal Bridge (upstream).	542
	Pownal Tannery Dam (upstream).	529
	Pownal Tannery Dam (downstream).	518
	Confluence of Potter Hollow Brook.	507
	Boston & Maine Railroad Bridge (upstream).	499
	Downstream Corporate Limits.	494
Potter Hollow Brook.	State Route 346 Bridge (upstream).	524
	Confluence with Hoosic River.	507
Ladd Brook	Boston & Maine Railroad Culvert.	555
	Private Drive 170 feet downstream from Boston & Maine Railroad Culvert (upstream).	550

(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: September 6, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-27380 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4554]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Benton City, Benton County, Wash.

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 Benton City, Benton County, Wash. 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 flood elevations are available for review at the Town Hall, Division Street, Benton City, Wash. Send comments to: Hon. Webb Bateman, Mayor, town of Benton City, P.O. Box 218, Benton City, Wash. 98320.

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 Benton City, Wash., 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
Yakima River	Union Pacific Railroad Bridge-100 feet*.	469
	8th Street-100 feet*	474

* 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: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27381 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4555]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Connell, Franklin County, Wash.

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 Connell, Franklin County, Wash. 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 flood elevations are available for review at the town Hall, Connell, Wash. Send comments to: Hon. John A. Larson, Mayor of Connell, 122 North Columbia Avenue, Connell, Wash. 99326.

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 Connell, Franklin County, Wash. 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. 2001-4128, 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
Esquatzel Coulee...	Lower Corporate Limits.	836
	Adam Street	841
	Clark Street	842
	Burlington Northern Railway.	846

(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: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27382 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4556]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Kahlotus, Franklin County, Wash.

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 Kahlotus, Franklin County, Wash. 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 flood elevations are available for review at the Kahlotus City Hall, Kahlotus, Washington 99335. Send comments to: Hon. Lavone Ekenbarger, Mayor of Kahlotus, Kahlotus, Wash. 99335.

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 Kahlotus, Franklin County, Washington 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
Kahlotus Creek.....	Downstream Corporate Limits (North Bank).	886
	Downstream Corporate Limits (South Bank).	889
	Spokane Avenue.....	892
	Union Pacific Railroad...	895
	Washington Route 260...	897
	Upstream Corporate Limits.	912

(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: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27383 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4557]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of West Richland, Benton County, Wash.

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 West Richland, Benton County, Wash. 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 flood elevations are available for review at Town Hall, 3805 Van Giesen Street, West Richland, Washington. Send comments to: Hon. Frederick Burton, Mayor, Town of West Richland, Town Hall, 3805 Van Giesen Street, West Richland, Wash. 99352.

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 West Richland, Wash. 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
Yakima River	West Van Giesen Street—50 ft upstream of centerline.	374
	Upstream Corporate Limits.	378

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

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27884 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4558]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Belington, Barbour County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Belington, Barbour County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Belington Clerk's Office, Belington City Hall, Belington, W. Va. 26250. Send comments to: Hon. William Williams, Mayor of Belington, Belington City Hall, Box 26, Belington, W. Va. 26250.

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 Belington, Barbour County, W. Va., 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 Creek	Corporate limits	1,701
	Willow St	1,701
	U.S. Highway 250	1,700
	Conrail.....	1,700
Tygart Valley River.	Corporate limits (south)	1,707
	Corporate limits (north)	1,697

(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 dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27385 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4559]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Hinton, Summers County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hinton, Summers County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Hinton City Hall, Hinton, W. Va. 25951. Send comments to: Hon. W. J. Humphreys, Mayor of Hinton, Box 477, 322 Summers Street, Hinton, W. Va. 25951.

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 Hinton, Summers County, W. Va., 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
New River	Upstream corporate limit.	1,378
	State Route 3 downstream.	1,376
	State Route 20 upstream.	1,366
	Downstream corporate limit.	1,342
Greenbrier River	State Route 13 upstream.	1,392
	State Route 107 downstream.	1,376

(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: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27386 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4560]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Morgantown, Monongalia County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Morgantown, Monongalia County, W.Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Engineer's Office, Morgantown, W.Va. Send comments to:

Mr. George French, City Manager of Morgantown, 389 Spruce Street, Morgantown, W. Va. 26505.

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 Morgantown, Monongalia County, W. Va. 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
Monongalia River	Downstream corporate limits.	810
	U.S. Route 19	813
	Upstream corporate limits.	820
Deckers Creek	Downstream corporate limits.	813
	Deckers creek road	813
	Monogalia County route 64.	845
	Carnegie street	861
	Upstream corporate limits.	879
Cobum Creek	Downstream corporate limits.	820
	U.S. Route 19	820
	Green Bag road	901
	Upstream corporate limits.	909
Aaron Creek	Downstream corporate limits.	842
	Upstream corporate limits.	848
Knocking Run	Downstream corporate limits.	851
	Sturgis road	864
	Dug Hill road	865
	Monongalia County route 68.	868

(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: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27387 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4561]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mullens, Wyoming County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Mullens, Wyoming County, W.Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Hall, Mullens, W.Va. 25882. Send comments to: Honorable Paul Clowers, Mayor of Mullens, Mullens City Hall Mullens, W. Va. 25882.

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 Mullens, Wyoming County, West Virginia 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
Guyandotte River	Corporate Limits Upstream.	1,429
	N & W Railroad Upstream.	1,422
	W. Va. Route 16 Downstream.	1,412
	Corporate Limits Downstream.	1,400
Slab Fork Creek	Corporate Limits	1,502
	Morgan Avenue Upstream (South of intersection of Trace Street).	1,484
	Confluence with Terry Branch Upstream.	1,464
	Norfork and Western Railroad downstream.	1,457
	Morgan Avenue Upstream (North of Intersection with Phillips Street).	1,448
	Morgan Avenue Upstream (North of intersection with Water Street.	1,422
	At confluence with Guyandotte River.	1,411

(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: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27388 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4562]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Peterstown, Monroe County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Peterstown, Monroe County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Peterstown Town Hall, Box 487, Peterstown, W. VA. 24963. Send comments to: Honorable Osby Harvey, Mayor of Peterstown, Peter-

stown Town Hall, Peterstown, W. Va. 24963.

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 Peterstown, Monroe County, W. Va. 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
Brush Creek	Mill street	1,622
	Upstream corporate limits.	1,677
Rich Creek	Market street	1,596
	Confluence of Scott Branch.	1,609
	Market street	1,624
	Thomas street	1,669
Scott Branch	Confluence with Rich Creek.	1,609
	D street	1,626

(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: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27389 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4563]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the town of Rowlesburg, Preston County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Rowlesburg, Preston County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Rowlesburg Fire Hall, Rowlesburg, W. Va. 26425. Send comments to: Hon. Robert B. Kline, Mayor of Rowlesburg, Box 55, Rowlesburg, W. Va. 26425.

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 Rowlesburg, Preston County, W. Va., 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
Cheat River	Downstream Corporate Limits.	1,379
	Maple Avenue	1,388
	Chessie System	1,389
	Upstream Corporate Limits.	1,393
Saltlick Creek	Confluence with Cheat River.	1,389
	Chessie System	1,390
	State Route 51 Bridge	1,406
	Upstream Corporate Limits.	1,440

(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: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27390 Filed 9-29-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4564]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Ashwaubenon, Brown County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Ashwaubenon, Brown County, Wis. 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 flood elevations are available for review at Village Office, 580 Cormier Road, Green Bay, Wis. Send comments to: Mr. John Monfont, Jr., President, Village of Ashwaubenon, Village Office, 580 Cormier Road, Green Bay, Wis. 54304.

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 Village of Ashwaubenon, Wis., 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
Dutchman Creek...	County Highway "H"	589
	State Highway 32 and U.S. Highway 41.	591
	Oneida Street.....	595
Ashwaubenon Creek.	State Highway 32 and U.S. Highway 41.	586
	Glory Road.....	590
	County Highway "G"	594

(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: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27391 Filed 9-27-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4565]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Manderson, Big Horn County, Wyo.

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 Manderson, Big Horn County, Wyo. 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 flood elevations are available for review at Town Hall, Manderson, Wyo. Send comments to: Hon. Ralph Patrick, Mayor, Town of Manderson, Box 123, Manderson, Wyo. 82432.

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 Manderson, Wyo., 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
Bighorn River.....	U.S. Highway 20—100 ft upstream from centerline.	3,897
Nowood River.....	Corporate limits—370 ft upstream of Marshall St. bridge.	3,902
	Intersection of Sherman Ave. and 1st St.	3,902

		Depth, feet above ground
Bighorn River.....	Centre Ave. and 2nd St—100 ft north of intersection.	2

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

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-27392 Filed 9-27-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 175]

[46 CFR Part 25]

[CGD 76-082]

VENTILATION OF BOATS

Engine and Fuel Compartments on Recreational Boats

AGENCY: U.S. Coast Guard, DOT.

ACTION: Extension of comment period for proposed rule.

SUMMARY: The Coast Guard published a proposed rule (CGD 76-082) in the FEDERAL REGISTER of July 27, 1978, that would require recreational boats to comply with certain regulations for ventilating engine and fuel compartments. Voluntary standards organizations have been conducting tests to determine the feasibility of these proposed rules. The tests have been to extensive for the organizations to complete prior to the date of the end of the comment period. For this reason the Coast Guard has been requested to extend the comment period by 30 days. The Coast Guard agrees that the extension should be granted. This is in the boating interest to have as much information as possible available before establishing the final rule. Consequently, the comment period will be extended to October 30, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 76-082), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION:

Mr. Lars Granholm. U.S. Coast Guard, Office of Boating Safety (G-BBT), Room 4313, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4027.

DRAFTING INFORMATION

The prinicpal persons involved in drafting this proposal are: Mr. Lars Granholm, Project Manager, Office of Boating Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

(Sec. 5, 85 Stat. 215 (46 U.S.C. 1454); 49 CFR 1.46(n)(1).)

Dated: September 21, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc. 78-27790 Filed 9-29-78; 8:45 am]

[8320-01]

VETERANS' ADMINISTRATION

[38 CFR Part 21]

VETERANS EDUCATION

Overpayments; Waiver or Recovery

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: Although the law states that a school may be held liable in certain instances for overpayments of educational assistance made to veterans and eligible persons, it is essential that the school not be held liable without adequate due process of law. It is proposed to amend the regulation dealing with this matter to strengthen and broaden due process.

Specifically, the concept of prima facie evidence of school liability, requiring rebuttal by a school, has been eliminated and replaced by the concept that a school may be potentially liable for an overpayment. Provision is made for the establishment of a Committee on School Liability in each VA field station having jurisdiction over schools with approved courses. Schools are entitled to hearings before these committees as well as prehearing conferences. Schools are given the right to appeal the decisions made by these committees. A School Liability Appeals Board is established in the Veterans Administration Central Office for the purpose of considering these appeals. This Board replaces the Central Office School Liability Review Board.

This amendment will serve to strengthen and broaden due process to a school when the Veterans Administration is considering whether a school can be held liable for overpayments of educational assistance made to veterans and other eligible persons.

DATE: Comments must be received on or before November 28, 1978. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the above address during normal business hours until December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: On page 36484 of the FEDERAL REGISTER of July 15, 1977, there was published a notice of regulatory development to amend 38 CFR Part 21 relative to the recovery of overpayments. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. As a result of the comments received, and internal analysis, the Veterans Administration has decided to withdraw the proposal which was published on July 15, 1977, and to publish a new proposal for further comment. The proposal is based on section 1785, title 38, United States Code.

Section 21.4009(b) is amended to eliminate the concept of prima facie evidence of school liability for an overpayment. Furthermore, specific mention is made of the fact that the Veterans Administration will consider other pertinent factors before deciding that a school is potentially liable for an overpayment.

Section 21.4009(c) is amended to require each field station having jurisdiction over schools with approved courses to establish a Committee on School Liability. This committee will decide whether a school is liable for an overpayment. This function has been under the jurisdiction of the station's Committee on Waivers and Compromises.

Section 21.4009(d) is amended to eliminate the concept of prima facie evidence of liability for an overpayment and to provide that a school will receive complete notice when it is determined that it is potentially liable for an overpayment.

Section 21.4009(e) is amended to provide that a school is entitled to a hearing preceded by a prehearing conference before any decision is made as to its liability for an overpayment.

Section 21.4009(f) is the new designation for material previously contained in § 21.4009(e).

Section 21.4009(g) is amended to require that a school be provided with notice of any decision of a Committee on School Liability.

Section 21.4009(h) is amended to allow a school to appeal a committee decision to a School Liability Appeals Board in Washington. Previously, a school had no right of appeal of a decision made at a Veterans Administration field station, although it could request an administrative review.

Section 21.4009(i) is amended to provide a summary of the actions the School Liability Appeals Board may take when it is considering an appeal.

Section 21.4009(j) is added to state that a decision of the School Liability Appeals Board is final.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, until December 8, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: September 25, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 21.4009, paragraphs (b) through (i) are revised and paragraph (j) is added so that the revised and added material reads as follows:

§ 21.4009 Overpayments; waiver or recovery.

* * * * *

(b) *Reporting.* If a school is required to make periodic or other certifications, failure to report, or to report timely, facts which resulted in an overpayment may be considered in determining whether a school is potentially liable for the overpayment. Similarly, the submission of an incorrect certification as to fact may be considered in determining whether a school is potentially liable for the overpayment. In either instance consideration will be given to other pertinent factors such as allowing for occasional clerical error or occasional administrative error; the school's past reliability in reporting; the adequacy of the school's reporting system; and the extent of noncompliance with reporting requirements.

(c) *Committee on School Liability.* Each Veterans Administration field station having jurisdiction over schools with courses approved under chapters 32, 34, 35 and/or 36, title 38, United States Code shall establish a Committee on School Liability. The Committee or a panel designated by the Committee chairperson and drawn from the Committee, is authorized to find whether a school is liable for an overpayment.

(d) *Initial determination.* The Adjudication Officer of the Veterans Administration field station of jurisdiction will determine whether there is evidence that would warrant a finding that the school is potentially liable for an overpayment. When the decision is in the affirmative, the Finance Officer of the Veterans Administration field station of jurisdiction will notify the school in writing of the Veterans Administration's intent to apply the liability provisions of paragraph (a) of this section. The notice will identify the students overpaid and will set out in each student's case the actions or omissions by the school which resulted in the finding that the school was potentially liable for the overpayment. The notice will also state that a determination of liability will be made on the basis of the evidence of record, unless additional evidence or a request for a hearing is received within 30 days of the date of receipt of such notice by the school.

(e) *Hearings.* A school is entitled to a hearing before a panel drawn from the Committee on School Liability before a decision is made as to whether it is liable for an overpayment. Every hearing will be preceded by a prehearing conference unless the conference is waived by the school. The Committee on School Liability will consider all evidence and testimony presented at the hearing.

(f) *Extent of liability.* Waiver of collection of an overpayment as to a veteran or eligible person will not relieve the school of liability for the overpayment. Recovery in whole or in part from the veteran or eligible person will limit such liability accordingly. If an overpayment has been recovered from the school and the veteran or eligible person subsequently repays the amount in whole or in part, the amount repaid will be reimbursed to the school.

(g) *Notice to school.* The school shall be notified in writing of the decision of the Committee on School Liability. If the school is found liable for an overpayment, the school also will be notified of the right to appeal the decision to the Central Office School Liability Appeals Board within 60 days from the date of the letter to the school containing notice of the decision. The 60-day time limit may be extended to 90 days at the discretion of the chairperson of the Committee on School Liability. The appeal must be in writing setting forth fully the alleged errors of fact and law. If an appeal is not received within the 60-day time limit, the Committee decision is final.

(h) *Appeals.* An appeal will be forwarded to Central Office where it will be considered by the School Liability Appeals Board. The Board's decision will serve as authority for instituting collection proceedings, if appropriate, or for discontinuing collection proceedings instituted on the basis of the original decision of the Committee on School Liability in any case where the Board reverses a decision made by the Committee that the school is liable.

(i) *Review.* Review by the School Liability Appeals Board is limited to the issues raised by the school and shall be on the record and not de novo in character. The Board may affirm, modify or reverse a decision of the Committee on School Liability or may remand an appeal for further consideration by the appropriate Committee on School Liability. If new and material evidence is discovered while the School Liability Appeals Board is considering a case, the Board may remand the case to the appropriate Committee on School Liability.

(j) *Finality of decisions.* The School Liability Appeals Board has authority to act for the Administrator in deciding appeals concerning a school's liability for an overpayment. There is no right of additional administrative appeal of a decision of the School Liability Appeals Board.

§ 21.4009 [Amended]

2. The cross-reference following § 21.4009 is deleted.

[FR Doc. 78-27654 Filed 9-29-78; 8:45 am]

[8320-01]

[38 CFR Part 36]

LOAN GUARANTY

VA Payment of Interst to Investors—Repurchase of Vendee Loans

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration is proposing to amend its regulation relating to the expenses that the Veterans Administration will pay an investor when repurchasing a defaulted vendee loan from that investor. The adoption of this proposal should give investors who have purchased loans from the Veterans Administration greater latitude in servicing defaulted loan accounts. The Veterans Administration expects that the adoption of this amendment will reduce the number of loans in default which the Veterans Administration must repurchase from investors. The Veterans Administration also is proposing to update the titles of the Veterans Administration officers with authority to sell, assign, transfer, and repurchase loans.

DATES: Comments must be received on or before October 30, 1978. It is proposed to make this amendment effective on the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810

Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420, 202-389-3668.

SUPPLEMENTARY INFORMATION: Each year the Veterans Administration, as a result of its home loan programs, acquires housing units through the foreclosure of guaranteed and direct loans. These houses are then sold at current market value with the Veterans Administration financing the sale with mortgages of up to 30 years. Many of these mortgages, which are called vendee loans, are sold to secondary market investors. The Veterans Administration then guarantees to the purchasing investors that if the loans go into default, the Veterans Administration will repurchase them and pay certain expenses. These expenses are outlined in § 36.4600(e)(1) and presently include the payment to the investor of up of 90 days' interest on a defaulted loan. This interest payment encourages the investor, in appropriate cases, to grant additional forbearance to borrowers in default than otherwise might be granted and gives investors and their servicers an opportunity to perform loan servicing. In many cases this loan servicing can effect reinstatement of delinquent loans. Thus, payment of interest provides a sounder investment to the investor and when loan reinstatement is successful allows the Veterans Administration to avoid the costs of loan repurchase from the investor.

The Veterans Administration recently conducted a study in selected field stations of loans which were repurchased by the Veterans Administration from investors. This study indicated that 27 percent of the loans which the Veterans Administration repurchased from investors had defaults cured or acceptable repayment plans leading to reinstatement of the loans made by the borrowers within 30 days following repurchase of the mortgages by the Veterans Administration.

This high percentage of loan reinstatements appears to indicate that if the Veterans Administration allows investors to collect up to 120 days rather than 90 days of interest after a loan default, many investors and servicers will more aggressively service loans. This should result in a larger percentage of such loans being reinstated by the investor. If loans are reinstated by private investors rather than conveyed to the Veterans Administration for repurchase, the Veterans Administration will save considerable funds. The cash outlays, which the Veterans Administration would save if this amendment is adopted, would consist of the actual funds to repurchase the home loans from the investors and the Veterans Administration's administrative expenses of re-establishing the loan accounts within its system of records. The Veterans Administration also is proposing to update the formal titles which are listed in § 36.4600(g)(2) to reflect the current officials designated to sell, assign, transfer, and repurchase loans.

These amendments are proposed under authority granted the Administrator by section 1803(c)(1) of title 38, United States Code.

ADDITIONAL COMMENT INFORMATION:

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until November 9, 1978. Any person visiting central office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any Veterans Administration field station will be informed that the records are available for inspection only in central office and furnished the address and the above room number.

Approved: September 25, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

§ 36.4600 [Amended]

Section 36.4600 is amended as follows: (a) By deleting the word "his" and inserting "the" in paragraph (d)(3). (b) By deleting "by him" in paragraph (e)(3). (c) By revising paragraphs (e)(1) and (g)(2) as set forth below:

§ 36.4600 Sale of loans, guarantee of payment.

* * * * *

(e)(1) A cash payment shall be made to the holder upon the repurchase of a loan by the Administrator and shall be an amount equal to the price paid by the purchaser when the loan was sold by the Administrator, less repayments received by the holder which are properly applicable to the principal balance of the loan, plus any advances made for the purposes described in paragraph (c)(9) of this section, but no payments shall be made for accrued unpaid interest, except that with respect to loans sold by the Administrator after July 15, 1970, payment will be made for unpaid accrued interest from the date of the first uncured default to the date of the claim for repurchase, but not in excess of interest for 120 days. If, however, there has been a failure of any holder to comply with the provisions of paragraph (c) of this section the Administrator shall be entitled to deduct from the repurchase price otherwise payable such amount as the Administrator determines to be necessary to restore the Administrator to the position the Administrator would have occupied upon repurchase of the loan in the absence of any such failure. Incident to the repurchase by the Administrator, the holder will pay to the Administrator an amount equal to the balance, if any, remaining in the tax and insurance account.

* * * * *

(g)(1) * * *

(2) Designated positions:

Chief Benefits Director.
Director, Loan Guaranty Service.
Director, Regional Office.
Director, Center.
Loan Guaranty Officer.
Assistant Loan Guaranty Officer.

* * * * *

[FR Doc. 78-27653 Filed 9-29-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 980-5]

STATE OF DELAWARE

Proposed Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Delaware has submitted a proposed revision of the State implementation plan (SIP) consisting of a consent order for the Delaware City Generating Station of the Delmarva Power & Light Co. at Delaware City, Del. The schedule would require Delmarva to achieve compliance with Delaware's sulfur dioxide regulation by June 1, 1980 and specifies other milestones which the company must meet toward that end. The air quality impact of the proposed change has been evaluated and it has been found not to violate the air quality standards.

DATE: Comments must be submitted on or before (30 days after publication of this notice.)

FOR FURTHER INFORMATION CONTACT:

William E. Belanger (3AH13), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pa. 19106, telephone, 215-597-8188.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106. Attention: William E. Belanger.

Delaware Department of Natural Resources and Environmental Control, Division of Environmental Control, Air Resources Section, Tatnall Building, Capitol Complex, Dover, Del. 19901. Attention: Mr. Robert French.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

All comments submitted within 30 days of publication of this notice will be considered and should be directed to: Howard R. Heim, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, Pa. 19106. Attention: AH003DE.

SUPPLEMENTARY INFORMATION: On August 5, 1975, the then Secretary of Natural Resources and Environmental Control, acting for the Governor, submitted to EPA, region III a proposed revision of the Delaware State implementation plan consisting of a consent order for the Delaware City Generating Station of the Delmarva Power & Light Co. In his letter, Secretary John Bryson certified that the order was adopted in accordance with the public hearing and notice requirements of 40 CFR, part 51.4 and all relevant State procedural requirements, and asked that EPA consider the Consent Order as a revision of the State implementation plan.

Because the compliance schedule in the consent order extended beyond the mandatory attainment date established by Congress in the Clean Air Act Amendments of 1970, and in light of a 1975 Supreme Court Decision, no EPA policy was in force which would allow consideration of the revision. On March 31, 1976, the Regional Administrator informed the Secretary of EPA's position. In his letter, the Regional Administrator stated that the order contains the required increments of progress and provides for compliance upon its completion. The Secretary was also informed that in order to approve the proposed revision to the SIP, there would have to be a demonstration that the control strategy for all facilities emitting sulfur dioxide, taking the consent order into account, contains sufficient emission limitations to provide for the attainment of standards at the time, for the full term of the order and also accounts for potential growth. The showing must be made for all areas within the Metropolitan Philadelphia Interstate AQCR and elsewhere where the impact of the order might interfere with attainment or maintenance of the standard. On March 27, 1978, a final report was received titled "An Air Quality Analysis near the Getty Refining and Market Co., Delaware Refinery" by J. Vern Hales. (The generating station is within the refinery complex and is intended to burn petroleum coke.) That report includes an adequate demonstration by diffusion modeling which shows the revision will not interfere with the attainment or maintenance of National Ambient Air Quality Standards.

The proposed revision would include in the SIP a consent order of the U.S. District Court and adopted by the State of Delaware. The order is designed to bring Getty Oil Co. (eastern operations) and Delmarva Power & Light Co. into compliance with Delaware's regulations governing the control of air pollution as they apply to the power generating station at Delaware City. The final compliance date is June 1, 1980 at which time the generating station will have installed flue gas desulfurization facilities which will control sulfur dioxide (SO_2) emissions to a level equivalent to the burning of one-percent sulfur fuel. In the interim, the generating station will be permitted to burn fuel with a sulfur content up to 3.5 percent. The compliance schedule is as follows:

Screening agreement, July 1, 1975.
Screening study, July 1, 1976.
Process agreement, September 1, 1976.
Final design and specifications, June 1, 1977.
Decision on construction, August 15, 1977.
Department permit review, September 1, 1977.
Contract for construction, October 1, 1977.
Process construction, April 1, 1980.
Process operational and in compliance, June 1, 1980.

The companies have conformed to all milestones to date, and have announced their intent to install a Wellman-Lord scrubber to meet the requirements of the order. The construction contract has been awarded.

On the basis of EPA's review to date, it is the tentative decision of the Administrator to approve the proposed revision of the Delaware State implementation plan. The public is invited to submit to the address stated above, comments on whether the Delaware City Generating Station consent order should be approved as a revision of the Delaware State implementation plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on whether the amendments meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State implementation plans.

(Authority: 42 U.S.C. 7401)

Dated: September 8, 1978.

JACK J. SCHRAMM,
Regional Administrator.

[FR Doc. 78-27628 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 979-5; Docket No. DCO-78-24]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Mississippi Air and Water Pollution Control Commission to Greenwood Utilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Mississippi Air and Water Pollution Control Commission to Greenwood Utilities, Henderson Station, Greenwood, Miss. The delayed compliance order requires the Greenwood Utilities, Henderson Station, to bring air emissions from the No. 3 coal fired boiler in Greenwood, Miss., into compliance with an applicable regulation contained in the Mississippi State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

John W. Hund, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone, 404-881-4253.

SUPPLEMENTARY INFORMATION: Greenwood Utilities operates an electric generating station (Henderson), in Greenwood, LeFlore County, Miss. The order under consideration addresses emissions from the No. 3 coal fired boiler, which is subject to Mississippi Air Pollution Control Regulation APC-S-1, section 3, paragraph 4, subparagraph (a). This regulation limits the emissions of particulate matter from fossil fuel burning boilers, and is part of the federally-approved Mississippi State implementation plan. The order requires final compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Submit a plan by which the emissions shall be controlled by August 15, 1978.
(2) Take receipt of all bids for proposed control plan by November 30, 1978.
(3) Order all equipment needed to implement the control plan by January 31, 1979.
(4) Begin construction of the devices to implement the control plan by March 31, 1979.
(5) Complete construction of all devices to implement the control plan by May 31, 1979.
(6) Show by applicable testing that the No. 3 unit of the Henderson Generating Station meets all applicable state emission limits by June 30, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the No. 3 coal fired boiler shall not emit more than 0.49 pounds/million Btu's and visible emissions shall not exceed 40 percent opacity, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source of violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Mississippi SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 18, 1978.

JOHN C. WHITE,
Regional Administrator,
Region IV.

[FR Doc. 78-27621 Filed 9-29-78; 8:45 am]

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

[6560-01]

[FRL 979-4; Docket No. DCO-78-23]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Mississippi Air and Water Pollution Control Commission to Greenwood Utilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Mississippi Air and Water Pollution Control Commission to the Greenwood Utilities, Wright Station in Greenwood, Miss. The delayed compliance order requires Greenwood Utilities, Wright Station, to bring air emissions from the No. 1 coal fired boiler in Greenwood, Miss., into compliance with an applicable regulation contained in the Mississippi State implementation plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

John W. Hund, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone, 404-881-4253.

SUPPLEMENTARY INFORMATION: Greenwood Utilities operates an electric generating station (Wright) in Greenwood, LeFlore County, Miss. The order under consideration addresses emissions from the No. 1 coal fired boiler, which is subject to Mississippi Air Pollution Control Regulation APC-S-1, section 3, paragraph 4, subparagraph (a). This regulation limits the emissions of particulate matter from fossil fuel burning boilers, and is part of the federally approved Mississippi State implementation plan. The order requires final compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction of installation of control equipment:

(1) Place on order all equipment needed to implement the previously submitted emissions control plan by August 15, 1978.
(2) Begin construction of devices to implement the control plan by September 15, 1978.

(3) Complete construction of all devices to implement the control plan by May 31, 1979.

(4) Show by applicable testing that the No. 1 unit of Wright Generating Station meets all applicable state emission limits by June 30, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the No. 1 coal fired boiler shall not emit more than 1.33 pounds/million Btu's and visible emissions shall not exceed 40 percent opacity, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the reguation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Mississippi SIP. Compliance with the proposed order will not exempt the company form complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

[1]Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

(42 U.S.C. 7413, 7601.)

Dated: September 18, 1978.

JOHN C. WHITE,
Regional Adminstrator,
Region IV.

[FR Doc. 78-27622 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 979-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the West Virginia Air Pollution Control Commission to Central Operating Co.–Phillip Sporn Plant

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the West Virginia Air Pollution Control Commission to Central Operating Co.–Phillip Sporn Plant. The order requires the company to bring air emissions from its electric generation station in New Haven, W.Va. into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, 6th & Walnut Sts., Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Abraham Ferdas (3EN11), U.S. EPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Central Operating Co. operates an electric generating station at New Haven, W.Va. The order under consideration addresses emissions from the combuston of coal at the facility, which are subject to West Virginia Regulation II (40 CFR 52.2520).

The regulation limits the emissions of particular matter and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through the construction and installation of new electrostatic precipitators for units 1, 2, 3 and 4 at the Phillip Sporn Station. Central Operating Co. consented to the terms of this order on June 30, 1978. The company has awarded contracts for the control equipment; and construction commenced on April 1, 1978.

Because this order has been issued to a major source of particular matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon [1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn and replaced by a notice promulgating these new regulations.

[1]Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

(42 U.S.C. 7413, 7601.)

Dated: September 18, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-27623 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 979-2]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the West Virginia Air Pollution Control Commission to Monongahela Power Co.-Harrison Power Station

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the West Virginia Air Pollution Control Commission to Monongahela Power Co.-Harrison Power Station. The order requires the company to bring air emissions from its electric generating station in Haywood, W. Va. into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by June 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen unit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of the this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Abraham Ferdas (3EN11), U.S. EPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Monongahela Power Co. operates an electric generating station at Haywood, W. Va. The order under consideration addresses emissions from the combustion of coal at the facility, which are subject to West Virginia Regulation II (40 CFR 52.2520).

The regulation limits the emissions of particulate matter and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by June 1, 1979 through the modification of the existing electrostatic precipitators for units 1, 2, and 3 at the Harrison Station. These modifications include: (1) Install modifications in the gas velocity distribution; (2) install temperature distribution devices; (3) install modifications to the automatic voltage controls; and (4) modify rapper intensity. In addition, the order requires the company to clean the coal burned to reduce ash content. Monongahela Power Co. consented to the terms of this order on July 6, 1978. The company has commenced the modifications and has awarded contracts for the cleaning of the coal.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon [1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn and replaced by a notice promulgating these new regulations.

[1] Regulations for 40 CFR part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

(42 U.S.C. 7413, 7601.)

Dated: September 18, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-27624 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 979-1]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the State of Maryland to the Eastalco Aluminum Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the State of Maryland to the Eastalco Co. The order requires the company to bring air emissions from its anode bake ovens and cast house furnaces in Frederick County, Md. into compliance with certain regulations contained in the federally-approved Maryland State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106. The State order, supporting material, and public comments received in response to this

notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Shiland, 3EN12 (same address as above), 215-597-7915.

SUPPLEMENTARY INFORMATION: Eastalco Aluminum Co. operates a primary aluminum plant in Frederick County, Md. The order under consideration addresses emissions from the anode bake ovens and cast houses at the facility, which are subject to Maryland regulation 10.03.37.02 C and D pertaining to visible emissions. The regulation limits the opacity of emissions and is part of the federally approved Maryland State Implementation Plan. the order requires final compliance with the regulation for the anode bake ovens by July 1, 1979 through the construction of a new control system. The order requires final compliance with the regulation for the cast house furnaces by no later than July 1, 1979 through modification of the process equipment. Eastalco consented to the terms of this order on March 2, 1978. The company has placed purchase orders for the necessary control and process equipment in each case and has met the first increments of the order. Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

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

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: August 25, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-27625 Filed 9-29-78; 8:45 am]

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

[6560-01]

[FRL 980-7; Docket No. DCO-78-21]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Lawrence County, Ala., Board of Health to the Champion International Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Lawrence County, Ala., Board of Health to the Champion International Corp. in Courtland, Ala. The delayed compliance order requires the Champion International Corp. to bring air emissions from a wood waste boiler in Courtland, Ala., into compliance with an applicable regulation contained in the Alabama State implementation plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, GA. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal Business hours.

FOR FURTHER INFORMATION CONTACT:

Robert R. Geddis, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone, 404-881-4253.

SUPPLEMENTARY INFORMATION: The Champion International Corp. operates a kraft paper mill in Courtland, Ala. The order under consideration addresses emissions from a combination boiler, which is subject to Alabama Air Pollution Control Regulation 4.8.2. This reguation limits the emissions of particulate matter from wood waste combination boilers, and is part of the Federally-approved Alabama State implementation plan. The order requires final compliance with section 6.8.2. of the Lawrence County Air Pollution Control rules and regulations (which is identical to Alabama Air Pollution Regulation 4.8.2.) by June 30, 1979, through the implementation of the following schedue for the construction or installation of control equipment:

(1) Submit final control plan for achieving compliance with applicable regulations by September 1, 1978.

(2) Award contract for required control equipment by September 1, 1978.

(3) Commence on-site construction or installation of control equipment by March 1, 1979.

(4) Complete construction or installation of control equipment by June 1, 1979.

(5) Submit proof of final compliance by June 30, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the combination boiler shall not emit more than 0.45 grains/SDCF adjusted to 50 percent excess air, and shall not exceed 30 percent opacity.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the

regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Alabama SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action of the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 25, 1978.

JOHN C. WHITE,
Regional Administrator,
Region IV.

[FR Doc. 78-27626 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 980-6; Docket No. DCO-78-20]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Morgan County, Ala., Board of Health to the Goodyear Tire and Rubber Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Morgan County, Ala., Board of Health to the Goodyear Tire and Rubber Co. The delayed compliance order requires Goodyear to bring air emissions from the Latex dip unit Nos. 2 and 3 (permit units 712-006-Z002 and 3) into compliance with an applicable regulation contained in the Alabama State implementation plan (SIP) by June 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 1, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Robert R. Geddis, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone, 404-881-4253.

SUPPLEMENTARY INFORMATION: The Goodyear Tire and Rubber Co. operates two latex dip units at its facility in Morgan County, Ala. The order under consideration addresses visible emissions from stationary sources. These visible emissions are subject to the Alabama Air Pollution Control rules and regulations section 4.1.1, which is part of the federally-approved Alabama State implementation plan. The order requires final compliance with section 6.1.1 of the Morgan County Air Pollution Control rules and regulations (which is identical to Alabama Air Pollution Regulation 4.1.1) by June 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Award contract for required control equipment by July 1, 1978.
(2) Commence on-site construction of catalytic incinerator and oven modification by October 15, 1978.
(3) Complete construction or installation of the catalytic incinerator and oven modification by March 1, 1979.
(4) Meet visible emission limits for both latex dip units by June 1, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the opacity of emissions from either latex dip unit stack shall not exceed 40 percent.

Both units must maintain compliance with the particulate emission limiting regulation (sec. 4.4) at all times.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Alabama SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 25, 1978.

JOHN C. WHITE,
Regional Administrator,
Region IV.

[FR Doc. 78-27627 Filed 9-29-78; 8:45 am]

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[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

[6560-01]

[40 CFR Part 65]

[FRL 980-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for the Toledo Edison Co., Acme Station, Toledo, Ohio, and Bay Shore Station, Oregon, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue two administrative orders to the Toledo Edison Co. The orders require the company to bring boilers 16, 91, and 92 at the Acme Station and boilers 1 and 2 at the Bay Shore Station into compliance with Ohio regulations AP-3-07 and AP-3-11, part of the federally approved Ohio State implementation plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed orders would establish expeditious schedules requiring final compliance by April 15, 1980. Compliance with the orders at the Acme and Bay Shore Stations would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the orders. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the orders.

DATES: Written comments must be received on or before November 1, 1978. Requests for a public hearing must be received on or before October 17, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSEES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the orders and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Linda M. Buell, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, at 312-353-2082.

SUPPLEMENTARY INFORMATION: The Toledo Edison Co. owns and operates boilers 16, 91, and 92 at the Acme Station and boilers 1 and 2 at the Bay Shore Station. The proposed orders address emissions from these five coal-fired boilers which are subject to regulations AP-3-07 and AP-3-11 of the Ohio implementation plan. The regulations limit the emissions of particulate matter, and are part of the federally approved Ohio State implementation plan. The orders require final compliance with the regulations by April 15, 1980, and the Toledo Edison Co. has consented to their terms. As of the date of this publication, the Toledo Edison Co. has already satisfied the first two increments in the Acme order and the first increment in the Bay Shore order.

The proposed orders satisfy the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the orders are issued, compliance with their terms would preclude further EPA enforcement action under section 113 of the Act against boilers 16, 91, and 92 at the Acme Station and boilers 1 and 2 at the Bay Shore Station for violations of the regulation covered by the orders during the period the orders are in effect. Enforcement against these boilers under the citizen suit provisions of the Act (sec. 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the orders. Testimony given at any public hearing concerning the orders will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the orders in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

Dated: September 14, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator, Region V.

The text of the proposed order is as follows:

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of Sept. 28, 1978.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Order No. EPA-5-78-A-

ORDER

In the matter of Toledo Edison Co., Bay Shore Station, Oregon, Ohio, proceeding under sections 113 (a), (d), and 114, Clean Air Act, as amended.

The following order is issued this date pursuant to sections 113 (a), (d) and 114 of the Clean Air Act, as amended, 42 U.S.C. section 7401 et seq., (hereinafter referred to as "the Act"). The order contains a compliance schedule with increments of progress, interim emission reduction requirements, and emission monitoring and reporting conditions. Final compliance is required as expeditiously as practicable, but no later than April 15, 1980. Public notice, opportunity for a public hearing and notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act.

On May 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, U.S. Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of U.S. EPA, issued a notice of violation to Toledo Edison Co. (hereinafter referred to as "the Company") stating that the Company's Bay Shore Station, located in Oregon, Ohio, was found to be in violation of the applicable Ohio implementation plan, as defined in section 110(d) of the Act. The notice cited the Company's boilers No. 1 and No. 2 and stacks No. 1 and No. 2 for violation of Ohio regulations AP-3-07 and AP-3-11. A copy of said notice was sent to the State of Ohio Environmental Protection Agency.

Pursuant to section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegates was duly given to the Company. On June 20, 1977, a conference was held in Chicago, Ill., to discuss the May 25, 1977, notice of violation mentioned above.

U.S. EPA has determined that said violations have continued beyond the 30th day after the date of the Enforcement Director's notification and that the Company is unable to comply with the applicable implementation plan at this time.

After a review of information submitted at the conference and a thorough investigation of all relevant facts, including public comment, it has been determined that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this order comply with 113(d) of the Act.

Therefore, *It is hereby ordered*, that:

1. The Company shall achieve compliance with Ohio regulations AP-3-07 and AP-3-11 in accordance with the following schedule:

Increment and Date

Begin onsite construction, Achieved.
Begin tie-in outage for unit No. 2, November 15, 1979.
Start-up of unit No. 2, January 1, 1980.
Begin tie-in outage for unit No. 1, January 1, 1980.
Startup unit No. 1, February 15, 1980.
Complete testing of unit No. 2, February 15, 1980.
Complete testing of unit No. 1, April 1, 1980.
Achieve compliance with Ohio regulations AP-3-07 and AP-3-11, April 15, 1980.

II. Nothing herein shall affect the responsibility of the 0Pi128'Company to comply

with other Federal, State, or local regulations.

III. No later than 15 days after any date for achievement of an incremental step for final compliance specified in this order, the Company shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this order, the Company shall immediately notify U.S. EPA in writing of the anticipated delay, reasons therefore, and the estimated length of the delay.

The Company shall submit quarterly reports to U.S. EPA detailing progress made with respect to each requirement of this order. In addition, photographs shall be submitted along with these reports, showing progress made since the previous quarter. U.S. EPA personnel shall be admitted to the facility at any reasonable time for the purpose of viewing the construction progress.

IV. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. section 7503.

V. Pursuant to section 113(d)(7) of the Act, during the period of this order, until completion of the program set out in paragraph I herein, the Company shall use the best practicable systems of emission reduction so as to maximize the reliability and efficiency of the existing controls on unit No. 1 and unit No. 2, minimize particulate matter emissions, avoid any imminent and substantial endangerment to the public health, and comply with the requirement of the applicable implementation plan as it is able to.

Written operating and maintenance procedures for the existing controls shall be submitted to U.S. EPA for approval within one month from the effective date of this order. These procedures shall provide for maximizing reliability and efficiency, malfunction reporting, recordkeeping, and corporate reviewing. Failure to submit or comply with the procedures will constitute a violation of this order.

VI. A continuous opacity monitoring system for the stack which is being constructed to service units No. 1 through No. 4 shall be installed, calibrated, maintained, and operated in accordance with the procedures set forth in appendix B of 40 CFR Part 60 no later than April 15, 1980. Pursuant to section 114, monitor data shall be retained by the Company for at least 2 years subsequent to recording. On a quarterly basis, the Company shall report all 6-minute data averages from the monitor (reduced as specified in 40 CFR section 60.13(b)) in excess of 20 percent.

VII. The Company is hereby notified that failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty unless exempted under section 120 of the Act. In the event of such failure, the Company will be formally notified pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. Nothing herein shall be construed to be a waiver by the Company of its right to challenge the reasonableness, legality, or constitutionality of the imposition of noncompliance penalties on the Company.

IX. The Company hereby waives its right to file a petition for review of this order pursuant to section 307(b)(1) of the Act.

X. All submissions and notifications to U.S. EPA, pursuant to this order, shall be made to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2090. A copy of all submissions and notifications shall be made to the Toledo Pollution Control Agency, 26 Main Street, Toledo, Ohio 43605.

Dated:_____

_____,
Administrator.

Toledo Edison Co. has reviewed this order, consents to the requirements set forth in this order, and believes it to be a reasonable means by which the Bay Shore Station can achieve final compliance with Ohio regulations AP-3-07 and AP-3-11. The Company implementation plan at its Bay Shore Station, but for purposes of settlement consents to the abatement program set forth herein.

Dated:_____

_____,
Toledo Edison Co.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Order No. EPA-5-78-A-

In the matter of Toledo Edison Co., Acme Station, Toledo, Ohio, proceeding under sections 113 (a), (d), and 114, Clean Air Act, as amended.

ORDER

The following order is issued this date pursuant to sections 113 (a), (d), and 114 of the Clean Air Act, as amended, 42 U.S.C. section 7401 et seq., (hereinafter referred to as "the Act"). The order contains a compliance schedule with increments of progress, interim emission reduction requirements, and emission monitoring and reporting conditions. Final compliance is required as expeditiously as practicable, but no later than April 15, 1980. Public notice, opportunity for a public hearing and notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act.

On May 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, U.S. Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of U.S. EPA, issued a notice of violation to Toledo Edison Co. (hereinafter referred to as "the Company") stating that the Company's Acme Station, located in Toledo, Ohio, was found to be in violation of the applicable Ohio implementation plan, as defined in section 110(d) of the Act. The notice cited the Company's boilers No. 16, No. 91, and No. 92 and stacks No. 16 and No. 4 for violation of Ohio regulations AP-3-07 and AP-3-11. A copy of said notice was sent to the State of Ohio Environmental Protection Agency.

Pursuant to section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegates was duly given to the Company. On June 20, 1977, a conference was held in Chicago, Ill., to discuss the May 25, 1977, notice of violation mentioned above.

U.S. EPA has determined that said violations have continued beyond the 30th day after the date of the Enforcement Director's notification and that the Company is unable to comply with the applicable implementation plan at this time.

After a review of information submitted at the conference and a thorough investigation of all relevant facts, including public comment, it has been determined that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this order comply with 113(d) of the Act.

Therefore, *It is hereby ordered*, That:

I. The Company shall achieve compliance with Ohio regulations AP-3-07 and AP-3-11 in accordance with the following schedule:

Increment and Date

Submit preliminary control plans and specifications to U.S. EPA, Achieved.

Award contract(s) for control equipment, Achieved.

Shutdown of boiler No. 92 until tie-in of control equipment is completed and final compliance is able to be demonstrated with regulations AP-3-07 and AP-3-11, December 15, 1978.

Shutdown of boiler No. 16 until tie-in of control equipment is completed and final compliance is able to be demonstrated with regulations AP-3-07 and AP-3-11, October 12, 1979.

Shutdown of boiler No. 91 until tie-in of control equipment is completed and final compliance is able to be demonstrated with regulations AP-3-07 and AP-3-11, April 15, 1980.

II. This schedule provides for final compliance with Ohio regulations AP-3-07 and AP-3-11 by April 15, 1980, as required by section 113(d)(1)(D) of the Act. Final compliance will occur on this date when operation of boiler No. 91 will cease; operation of this boiler will not begin again until pollution controls have been installed.

III. This schedule is protected by section 113(d)(10) against Federal enforcement action and citizen suits under section 304 until April 15, 1980. After April 15, 1980, this schedule is covered by section 113(a).

IV. Nothing herein shall affect the responsibility of the Company to comply with other Federal, State, or local regulations.

V. No later than 15 days after any date for achievement of an incremental step for final compliance specified in this order, the Company shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this order, the Company shall immediately notify U.S. EPA in writing of the anticipated delay, reasons therefore, and the estimated length of the delay.

The Company shall submit quarterly reports to U.S. EPA detailing progress made with respect to each requirement of this order. In addition, photographs shall be submitted along with these reports showing progress made since the previous quarter. U.S. EPA personnel shall be admitted to the facility at any reasonable time for the purpose of viewing the construction progress.

VI. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. section 7503

VII. Pursuant to section 113(d)(7) of the Act, during the period of this order, until completion of the program set out in paragraph I herein, the Company shall use the best practicable systems of emission reduction so as to maximize the reliability and efficiency of the existing controls in units No. 16, No. 91, and No. 92, minimize particulate

matter emissions, avoid any imminent and substantial endangerment to the public health, and comply with the requirement of the applicable implementation plan as it is able to.

Written operating and maintenance procedures for the existing controls shall be submitted to U.S. EPA for approval within 1 month from the effective date of this order. These procedures shall provide for maximizing reliability and efficiency, malfunction reporting, recordkeeping, and corporate reviewing. Failure to submit or comply with these procedures will constitute a violation of this order.

VIII. A continuous opacity monitoring system for stacks No. 16 and No. 4 shall be installed, calibrated, maintained, and operated in accordance with the procedures set forth in appendix B of 40 CFR Part 60 no later than April 15, 1980. Pursuant to section 114, monitor data shall be retained by the Company for at least 2 years subsequent to recording. On a quarterly basis, the Company shall report all 6-minute data averages from the monitor (reduced as specified in 40 CFR section 60.13(b)) in excess of 20 percent.

IX. The Company is hereby notified that failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty unless exempted under section 120 of the Act. In the event of such failure, the Company will be formally notified pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. Nothing herein shall be construed to be a waiver by the Company of its right to challenge the reasonableness, legality, or constitutionality of the imposition of noncompliance penalties on the Company.

XI. The Company hereby waives its right to file a petition for review of this order pursuant to section 307(b)(1) of the Act.

XII. All submissions and notifications to U.S. EPA, pursuant to this order, shall be made to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2090. A copy of all submissions and notifications shall be made to the Toledo Pollution Control Agency, 26 Main Street, Toledo, Ohio 43605.

Dated: ——————.

——————,
Administrator.

Toledo Edison Co. has reviewed this order, consents to the requirements set forth in this order, and believes it to be a reasonable means by which the Acme Station can achieve final compliance with Ohio regulations AP-3-07 and AP-3-11. The Company denies the existence of any past or present violation of the Ohio implementation plan at its Acme Station, but for purposes of settlement consents to the abatement program set forth herein.

Dated:——————.

——————,
Toledo Edison Co.

[FR Doc. 78-27629 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[Docket No. A-SS-77-559; FRL 976-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for the Town of Kennebunkport, Maine

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the town of Kennebunkport, Maine. The order requires the town to bring air emissions from its open burning dump in Kennebunkport into compliance with certain regulations contained in the federally-approved Maine State implementation plan (SIP). Because the town is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by April 1, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before October 17, 1978.

Requests for a public hearing must be recived on or before October 17, 1978.

All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, John F. Kennedy Building, Boston, Mass. 02203. Attn: Air Compliance Clerk. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Gurchin, attorney, 617-223-5061 or Mr. Malcolm Petroccia, engineer, 617-223-5610, both at EPA, Region I, Room 2103, JFK Building, Boston, Mass. 02203.

SUPPLEMENTARY INFORMATION: The town of Kennebunkport operates an open burning dump at Kennebunkport, Maine. The proposed order addresses emissions from the dump, which are subject to section 100.2.2 of the Maine Air Pollution Control Regulations. The regulation prohibits open burning of waste, and is part of the federally-approved Maine State implementation plan. The order requires final compliance with the regulation by April 1, 1979, and the source has consented to its terms. The source has also agreed to meet the order's increments during the period of this informal rulemaking.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR 65 will be promulgated by EPA soon,[1] and will contain the procedures for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

AUTHORITY: 42 U.S.C. 7413, 7601.

Dated: September 11, 1978.

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

The text of the proposed order is as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION I

In the matter of Kennebunkport, Maine; proceedings under section 113 of the Clean Air Act, 42 U.S.C. § 7413; order No. A-SS-77-559.

[1] Regulations for 40 CFR Part 65 have been published in the FEDERAL REGISTER of September 28, 1978.

This order is issued pursuant to section 113(d)(1) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d)(1). This order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of Maine have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. Former section 100.2.2 of the Maine Air Pollution Control Regulations ("Regulations") stated, in pertinent part, as follows:

"Open burning of waste of any kind shall be prohibited after July 1, 1974 except that municipalities qualifying for an extension under the Solid Waste Management Plan shall cease open burning as a means of solid waste disposal by July 1, 1975."

2. Section 100.2.2 of the regulations is part of the Maine implementation plan submitted to and approved by the Environmental Protection Agency ("EPA") pursuant to section 110 of the Act. Although Maine has revised section 100.2.2, EPA disapproved this revision. Therefore, the implementation plan remains unchanged and section 100.2.2 of the Regulations is still a "requirement of an applicable plan," as that phrase is used in section 113(a)(1) of the Act.

3. The town of Kennebunkport, Maine owns and operates an open burning disposal site.

4. On January 6, 1978, the Regional Administrator of EPA issued a notice of violation, pursuant to section 113(a)(1) of the Act, to the town of Kennebunkport alleging violation of the above-cited regulation. Information received from the town manager of Kennebunkport in a letter dated September 21, 1977, discussing the town's open burning of refuse, served as the basis for the issuance of this notice.

5. A representative of Kennebunkport was afforded an opportunity to confer with EPA concerning the alleged violation, in accordance with section 113(a)(4) of the Act. The conference was held on March 24, 1978.

6. Comments made by the town manager of Kennebunkport at the March 1978 conference concerning the town's continued open burning indicate that the violation of section 100.2.2 of the regulations has continued more than 30 days beyond Kennebunkport's receipt of the notice of violation.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act.

Definitions: For the purposes of this order:

1. "Sanitary landfill system" shall mean a land area, associated structures and necessary equipment used for storing, compacting, and processing the solid waste projected to be generated by the town of Kennebunkport. The system shall satisfy all applicable regulations and procedures prescribed by the Maine Department of Environmental Protection ("DEP").

2. "Major system components" shall mean all components required for proper operation of the sanitary landfill system. Such components shall include, but are not limited to, land, land disposal equipment, buildings, utilities, roadways, and fencing.

It is hereby ordered:

I. That the town of Kennebunkport will comply with the Maine implementation plan regulations in accordance with the following schedule of implementation of plans for a solid waste facility to dispose of the town's refuse on or before the dates specified:

A. Complete engineering plans for a sanitary landfill system and submit a written report to EPA by August 1, 1978, or within 10 days of receipt of this order, whichever is later. This report shall include at a minimum the following items:

1. Specifications for all major system components necessary to construct a sanitary landfill system.

2. Description of the type of sanitary landfill disposal method to be used (i.e. cells, trenches, lifts, etc.).

3. Summary of all grading work to be done.

B. Begin construction of a sanitary landfill system by September 30, 1978.

C. Submit an interim written report to EPA by December 1, 1978. This report shall describe the extent to which construction of a sanitary landfill system is complete and provide a schedule for any remaining work.

D. Commence operation of a sanitary landfill method of solid waste disposal and cease open burning by April 1, 1979.

II. That the town of Kennebunkport shall comply with the following interim requirements which are determined to be the best, reasonable and practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section I, above), and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with Maine implementation plan regulations insofar as the town of Kennebunkport is able to comply during the period this order is in effect;

A. Burning shall be restricted to those times when meteorological conditions are such that a minimum amount of smoke will impact on local residences.

B. The Beachwood Road dump shall be protected by a fence, a gate, and a dump attendant during normal operating hours, to prevent accidental fires.

III. That the town of Kennebunkport is not relieved by this order from compliance with any requirement imposed by the Maine implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That the town of Kennebunkport shall comply wth the following reporting requirements on or before the dates specified below:

A. Not later than 5 days after any date for achievement of an incremental step or final compliance specified in this order, Kennebunkport shall notify EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this order, the town shall immediately notify EPA in writing of the anticipated delay and reasons therefore. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA pursuant to this order shall be made to: Director, Enforcement Division, U.S. Environmental Protection Agency, J. F. K. Federal Building, Room 2103, Boston, Mass. 02203, Attention: Air Compliance Clerk.

V. That while section 113(d)(1)(C) of the Act normally requires emission monitoring in an order, no reasonable system of emission monitoring for the town of Kennebunkport's open burning dump site exists.

VI. Nothing herein shall affect the responsibility of the town of Kennebunkport to comply with State, local, or other Federal regulations.

VII. Kennebunkport is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay a noncompliance penalty under section 120 of the Act. In the event of such failure, the town will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with section 100.2.2 of the regulations no longer exists.

IX. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and, in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of section 100.2.2 of the regulations in accordance with the proceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

X. This order is effective upon publication in the FEDERAL REGISTER.

Date: _____

DOUGLAS M. COSTLE,
Administrator.

The town of Kennebunkport, Maine, finding that the compliance schedule in this order is reasonable and practicable, hereby consents to the issuance of this order and will undertake to comply with all of its terms and conditions.

Dated: August 10, 1978.

JOHN E. SPITA,
Authorized Source Signature.

[FR Doc. 78-27407 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 87]

[FRL 979-8]

CONTROL OF AIR POLLUTION FROM AIRCRAFT ENGINES

Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearings.

SUMMARY: This document establishes a time and place for public hearings on a notice of proposed rulemaking for newly manufactured, newly certified and certain categories of in-use aircraft engines (43 FR 12615, March 24, 1978).

DATES: November 1 and 2, 1978, 9:30 a.m. to 6 p.m. each day.

ADDRESS: Environmental Protection Agency, Regional Office (Region IX), Sixth Floor Conference Room, 215 Fremont Street, San Francisco, Calif. 94105.

FOR FURTHER INFORMATION CONTACT:

George D. Kittredge, Senior Technical Advisor, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2464.

SUPPLEMENTARY INFORMATION: Section 231 of the Clean Air Act as amended by Pub. L. 95-95 directs the Administrator of the Environmental Protection Agency to "establish standards applicable to emission of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to air pollution which endangers the public health or welfare." Such standards were promulgated on July 17, 1973 (38 FR 19090). On March 24, 1978, amendments to the standards were proposed (43 FR 12615).

Section 231 of the Act also provides that the Administrator shall hold public hearings with respect to the proposed emission standards. Notice is hereby given of a hearing concerning the proposed amended emission standards.

This hearing is intended to provide an opportunity for interested persons to state their views or arguments, or provide information relative to the proposed emission standards for aircraft.

Mr. Michael P. Walsh is hereby designated as the Presiding Officer for the hearings. He will be responsible for maintaining order; excluding irrelevant or repetitious material; scheduling presentations, and, to the extent possible, notifying participants of the time at which they may appear. The hearings will be conducted informally. Technical rules of evidence will not apply.

Any person desiring to make a statement at the hearings or submit material for inclusion in the record of the hearings, should provide written notice of such intention not later than 15 days prior to the hearing date. Also copies of the proposed statement or material for inclusion in the record should be submitted not later than five days before the hearing date to the Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: September 26, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 27619 Filed 9-29-78; 8:45 am]

[6560-01]

[40 CFR Part 180]

[FRL 980-3, PP 6E1756 & 6E1762/P76]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Parathion

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

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide parathion on parsley and fish. The proposal was submitted by the interregional research project. This amendment to the regulations would establish maximum permissible levels for residues of methyl parathion on parsley and fish.

DATE: Comments must be received on or before November 1, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA (202-755-2516).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, has submitted two pesticide petitions (PP 6E1756 and 6E1762) to the EPA. PP6E1756, submitted on behalf of the IR-4 technical committee and the agricultural experiment stations of California, Florida, and New Jersey, requests that the Administrator propose that 40 CFR 180.121 be amended by the establishment of a tolerance for residues of the insecticide parathion (*O,O*-diethyl-*O*-*p*-nitrophenol thiophosphate) or its methyl homolog in or on the raw agricultural commodity parsley at 1 part per million (ppm).

PP6E1762, submitted on behalf of the IR-4 technical committee and the agricultural experiment station of California, requests that the Administrator propose the establishment of a tolerance for residues of the insecticide parathion in fish at 0.2 ppm resulting from application of the insecticide to waters of Clear Lake, Calif., for the control of the Clear Lake gnat, *Chaoborus astictopus* Dyar and Shannon in programs conducted by the Lake County, Calif., mosquito abatement district. Traditionally, residues of both parathion and its methyl homolog are covered by one regulation. Therefore, the Administrator proposes that 40 CFR 180.121 be amended by the establishment of a tolerance for residues of the insecticide parathion or its methyl homolog in fish at 0.2 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a 2-year rat feeding study with a no-observable-effect level (NOEL) of 1 ppm, a 6-month dog feeding study with an NOEL of 0.05 milligram (mg)/kilogram (kg) of body weight (bw)/day or 2 ppm, a multigeneration rat reproduction/teratology study with an NOEL of 10 ppm, and a human volunteer oral ingestion study with an NOEL of 0.1 mg/kg bw/day, which is equivalent to about 4 ppm based on the whole diet of man. The acceptable daily intake (ADI) for parathion is 0.005 mg/kg bw/day based on the NOEL in the rat 2-year feeding study and using a safety factor of 10.

Desirable data which are missing from the petition include an oncogenicity assay in a second species and mutagenicity assays. Mutagenicity assays are, however, generally deferred until Agency requirements are finalized. Since the theoretical increment in exposure is very small (less than 1 percent), it is concluded that the present toxicity data, which include one lifetime feeding study, are sufficient to determine that the proposed tolerances will protect the public health.

Tolerances have previously been established for residues of parathion or its methyl homolog on a variety of raw agricultural commodities at levels ranging from 5 ppm to 0.1 ppm. The theoretical maximal residue contribution (TMRC) from these established tolerances exceeds the ADI by a factor of about two fold. On the other hand, it has been determined that food actually consumed contains little or no parathion residues; only leafy vegetables bear measurable residues ranging from 0.008 ppm-0.022 ppm. Thus the actual dietary exposure is at least two orders of magnitude below the TMRC, and the fact that the ADI is exceeded in theory is of little practical relevance. The metabolism of parathion is adequately understood, and an adequate analytical method (gas chromatography using either electron capture or flame photometric detection) is available for enforcement purposes.

No actions are pending against continued registration of the insecticide. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The pesticide is considerd useful for the purpose for which tolerances are being established, and it is concluded that the tolerances established by amending 40 CFR 180.121 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, within 30 days after publication of this proposal in the FEDERAL REGISTER, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control numbers, "PP6E1756 and 6E1762/P76". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the FEDERAL REGISTER section from 8:30 a.m. to 4 p.m. Monday through Friday.

Date: September 25, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)).)

It is proposed that part 180, subpart C, section 180.121 be revised by editorially reformatting the section into an alphabetized columnar listing and by alphabetically inserting the tolerances on parsley at 1 ppm and fish at 0.2 ppm, as follows:

§ 180.121 Parathion or its methyl homolog; tolerances for residues.

Tolerances are established for residues of the insecticide parathion (*O,O,*-Diethyl-*O*-*p*-nitrophenyl thiophosphate) or its methyl homolog in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Alfalfa (fresh)	1.25
Alfalfa, hay	5.0
Almonds	.1(N)
Almonds, hulls	3.0
Apples	1.0
Apricots	1.0
Artichokes	1.0
Avocados	1.0
Barley	1.0
Beans	1.0
Beets (with or without tops) or beet greens (alone)	1.0
Beets, sugar	.1(N)
Beets, sugar, tops	.1(N)
Blackberries	1.0
Blueberries (huckleberries)	1.0
Boysenberries	1.0
Broccoli	1.0
Brussels Sprouts	1.0
Cabbage	1.0
Carrots	1.0
Cauliflower	1.0
Celery	1.0
Cherries	1.0
Citrus fruits	1.0
Clover	1.0
Collards	1.0
Corn	1.0
Corn, forage	1.0
Cottonseed	.75
Cranberries	1.0
Cucumbers	1.0
Currants	1.0
Dates	1.0
Dewberries	1.0
Eggplants	1.0
Endive (escarole)	1.0
Figs	1.0
Filberts	.1(N)
Fish [1]	.2
Garlic	1.0
Gooseberries	1.0
Grapes	1.0
Grass (for forage)	1.0
Guavas	1.0
Hops	1.0
Kale	1.0
Kohlrabi	1.0
Lettuce	1.0
Loganberries	1.0
Mangoes	1.0
Melons	1.0
Mustard greens	1.0
Mustard seed	.2
Nectarines	1.0
Oats	1.0
Okra	1.0
Olives	1.0
Onions	1.0
Parsnips (with or without tops) or parsnip greens (alone)	1.0
Parsley	1.0
Peaches	1.0
Peanuts	1.0
Pears	1.0
Peas	1.0
Peas, forage	1.0
Pecans	.1(N)
Peppers	1.0
Pineapples	1.0
Plums (fresh prunes)	1.0
Potatoes	.1(N)
Pumpkins	1.0
Quinces	1.0
Radishes (with or without tops) or radishes, tops	1.0
Rape Seed	1.0
Raspberries	1.0
Rice	1.0
Rutabagas (with or without tops) or rutabaga tops	1.0
Safflower seed	.1(N)
Sorghum	.1(N)
Sorghum, fodder	3.0
Sorghum, forage	3.0
Soybeans	.1
Soybeans, hay	1.0
Spinach	1.0
Squash	1.0
Strawberries	1.0
Sugarcane	.1(N)
Sugarcane, fodder	.1(N)
Sugarcane, forage	.1(N)
Sunflower seed	.1(N)
Sweet potatoes	.1(N)
Swiss chard	1.0
Tomatoes	1.0
Turnips (with or without tops) or turnip greens	1.0
Vetch	1.0
Walnuts	.1(N)
Wheat	1.0
Youngberries	1.0

[1] Residues are the result of application for control of the Clear Lake gnat (*Chaoborus astictopus* Dyar and Shannon) in Clear Lake, Calif., in programs conducted by the Lake Country Calif. Mosquito Abatement District.

[FR Doc. 78-27620 Filed 9-29-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

[41 CFR Part 51-1]

DEFINITION OF OTHER SEVERELY HANDICAPPED

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed rule.

SUMMARY: The Committee proposes to amend its regulations by redefining the term "other severely handicapped". The revised definition is intended to update the term made necessary by legislation and recent implementing regulations and prepared studies.

DATES: Comments must be received on or before: November 29, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: The current definition of the term "other severely handicapped individual" contained in the Committee's regulations (41 CFR 51-1.2(g)) was developed in 1972. Since that time the term severly handicapped has been defined in the Rehabilitation Act of 1973 (Public Law 93-112) and in the Department of Health, Education, and Welfare (HEW) regulations implementing that act (45 CFR 1361.1(w)). The Comprehensive Needs Study prepared for HEW by the Urban Institute in 1975 also addresses the terms "impairment," "disability," and "handicapped". In view of these more recent developments, it appears appropriate to revise the Committee's definition of other severely handicapped.

Sections 46 to 48c of title 41, United States Code, govern the Committee's operations. Paragraph 48a(2) of that title defines the terms "other severely handicapped" and "severely handicapped" as "an individual or class of individuals under a physical or mental disability, other than blindness, which * * * is of such a nature as to prevent the individual from currently engaging in normal competitive employment".

In addition to the definitions mentioned above, a number of different definitions of "handicapped" and "severely handicapped" can be found in various laws and the regulation of other departments and agencies of the

Government. In most cases, these definitions are directed toward the particular function or interest of the specific department or agency. In general, the term "handicapped" means an individual who has a physical or mental condition which limits that person's function capabilities to some extent but not to the point that that person is unable to move about or to qualify for a job in competitive employment. On the other hand, "severely handicapped" generally connotes a condition (or combination of conditions) which presents a major impediment to the individual's ability to travel and to work.

Many definitions of "severely handicapped" include a listing of various diagnostic labels and usually end with a statement such as "or any other disability or combination of disabilities which cause comparable substantial functional limitations". Such listings of injuries or illnesses which cause or contribute to the individual's disability appear to serve little useful purpose since each person's case must be evaluated to determine the degree of severity and the impact on the particular individual's functional capabilities and ability to engage in normal competitive employment.

The proposed change to paragraph 51-1.2(g) redefining "other severely handicapped" combines terminology from the Comprehensive Needs Study, and the functional capabilities approach and extended time period of the HEW definition of "severely handicapped". The listing of disabling injuries and illnesses has been deleted. The requirements for preadmission and annual reevaluation of each individual's capability for engaging in competitive employment have been retained, as well as provisions excluding persons from the definition who have overcome their handicapping conditions.

Accordingly, it is proposed to amend part 51-1, chapter 51, 41 CFR by revising paragraph 51-1.2(g) as follows:

§ 51-1.2 Definitions.

* * * * *

(g) "Other severely handicapped" means a person, other than a blind person, who has a severe physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which so limits the person's functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time.

(1) Capability for normal competitive employment shall be determined from information developed by an ongoing evaluation program conducted by the workshop and shall include, as a minimum, a preadmission evaluation, and a reevaluation at least annually of each individual's capability for normal competitive employment.

(2) A person with a severe physical or mental impairment who is able to engage in normal competitive employment because the impairment has been overcome or the condition has been substantially corrected is not "other severely handicapped" within the meaning of this definition.

* * * * *

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-27670 Filed 9-29-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 215]

[Docket No. RSFC-5; Notice 3]

FREIGHT CARS

Periodic Inspection

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the rules pertaining to the periodic inspection of freight cars. The proposed amendment would provide the railroads with one additional year to complete required periodic inspections of all freight cars except those used to transport class A poisons or class A explosives. This action is taken by FRA in an effort to avoid further shortages of railroad freight cars and in response to a petition submitted by the Association of American Railroads (AAR).

DATES: Written comments: Written comments must be received before November 15, 1978. Comments received after that date will be considered so far as possible without incurring additional expense or delay. Public hearing: A public hearing will be held at 10 a.m. on November 14, 1978. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before November 1, 1978, by phone or by mail.

ADDRESSES: Written comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street SW., Washington, D.C. 20590. Written comments will be available for examination, both before and after the closing date for written comments during regular business hours in room 4406 of the Trans Point Building at the above address.

PUBLIC HEARING

A public hearing will be held in room 3201 of the Trans Point Building. Persons desiring to make oral statements should notify the docket clerk by telephone (202-472-5311) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building at the above address.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

PRINCIPAL PROGRAM PERSON

Rolf Mowatt-Larssen, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-0924.

PRINCIPAL ATTORNEY

Danvers E. Long, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 215 (49 CFR Part 215) was published in the FEDERAL REGISTER on November 21, 1973 (38 FR 32224) and became effective on January 1, 1974. Subpart B of that part prescribed requirements for the inspection of railroad freight cars. Section 215.25 provided that a railroad could not operate a railroad freight car after December 31, 1976, unless the car was inspected as provided in that section, or met certain other specified conditions.

On December 31, 1975, the AAR petitioned for an amendment to § 215.25 to extend from December 31, 1976, to December 31, 1980, the deadline for completing the required periodic inspection of freight cars. AAR received support from the Union Tank Car Co., which later filed a similar petition, and from other interested parties.

In response to those petitions and other communications received, FRA issued a notice of proposed rulemaking on April 30, 1976, (41 FR 18685). The notice contained a proposal to extend from December 31, 1976, to December 31, 1978, the deadline for completing initial periodic inspections of freight cars. In connection with its proposed two-year extension, FRA stated the following:

> These shortages [of freight car components], the price increases [in material costs], labor cost increases, and the decline

in business are factors which affected the ability of the railroads to accomplish the initial periodic inspection program. These are also factors over which the railroads had no control and are factors which FRA did not envision when the regulations were issued (41 FR 18685).

On the other hand, based on its evaluation of all information available at the time it issued the NPRM, FRA concluded that the four-year extension requested by AAR was inappropriate. With regard to that request, FRA stated the following:

> FRA believes that the facts warrant a maximum two-year extension of time. This additional time, coupled with work previously performed and the ability to accomplish inspection work in the remaining portion of 1976, will provide adequate time for all railroads and private car owners to complete the initial periodic inspection of the freight car fleet. In concluding that the facts and arguments advanced by the railroads and private car owners do not appear to justify a four-year extension of time, FRA has considered the intent of this particular regulatory provision to enhance the safety of railroad operations and the fact that the railroads have had some measure of control over the actions which are causing the delay in the effectiveness of these standards (41 FR 18686).

Responding to the NPRM, a number of commenters objected to the proposed two-year extension. Many of these voiced support for a four-year extension stating that they could not complete inspections within the proposed two-year extension. They also contended that the failure to grant a four-year extension could put many cars out of service, thereby resulting in disastrous disruptions in service.

After evaluating the comments received, FRA conducted a review which indicated that nearly all railroads could complete required freight car periodic inspections with the benefit of a two-year extension. As a result, it extended the date for compliance to December 31, 1978. However, FRA also stated that it would consider waivers for those few railroads and private car owners that could not complete their inspections by that date.

FRA issued the amendment based on the NPRM on September 29, 1976, and the new compliance deadline of December 31 1978, became effective on November 15, 1976 (41 FR 44044). This is the compliance deadline currently in effect.

Discussion of Petition

Petitioner requests a one-year extension of the compliance date for freight cars that have not received their initial periodic inspection. If this request is granted, those cars would have to receive the initial inspection by December 31, 1979, rather than by December 31, 1978, as required by § 215.25(b). That section provides, in pertinent part, as follows:

> (b) After December 31, 1978, a railroad may not operate a railroad freight car unless—
>
> (1) In the case of cars other than high utilization cars, the car was inspected as prescribed by § 215.27 within the preceding 48 months . . .; and
>
> (2) In the case of high utilization cars, the car was inspected as prescribed in § 215.27 within the preceding 12 months * * *.

In addition, petitioner requests that freight cars which received their initial periodic inspection in 1974 or 1975 be allowed to operate for six years before receiving their second periodic inspection. Therefore, the second inspection would be performed in 1980 or 1981, rather than by December 31, 1978, or December 31, 1979, as currently required. Neither this request nor the request for additional time to complete initial periodic inspections applies to cars used to transport class A poisons or class A explosives.

In support of its requests, petitioner states that the severe winter of 1977–78 and the prolonged coal strike drastically curtailed the earnings of the railroads, thereby forcing them to reduce or eliminate required freight car inspections in order to meet fixed obligations and payrolls. To illustrate the economic losses sustained, petitioner asserts that, in the first quarter of 1978, the railroads suffered their largest net railway operating income deficit in history—over $150 million. Petitioner asserts that these losses were sustained by carriers throughout the industry, many of which had previously been on schedule to complete the required inspections.

In addition, petitioner states that on March 10, 1978, FRA granted a waiver to five major private freight car owners, thereby affording those owners an additional year to complete required initial periodic inspections (Notice of these waiver petitions was published in the Federal Register on September 28, 1977, 42 FR 49869). According to petitioner, fairness dictates that the same relief should be afforded to all freight car owners.

Furthermore petitioner contends that an extension of the compliance date for cars inspected in 1974 and 1975 is needed to even out the workload in railroad shops. In this connection, it states that, in order to complete all required inspections, the railroads must have the flexibility that this extension would allow.

Finally, petitioner asserts that the relief it requests would not adversely affect railroad safety.

FRA Analysis of Petition

As previously noted, FRA evaluated the economic conditions affecting the railroads, equipment shortages, ability to comply, the safety of railroad operations, and the control of the railroads over delays in completing inspections, before extending the compliance date for freight car periodic inspections from December 31, 1976, to December 31, 1978. After weighing all of these factors, FRA determined that only a two-year extension was justified. The justification for that extension was based primarily on unforeseen shortages in freight car components and certain negative economic conditions over which the railroads had no control and which were not foreseen by FRA.

Using these same criteria to evaluate the current request for extension, FRA finds that many of the adverse conditions that justified the previous extension are still present and in some cases have worsened considerably. Foremost among these are the substantial financial losses suffered by the railroads, as noted by petitioner, and the current serious shortage of freight cars throughout the country. In light of the severity of these financial losses and shortages and the fact that about 15 percent of the Nation's car fleet will not be given their initial periodic inspection by December 31, 1978, FRA believes that this deadline for periodic inspection of freight cars should be reassessed.

However, FRA believes that a general rulemaking proceeding, rather than the issuance of waivers, is the appropriate course of action to provide the industry-wide relief requested by petitioner. Accordingly, the petition is being considered as a request for general rulemaking.

In reviewing the petition, FRA notes that AAR has requested a one-year extension to complete initial periodic inspections and what amounts to a "one-time" two year extension of the reinspection interval for cars initially inspected in 1974 and 1975. If, as petitioner suggests, virtually all major railroads were on schedule to complete initial periodic inspections in the fall of 1977 before having to cut back most or all of those inspections, it appears that a one-year extension should be sufficient to make up for time lost and complete those inspections. As to the issue of reinspection, it appears that an additional two-year extension is not necessary for cars inspected in 1974 or 1975. Accordingly, this notice would extend by one year the compliance date for required periodic inspections of all railroad freight cars except those used to transport class A poisons or class A explosives.

Finally, FRA believes that any extensions beyond those proposed in this notice cannot be justified. Therefore, FRA does not anticipate extending the compliance date for completion of

freight car inspections beyond December 31, 1979.

ECONOMIC IMPACT

FRA has determined that this notice does not contain a significant regulatory proposal. Therefore, a Regulatory Analysis under Executive Order 12044 is not required (E.O. 12044, 43 FR 12661, March 24, 1978).

In addition, FRA has evaluated this proposal in accordance with DOT's existing and proposed policies for the evaluation of regulatory impacts. Since the proposed regulations would not impose any additional requirements and would merely extend the compliance date for completing certain required periodic inspections, FRA concludes that the regulatory proposal contained in this notice would have no measurable regulatory impact and that a detailed evaluation is not warranted. (Policies and Procedures for Simplification, Analysis, and Review of Regulations, 43 FR 9582, March 8, 1978; Proposed Regulatory Policies and Procedures, 43 FR 23925, June 1, 1978).

WRITTEN COMMENTS AND HEARING

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Communications received before November 15, 1978, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing on November 14, 1978, in Room 3201, 2100 Second Street SW., Washington, D.C. 20590 at 10 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have the opportunity to present their oral statements.

At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590, Phone 202-472-5311, before November 1, 1978, stating the amount of time required for the initial statement.

The proposals contained in this notice may be changed in light of the oral statements at the public hearing, or the written comments submitted in response to this notice.

THE PROPOSED RULE

Accordingly, it is proposed to amend § 215.25 (49 CFR § 215.25) as follows:

§ 215.25 Periodic inspection required.

* * * * *

(b) Except as provided in paragraph (e) of this section, after December 31, 1979, a railroad may not operate a railroad freight car unless—

* * * * *

(e) Notwithstanding the requirements of paragraph (b)(1) of this section, a railroad may continue to operate a railroad freight car that was inspected in 1975 if—

(1) The car is other than a high utilization car; and

(2) The car has been inspected, as prescribed by § 215.27 of this part, within the preceding 60 months.

(Secs. 202 and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431 and 437); Sec. 1.49(n), Regulations of the Office of the Secretary of Transportation (49 C.F.R. 1.49(n)).)

Issued in Washington, D.C., on September 22, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-27818 Filed 9-29-78; 8:45 am]

[4910-06]

[49 CFR Part 218]

[Docket No. RSOR-3, Notice 17]

BLUE SIGNAL PROTECTION OF WORKMEN

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: On September 28, 1977, FRA published a notice of proposed rulemaking (NPRM) proposing to amend a portion of the regulation governing the blue signal protection to be afforded to workmen engaged in the inspection, testing, repair, and servicing of rolling equipment (42 FR 49813). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments. In accordance with a subsequent notice, the period for filing written comments was extended until December 14, 1977 (42 FR 59310). FRA also held a public hearing on November 1, 1977 to permit oral comment on the proposed amendment.

The comments received in response to this NPRM raised issues that went beyond the scope of the proposed amendment and raised issues about the intent and effectiveness of the existing regulation. FRA has decided that these issues should be addressed before issuing a final rule. Accordingly, FRA is withdrawing the NPRM issued on September 28, 1977, and is issuing a new NPRM which proposes a more comprehensive revision of part 218. The comprehensive revision seeks to resolve the issues concerning the use of blue signals on main tracks, the need to provide protection against possible "side instrusions" and the use of blue signals in car and locomotive servicing areas by amending the regulation to better reflect the historical practices of the railroad industry.

DATES: (1) Requests for an opportunity to provide oral comment must be received on or before October 13, 1978.

(2) Written comments must be received on or before November 15, 1978. Comments received after that date will be considered to the extent practicable.

ADDRESS: Send comments to Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

Principal Program Person: John A. McNally, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-9178.

PRINCIPAL ATTORNEY

Lawrence I. Wagner, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, 202-426-8836.

SUPPLEMENTARY INFORMATION: On September 28, 1977 the FRA issued an NPRM (notice 12) proposing to amend a portion of the rules governing the blue signal protection afforded to railroad workmen (42 FR 49813). The NPRM specifically proposed to amend § 218.25 (49 CFR 218.25) by deleting the present paragraph (a) and inserting new paragraphs (a) (1) and (2) to expressly apply the regulatory procedures for the control of remotely controlled switches when such switch-

es are located on other than hump yard tracks. It also proposed a conforming amendment to § 218.29 (49 CFR 218.29) in the form of a cross reference to the new § 218.25(a)(2). Interested persons were invited to participate in a public hearing on November 1, 1977 and to file written comments prior to November 14, 1977. The period for filing written comments was subsequently extended until December 14, 1977 (42 FR 59310).

The comments received by FRA in response to this NPRM raised significant issues about the scope and the effectiveness of Part 218 that went beyond the subject matter of the NPRM. Additionally, FRA has received a steady volume of requests for waivers of compliance with Part 218 that indicated the railroads were encountering many problems in attempting to comply with the existing regulation. Public notices which were published by FRA on December 8, 1977 (42 FR 62059) and December 20, 1977 (42 FR 63986) illustrate some of these problems.

On the basis of the responses to the NPRM and the information obtained from the waiver requests, FRA scheduled a public meeting to explore the issues that had been raised about the existing regulation and the proposed amendment (43 FR 8162). The FRA public meeting was held on March 22, 1978, instead of March 15, 1978, as initially scheduled, in order to avoid a conflict between that meeting and congressional hearings (43 FR 9512).

The parties present during the public meeting all expressed the opinion that there are serious deficiencies present in the existing regulation. A common theme was that the existing regulation requires the railroads to significantly alter the historical manner in which railroad workmen are afforded blue signal protection. In the opinion of these parties, these deviations from historical practice are not consistent with FRA's stated intent to codify the existing industry practices. They also were concerned that, in some instances, adherence to the FRA requirements was not possible without severely disrupting the current levels of service and that, in at least one instance, strict adherence could indirectly create a hazard.

In response to the critical comments received during the first portion of the public meeting, FRA provided rough drafts of possible regulatory language designed to eliminate the perceived problems. Rough drafts were provided to all parties and were subjected to discussion and comment during the remainder of the meeting.

After receiving the views of these parties, FRA concluded that one of the rough drafts of possible regulatory language could serve as the basis for a possible revision to the entire regulation. FRA, therefore, requested that all parties present at the public meeting focus on that particular draft and provide FRA with any thoughts or comments about ways to refine that possible regulatory language. The views of all of the known interested and directly affected parties have been expressed to FRA in both oral and written form. Several suggestions for possible revisions to the regulatory language have been incorporated in this NPRM and FRA is grateful for the voluntary efforts of these parties which have assisted FRA in resolving this matter.

A review of the existing rulemaking docket, the continuing requests for waivers of compliance, the lengthy and informed commentary at the public meeting, and the subsequent suggestions made for the revision of the regulation, have convinced FRA that a major revision of this regulation is appropriate. Consequently, FRA has decided to withdraw the NPRM published on September 28, 1977, and to issue a new NPRM proposing a comprehensive revision to Part 218. The comments filed and the issues raised in response to the withdrawn NPRM have all been subsumed in this present proposed rulemaking proceeding.

Although this proposed amendment was prepared after the public hearing provided on November 1, 1977, and the public meeting held on March 23, 1978, FRA believes that these prior sessions have provided an extensive opportunity for oral comment on the issues that are contained in this NPRM. Consequently, FRA has concluded that the facts do not warrant providing an additional opportunity for a public hearing on this proposal and FRA does not anticipate scheduling an opportunity for oral comment on this proposal. An opportunity for oral comment will be provided, however, if requestd by an interested person before October 13, 1978. Such a request must be made in writing and must be received by the Docket Clerk before that date.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. All such communications must identify the appropriate docket number for this proceeding and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Communications received before November 15, 1978, will be considered before final action is taken on the proposed amendment. Comments received after that date will be considered as far as practicable. All comments received will be placed in the public docket and will be available for examination by the public during regular business hours in room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. The proposals contained in this notice may be changed in light of the comments received in response to this notice.

This proposal has been evaluated in accordance with the policies for evaluation of regulatory impacts contained in Executive Order 12044 on the matter of "Improving Government Regulations" which was issued March 23, 1978 (43 FR 12661) and the existing and proposed policies of the Department of Transportation discussed in the FEDERAL REGISTER on June 1, 1978 (43 FR 23925). On the basis of that evaluation FRA has concluded that this proposal constitutes a "nonsignificant" and "nonmajor" regulatory proposal as those terms are used in the Executive Order and departmental policy statements. The economic effect of this proposal, if the proposed amendment were adopted, would be a cost saving to the railroads and would have unqualifiable benefit to both the railroad and the workmen affected by improving the safety of railroad employees.

The proposed amendment seeks to retain the positive safety aspects of the existing regulation and to resolve the identified problem areas. In order to accomplish these goals and to make the regulatory language plain and unambiguous the regulation has been reworded and restructured. As proposed the regulation will contain an expanded definitions section and new structural format which indicates the required actions to afford protection for workmen. Consequently, the entire text of the proposed rule has been provided as well as a section-by-section analysis to illustrate the proposed changes.

SECTIONS 218.1 AND 218.3

No changes are proposed for these sections.

SECTION 218.5

FRA proposes to include in this section a footnote to paragraph (a). This footnote is intended to clarify the applicability of this regulation. This change was made in response to numberous questions that have been asked concerning this provision. The parties submitting the questions have generally indicated that the absence of preamble language in published volumes, once the regulation has been adopted, can and did cause confusion about the FRA's intent as to the applicability of this regulation to the specific type of work performed in the railroad environment. Although FRA has attempted to provide a clear statement of applicability in § 218.21, FRA has con-

cluded that it may be helpful for those persons who use only the printed regulatory language to have such a footnote. Consequently FRA proposes to provide and explain that some isolated tasks, which may be properly described as "servicing" or "testing", will not require the use of blue signal protection. In making this proposal, FRA has noted that these isolated and identified tasks have historically been performed by railroad workers without the protection afforded by the display of blue signals. In a similar fashion FRA proposes to change the language of § 218.5(c) to explicitly reflect the fact that the use of interior cab lights of a locomotive will provide sufficient illumination to allow use of an unlighted device which is attached to the operating controls to alert a person entering the cab compartment that the unit is under blue signal protection and cannot be moved.

FRA also proposes to add several new definitions to this section. The proposed rule contains definitions for what constitutes a car shop repair track area and a locomotive servicing track area. The "car shop repair track area" definition (paragraph (e)) is entirely new and reflects FRA's determination that in specifically identified areas blue signal protection may be afforded to workmen using modified methods. This issue is discussed at greater length in connection with the proposed language for § 218.29.

The "locomotive servicing track area" definition (paragraph (f)) is not entirely new and was originally contained in the language of the existing provisions of § 218.25(e). The proposed definition of what constitutes "main track" in paragraph (g) is entirely new and reflects FRA's determination that effective blue signal protection may be provided to workmen on main tracks without the use of derails or lined and locked switches. This issue is also discussed at greater length in connection with the proposed language for § 218.25.

The proposal to define the term "switch providing access" (paragraph (i)) reflects the concern experienced by numerous parties over the proper steps required for compliance with this regulation. The issue involving the question of access has generally been referred to as the problem of "side intrusion". The existing regulation did not address this issue in regulatory language and consequently the meaning of this term became a matter of dispute. FRA proposes to resolve this issue by defining the term in language that is well understood and which clearly conforms to the historical practices of the railroads.

The final proposed change to the definitions is to include an explanation of the term "group of workmen" (paragraph (j)). This definition will serve to resolve problems encountered by those railroads that have elected to use several individuals with different skills as a single team for the repair and servicing of rolling equipment.

The use of this term has been made in several places in the proposed change including § 218.5(d).

Sections 218.7, 218.9, and 218.11

FRA is not proposing any changes to §§ 218.7, 218.9, or 218.11.

Section 218.21

FRA does propose to change § 218.21 by inserting a single word. The insertion of the word "and" in the existing regulatory language will resolve a problem that FRA and the other interested parties have struggled with since the adoption of this regulation. The plain language of the existing regulation requires that when an individual has physically placed himself on rolling equipment to perform an inspection or servicing function, blue signal protection must be provided before that individual performs the assigned task. The assigned task in many instances placed that individual in a position such that movement of the rolling equipment could cause that person to suffer serious injury or death. However, there are other assigned tasks which require the individual to board the rolling equipment but do not place that person in serious danger due to the movement of that equipment. The most common example which illustrates this problem is the range of tasks assigned to a person required to service a caboose. That servicing function can include tasks relating to the electrical or heating systems which require the person to disassemble equipment. Movement of the rolling equipment could expose the individual performing that type of task to danger. That servicing function can also include tasks relating to the replenishment of water or paper supplies and by virtue of that task impose no unusual risk from the movement of the equipment. Another illustration involves the airbrake inspection function. The tasks can range from disassembly to mere visual observation of an air gage. FRA's intent was and is to require blue signal protection when the workman is exposed to danger caused by movement and to stay within the historical practices of the railroad industry. FRA, through the use of the regulatory language selected, went beyond that expressed intent. The proposed insertion of the word "and" will resolve this matter by creating a two-part test for when blue signal protection is to be afforded. As noted earlier FRA is also proposing a footnote to the definitions section to emphasize this intent in the regulatory language.

Section 218.23

The FRA proposes to revise the language concerning the display of blue signals contained in § 218.23 to clarify that which was inferred in the present language. The present language could be misconstrued to imply that if a blue signal was seen to be displayed at one entrance of a track, that track could be presumed to be under blue flag protection, even though a blue signal was not displayed at the opposite entrance of that track. The revised language will prohibit a workman from working on, under, or between rolling equipment until he ascertains that blue signals are displayed at all entrances to the track. This change in language makes it clear that unless blue signals are displayed at both entrances to a double-ended track, blue signal protection has not been provided. This change in language will also prove beneficial in increasing the efficiency of train operations in that once a blue signal has been removed from one entrance of a double-ended track, that track is no longer under blue signal protection and equipment may enter or leave the track through that unprotected entrance. The revised language will also be of benefit to an individual workman assigned to perform inspection and repair work by himself, in that he no longer need remove blue signals from both ends of a double-ended track before he can permit a train to depart. This significant revision coincides with the historical handling of similar situations in the industry prior to the present regulation. Additionally, FRA proposes to restructure the language of this provision to clearly identify the actions that are prohibited when blue signals are properly displayed. The final proposed change is to delete from the existing section the provision relating to crossover switches. This deleted provision has been moved to the proposed language for § 218.27 and is discussed further in connection with the other proposed changes to § 218.27.

Section 218.25

The proposed changes in § 218.25 represent a major change to the regulation. The proposed language has no counter part in the existing regulation and is directly related to the issues raised in connection with the NPRM issued on September 8, 1977. The proposed language will permit work to be performed on a main track without requiring that switches be lined and locked against movement to that track and without requiring that derails be used on a main track. The proposed changes to the regulation will permit an individual to perform tasks requir-

ing blue signal protection on a main track without having the additional protection of a lined and locked switch. These proposed changes are, in FRA's judgment, permissible under the statutory language contained in the Federal Railroad Safety Authorization Act of 1976 (Pub. L. 94-348) and are appropriate since a review of the legislative history has convinced FRA that Congress did not intend to mandate that the FRA regulations require the lining and locking of all switches. Consequently, the FRA has determined that it is empowered to permit blue signal protection to be afforded to individuals performing tasks on main line tracks without the lining and locking of switches when equivalent protection is provided. This determination by the FRA reflects a belief that the signal systems and operating rules of the railroads that pertain to main track provide a degree of protection for workmen that generally is not present on other tracks.

Consequently, the FRA proposes to include a new section in the regulation to detail the specific actions that will be necessary to provide an individual blue signal protection when the tasks are to be performed on rolling equipment which is standing on a main track. Therefore, the proposed changes include a definition in § 218.5 to define what constitutes a main track as noted earlier. The proposal for specific provisions concerning the methods of protecting an individual performing tasks on rolling equipment standing on such main track are contained in § 218.25. The proposed language generally reflects the historical practices of the railroad industry. However, the proposed language also contains an additional requirement for attaching a blue signal to the controlling locomotive standing on such main track. The final portion of the proposed language contains a provision for performing tasks in an emergency situation. It is anticipated that this provision will rarely be utilized but the FRA has concluded that under some unique factual situations it may be necessary to perform work on a main track without the display of blue signals.

SECTION 218.27

In view of the changes proposed in § 218.25 to accommodate tasks performed on main track, the FRA proposes to place in the revised § 218.27 the requirements for providing blue signal protection on all other tracks. Additionally, the FRA proposes to reword and to restructure the previous language to make compliance with the regulation easier to understand. The proposed language specifies in § 218.27(a) the location for the placement of the blue signal and in § 218.27(b) the need to line and lock manually operated switches. In a similar fashion § 218.27(c) specifies the action required if the switch is remotely controlled. Furthermore, the section indicates the action to be taken if rolling equipment is located on a track equipped with one or more crossover switches. This provision contains the requirements formerly stated in § 218.23(d) of the existing regulation. The language of the proposed § 218.27(d), however, is not identical to that in the existing regulation. The proposed language will require that both switches be lined against movement to the protected track and that the switch providing access, which is now a defined term, must be protected in accordance with the provisions of this section. The revision to the crossover language will, in FRA's judgement, comport with the best practices of railroad industry concerning the handling of crossover switches. Finally, the proposed language includes a specific provision for the required action if a locomotive is present on the track being protected. This provision was previously contained in § 218.25(c) of the existing regulation. It should be noted that the proposed revisions omit all reference to hump yard tracks. This omission was deliberate since the intent of the FRA is that the provisions of this section will apply to all tracks other than a main track regardless of whether that track is located in a hump yard or a flat classification yard. In proposing this revised language, the FRA believes that the confusion about the scope of this provision, which was alluded to in responses to the prior NPRM, will be resolved.

SECTION 218.29

The proposed language for § 218.29 constitutes a major revision to the structure of the existing regulation and directly reflects the information gathered from the waiver requests received by the FRA. The proposed language will permit a railroad to use alternative methods, from those contained in the proposed provisions of § 218.27, to protect workmen who should be afforded blue signal protection. The proposed provisions reflect a determination by FRA that when certain criteria are present a railroad may safely use different approaches to afford blue signal protection. Basically, those criteria involve slow speeds and the fact that control over the movement of equipment has been placed in the hands of individuals directly responsible for the people who need to be protected. These criteria can exist in specific areas of railroad operations where locomotive servicing and car repair activities are performed. The existing regulation recognized this concept in terms of locomotive servicing but not in terms of car repair activities. Consequently, the FRA proposes to treat both locomotive servicing and car repair activities in a similar fashion.

As noted earlier, the proposed definitions in § 218.5 contain language that will serve to identify those areas that constitute either a "locomotive servicing track area" or a "car shop repair track area". A principal factor for such identification is the fact that operations on any track within that area is under the exclusive control of mechanical department personnel. Since the individuals normally performing the tasks requiring blue signal protection work for the mechanical department, a portion of the FRA's criteria will be met. The proposed language for this section includes the other criteria of slow speed. Once these criteria have been met the language of the proposed section would permit protection to be provided principally by controlling the access to the area. The control of that access is basically identical to that afforded on any other individual track within a yard location. However, greater freedom of movement is afforded to the mechanical department personnel once a piece of rolling equipment is placed within this area. The proposed language for § 218.29(a) details the matter of the locomotive servicing track area operations and contains the language of the existing regulation contained in the present provisions of §§ 218.25(e), 218.25(f), and 218.25(g). The proposed language for § 218.29(b) details the matter of the car repair shop track area and contains new language not found in the existing regulation except for the present provision of § 218.25(h).

The remaining proposed language of § 218.29 contains the existing regulatory provisions for the use of derails and for the performance of emergency work. These provisions are found in §§ 218.25(b) and 218.25(d) of the existing regulation.

SECTION 218.31

The proposed regulation contains the provisions for required action when remotely controlled switches are involved. This proposed language of this section has not been changed from the existing regulation other than to reflect the restructuring of the regulatory sections.

The principal program draftsman of this document is John McNally of the Office of Safety. The principal legal draftsman is Lawrence Wagner of the Office of Chief Counsel.

Issued in Washington, D.C. on September 22, 1978.

JOHN M. SULLIVAN,
Administrator.

In consideration of the foregoing, it is proposed to revise Part 218 of Title 49 of the Code of Federal Regulations as set forth below.

PART 218—RAILROAD OPERATING RULES

Subpart A—General

Sec.
218.1 Purpose.
218.3 Application.
218.5 Definitions.
218.7 Waivers.
218.9 Civil penalty.
218.11 Filing, testing and instruction.

Subpart B—Blue Signal Protection of Workmen

218.21 Scope.
218.23 Blue signal display.
218.25 Workmen on a main track.
218.27 Workmen on track other than main track.
218.29 Alternate methods of protection.
218.31 Remotely controlled switches.

AUTHORITY: Sec. 202, 84 Stat 971 (45 U.S.C. 431); Sec. 1.49(n) of the regulation of the Office of the Secretary of Transportation, 49 CFR 1.49(n)

Subpart A—General

§ 218.1 Purpose.

This part prescribes minimum requirements for railroad operating rules and practices. Each railroad may prescribe additional or more stringent requirements in its operating rules, timetables, timetable special instructions, and other special instructions.

§ 218.3 Application.

(a) Except as provided in paragraph (b) of this Section, this part applies to railroads that operate rolling equipment on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to—

(1) A railroad that operates only on track inside an installation which is not part of the general railroad system of transportation, or

(2) A rapid transit railroad that operates only on track used exclusively for rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area.

§ 218.5 Definitions.

As used in this part—

(a) "Workman" means railroad employees assigned to inspect, test, repair, or service railroad rolling equipment, or their components including brake systems. Train and yard crews are excluded except when assigned to perform such work on railroad rolling equipment that is not part of the train or yard movement they have been called to operate.

NOTE.—"Servicing" does not include supplying cabooses, locomotives, or passenger cars with items such as ice, drinking water, tools, sanitary supplies, stationery, or flagging equipment.

"Testing" does not include visual observations made by an employee positioned inside or alongside a caboose, locomotive, or passenger car.

(b) "Rolling equipment" includes locomotives, railroad cars, and one or more locomotives coupled to one or more cars.

(c) "Blue Signal" means a clearly distinguishable blue flag or blue light by day and a blue light at night. When attached to the operating controls of a locomotive, it need not be lighted if the inside of the cab area of the locomotive is sufficiently lighted so as to make the blue signal clearly distinguishable.

(d) "Effective Locking Device" when used in relation to a manually operated switch or a derail means one which is: (1) Vandal resistant; (2) tamper resistant; and (3) locked and unlocked only by the class, craft or group of employees for whom the protection is being provided.

(e) "Car shop repair track area" means one or more tracks within an area in which the testing, servicing, repair, inspection, or rebuilding of railroad rolling equipment is under the exclusive control of mechanical department personnel.

(f) "Locomotive servicing track area" means one or more tracks, within an area in which the testing, servicing, repair, inspection, or rebuilding of locomotives is under the exclusive control of mechanical department personnel.

(g) "Main Track" means a track, other than an auxiliary track, extending through yards or between stations, upon which trains are operated by timetable or train order or both, or the use of which is governed by a signal system.

(h) "Locomotive" means a self-propelled unit of equipment designed or moving other equipment in revenue service including a self-propelled unit designed to carry freight or passenger traffic, or both, and may consist of one or more units operated from a single control.

(i) "Switch providing access" means a switch which if traversed by rolling equipment could permit that rolling equipment to couple to the equipment being protected.

(j) "Group of workmen" means two or more workmen of different crafts assigned to work together as a unit under a common authority and who are in communication with each other while the work is being done.

§ 218.7 Waivers.

(a) A railroad may petition the Federal Railroad Administration for a waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by Part 211 of this chapter.

(c) If the Administrator finds that waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver subject to any conditions he deems necessary. Notice of each waiver granted, including a statement of the reasons, therefore, is published in the FEDERAL REGISTER.

§ 218.9 Civil penalty.

Each railroad to which this part applies that violates any requirement prescribed by this part is liable to a civil penalty of at least $250, but not more than $2,500 for each violation. Each day of each violation constitutes a separate offense.

§ 218.11 Filing, testing, and instruction.

The operating rules prescribed in this part, and any additional or more stringent requirements issued by a railroad in relation to the operating rules prescribed in this part, shall be subject to the provisions of Part 217 of this chapter, Railroad Operating Rules: Filing, Testing, and Instruction.

Subpart B—Blue Singal Protection of Workmen

§ 218.21 Scope.

This subpart prescribes minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment whose activities require them to work on, under, or between such equipment and subjects them to the danger of personal injury posed by any movement of such equipment.

§ 218.23 Blue signal display.

(a) Blue Signals displayed in accordance with §§ 218.25, 218.27, or 218.29 signify that workmen are on, under, or between rolling equipment and mean that—

(1) The equipment must not be coupled to;

(2) The equipment must not be moved, except as provided for in § 218,29;

(3) Other rolling equipment must not be placed on the same track so as to reduce or block the view of a blue signal, except as provided for in § 218,29(a), 218.29(b), and 218.29(c);

(4) Rolling equipment may not pass a blue signal.

(b) Blue Signals must be displayed in accordance with §§ 218.25, 218.27, or 218.29 by each craft or group of workmen prior to their going on, under, or between rolling equipment and may

only be removed by the same craft or group that displayed them.

§ 218.25 Workmen on a main track.

When workmen are on, under, or between rolling equipment on a main track:

(a) A blue signal must be displayed at each end of the rolling equipment;

(b) If the rolling equipment to be protected includes one or more locomotives, a blue signal must be attached to the controlling locomotive at a locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive; and

(c) When emergency repair work is to be done on, under, or between a locomotive or one or more cars coupled to a locomotive, and blue signals are not available, the engineman or operator must be notified and effective measures must be taken to protect the railroad employees making the repairs.

§ 218.27 Workmen on track other than main track.

When workmen are on, under, or between rolling equipment on track other than main track—

(a) A blue singal must be displayed at or near each manually operated switch providing access to that track;

(b) Each manually operated switch providing access to the track on which the equipment is located must be lined against movement to that track and locked with an effective locking device;

(c) The person in charge of the workmen must have notified the operator of any remotely controlled switch that work is to be performed and have been informed by the operator that each remotely controlled switch providing acces to the track on which the equipment is located has been lined against movement to that track and locked as prescribed in § 218.31;

(d) If rolling equipment requiring blue signial protection as provided for in this section is on a track equipped with one or more crossovers, both switches of each crossover must be lined against movement through the crossover, and the switch of each crossover that provides access to the rolling equipment must be protected in accordance with the provisions of subsections (a), (b), and (c) of this section; and

(e) If the rolling equipment to be protected includes one or more locomotives, a blue signal must also be attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive.

§ 218.29 Alternate methods of protection.

Instead of providing blue signal protection for workmen in accordance with § 218.27, the following methods for blue signal protection may be used:

(a) Except as provided in subparagraphs (5) and (6) of this paragraph, when workmen are on, under, or between rolling equipment in a locomotive servicing track area—

(1) A blue signal must be displayed at or near each switch providing entrance to or departure from the area;

(2) Each switch providing entrance to or departure from the area must be lined against the movement to the area and locked with an effective locking device;

(3) A blue signal must be attached to each controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive;

(4) If the speed within this area is restricted to not more than 5 miles per hour derails capable of restricting access to that portion of a track within the area on which the rolling equipment is located will fulfill the requirements of a manually operated switch in compliance with subparagraph (2) of this paragraph when positioned at least 50 feet from the end of the equipment to be protected by the blue signal, when locked in a derailing position with an effective locking device, and when a blue signal is displayed at the derail;

(5) A locomotive may not be moved onto a locomotive servicing area track unless the blue signal has been removed from the entrance switch to the area and the locomotive which is placed on the track must be stopped short of coupling to another locomotive;

(6) A locomotive may not be moved off of a locomotive servicing area track unless the blue signal has been removed from the controlling locomotive moved and from the area departure switch;

(7) If operated by an authorized employee under the direction of the person in charge of the workmen, a locomotive protected by blue signals may be repositioned within this area after the blue signal has been removed from the locomotive to be repositioned and the workmen on the affected track have been notified of the movement; and

(8) Blue signal protection removed for the movement of locomotives as provided in subparagraphs (5) and (6) of this paragraph must be restored immediately after the locomotive has cleared the switch.

(b) When workmen are on, under, or between rolling equipment in a car shop repair track area—

(1) A blue signal must be displayed at or near each switch providing entrance to or departure from the area;

(2) Each switch providing entrance to or departure from the area must be lined away from movement to the area and locked as provided for in this subpart;

(3) If the speed within this area is restricted to not more than 5 miles per hour, a derail capable of restricting access to that portion of a track within the area on which the rolling equipment is located will fulfill the requirements of a manually operated switch in compliance with subparagraph (2) of this paragraph when positioned at least 50 feet from the end of the equipment to be protected by the blue signal, when locked in a derailing position with an effective locking device and when a blue signal is displayed at the derail; and

(4) If operated by an authorized employee under the direction of the person in charge of the workmen, a car mover may reposition rolling equipment within this area after workmen on the affected track have been notified of the movement.

(c) Except as provided in paragraph (a) and (b) of this section, when workmen are on, under, or between rolling equipment on any track, other than a main track:

(1) A derail capable of restricting access to that portion of the track on which such equipment is located, will fulfill the requirements of a manually operated switch when positioned no less than 150 feet from the end of such equipment; and

(2) Each derail must be locked in a derailing position with an effective locking device and a blue signal must be displayed at each derail.

(d) When emergency repair work is to be done on, under, or between a locomotive or one or more cars coupled to a locomotive, and blue signals are not available, the engineman or operator must be notified and effective measures must be taken to protect the railroad employees making the repairs.

§ 218.31 Remotely controlled switches.

(a) After the operator of the remotely controlled switches has received the notification required by § 218.27(c), he must line each remotely controlled switch against movement to that track and apply an effective locking device to the lever, button, or other device controlling the switch before he may inform the employee in charge of the work to be performed that protection has been provided.

(b) The operator may not remove the locking device unless he has been informed by the person in charge of the workmen that it is safe to do so.

(c) The operator must maintain for 30 days a written record of each notification which contains the following information:

(1) The date and time he received notification of the work to be performed;

(2) The name and craft of the employee in charge who provided the notification;

(3) The number or other designation of the track involved;

(4) The date and time he notified the employee in charge that protection had been provided in accordance with paragraph (a) of this section; and

(5) The date and time he was informed that the work had been completed, and the name and craft of the employee in charge who provided this information.

[FR Doc. 27824 Filed 9-29-78; 8:45 am]

notices

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

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 30233]

ATLANTA-PORTLAND/SEATTLE PROCEEDING

Continued Hearing

The hearing herein is continued to October 4, 1978 at 10 a.m. in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C. 20428 for the purpose of hearing the evidence on the application of Aeroamerica, Inc.

Dated at Washington, D.C., 26 September 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-27776 Filed 9-29-78; 8:45 am]

[6320-01]

[Docket 32152]

LAS VEGAS-TEXAS CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 14, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on April 5, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 27, 1978.

WILLIAM A. KANE, JR.,
Administrative Law Judge.

[FR Doc. 78-27777 Filed 9-29-78; 8:45 am]

[6320-01]

[Docket 28337; Docket 28999; Docket 32746; Docket 33477; Order 78-9-90]

TEXAS/GREAT LAKES-EASTERN CANADA SERVICE CASE

Order Instituting Investigation

In the matter of Braniff Airways, Inc. (Docket 28337), Allegheny Airlines, Inc. (Docket 28999), American Airlines, Inc. (Docket 32746).

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of September, 1978.

On May 8, 1974, representiatives of the United States and Canada signed a bilateral air transport agreement which contains a number of new and expanded routes for U.S. air carriers. While most of these are now being served by U.S. carriers, a few have not yet been awarded, primarily because the agreement defers some of the authority for varying periods up to 5 years. This order deals with four of the routes:

B.4 Cleveland-Montreal.[1]
B.5 Cleveland-Toronto.
B.6 Detroit-Montreal.[2]
D.2 Houston/Dallas/Fort Worth-Toronto/Montreal.[3]

Except for B.5, these routes are not open to U.S. carrier service until April 29, 1979. The agreement also allows only one U.S. carrier to be designated on each unless the Government of Canada has given its prior approval of any additional designation.

Existing single-plane service from the U.S. points on these routes to Toronto and Montreal is limited. Except for Allegheny's Cleveland-Toronto flights there is no transborder nonstop service available on U.S. flag carriers between any of the points at issue. Dallas/Fort Worth receives nonstop service to Toronto via Air Canada, while the other U.S. points are generally served by multi-stop direct flights of U.S. carriers, or by connecting flights.[4]

Applications to serve two of these routes have been filed by Allegheny, Braniff, Airways, and American Airlines. Allegheny (Docket 28999) and American (Docket 32746) have applied for authority to serve Houston/Dallas/Fort Worth-Toronto/Montreal. Various Texas civic parties[5] have filed petitions for leave to intervene in any proceeding involving Braniff's application for Route D.2, but no other petitions or answers to the applications have been filed. North Central (Docket 25267) and Delta Air Lines (Docket 27791) had earlier filed applications to serve Route B.6, Detroit/Montreal, but those applications were routinely dismissed as stale, by Order 78-6-119. Neither carrier has filed a petition for reconsideration of that order.

We have decided to institute a *Texas/Great Lakes-Eastern Canada Service* case to consider the need for certificated U.S. flag service over the three unawarded bilateral routes described above. Also at issue will be whether Allegheny's temporary authority on Route B.5 should be made permanent or another carrier selected.[6]

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[1] This route may be combined with Route B.5 (Cleveland-Toronto) and operated as a single route (Cleveland-Toronto/Montreal) if the same U.S. carrier is designated for B.4 and B.5. Allegheny Airlines has temporary certificate authority to serve B.5, until 60 days after a final decision on certification of a U.S. carrier on B.4. Order 76-5-66, April 28, 1976.

[2] Route B.6 may be combined with B.7 (Milwaukee/Detroit-Toronto) and operated as a single route (Milwaukee/Detroit-Toronto/Montreal) if the same carrier is designated for both. North Central Airlines currently provides certificated Detroit-Toronto service, and has applied for authority to serve Milwaukee-Toronto as well (Docket 32828). We intend to process its application by show cause procedures.

[3] The carrier designated for Route D.2 may select up to two intermediate points and may change the selection every 12 months. In addition, all flights on this route that serve Montreal must also serve Toronto.

[4] Northbound direct flight service on Routes B.4, B.6 and D.2 is available as follows:
(a) Cleveland-Montreal: Six one-stops per week (Allegheny);
(b) Detroit-Montreal: No direct flights;
(c) Houston-Toronto: Two daily one-stops (Air Canada);
(d) Houston-Montreal: Two daily three-stops (Delta);
(e) DFW-Toronto: Two daily non-stops (Air Canada) and 13 one-stops per week (American);
(f) DFW-Montreal: No direct flights.
Source: Official Airline Guide, North American edition, September 1, 1978.

[5] The City of Houston and the Houston Chamber of Commerce jointly, the City of San Antonio and the San Antonio Chamber of Commerce jointly, and the Aviation Committee of the Corpus Christi Chamber of Commerce.

[6] In recommending that Allegheny be awarded temporary authority to serve

Footnotes continued on next page

We have tentatively decided to combine these routes for consideration in a single proceeding because they are somewhat interrelated, and thus a consolidated route case appears to be the most efficent use of the Board's and the parties' time and resources. Traffic on the Texas-Toronto/Montreal route is now quite thin [7], and may be insufficient to support nonstop U.S. flag service. Therefore, applicants for Route D.2 may have to consider making intermediate stops, perhaps at points in the Great Lakes region, in order to operate profitably. Moreover, the bilateral expressly provides that the carrier designated for D.2 may select up to two intermediate points betwen the terminals of that route. By considering service to Eastern Canada from Cleveland and Detroit in the same proceeding as Texas-Canada, the Board will retain greater flexibility to tailor a route pattern that best serves the public convenience and necessity.

At the same time, however, we are prepared to modify the scope of this case if further pleadings in response to this order demonstrate that our tentative view of interrelationship between these routes is incorrect. For example, at present only a single application has been filed for authority in the Cleveland-Montreal market. If subsequent applications and other pleadings in response to this order reveal no other carrier interest in that route, we will remove it from this case and process the Allegheny application by show cause procedures. Or, if subsequent applications demonstrate competing interests within the Great Lakes-Canada routes themselves, but with no overlap of interest with the Texas route, we will consider splitting this proceeding into two cases. On the other hand, if applicants for Route D.2 seek intermediate points not named here, we may expand the proceeding to include them. In reaching a final decision on the scope of this case our concerns will be the public interest in prompt institution of U.S. flag service, the actual marketing plans of the applicants, and the most efficient use of the Board's and the parties' resources.

In cases such as this, where carrier selection is at issue, it is our policy that the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new or additional authority, and, if so, which carrier or carriers should be selected. We therefore expect this proceeding to include an examination of the need for and feasibility of various new price/quality options in addition to the traditional service benefits. Moreover, the parties and the administrative law judge should consider whether any new authority should be temporary and whether contingent backup awards should be made. At the same time, however we are concerned with reducing the delay and costs of the evidentiary burdens typically associated with traditional carrier selection cases. Accordingly, we invite the judge and the parties to explore ways to reduce the quantity of required exhibit material, eliminate duplication and excessive detail, standardize methodology, and focus on significant facts and assumptions. Ultimately, we leave the resolution of these matters to the administrative law judge.

Finally, the applicants have not submitted sufficient information for the Board to determine the enviromental consequences of their proposed operations. We will require all applicant carriers to file environmental evaluations pursuant to Part 312 of the Board's regulations (14 CFR Part 312) within 30 days of the date of service of this order.

Applications, motions to consolidate, and petitions for reconsideration shall be filed within 30 days of the date of service of this order, and responsive answers shall be filed within 10 days thereafter.

Accordingly, 1. We institute a proceeding entitled the *Texas/Great Lakes-Eastern Canada Service* case and set it for hearing before an administrative law judge of the Board at a time and place to be designated, after petitions for reconsideration have been acted upon by the Board;

2. The proceeding shall include considerations of the following issues:

(a) Do the public convenience and necessity require certification of one or more air carriers to engage in foreign air transportation on a subsidy-ineligible basis between the following points:

(1) Cleveland, Ohio, on the one hand, and Toronto and Montreal, Canada, on the other;

(2) Detroit, Michigan and Montreal, Canada;

(3) Houston and Dallas/Fort Worth, Texas, on the one hand, and Toronto and Montreal, Canada, on the other;

(b) If the answer to subparagraph (a) is affirmative, in whole or in part, which air carrier(s) should be authorized to engage in such service, and what terms, conditions, and limitations, if any should be placed on the operation of such carriers;

(c) Should Allegheny Airlines' temporary authority between Cleveland, Ohio and Toronto, Canada be renewed, deleted, or otherwise modified;

3. We consolidate the applications of Braniff Airways in Docket 28337, Allegheny Airlines in Docket 28999, and American Airlines in Docket 32746 into this proceeding to the extent they conform with its scope, and to the extent not consolidated, we dismiss them;

4. We grant intervention in Docket 33477 to the following parties that petitioned for leave to intervene in Docket 28337; City of Houston and the Houston Chamber of Commerce; the City of San Antonio, Tex. and the San Antonio Chamber of Commerce; and the Aviation Committee of the Chamber of Commerce, Corpus Christi, Tex.;

5. Braniff Airways, Allegheny Airlines, American Airlines, and all other carriers filing applications in this proceeding shall file environmental evaluations under section 312.12 of the Board's regulations (14 CFR § 312.12) by October 26, 1978; and

6. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed by October 26, 1978, and responsive answers shall be filed by November 6, 1978.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[8]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-27778 Filed 9-29-78 8:45 am]

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[7] Footnotes continued from last page

Cleveland-Toronto, the Board stated that the possible renewal of that authority would be considered in any Cleveland-Montreal certification proceeding. See Order to Show Cause 76-3-75, March 11, 1976 and Order 76-5-66.

[7] The Houston-Toronto market generated only 20,510 true O. & D. passengers in calendar 1976 (or 28 daily in each direction), while DFW-Toronto generated 18,360 (or 25 daily). The Texas-Montreal markets are even smaller: Houston-Montreal produced 9,020 true O. & D. passengers (12 daily in each direction) and DFW-Montreal generated 8,860 (12 daily). Source: Air Passenger Origin and Destination—Canada—United States Report 1976 (Ottawa: Ministry of Industry, Trade, and Commerce, July 1977).

[8] All members concurred.

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON THE BLACK POPULATION FOR THE 1980 CENSUS

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. APP. (1976), notice is hereby given that the Census Advisory Committee on the Black Population for the 1980 Census will convene on October 27, 1978, at (9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on the Black Population for the 1980 Census is composed of 21 members ap-

pointed by the Secretary of Commerce. It was established in October 1974 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, recommending subject content and tabulations of special use to the black population, and expanding the dissemination of census results among present and potential users of census data in the black population.

The agenda for the meeting, which is scheduled to adjourn at 4:30 p.m. is: (1) Introductory remarks by the Director of the Bureau of the Census; (2) current status of 1980 census planning, including dress rehearsals and current count committees; (3) Affirmative Action Program; (4) Community Services Program; (5) Public Information Office efforts in lower Manhattan; (6) decentralized processing plans; (7) Committee discussion; and (8) Committee recommendations and plans for the next meeting.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing further information concerning these meetings or who wish to submit written statements may contact the Committee Control Officer, Clifton S. Jordan, Deputy Chief, Demographic Census Division, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Md. Mailing address: Washington, D.C. 20233, telephone: 301-763-5169.

Dated: September 22, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-27104 Filed 9-29-78; 8:45 am]

[3510-24]

Economic Development Administration

HELVETIA SUGAR COOPERATIVE, INC., ETC.

Applications for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from three firms: (1) Helvetia Sugar Cooperative, Inc., Route 1, Box 69, Convent, La. 70723, a processor of sugar (accepted September 25, 1978); (2) The Aerfab Corp., 380 Oakwood Road, Huntington Station, Long Island, N.Y. 11746, a producer of polyurethane and flocked fabrics (accepted September 25, 1978); and (3) Michael Berkowitz Co., Inc., 180 Madison Avenue, New York, N.Y. 10016, a producer of men's and women's sleepwear, robes, lingerie, and disposable face masks (accepted September 26, 1978). The petitions were accepted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618), and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Cerification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the 10th calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-27717 Filed 9-29-78; 8:45 am]

[3510-25]

Foreign-Trade Zones Board

[Order No. 134]

FOREIGN-TRADE ZONE NO. 1, NEW YORK, N.Y.

Extension of Operational Authority

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the operational authority for Foreign-Trade Zone No. 1 in the Brooklyn Navy Yard, New York City, is due to expire on September 26, 1978;

Whereas, the City of New York, grantee of the zone, has, through its Department of Ports and Terminals, applied to the Board for authority to extend this operation indefinitely;

Whereas, notice inviting public comment was given in the FEDERAL REGISTER on August 3, 1978 (43 FR 34179), and no opposition has been expressed;

Whereas, the Area Director of Customs for the New York Seaport has given his clearance in a letter dated August 14, 1978;

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the grantee is authorized to continue zone operations, pursuant to the Board's regulations, at its Brooklyn Navy Yard site for an indefinite period. The grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the zone confines.

Signed at Washington, D.C. this 25th day of September 1978.

JAUNITA M. KREPS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest: John J. DaPorte, *Executive Secretary, Foreign-Trade Zones Board.*

[FR Doc. 78-27678 Filed 9-29-78; 8:45 am]

[3510-25]

Industry and Trade Administration

MANAGEMENT/LABOR TEXTILE ADVISORY COMMITTEE

Change of Meeting Room

On September 25, 1978 a notice dated September 20, 1978 was published in the FEDERAL REGISTER (43 FR 43343) announcing a meeting of the Management-Labor Textile Advisory Committee on October 12, 1978. The purpose of this notice is to advise that the room for the meeting has been changed to Room 6802, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: September 26, 1978.

ARTHUR GAREL,
Director, Office of Textiles.

[FR Doc. 78-276677 Filed 9-29-78; 8:45 am]

[1505-01]

UNIVERSITY OF ALABAMA, DEPARTMENT OF BIOLOGY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 78-26413, appearing at page 42288 in the issue of September 20, 1978, on page 42288, in the middle column, in the paragraph beginning with "Docket No. 78-00381", in the sixth line "FX 900" should read "FX 90Q."

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

ADVISORY COMMITTEE ON THE AIR FORCE HISTORICAL PROGRAM

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Advisory Committee on the Air Force Historical Program has been found to be in the public interest in connection with the performance of duties imposed by law on the Department of Defense. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Advisory Committee on the Air Force Historical Program is to assess the global Air Force Historical Program and to make recommendations concerning the mission, scope, progress, and productivity of the current program; conformity of the work and methods of the Office of Air Force History with professional standards; and priorities of historical publications and such other aspects of the program as the membership may deem of interest. The Committee reports to the Secretary of the Air Force and the Chief of Staff, USAF.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26325 Filed 9-29-78; 8:45 am]

[3910-01]

AIR FORCE ACADEMY BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Air Force Academy Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Air Force Academy Board of Visitors are specified in Section 9355, U.S.C. 10. The statute requires the Board to inquire at least annually into the morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Air Force Academy and to submit a written report to the President of its action, its views, and recommendation pertaining to the Academy. Membership on the Board is also specified by law as nine members of Congress and six Presidential appointees.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26326 Filed 9-29-78; 8:45 am]

[3910-01]

AIR UNIVERSITY BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Air University Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs in its renewal. The nature and purpose of the Air Force University Board of Visitors are to consider and advise the Secretary of the Air Force, through the Commander, Air University, on matters pertaining to the educational, doctinal, and research policies and activities of Air University. The function of the board is solely advisory, and any determination of action to be taken on matters upon which the board advises or recommends shall be made solely by full-time salaried officers or employees of the Air Force.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26324 Filed 9-29-78; 8:45 am]

[3910-01]

COMMUNITY COLLEGE OF THE AIR FORCE (CCAF) ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Community College of the Air Force (CCAF) Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Community College of the Air Force Advisory Committee are to review the programs and objectives of the Community College of the Air Force and recommend policies through the Commander, Air Training Command, to the Secretary of the Air Force. The Committee provides an external source of expertise which insures continued reflection on CCAF operations and policies.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26323 Filed 9-29-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the USAF Scientific Advisory Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the USAF Scientific Advisory Board are to provide a link between the Air Force and the Nation's scientific community by serving as a means of communicating the most recent scientific information as it applies to the Air Force. The Board was created to strengthen but not duplicate the work of the Air Force Systems Command, and all other Air Force activities that deal with science and technology. The Board reviews and evaluates long-range plans for research and development and provides advice on the adequacy of the Air Force program, recommends unusually promising scientific developments for selective Air Force emphasis and new scientific discoveries of techniques for practical application to weapon or support systems, makes a variety of studies designed to improve the Air Force research and development program, and

serves as a pool of expert advisers to various Air Force activities.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26322 Filed 9-29-78; 8:45 am]

[3710-08]

Department of the Army

ARMED FORCES EPIDEMIOLOGICAL BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Armed Forces Epidemiological Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Committee Management Secretariat, General Services Administration, has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Armed Forces Epidemiological Board is to serve as a continuing scientific advisory body to the Surgeons General of the military departments and the Assistant Secretary of Defense (Health Affairs) providing them with timely scientific and professional advice and guidance in matters pertaining to operational programs, policy development, and research needs for the prevention of disease and injury and the promotion of health by application of new technological and epidemiological principles to the control of acute and chronic diseases, the protection of the environment, the improvement of occupational health programs and the design of new systems of health maintenance.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26306 Filed 9-29-78; 8:45 am]

[3710-08]

ARMY ADVISORY PANEL ON ROTC AFFAIRS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Army Advisory Panel on ROTC Affairs has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The purpose of the Army Advisory Panel on ROTC Affairs is to provide a continuous exchange of views between the Department of the Army and educational institutions to improve the Army Senior ROTC program. The scope of activities include a continuous evaluation of recruiting, procurement, and training policies; and the problems related to maintaining an effective interface between the Army's ROTC program and the academic community. The specific intent of the Panel is to provide recommendations to the Department of the Army regarding the Senior ROTC program.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26308 Filed 9-29-78; 8:45 am]

[3710-08]

ARMY SCIENCE BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Army Science Board (ASB), has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Army Science Board is to advise the Secretary of the Army and the Chief of Staff on research and development directions and programs, on systems acquisition policies and procedures and other matters that are affected by science and engineering. The Army Science Board performs the duties formerly performed by the Army Scientific Advisory Panel, the Ballistic Missile Defense Technology Advisory Panel, the Ballistic Research Scientific Advisory Committee, the Tank Automotive Research and Development Command Scientific Advisory Group, and the Scientific Advisory Group of the U.S. Army Missile Command.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26307 Filed 9-29-78; 8:45 am]

[3710-08]

BOARD OF VISITORS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors, the Judge Advocate General's School, U.S. Army, has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Visitors, the Judge Advocate General's School, U.S. Army, is investigative and advisory. At the direction of the Commandant, the Board investigates matters pertaining to the program of instruction of the school. Subsequently, the Board reports its findings and makes its recommendations to the Commandant.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26309 Filed 9-29-78; 8:45 am]

[3710-08]

BOARD OF VISITORS TO THE UNITED STATES MILITARY ACADEMY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors of the U.S. Military Academy has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Visitors to the U.S. Military Academy is provided by 10 U.S.C. 4355. The Board shall visit the Academy annually, shall inquire into the morale and discipline, the curriculum, instruc-

tion, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26314 Filed 9-29-78; 8:45 am]

[3710-92]

CHIEF OF ENGINEERS ENVIRONMENTAL ADVISORY BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Chief of Engineers Environmental Advisory Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administrator has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Chief of Engineers Environmental Advisory Board is to:

(a) Ascertain environmental issues and problems we have overlooked within the context of plans, projects and programs;

(b) Provide advice aimed not only at alleviating or resolving past issues, but more importantly, at preventing problems arising in other projects or in general corps programs. That is, helping us to use experience gained in past problems to avoid future mistakes;

(c) Assist in developing a workable method for quantifying environmental costs and benefits so as to provide a practical means for comparison with the national economic efficiency objective;

(d) Continue to act as part of our change mechanism. Members should explore new directions where the corps acting as the national engineering agency can continue to solve not only technical problems but those of a social, economic, administrative, and environmental nature as well;

(e) Identify environmental consideration in probable new areas of corps involvement. Such areas include assistance to States in their efforts to conduct environmental inventories, urban studies, regional waste water treatment facilities, interbasin transfer of water, offshore deepwater ports, and dredge spoil disposal.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26303 Filed 9-29-78; 8:45 am]

[3710-08]

COMMAND AND GENERAL STAFF COLLEGE ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Command and General Staff College Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Command and General Staff College Advisory Committee is to advise the Commandant and faculty of the Command and General Staff College on ways to improve the CGSC educational program, especially its fully accredited Master of Military Art and Science (MMAS) degree program. The committee satisfies the accreditation prerequisite that there be established a civilian body which includes representation reflecting the public interest.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26310 Filed 9-29-78; 8:45 am]

[3710-08]

DEPARTMENT OF THE ARMY HISTORICAL ADVISORY COMMITTEE (DAHAC)

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Department of the Army Historical Advisory Committee (DAHAC) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Department of the Army Historical Advisory Committee is to provide the Secretary of the Army and the Chief of Military History with advice and counsel regarding (1) the conformity of the Army's historical work and methods with professional standards, (2) effective cooperation between the historical and military professions in advancing the purpose of the Army Historical Program, and (3) the mission of the U.S. Army Center of Military History to further the study of and interest in military history in both civilian and military schools.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26311 Filed 9-29-78; 8:45 am]

[3710-08]

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the National Board for the Promotion of Rifle Practice has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the National Board for the Promotion of Rifle Practice is to promote marksmanship training with rifled arms among able-bodied citizens of the United States and provide the means whereby they may become proficient in the use of such arms. The Secretary of the Army fulfills these requirements through the Civilian Marksmanship Program based upon the recommendations of the National Board for the Promotion of Rifle Practice.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26305 Filed 9-29-78; 8:45 am]

[3710-08]

SCIENTIFIC ADVISORY BOARD OF THE ARMED FORCES INSTITUTE OF PATHOLOGY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Scientific Advisory Board of the Armed Forces Institute of Pathology has been found to be in the public interest in connection with the perform-

ance of duties imposed on the Department of Defense by law. The Committee Management Secretariat, General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Scientific Advisory Board is to provide The Director, Armed Forces Institute of Pathology, and his staff with scientific and professional advice and guidance in matters pertaining to operational programs, policies, and procedures of the AFIP central laboratory of pathology for the Department of Defense and other Federal agencies with responsibilites for consultation, education and research in pathology.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26312 Filed 9-29-78; 8:45 am]

[3710-92]

U.S. ARMY COASTAL ENGINEERING RESEARCH BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the U.S. Army Coastal Engineering Research Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administrator has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the U.S. Army Coastal Engineering Research Board is: The CERB functions as an advisory board to the Chief of Engineers as provided by Pub. L. 88-172, dated November 7, 1963. The CERB meets semiannually, or at the call of the President to consider the coastal engineering research program of the Corps of Engineers. The CERB provides broad policy guidance and review of plans and fund requirements for the conduct of research and development in the field of coastal engineering; recommends priorities of accomplishment of research projects in consonance with the needs of the coastal engineering field and the objectives of the Chief of Engineers; and performs additional functions as assigned by the Chief of Engineers. The CERB membership is comprised of the Director of Civil Works (President), three division engineers of the corps, and three prominent coastal engineers from the academic community. The military members provide guidance on the needs of their respective divisions and the Corps of Engineers coastal engineering research needs in general. The civilian members provide technical guidance and bring to the CERB their broad experience and expertise in conducting and managing coastal engineering research programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26304 Filed 9-29-78; 8:45 am]

[3710-08]

U.S. ARMY MEDICAL RESEARCH AND DEVELOPMENT ADVISORY PANEL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the U.S. Army Medical Research and Development Advisory Panel has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Committee Management Secretariat, General Services Administration, has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the U.S. Army Medical Research and Development Advisory Panel is to advise the Commanding General, U.S. Army Medical Research and Development Command (USAMRDC), on scientific and technological aspects of the U.S. Army medical research and development program, which includes as its objectives:

(1) Improved care of combat wounded; (2) prevention and treatment of infectious diseases of military importance; (3) enhancement of military performance; (4) reduction of military environmental hazards; and (5) other medical research problems as requested by the Commanding General, USAMRDC.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26313 Filed 9-29-78; 8:45 am]

[3710-08]

WINTER NAVIGATION BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Winter Navigation Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administrator has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Winter Navigation Board is the management, coordination and reporting of the winter navigation demonstration program authorized by Pub. L. 91-611, section 107b, as amended by Pub. L. 93-251 and Pub. L. 94-587 to demonstrate the practicability of extending the shipping season on the Great Lakes-St. Lawrence Seaway System. The winter navigation demonstration program is a comprehensive multiagency and industry effort, uniting missions and expertise in an operating demonstration. The authorizing legislation provided for mandatory cooperation in carrying out the program. The winter activities program involves critical, recurring, requirements relative to timing, funding, and priorities, most effectively accomplished by a coordinating committee of agency heads.

This coordinated funding and planning mission of the Winter Navigation Board has made possible an earlier accomplishment of program objectives and recommendations to the Congress, than could have been otherwise achieved.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26315 Filed 9-29-78; 8:45 am]

[3710-08]

ARMY SCIENCE BOARD

Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of committee: Army Science Board/Air Force Scientific Advisory Board.

Date of meeting: October 24, 1978.

Place: U.S. Army Training and Doctrine Command, Fort Monroe, Va.

Time: 0800-1700 hours.

Proposed agenda: The Army and Air Force Science Boards will receive classified briefings and hold classified discussions on their joint summer study on "Battlefield Systems Integration." This meeting will be closed to the public in accordance with section

552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

ROBERT F. SWEENEY,
LTC, GS, Executive Secretary, Army Science Board.

[FR Doc. 78-27031 Filed 9-29-78; 8:45 am]

[3710-08]

ARMY SCIENCE BOARD

Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting;

Name of committee: Army Science Board.

Dates of meeting: November 13-14, 1978.

Place: U.S. Army Air Defense Center & School, Fort Bliss, Tex.

Time: 0800-1700 hours, November 13, 1978; 1300-1600 hours, November 14, 1978.

Proposed agenda: The meeting is partially closed because the members will receive classified briefings and classified discussions on a study done by certain ASB members which relate to the offensive and defensive postures of the United States and other nations. The portion of the meeting that will be closed is between 1300-1500 hours, November 13, 1978. This portion will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

ROBERT F. SWEENEY,
LTC, GS Executive Secretary, Army Science Board.

[FR Doc. 78-27632 Filed 9-29-78; 8:45 am]

[3710-08]

COASTAL ENGINEERING RESEARCH BOARD

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Coastal Engineering Research Board to be held on October 23-25, 1978.

The meeting will be held in Room 1324, U.S. Army Engineer Division, South Pacific, 630 Sansome Street, San Francisco, Calif., from 0820 hours to 1700 hours on October 23, and from 0820 to 1100 hours on October 25, 1978. The entire day of October 24 will be devoted to an aerial inspection of various projects in the South Pacific Division.

The October 23 session will be devoted to a report on action items from previous meeting; recent coastal engineering activities in the North Central Division; status of the wave information study; update on California wave data collection program; California shore processes, SPL coastal model studies—Imperial Beach and Oceanside Beach; Santa Cruz Harbor sand bypassing system; Southwest ocean outfall project—city and county of San Francisco, Alameda SEAP demonstration site; and a briefing on the field trip.

The October 25 session will be devoted to CERB discussion of field inspection trip; nearshore sediment transport study; update 5-year coastal engineering research program; and CERB recommendations.

Participation by the public is scheduled for 1000 hours on October 25. The meeting will be open to the public subject to the following limitations:

a. As the seating capacity of the conference room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements, to be made a part of the minutes, may be submitted prior to, or up to 30 days following the meeting, but oral participation by the public is limited because of the time schedule. Inquiries may be addressed to Col. John H. Cousins, Executive Secretary, U.S. Army Coastal Engineering Research Board, Kingman Building, Fort Belvoir, Va. 22060, telephone 325-7000.

Dated: September 26, 1978.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 78-27633 Filed 9-29-78 8:45 am]

[3710-08]

ROCKY MOUNTAIN ARSENAL, COMMERCE CITY, COLO.

Filing of Final Supplement to Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on September 22, 1978 provided the Environmental Protection Agency with the Final Supplement to Final Environmental Impact Statement concerning collocation of obsolete chemical identification sets to Rocky Mountain Arsenal, Commerce City, Colo.

Copies of the supplement have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Commander, U.S. Army Armament Materiel Readiness Command, Building 390, Attn: DRSAR-ASN (2LT M. E. Davis) Rock Island, Ill. 61201, phone 309-794-5175.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, room 1E676, Pentagon, Washington, D.C. 20310, phone 202-694-1163.

Dated: September 27, 1978.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-27664 Filed 9-29-78; 8:45 am]

[3810-70]

Defense Communications Agency

SCIENTIFIC ADVISORY GROUP

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Communications Agency Scientific Advisory Group has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Communications Agency Scientific Advisory Group is to provide objective advice on major Defense Communications Agency programs and provide technical expertise on major problems in the areas of telecommunications, command and control systems, and ADP systems, to include all DCA programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26302 Filed 9-29-78; 8:45 am]

[3810-70]

Defense Intelligence Agency

ADVISORY COMMITTEE

Renewal

In accordance with the provision of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Intelligence Agency Advisory Committee (formerly known as the Defense Intelligence Agency Scientific Advisory Committee) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory commit-

tee and concurs with its renewal. The nature and purpose of the Defense Intelligence Agency Advisory Committee is to provide the Director, Defense Intelligence Agency with primarily scientific and technical advice and assistance in those areas and disciplines of major importance to the Agency. It also provides a valuable link between the Agency and the scientific and industrial communities of the nation. Its function is solely advisory.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26301 Filed 9-29-78; 8:45 am]

[3810-70]

Defense Nuclear Agency

SCIENTIFIC ADVISORY GROUP ON EFFECTS (SAGE)

Renewal

In accordance with the provision of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Scientific Advisory Group on Effects (SAGE) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Scientific Advisory Group on Effects is to advise and assist the Director, Defense Nuclear Agency (DNA) on matters related to nuclear weapons effects. The Group, composed of about 16 members with extensive experience in nuclear effects related sciences or other disciplines, reviews and evaluates plans and programs for the development of nuclear weapons effects research data, and advises the Director, DNA as to the adequacy of current Research, Development, Test and Evaluation programs. The Group's scope covers recommendations on policy formulation, program planning, and suggested methods for accomplishing program objectives more effectively.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26296 Filed 9-29-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Advisory Committee on Women in the Services (DACOWITS) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Advisory Committee on Women in the Services (DACOWITS) is to assist and advise the Secretary of Defense on policies and matters relating to women in the Services. In carrying out its purpose the Committee will interpret to the public the need for and the role of women as an integral part of the All Volunteer Force; encourage public acceptance of military service as a citizenship responsibility and as a career field for qualified women; recommend measures to insure effective utilization of the capabilities of the women in the Services; and provide a vital link between the Armed Forces and the civilian communities.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26293 Filed 9-29-78; 8:45 am]

[3810-70]

DEFENSE SYSTEMS MANAGEMENT COLLEGE BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the DSMC Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the DSMC Board of Visitors is to advise the DSMC governing body (the Policy Guidance Council) through the Commandant on the organization, management, curricula, methods of instruction, career-related activities, research, facilities, and overall operation of the college. In furtherance of its charter, the DSMC Board of Visitors also concerns itself with policy matters in the area of long-range planning and renders advice to the Commandant on solutions to pressing and complex problems of policy development and principles to be followed bearing on the accomplishment of the DSMC roles and missions.

MAURICE W. ROCHE,
Director, Correspondence and Directive, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26294 Filed 9-29-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Department of Defense Wage Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the DOD Wage Committee is to make recommendations regarding wage surveys and wage schedules for blue collar employees to the Department of Defense Wage Fixing Authority to discharge the responsibilities assigned by Pub. L. 92-392 to the Civil Service Commission, as set forth in Federal Personnel Manual Supplements 532-1 and 532-2, "Federal Wage System." The Department of Defense has "lead agency" responsibility for setting wage rates in approximately 255 of the approximately 278 wage areas established under the Federal Wage System.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26297 Filed 9-29-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the DOD Advisory Group on Electron Devices has been found to be in the public interest in connection with the

performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the DOD Advisory Group on Electron Devices is to provide technical advice which will assist the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency, and the Military Departments in planning and directing adequate and economical research and development programs in the area of electron devices.

MAURICE W. ROCHE,
Correspondence and Directives, Washington Headquarters Service, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26295 Filed 9-29-78; 8:45 am]

[3810-70]

DEFENSE SCIENCE BOARD

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Science Board has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Defense Science Board is to serve as an advisory committee to the Secretary of Defense, reporting through the Under Secretary of Defense for Research and Engineering on scientific, technical and related management matters of particular interest to the Department of Defense. Comprised of a balanced membership of senior appointees representing the industrial, academic and scientific communities, the Board undertakes to analyze and recommend concerning specific issues and problems tasked to it by the Secretary of Defense or the Under Secretary of Defense for Research and Engineering, or other senior officials of the Department of Defense. Additionally, it examines and provides guidance concerning other important subject areas on an ad hoc basis as such matters are surfaced during the normal course of conduct of the Board's proceedings.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26298 Filed 9-29-78 8:45 am]

[3810-70]

BOARD OF VISITORS FOR THE NATIONAL DEFENSE UNIVERSITY AND THE DEFENSE INTELLIGENCE SCHOOL

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Board of Visitors for the National Defense University and the Defense Intelligence School has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal. The nature and purpose of the Board of Visitors for the National Defense University and the Defense Intelligence School is to provide advice to the President, NDU, and Director of the Defense Intelligence Agency and the Commandants of The National War College, Industrial College of the Armed Forces, and the Defense Intelligence School on matters relating to mission, policy, faculty, students, curricula, educational methodology, research, and administration for both resident and non-resident programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26300 Filed 9-29-78; 8:45 am]

[3810-70]

JOINT STRATEGIC TARGET PLANNING STAFF (JSTPS) SCIENTIFIC ADVISORY GROUP (SAG)

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Joint Strategic Target Planning Staff (JSTPS) Scientific Advisory Group (SAG) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the JSTPS SAG is that of a continuing advisory committee which provides scientific and technical advice to the Director of Strategic Target Planning (DSTP) to enhance JSTPS planning in such areas as:

1. Developing procedures and techniques to reduce the vulnerability of U.S. weapon systems within the scope of JSTPS responsibilities in this area.
2. Assessing the use of nuclear weapons effects to improve the effectiveness of the offense.
3. Developing procedures and techniques to improve penetration of the enemy defenses.
4. Identifying technical areas in which additional reasearch and test could lead to knowledge having a direct bearing upon the development of the Single Integrated Operational Plan (SIOP).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26299 Filed 9-29-78; 8:45 am]

[3810-71]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Chief of Naval Operations Executive Panel Advisory Committee are as follows: The Chief of Naval Operations Executive Panel Advisory Committee is established to provide an avenue of communications by which the civilian and military, scientific, academic, engineering and political communities may advise the CNO on questions related to national seapower. In connection therewith, subcommittees composed of Committee members may be formed according to specific areas of interest to the CNO. The functions of the Committee are purely advisory in nature. Material brought before the Committee or Sub-Panels is deter-

mined by the CNO, to whom the Committee reports.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26316 Filed 9-29-78; 8:45 am]

[3810-71]

NAVAL RESEARCH ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Naval Research Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Naval Research Advisory Committee is to know problems of the Navy and the Marine Corps, to keep abreast of the research and development which is being carried on in relation to the problems, and to offer a judgment to the Navy and Marine Corps as to whether the efforts are adequate. The activities of the committee are limited to serving solely in an advisory capacity to the Secretary of the Navy and other high-ranking personnel of the Navy and Marine Corps. The committee is the senior scientific advisory group to the Secretary of the Navy, the Chief of Naval Operations, the Chief of Naval Research, the Commandant of the Marine Corps, the Chief of Naval Development, and the Director of Navy Laboratories.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26317 Filed 9-29-78; 8:45 am]

[3810-71]

NAVY RESALE SYSTEM ADVISORY COMMITTEE

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Navy Resale System Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Navy Resale System Advisory Committee is to examine the policies, operations and organization of components of the Navy Resale System, and submit recommendations relative thereto to the Secretary of the Navy.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26318 Filed 9-29-78; 8:45 am]

[3810-71]

SECRETARY OF THE NAVY'S ADVISORY COMMITTEE ON NAVAL HISTORY

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of the Navy's Advisory Committee on Naval History has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Secretary of the Navy's Advisory Committee on Naval History is to advise the Secretary of the Navy on naval historical programs, including archival, library, and curatorial activities, and to maintain liaison between the Navy's historical programs and the historical profession as a whole.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26319 Filed 9-29-78; 8:45 am]

[3810-71]

SECRETARY OF THE NAVY'S ADVISORY BOARD ON EDUCATION AND TRAINING (SABET)

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also reviewed the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Secretary of the Navy's Advisory Board on Education and Training (SABET) is to provide continuing professional advice to the Secretary of the Navy on the policies and conduct of Navy and Marine Corps education and training programs which is essential to both the quality and relevance of such programs.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER, 13, 1978.

[FR Doc. 78-26320 Filed 9-29-78; 8:45 am]

[3810-71]

UNITED STATES NAVAL ACADEMY BOARD OF VISITORS

Renewal

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the United States Naval Academy Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The General Services Administration has also revised the justification for this advisory committee and concurs with its renewal.

The nature and purpose of the Board of Visitors is to inquire into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Naval Academy that the Board decides to consider, and, within 60 days of its annual meeting, to submit its findings and recommendations to the President of the United States.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 13, 1978.

[FR Doc. 78-26321 Filed 9-29-78 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Bonneville Power Administration

[DOE/EIS-0030-D]

PROPOSED FISCAL YEAR 1980 PROGRAM

Availability of Draft Environmental Impact Statement

Notice is hereby given that the Bonneville Power Administration (BPA),

Department of Energy (DOE), has issued a draft environmental impact statement, proposed fiscal year 1980 program. This environmental impact statement is issued pursuant to DOE's implementation of the National Environmental Policy Act of 1969. This statement was prepared to assess the anticipated environmental impacts that may be associated with the construction and maintenance program proposed by BPA for fiscal year 1980.

Copies of the draft environmental impact statement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, BPA, P.O. Box 3621, Portland, Oreg. 97208) and at DOE public document rooms located at:

Library, DOE, Room 1223, 20 Massachusetts Avenue NW., Washington, D.C.
BPA, Washington, D.C. Office, Interior Building, 18th and C Streets NW., Washington, D.C.
Library, BPA Headquarters, 1002 Northeast Holladay Street, Portland, Oreg.

And in the following BPA area and district offices:

Eugene District Office, U.S. Federal Building, 211 East 7th Street, room 206, Eugene, Oreg.
Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho.
Kalispell District Office, Highway 2 (east of Kalispell), Kalispell, Mont.
Portland Area Office, Lloyd Plaza Building, 919 Northeast 19th Avenue, Room 210, Portland, Oreg.
Seattle Area Office, 415 First Avenue North, Room 250, Seattle, Wash.
Spokane Area Office, U.S. Court House, Room 561, West 920 Riverside Avenue, Spokane, Wash.
Walla Walla Area Office, West 101 Poplar, Walla Walla, Wash.
Wenatchee District Office, U.S. Federal Building, Room 314, 301 Yakima Street, Wenatchee, Wash.

This document is being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposed program. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

A limited number of single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208; the BPA area and district offices mentioned above.

Dated at Washington, D.C. this 27th day of September 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-27834 Filed 9-29-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

[ERA Docket No. IE-78-10; ERA Docket No. IE-78-11]

NIAGARA MOHAWK POWER CORP.

Tariff Filing

On August 16, 1978, Niagara Mohawk Power Corp. (Niagara) tendered for filing in ERA Docket No. IE-78-10, proposed changes in Service Classification G-1 of its Export Rate Schedule FPC No. 4. The proposed changes would increase revenues from jurisdictional sales and service by $8,422 based on the 12-month period ending June 14, 1978.

The increase is necessary to make the charges contained in the Service Classification G-1 comparable to Niagara's other rates charged to customers who have requirements of the magnitude similar to those served by this tariff.

Copies of the filing have been served upon the Quebec Hydro-Electric Commission, the only customer presently served under this tariff.

On August 16, 1978, Niagara also tendered for filing in ERA Docket No. IE-78-11, proposed changes in Service Classification H-1 to be used to supply power and energy to the St. Lawrence Power Co., located in Cornwall, Ontario, Canada. The proposed change would increase revenues from jurisdictional sales and service by $6,624 based on the 1978-79 billing period.

The rates contained in Service Classification H-1 are comparable to Niagara's other rates charged to customers who have requirements of a magnitude similar to those served by this tariff.

Copies of the filing have been served on St. Lawrence Power Co., the only customer presently proposed to be served under this tariff, and upon the Public Service Commission of the State of New York, Empire State Plaza, Albany, N.Y. 12223. A certificate of concurrence dated September 1, 1978, accepting these rates has been received from St. Lawrence Power Co.

Any person desiring to be heard or to protest said applications should file a petition to intervene or protest with the chief, Systems Reliability and Emergency Response, Economic Regulatory Administration, 2000 M Street NW., Room 538, Vanguard Building, Washington, D.C. 20461 in accordance with paragraphs 1.8 and 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 6, 1978. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with ERA and are available upon request for public inspection and copying at the ERA Docket Room, Room B-120, 2000 M Street NW., Washington, D.C.

Dated: September 25, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 78-27774 Filed 9-29-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. TC78-5]

ALABAMA-TENNESSEE NATURAL GAS CO., ET AL.

Notice of Availability

SEPTEMBER 20, 1978.

On May 31, 1978, the Commission issued an order instituting the above-styled proceedings in order to accumulate sufficient information to evaluate the impact of natural gas shortages on interstate pipeline companies during the course of the 1978-79 winter-heating season. Ordering paragraph (E) of the aforementioned order required that the Commission Staff provide the Federal Energy Regulatory Commission on September 18, 1978, a report analyzing the information obtained as a result of the above-styled proceedings.

Pursuant to the aforementioned ordering paragraph, the Commission Staff has prepared and submitted to the Commission a report analyzing and evaluating the impact that anticipated natural gas shortages will have upon the interstate pipelines in the above-styled proceedings. Copies of this report will be available to the general public in the Federal Energy Regulatory Commission's Office of Public Information, 825 North Capitol NE., Room No. 1000, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27702 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. EL78-35]

CITY OF RENSSELAER, IND.

Notice of Proposed Physical Interconnection

SEPTEMBER 21, 1978.

Take notice that on August 25, 1978, the city of Rensselaer, Indiana. (Rensselaer) tendered for filing an Application for an order directing Northern

Ind. Public Service Co. (NIPSCO) to establish a physical interconnection of its existing 69 Kv transmission facilities under section 202(b) of the Federal Power Act. Rensselaer states that such an order is necessary in order that Rennsselaer, which currently operates in isolation, can connect its facilities with those of NIPSCO, the nearest neighboring utility system, so as to assure a more reliable supply of electric power to the citizens of Rensselaer.

Rensselaer further states that this filing is being filed at the direction of the Economic Regulatory Administration which has determined that such a permanent interconnection is in the public interest, and in the event an agreement could not be reached with NIPSCO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27703 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-512]

COLORADO INTERSTATE GAS CO.

Notice of Application

SEPTEMBER 21, 1978.

Take notice that on September 7, 1978, Colorado Interstate Gas Co. (Applicant), Post Office Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-512 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Commission's Regulations under the act (18 CFR 157.7(b)) for a certificate of public convenience and necessity for authority to construct during a 12-month period beginning January 1, 1979, and to operate thereafter, natural gas facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct during a 12-month period commencing January 1, 1979, and to operate thereafter, various gas purchase facilities for the connection of additional supplies of natural gas. These facilities are to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting new supplies of gas to its system and/or the system of another company authorized to transport gas for the account of, or exchange gas with Applicant.

It is stated that the proposed facilities would not exceed $6,900,000, and no single project would exceed $1,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 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 or its designee 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. 78-27704 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-502]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Application

SEPTEMBER 21, 1978.

Take notice that on September 1, 1978, Consolidated Gas Supply Corp. (Applicant), 445 West Main Street, Clarksburg, W. Va. 26301, filed in Docket No. CP78-502 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain compression and pipeline facilities in Kanawha County, W. Va. for the purpose of assisting Applicant to receive quantities of liquefied natural gas (LNG) which its affiliate, Consolidated System LNG Co. (Consolidated LNG) is proposing to import from Iran beginning in 1983, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is seeking authorization to construct and operate (1) an additional 5,400 horsepower at its Cornwell Compressor Station, Kanawha County, W. Va.; (2) approximately 1.9 miles of 20-inch pipeline extending from Cornwell Station to a connection to be made with Columbia gas Transmission Corp.'s pipeline facilities; (3) heating, regulating, and other miscellaneous facilities. The proposal facilities are in conjunction with Consolidated LNG's proposed to import gas from Iran, it is said. It is indicated that the proposed facilities are designed to receive up to 150,000 dekatherms equivalent of natural gas per day and would cost an estimated $5,879,182.

Applicant states that Consolidated LNG and Columbia LNG Co. have filed a joint application with the Economic Regulatory Administration at Docket No. ERA-78-004-LNG for authorization pursuant to Section 3 of the Natural Gas Act and sections 301 and 402 of the Department of Energy Organization Act, to import from Iran 120,000,000 million Btu's of LNG annually. Of the total annual quantity to be imported, Consolidated LNG is to purchase and import 50,000,000 Btu's, it is said.

It is indicated that Consolidated LNG and Columbia Gas Transmission Corp. are concurrently filing applications with the Commission pursuant to section 7 of the Natural Gas Act for authorizations to transport and sell the volumes proposed for importation.

Applicant states that the proposed construction would commence at the beginning of the 1982 construction season but that, pursuant to the terms of Consolidated LNG's purchase agreement with the National Iranian Gas

Co. (NIGC), a final decision on this application would be required by December 31, 1978, in order to take advantage of a fixed price provision in NIGC's contract with Moss Rosenburg Verft, which would construct the liquefaction facilities for NIGC.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commisssion or its designee 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. 78-27705 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP 78-503]

CONSOLIDATED SYSTEM LNG CO.

Notice of Application

SEPTEMBER 21, 1978.

Take notice that on September 1, 1978, Consolidated System LNG Co. (Applicant), 445 West Main Street, Clarksburg, W.V. 26301 filed in Docket No. CP78-503 an application pursuant to section 7(c) of the Natural Gas Act for a cetificate of public convenience and necessity for the transportation and sale of natural gas which Applicant proposes to import from Iran to its affiliate, Consolidated Gas Supply Corp. (Supply Corporation), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Applicant has entered into an agreement with National Iranian Gas Co. (NIGC) under which NIGC would sell and Applicant would purchase an annual contract quantity (ACQ) of 50,000 million Btu's of LNG F.O.B. ship's rail at Kangan, Iran, for a term of twenty (20) years after an initial buildup period. Applicant, in this application, proposes to sell these volumes to Supply Corporation, under the form of cost-of-service tariff previously approved for its Algerian LNG importation at Docket Nos. CP71-68, et al., it is said.

Applicant states that it would arrange shipping to the existing LNG terminal facility at Cove Point, Md. It is indicated that the ACQ quantities to be purchased by Applicant would, after ocean transportation, average approximately 120,000 dekatherms per day delivered at Cove Point.

Applicant indicates that it has filed an application with the Economic Regulatory Administration of the Department of Energy, at Docket No. ERA78-004-LNG under section 3 of the Natural Gas Act and sections 301 and 402 of the Department of Energy Organization Act for authorization to import LNG from Iran. It is further indicated that under the contract with NIGC, the sales price in the first year of full deliveries would be an estimated $1.81 per million Btu's; the average transportation cost to Cove Point would be approximately $2 per million Btu's; initial deliveries would commence in 1983.

Applicant proposes to terminal, store and regasify the LNG at the existing terminal in Cove Point, Md., and transport the regasified LNG through it existing pipeline to Columbia Gas Transmission Corp. at Loudon County, Va. for transportation and delivery to Supply Corporation in Kanawha County, W.V., at a new connection to be made between the latter companies' facilities.

Applicant states that the estimated cost of this LNG to Supply Corporation in the first year of full deliveries, including transportation, would be approximately $4.42 per million Btu's and that the impact on the total gas purchase costs of Supply Corporation in that year would be 16.26¢ per million Btu's.

Applicant asserts that the volumes of LNG which it proposes to transport and sell are necessary to meet high priority requirements and to alleviate the gas supply deficiency projected by Supply Corporation.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 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 protest 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 Commisson'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 or its designee 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. 78-27706 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-31]

DAVID A SCHLACHTER, OIL & GAS

Amended Petition for Special Relief

SEPTEMBER 21, 1978.

Take notice that on July 21, 1978, David A. Schlachter, Oil & Gas (Petitioner) P.O. Box 8278, Dallas, Tex. 75205, filed an amended petition for special relief in Docket No. RI78-31. On February 9, 1978, petitioner filed its original petition for special relief, which was noticed on March 1, 1978, requesting authorization to charge $1.70 per Mcf for the sale of its gas to United Gas Pipe Line Co. from the B.

C. Dorsey Well located in the Henderson Field, Rusk County, Tex. In its amended petition for special relief petitioner seeks approval to charge the reduced rate of $1.44 per Mcf for the sale of its gas to the above-named purchaser from the above-named well.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27707 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-289 [1]]

EL PASO NATURAL GAS CO.

Amendment to Application and Petition To Amend Order

SEPTEMBER 21, 1978.

Take notice that on August 30, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77-289 an amendment to its application and a petition to amend the order of July 3, 1978 issued by the Commission in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for the extension and amendment of the Clay Basin Interim Storage arrangements designed for the preservation of a portion of the payback gas to which certain of Applicant's east-of-California ("EOC") customers are entitled under the Commission's Opinion No. 800-B issued December 30, 1977, all as more fully set forth in the amendment and petition on file with the Commission and open to public inspection.

It is indicated that by order issued September 30, 1977, in Mountain Fuel Resources, Inc., et al., Docket No. CP76-285, et al., Applicant and other parties received temporary certificate authorization for the interim utilization of a portion of the Clay Basin Storage Field located in Daggett County, Utah, for the protection of service to Applicant's EOC customers' Priority 1 and 2 requirements through December 31, 1979. Thereafter, the parties to the Clay Basin Interim Storage Arrangements entered into various agreements and made appropriate filings necessary to extend the term of such arrangements whereby protection could be afforded to the Priority 1 and 2 requirements of Applicant's EOC customers for a further period extending through September 30, 1980, it is said. Applicant states that by order issued July 3, 1978 in Mountain Fuel Resources, Inc., et al., docket Nos. CP76-285, et al., it received temporary authorization for its part of the extended Clay Basin Interim Storage Arrangements.

Applicant indicates that in Opinion No. 800-B, the Commission Approved Applicant's proposal to restore to certain of its EOC customers certain volumes of natural gas. Applicant states that in order to facilitate prompt restoration to certain of its EOC customers of the remaining volumes of payback gas to which they are entitled, Applicant has filed concurrent with this amendment an application for authorization of transportation and delivery of payback quantities in which all payback quantities would be delivered by the end of February 1979.

It is indicated that Southwest Gas Corp. (Southwest) has advised Applicant that it desires to use a portion of the payback gas to which it is entitled after February 1979 and would like to store these volumes for its use. It is further indicated that in order to accommodate Southwest, Clay Basin Storage Co. (Storage Company) and Applicant have agreed to enter into a Letter Agreement amending the Clay Basin Interim Storage Arrangements (Applicant's FERC Gas Tariff Rate Schedule X-40) which would permit the preservation, on an interim basin, through September 30, 1980, of a portion of the payback gas to which Southwest is entitled. Additionally, Applicant, Storage Company, and Southwest have agreed to enter into a Letter Agreement whereby Applicant would sell to Storage Company and deliver to Northwest Pipeline Corp. (Northwest) for Storage Company's account, those quantities of payback gas to be stored for Southwest, it is stated. Applicant says that Northwest would then transport such quantities to the Clay Basin Storage Field, located in Daggett County, Utah, where such gas would be delivered to Mountain Fuel Resources, Inc. for injection into the field for Storage Company's account. The gas would be held in storage until Southwest calls for equivalent quantities, but not before September 30, 1980, it is indicated. Applicant states that the return of such stored payback gas to Southwest would be accomplished by essentially reversing the above described delivery procedures.

Applicant indicates that its deliveries of payback gas to Southwest for Storage Company's account would be made at Southwest's request and without regard to the priority classification of the end-use requirements which such gas may be used to serve, but that such deliveries to Southwest on any day would be subject to the prior use of the Clay Basin arrangements to make gas available on that day for protection of service to the priority 1 and 2 requirements of Applicant's EOC customers.

Applicant states that it would sell the payback gas for storage to Storage Company at Applicant's then-current Rate Schedule G rate and that Storage Company would sell such returned payback gas to Southwest at a rate equivalent to the rate in effect for Applicant's sales of gas to Southwest, at the time and place of delivery, with any difference between the cost of such gas to Storage Company and the proceeds of its sale to Southwest to be reflected as a credit or debit, as the case may be, in the calculation of the surcharge.

Any person desiring to be heard or to make any protest with reference to said amendment and petition to amend should on or before October 13, 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 protest 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. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27708 Filed 9-29-78; 8:45 am]

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[1] The lead docket in this proceeding is CP76-285. The Commission orders in this proceeding which are referred to in this notice were issued under the lead docket.

[6740-02]

[Docket No. RP72-140

GREAT LAKES GAS TRANSMISSION

Proposed Changes in PGA Gas Tariff Under Purchased Gas Adjustment Clause Provisions

SEPTEMBER 20, 1978.

Take notice that Great Lakes Gas Transmission Co. (Great Lakes), on September 15, 1978, tendered for filing Twenty-Eighth Revised Sheet No. 57, to its FPC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1978.

Great Lakes states that the revised purchased gas cost adjustment reflects a reduction in the cost of gas purchased from TransCanada PipeLines Limited, its sole supplier of natural gas, as a result of a decrease in the Btu content of gas.

In addition, the revised tariff sheet reflects a purchased gas cost surcharge resulting from maintaining an unrecovered purchased gas cost account for the period commencing March 1, 1978, and ending August 31, 1978.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin, and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules and practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27709 Filed 9-29-78; 8:45 am]

[6740-02]

[Project No. 2848]

IDAHO POWER CO.

Application for Preliminary Permit

SEPTEMBER 21, 1978.

Public notice is hereby given that an application for a preliminary permit was filed on April 13, 1978, under the Federal Power Act (16 U.S.C. 791a-825r), by Idaho Power Co. (Applicant) (Correspondence to: Lee S. Sherline, Leighton & Sherline, Suite 406, 1701 K Street NW., Washington, D.C. 20006; and Idaho Power Co., P.O. Box 70, Boise, Idaho 83721) for the proposed Cascade Project, FERC Project No. 2848. The proposed project would be located on the North Fork Payette River in the County of Valley, Idaho, approximately 1 mile north of the town of Cascade.

The proposed project would have a total installed capacity of 12,800 kW. The project would be located 200 feet downstream of the existing U.S. Bureau of Reclamation (USBR). Cascade Dam and Reservoir and would utilize waters released from the reservoir at elevations between 4,828.0 feet msl and 4,800.0 feet msl

The proposed project would consist of: (a) a 12-foot diameter steel penstock, approximately 100 feet long, connecting the USBR's existing outlet tunnel to the powerhouse; (b) a concrete powerhouse, located on the north bank of the river, containing two semi-outdoor-type generating units; and (c) stepup transformer and switching structures adjacent to the powerhouse.

According to the application, energy generated by the proposed project would be integrated into Idaho Power Co.'s interconnected transmission system for sale to its customers in the States of Idaho, Oregon, Nevada, and Wyoming.

A preliminary permit does not authorize the construction of a project. A permit, if issued, gives the permittee, during the period of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before November 27, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27710 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-86]

KASKASKIA GAS CO., ET AL. COMPLAINANT PETITIONERS v. TRUNKLINE GAS CO., RESPONDENT

Complaint and Petition for Relief

SEPTEMBER 21, 1978.

Take notice that on August 30, 1978, Kaskaskia Gas Co. (Kaskaskia), the villages of Cisne, Louisville, and Wayne City, Ill., and the cities of Fairfield, McLeansboro, and Vienna, Ill., complainant petitioners (petitioners), filed a petition, pursuant to the provisions of the Natural Gas Act, for relief from certain restrictions imposed under the FERC gas tariff of Trunkline Gas Co. (Trunkline).

Petitioners state that Kaskaskia purchases its total natural gas supply for the community of Xenia and all other petitioners their entire requirements from Trunkline, and allege that they are precluded from attaching new loads because of the provisions of § 17.5(b)(2)(i)(a) of the general terms and conditions of Trunkline's FERC gas tariff while other classes of Trunkline's customers are not subject to such restrictions, resulting in discrimination and financial hardship. Petitioners further allege that because of heavy temperature sensitive loads with little or no system flexibility they cannot add new customers and thus risk not meeting the conditions of § 17.5(b)(2)(i)(a) for exemption from the $10 per Mcf overrun penalty for volumes taken in excess of Trunkline's curtailment orders. They claim to have not been attaching any new Priority 1 loads even though they have sufficient peak day gas volume capabilities to serve new residential and small commercial cutomers. According to petitioners, many of the larger customers of Trunkline have been connecting new customers with little or no restriction as to the type of load attached.

Petitioners etimate that during the first year they would add 174 new customers with annual requirements of 27,575 Mcf, representing about 0.0124 percent of Trunkline's annual deliveries.

It is requested that Trunkline be directed to amend § 17.5(b)(2)(i)(a) of its tariff to read "(i) In the case of a Small General Service Buyer which did not exceed its Contract Demand if such Buyer certifies that (a) it did not subsequent to September 1, 1978

attach or supply any new gas usage within opinion No. 467-B for priorities 2 through 9 and (b) it did not subsequent to November 1, 1976, supply during the billing month any gas for boiler fuel to a customer using 50 Mcf or more per day or for electric power generation." Petitioners also request permission to connect new priority 1 customers within their applicable daily contract demands.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27711 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. OR78-11; ICC Docket No. 36553]

KERR-MCGEE REFINING CORP. v. TEXOMA PIPE LINE CO., ET AL.

Order Setting Complaint for Investigation

SEPTEMBER 25, 1978.

Kerr-McGee Refining Corp. (Kerr-McGee) filed a complaint on March 14, 1977 with the Interstate Commerce Commission alleging that Texoma Pipe Line Co. (Texoma) and Vickers Pipeline Co., Inc. (VPL) had violated sections 1 (6), 2, 3(1) and 6(7) of the Interstate Commerce Act (act) (49 U.S.C. 1, et seq.) [1]

Kerr-McGee alleges that Texoma violates sections 2 and 3(1) of the act by charging it a transportation rate 4 cents per barrel higher than the rate charged VPL for the same movement.

Kerr-McGee also argues that because VPL receives a division of the joint rate collected by defendants, Vickers actually pays less than the published rate and that this is a violation of section 6(7) and section 1(6) of the act. On April 26, 1977 Texoma and VPL filed an answer and a motion to dismiss the complaint. On April 29, 1977, Kerr-McGee filed a request for admissions.

Defendants' motion and Kerr-McGee's request were denied by ICC order issued July 1, 1977. On July 11, 1977, the ICC ordered that the proceeding be handled under the modified procedure (49 CFR 1100.43-52), and directed complainant to file its opening statement of facts and argument by August 1, 1977. On July 29, 1977, counsel for complainant informally requested a 30-day extension for filing its opening statement for the purpose of further discovery. On August 1, 1977, complainant filed a petition for reconsideration of the ICC's July 1, 1977 order.

In an order issued August 4, 1977, the ICC vacated its July 11, 1977, order and found that the July 1, 1977 order may need further clarification. No further action was taken by the ICC. This proceeding was transferred to FERC in a procedurally dormant state.

Section 13(1) of the Act (49 U.S.C. 13(1)) gives FERC the authority to institute investigations on its own initiative. Based on these authorities we herein act to revitalize this proceeding.

The ICC's modified procedure is used as an alternative to a hearing before an Administrative Law Judge. It is appropriate in instances in which issues of material fact may be resolved by means of written materials and in which efficient disposition of the proceeding can be made without oral hearing.

Considering the complexity of the factual issues presented here, we believe an oral hearing is the best vehicle for a fair and full adjudication of these issues. Further, under this procedure, the parties have the right to petition the full Commission for review of the Administrative Law Judge's initial decision.

The Commission orders:

(A) Pursuant to the authority of section 13(1) of the Interstate Commerce Act (49 U.S.C. 13(1)), an investigation by this Commission shall be instituted and a public hearing shall be held concerning the allegations contained in the complaint filed with the ICC on March 14, 1977.

(B) Kerr-McGee shall file its case-in-chief within 45 days of the issuance of this order. Texoma and VPL shall file their evidence within 45 days of Kerr-McGee's filing. Finally, staff shall file its case within 30 days of the Texoma and VPL filing.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, shall convene a prehearing conference within 30 days of the filing of testimony as provided in paragraph (B) in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to consolidate, sever or dismiss) as provided for in the Interstate Commerce Commission's rules of practice and procedure (49 CFR part 1100).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27712 Filed 9-29-78; 8:45 am]

[1] This proceeding was commenced before the ICC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to Oct. 1, 1977, refers to the ICC; when used otherwise, the reference is to the FERC.

[6740-02]

[Docket No. CP78-514]

NORTHERN NATURAL GAS CO.

Notice of Application

SEPTEMBER 21, 1978.

Take notice that on September 11, 1978, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP78-514, an application pursuant to section 7 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 and also for authorization pursuant to § 157.7(e) of the regulations (18 CFR 157.7(e)), permitting and approving the abandoment of service and removal of direct sales measuring, regulating, and related minor facilities during calendar year 1979, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of the § 157.7(c) 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 for the calendar year.

The stated purpose of the § 157.7(e) application is to augment applicant's ability to act with reasonable dispatch in abandoning service and remaining direct sales measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that applicant would not abandon any serv-

ice unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed, it is said.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 13, 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 or its designee 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. 78-27713 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-91 (PGA78-4)]

McCULLOCH INTERSTATE GAS CORP.

Notice of PGA Rate Increase

SEPTEMBER 20, 1978.

Take notice that on August 15, 1978, McCulloch Interstate Gas Corp. ("McCulloch Interstate") tendered for filing copies of Fifteenth Revised Sheets No. 32 to its FPC Gas Tariff Original Volume No. 1, as required under the Commission's Rules and Regulations under the Natural Gas Act.

McCulloch Interstate's two Fifteenth Revised Sheets No. 32 provide in the alternative for Purchase Gas Adjustment rate increases of:

(1) 357.12¢ per MMBtu effective October 1, 1978, and
(2) 54.51¢ per MMBtu effective October 1, 1978.

McCulloch Interstate's filings are made in order to: (1) provide for a current gas cost adjustment to permit McCulloch to reflect the higher cost of gas purchases which it is currently incurring (Table II); and (2) in the first alternative to recover the balance in McCulloch Interstate's Unrecovered Purchased Gas Cost Account as of March 31, 1977, and March 31, 1978, or in the second alternative to recover the net balance in McCulloch Interstate's Unrecovered Purchased Gas Cost Account as of March 31, 1977, and March 31, 1978, and as of September 30, 1976, and September 30, 1977 (Table III first and second alternatives).

Any person desiring to be heard or to protest said filing should file a petition to or intervene protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petititons or protests should be filed on or before September 29, 1978. Protests will be considered to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27714 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-46]

McKelvy Oil Co.

Amended Petition for Special Relief

SEPTEMBER 20, 1978.

Take notice that on August 18, 1978, McKelvy Oil Co. (Petitioner), 48 Lloyden Drive, Atherton, Calif. 94025, filed an amended petition for special relief in Docket No. RI78-46. On June 9, 1978, petitioner filed its original petition for special relief, which was noticed on May 31, 1978, requesting authorization to charge $1.50 per Mcf for sale of gas to Cities Sevice Gas Co. from the Harms No. 6 unit, the Biernacki No. 16 unit, and Spikes No. 29 unit, all located in the Hugoton Field, Finney County, Kans. In its amended petition for special relief, petitioner seeks authorization to charge the reduced rates of 65.71 cents per Mcf for gas produced from the Harms No. 6 unit, 86.34 cents per Mcf for gas from the Biernacki No. 16 unit, and 35.73 cents per Mcf for gas produced from the Spikes No. 29 unit.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervewne or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27715 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

SEPTEMBER 25, 1978.

Take notice that Algonquin Gas Transmission Co. (Algonquin) on September 11, 1978, tendered for filing 44th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1 and that the rate change is being filed to reflect an increase in purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corp. (Texas Eastern), scheduled to be effective October 1, 1978, as a result of a general rate increase filed by Texas Eastern on August 31, 1978, in Docket No. RP78-87.

The proposed effective date of the revised tariff sheet is October 1, 1978,

the scheduled effective date of Texas Eastern's rate increase.

A copy of this filing is being served upon all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 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 intevene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27739 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

SEPTEMBER 25, 1978.

Take notice that Algonquin Gas Transmission Co. (Algonquin Gas) on September 15, 1978, tendered for filing Second Revised 42nd Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

This sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost adjustment Provision set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. The rate change proposed to be effective August 9, 1978, is being filed to reflect a change in purchased gas costs filed by its pipeline supplier, Texas Eastern Transmission Corp., under its Second Revised Forty-second Revised Sheet No. 14D.

The proposed effective date of the revised tariff sheet is August 9, 1978.

A copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27740 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-74]

ALGONQUIN GAS TRANSMISSION CO.

Letter Proposing Interpretation of Cost of Service Filing Requirement to Support PGAC

SEPTEMBER 25, 1978.

Take notice that by letter of June 26, 1978, Algonquin Gas Transmission Co. (Algonquin) disclosed its intention to file its cost of service study required by section 154.38(d)(4)(vi)(a) on August 1, 1980. This date is stated to be consistent with all Purchase Gas Adjustment Clause (PGAC) regulations, unless Algonquin should file a section 4(e) proceeding in the intervening period. In support of its statement, Algonquin further recites that:

1. The Commission's regulations governing pipelines whose tariffs contain a PGAC require the filing of a cost of service study after the expiration of 36 months from the establishment of a new base tariff rate.

2. Algonquin has recently settled its "section 4(e)" rate proceedings in Docket Nos. RP73-112, RP74-92, and RP75-88, which settlement was approved by Commission order issued March 31, 1978.

3. The settlement established separately rates for the future with an effectiveness of August 1, 1977, and new Base Rates were established as of that date.

4. The settlement constituted a full rate review for the period extending through October 31, 1977.

5. Accordingly, under the circumstances peculiar to Algonquin, the 36-month requirement interval commenced to run on August 1, 1977 and will terminate on July 31, 1980, unless Algonquin should file another Section 4(e) proceeding in the intervening period.

Any person desiring to be heard concerning the content of Algonquin's letter should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 3, 1978. Comments 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 Algonquin's letter are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27741 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-222]

ARKANSAS LOUISIANA GAS CO.

Petition to Amend

SEPTEMBER 26, 1978.

Take notice that on September 11, 1978, Arkansas Louisiana Gas Co. (Petitioner), P.O. Box 21734, Shreveport, La. 71151, filed in docket No. CP77-222 a petition, pursuant to section 7(c) of the Natural Gas Act, to amend the order issued April 26, 1977 in the instant docket, and to waive § 157.7(d)(4)(i) of the Commission's Regulations (18 CFR 157.7(d)(4)(i)) so as to authorize Petitioner to expend an increased amount for the testing and development of certain storage facilities, during the 12-month period commencing April 26, 1978, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Petitioner was authorized to construct and operate pipeline and compression facilities for the testing and development of underground reservoirs for the possible storage of gas, with such construction and operation authorized to take place during a 3-year period beginning April 26, 1977, at a total cost not to exceed $3,000,000 or $1,000,000 for any 1 year period. Petitioner states that it plans to develop the Chiles Dome Field in East Central Oklahoma as a storage facility and estimates that the Chiles Dome reservoir will have a rated deliverability of 133,000 Mcf of gas per day with a working capacity of 12,000,000 Mcf of gas. More testing and developmental work is needed for the Chiles Dome reservoir, Petitioner states, requiring an expenditure in excess of the $1 million authorized for the 1-year period beginning April 26, 1978. Consequently, Petitioner requests that the Commission waive § 157.7(d)(4)(i) of the Commission's Regulations, and amend the order issued in April 26, 1977 in the instant docket to authorize Petitioner to expend up to $3,500,000 for testing and development during the 1-year period beginning April 26, 1978.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a peti-

tion 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 herein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27724 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-513]

CITIES SERVICE GAS CO.

Application

SEPTEMBER 26, 1978.

Take notice that on September 8, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125 filed in Docket No. CP78-513 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of certain pipeline tap, measuring, regulating and appurtenant facilities to enable Applicant to provide gas service to eighteen (18) rural domestic customers pursuant to right-of-way easements and agreements and gas storage leases heretofore entered into between Applicant and these customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that 18 customers have requested gas service pursuant to the terms of certain right-of-way easements and agreements and gas storage leases between them and Applicant. It is further indicated that in response to such requests, Applicant proposes to tap certain of its pipelines and construct the necessary facilities to provide service to these customers. Service would be provided by sale to gas distribution companies for resale to the domestic customers or if no gas distribution company is willing or able to provide such service, Applicant would serve these customers directly, it is said.

Applicant states that all of the proposed customers have relied upon provisions contained in their respective right-of-way easements and agreements and gas storage leases; these provisions constituted a major portion of the consideration given to these individuals by Applicant in exchange for easements, it is said.

It is indicated that the facilities would be constructed and operated and the gas service provided in the following locations: Jefferson County, Kans., Leavenworth County, Kans., Cass County, Mo., Bourbon County, Kans., Cherokee County, Kans., Montgomery County, Kans., Franklin County, Kans., McDonald County, Mo., Anderson County, Kans., Johnson County, Kans., Kingfisher County, Okla., Miami County, Kans., Buchanan County, Mo., Jackson County, Mo., and Butler County, Kans.

Applicant states that it anticipates that two of the 18 sales would be made on a direct-sale basis, one would be made to Union Gas System, Inc. for resale, and sale to the other 15 customers would be made to The Gas Service Co. for resale to those customers.

Applicant estimates that annual sales would average 250 Mcf for each customer and would total 4,500 Mcf for the 18 service proposed.

The application indicates that the total estimated cost of the proposed facilities would be $11,643 and that said cost 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 October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules 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 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 or its designee 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 necesssity. 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. 78-27725 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-517]

COLORADO INTERSTATE GAS CO.

Application

SEPTEMBER 26, 1978.

Take notice that on September 13, 1978, Colorado Interstate Gas Co. (Applicant), Post Office Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-517 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(c) of the Commission's Regulations under the Act (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction during a 12-month period beginning January 1, 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.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules 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 jurisdiction conferred upon the Federal Energy Regulatory Commis-

sion by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee 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. 78-27726 Filed 7-29-78; 8:45 am]

[6740-02]

[Docket No. RP72-122 and RP78-51 (PGA78-3)]

COLORADO INTERSTATE GAS CO.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Accepting Revised Suspended Rates, Initiating Hearing and Establishing Procedures

SEPTEMBER 25, 1978.

On August 31, 1978, Colorado Interstate Gas Co. (CIG) filed revised tariff sheets[1] proposed to be effective October 1, 1978, containing its suspended rates at Docket No. RP78-51[2] as adjusted for (1) the elimination of all costs associated with facilities not certificated and placed in service by October 1, 1978 ($2 million reduction) and (2) a proposed PGA adjustment consisting of a 29.97 cents per Mcf commodity increase of ($96.7 million) and a 13 cents per Mcf demand decrease ($1.9 million) to be effective October 1, 1978. In addition, CIG filed revised tariff sheets [3] to be effective October 1, 1978, which reflect CIG's RP78-51 rates as adjusted only to eliminate the costs of uncertificated facilities. Such sheets exclude the proposed PGA rate adjustment. Certain of these revised tariff sheets (Sheet Nos. 198, 262 and 341) relate to Volume No. 2 transportation rate schedules and are not subject to the proposed PGA adjustment. The August 31st filing revised its earlier filing of August 15, 1978,[4] which, among other things, contained the proposed PGA adjustment but failed to eliminate the cost of uncertificated facilities from the RP78-51 base rates. The August 15th filing also included a Gas Research Institute (GRI) charge of .12 cents per Mcf and a related (GRI) clause proposed to be effective October 1, 1978. CIG's August 31st filing reflects the elimination of the proposed .12 cents per Mcf GRI charge and requests withdrawal of the sheets reflecting the proposed GRI Clause.

Public notice of CIG's August 31, 1978 filing was issued on September 6, 1978 with protests and petitions to intervene due on or before September 15, 1978. On September 8, 1978, the Public Service Co. of Colo. filed comments requesting that the Commission take action on CIG's filing prior to September 26, 1978 in order that certain of CIG's customers have sufficient time to seek approval from the Colorado State Commission to flow-through the increase contained in the subject filing.

PGA CLAUSE

The $96.7 million increase (29.97 cents per Mcf) in the commodity component of the subject PGA adjustment consists of $34.8 million in deferred purchased gas costs and $61.9 million in current gas costs. The increase in current gas costs of $61.9 million[5] relates to changes in purchase patterns, producer increases and pipeline supplier increases. The $1.9 million decrease (13 cents per Mcf) in the demand component of the PGA adjustment results from a decrease in pipeline suppliers' demand costs.

Opinion No. 777 issued September 30, 1976, permits CIG to include costs related to purchases from Colorado intrastate producers in its rates. Unitl the present filing the rates CIG included in its filings for these Colorado intrastate purchases did not exceed the Opinion No. 770-A rate levels. However, the present filing contains intrastate producer prices as high as $2.0544 per Mcf for purchases from Samson Oil Co.[6] CIG has not presented sufficient evidence for the Commission to find that the prices paid for the nonjurisdictional purchases were prudent. Accordingly, we will suspend the effectiveness of the PGA adjustment for one day until October 2, 1978, and set for hearing the question of the prudency of CIG's non-jurisdictional producer purchases.

GRI CHARGE

CIG's August 15th filing included a proposed .12 cent per Mcf GRI charge and proposed GRI clause. CIG's August 31st filing removes the .12 cent per Mcf GRI charge and requests withdrawal of the tariff sheets related to the proposed GRI clause. CIG in its August 31st filing indicates that the Colorado Public Utilities Commission will probably not authorize the pass-through of GRI charges by its Colorado distributor customers on October 1, 1978, as previously anticipated. Accordingly, they request the removal of the proposed GRI charge and withdrawal of the GRI clause.[7]

We shall treat CIG's proposed tariff sheets incorporating the .12 cent per Mcf GRI charge and the proposed GRI clause as withdrawn.

The Commission orders: (A) CIG's Replacement Substitute Twenty-first Revised Sheet Nos. 5 and 6 containing the PGA adjustment are hereby accepted for filing and suspended for one day, until October 2, 1978, when they shall become effective subject to refund.

(B) CIG's Replacement Twenty-first Revised Sheet Nos. 5 and 6, Second Revised Sheet Nos. 198 and 262, and First Revised Sheet No. 341, containing the rates in Docket No. RP78-51 as adjusted to exclude uncertificated facilities' costs, are hereby accepted for filing and made effective October 1, 1978; such acceptance made subject to refund and also subject to all orders in Docket No. RP78-51.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, 15 and 16, and the Commission's rules and regulations, a public hearing shall be held in this proceeding to determine the prudence of CIG's nonjurisdictional Colorado produce purchases reflected in this filing.

(D) CIG's tariff sheets incorporating the GRI charge of .12 cents per Mcf and the GRI clause (First Revised Sheet No. 67B, Original Sheet No. 67C and Substitute Twenty-first Revised Sheet Nos. 5 and 6) are deemed withdrawn and are of no force and effect.

(E) CIG's case-in-chief in support of the above referenced purchases shall be filed with the Commission no later than October 18, 1978.

(F) Staff's statement of position shall be filed on or before November 17, 1978.

(G) A Presiding Administrative Law Judge to be designated by the Chief

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[1] Replacement Substitute Twenty-first Revised Sheet Nos. 5 and 6 to FPC Gas Tariff, Second Revised Volume No. 1.

[2] On March 31, 1978, CIG filed a $12.1 million general rate increase at Docket No. RP78-51. By Commission Order issued May 1, 1978, CIG's increase was suspended until October 1, 1978, subject to CIG filing revised rates which eliminate all costs associated with facilities not certificated and placed in service by October 1, 1978.

[3] Replacement Twenty-first Revised Sheet Nos. 5 and 6 to FPC Gas Tariff, Second Revised Volume No. 1; Replacement Second Revised Sheet Nos. 198 and 262 and First Revised Sheet No. 341 to FPC Gas Tariff, Third Revised Volume No. 2.

[4] Substitute Twenty-first Revised Sheet Nos. 5 and 6, First Revised Sheet No. 67B, and Original Sheet No. 67C to FPC Gas Tariff, Second Revised Volume No. 1.

[5] This represents a 35 percent increase in the average cost of purchased gas from that reflected in the original RP78-51 rates.

[6] The filing indicates the previous rate paid for this purchase was $.3655 per Mcf.

[7] Docket No. RM77-14, issued March 22, 1978.

Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding to be held within 10 days after the service of Staff's statement of position in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions and petitions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27742 Filed 9-29-78; 8:45]

[6740-02]

[Docket No. CP77-532]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend

SEPTEMBER 26, 1978.

Take notice that on September 15, 1978, Columbia Gas Transmission Corp. (Petitioner), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77-532, a petition, pursuant to section 7(c) of the Natural Gas Act, to amend the order issued December 16, 1977, in the instant docket so as to increase the amount of gas Petitioner is authorized to transport for Libbey-Owens-Ford Co. (LOF), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Specifically, Petitioner states that it was authorized to transport up to 550 Mcf of gas per day for LOF on a best efforts basis by the order of December 16, 1977, in the instant docket. Petitioner further states that LOF has requested it to increase the maximum volume of gas transported from 550 Mcf per day to 2,250 Mcf per day. Consequently, Petitioner requests that the order of December 16, 1977, in the instant docket be amended to increase the amount Petitioner is authorized to transport for LOF.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules 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. 78-27727 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CI78-1179]

DORCHESTER GAS PRODUCING CO.

Petition for Declaratory Order or, Alternatively, Rate Increase, and for Other Relief

SEPTEMBER 26, 1978.

Take notice that on September 6, 1978, Dorchester Gas Producing Co. (Dorchester) requested, pursuant to § 1.7 of the Commission's Rules of Practice and Procedure, that the Commission issue an order declaring that Dorchester's behind-the-plant facilities and operations used to gather gas for Natural Gas Pipeline Co. of America (Natural) to Dorchester's Hooker Plant in Texas County, Okla., are exempt from regulation under section 1(b) of the Natural Gas Act. Dorchester also requests that its existing certificate issued in docket No. CI70-36 be terminated and that its related Rate Schedule No. 9 be cancelled.

In the alternative, Dorchester requests an increase in rates under its Rate Schedule No. 9 proposing a rate of 2.0 cents per Mcf for services performed for Natural in Dorchester's "high pressure system" and 5.0 cents per Mcf for services performed in Dorchester's "low pressure system," effective January 1, 1977, and March, 1973, respectively.

Dorchester further requests that the Commission accept its rate increase effective immediately and, in connection with such request, therefore seeks a waiver of the 30-day notice period.

Communication to Dorchester with respect to this filing should be addressed to James A. Ford, President, Dorchester Gas Producing Co., 901 United National Bank Building, 1509 Main Street, Dallas, Tex. 75201.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 applicable in this proceeding (49 CFR Part 1000). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27728 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-520]

EL PASO NATURAL GAS CO.

Application

SEPTEMBER 25, 1978.

Take notice that on September 14, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-520 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. Applicant also requests authorization to construct, for the same time period, and operate facilities necessary for the attachment of its leasehold wells in connection with the operation of its interstate transmission system. The proposals are 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 coextensive 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 seeks clarification of the definition of gas-purchase facilities under section 157.7(b)(4) as to its applicability to facilities necessary to connect leasehold supplies. Applicant states that if such provision is not intended to apply to leasehold attachment, then Applicant requests that it be granted waiver of such restriction and be permitted to use the proposed budget-type authorization to connect leasehold production to its system or the system of another pipeline authorized to transport or exchange gas with Applicant, both onshore and/or offshore.

Applicant states that the total cost of the proposed gas-purchase facilities,

including the facilities for the attachment of leaseholdings, would not exceed $12,000,000 with the cost of no single onshore project not to exceed $2,000,000 and the cost of no single offshore project not to exceed $3,000,000.

Applicant recognized that the proposed budget-type authorization for the construction of gas-purchase facilities has an estimated total cost for a single project in excess of the amounts specified in subparagraph (1)(ii) of section 157.7 (b) of the Commission's Regulations. Consequently, pursuant to subpargarph (2) of section 157.7(b) of the Commission's Regulations Applicant requests waiver of the provisions of subparagraph (1)(ii) so as to allow for a total single-project cost in excess of the amounts specified in subparagraph (1) (ii). Applicant states that it, as well as the gas industry as a whole, has continued to experience significant increases in the cost of materials, labor and other aspects of the construction and operation of natural gas handling facilities utilized in operations, including facilities for the attachment of new or expanded supplies of natural gas. Applicant asserts that inasmuch as the industry indicators reflect a continual increase in the cost of all aspects of Applicant's business activities, Applicant now finds itself in a position wherein the budget-type construction during the calendar year 1979 can be expected to exceed the single project limitations prescribed by section 157.7(b)(1)(ii) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules 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 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 or its designee 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. 78-27729 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-521]

EL PASO NATURAL GAS CO.

Application

SEPTEMBER 25, 1978.

Take notice that on September 14, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-521 an application pursuant to section 7 of the Natural Gas Act and section 157.7(g) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.7(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, and operation and abandonment of facilities which will not result in changing Applicant's system salable 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, and that the cost of any single project would not exceed $500,000. Applicant indicates that it would finance such cost from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). 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 or its designee 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. 78-27730 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-522]

EL PASO NATURAL GAS CO.

Application

SEPTEMBER 25, 1978.

Take notice that on September 14, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP78-522 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convience 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 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 rear-

rangements which would not result in any material change in the service presently rendered by Applicant.

Appliant states that the total cost of the proposed facilities would not exceed $300,000, which cost Applicant would finance through use of internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules and 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 by the Commission or its designee 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. 78-27731 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Tariff Filing

SEPTEMBER 25, 1978.

Take notice that on September 15, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2A and Third Revised Volume No. 2, in accordance with Articles IV, X, and XIV of El Paso's Stipulation and Agreement dated June 23, 1978, and pursuant to the Commission's letter order dated September 5, 1978, approving such settlement of the issues involved in the general rate increase proceeding before the Commission at Docket No. RP78-18. Such tariff sheets and the proposed effective dates thereof, are identified in the attached appendix.

El Paso states that such order of September 5, 1978, directs El Paso to file within ten (10) days of the date thereof revised tariff sheets reflecting the rates and surcharges contained in El Paso's Stipulation and Agreement. Article IV of the subject Stipulation and Agreement provides that such settlement rates shall be effective as of June 1, 1978, and shall be adjusted, commencing June 1, 1978, for changes in rate permitted by the Commission to be placed into effect from time to time pursuant to the provisions of El Paso's FERC Gas Tariff.

El Paso further states that the Stipulation and Agreement also provides, inter alia, for certain modifications to El Paso's Purchased Gas Cost Adjustment Provision ("PGAC") contained in its FERC Gas Tariff, Original Volume No. 1 and for the the institution of uniformity for billing determinants with respect to storage surcharges paid to El Paso by its east-of-California ("EOC") customers. El Paso states that the PGAC has been modified, in accordance with Article X, by refining the methodology for determining the annualized change in purchased gas cost and providing that all refunds received during the period June 1, 1978, through May 31, 1981, will be refunded in accordance with the provisions of Article XVI of said Stipulation and Agreement.[1] Uniform billing determinants, consisting of Priorities 1 and 2 nominations for each month, and unit surcharge calculation methodology related to El Paso's EOC storage surcharges so that billing for all such surcharges shall be in effect during the 12 months of the year are provided at Article XIV of said Stipulation and Agreement.[2]

The proposed effective date, as provided by the accepted and approved Stipulation and Agreement in this proceeding, for each of the tendered tariff sheets is set forth on the attached Appendix. El Paso respectfully requested that the Commission grant waiver of its Rules and Regulations, as may be deemed necessary, in order that the tariff sheets tendered be permitted to become effective as proposed herein.

El Paso states that copies of the filing were served upon all parties to the proceedings at Docket No. RP78-18 and, otherwise, upon all interstate transmission system customers of El Paso and interested State regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before October 4, 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 any 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

EL PASO NATURAL GAS COMPANY

(i) Tariff sheets applicable to the settlement rates charged by El Paso as provided in the Stipulation and Agreement at Docket No. RP78-18, to be effective as of June 1, 1978:

Original Volume No. 1

First substitute 22d revised sheet No. 3-B.

Third Revised Volume No. 2

First substitute 12th revised sheet No. 1-D.
Sixth revised sheet No. 1-D.2.

Original Volume No. 2A

First substitute 14th revised sheet No. 1-C.

(ii) Tariff sheets applicable to Purchased Gas Cost Adjustment Provision reflecting the modifications provided in the Stipulation and Agreement at Docket No. RP78-18, to be effective September 5, 1978:

Original Volume No. 1

Sixth revised sheet No. 67.
Third revised sheet No. 67-A.
Second revised sheet No. 67-B.
Second revised sheet No. 67-C.
Substitute third revised sheet No. 67-D.

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[1] In this connection, El Paso on August 30, 1978, filed with the Commission its PGAC adjustment to become effective on October 1, 1978. Such filing included the PGAC adjustment calculated on the basis of the modified provisions contained in the Stipulation and Agreement, approved by the Commission's order dated September 5, 1978, at Docket No. RP78-18, and being filed herewith.

[2] Concurrent with the instant tender, El Paso filed in the proceeding at Docket No. CP77-289, revised tariff provisions and the proposed October 1, 1978, surcharge applicable to its Clay Basin Storage Arrangements based upon the uniform billing determinants provisions approved and accepted by the Commission in accordance with Article XIV of the Stipulation and Agreement.[2]

(iii) Tariff sheets applicable to unit surcharge calculation methodology related to Rhodes Reservoir operations as provided in the Stipulation and Agreement at Docket No. RP78-18, to be effective October 1, 1978:

Original Volume No. 1

Substitute sixth revised sheet No. 63-C.6.

Third Revised Volume No. 2

Substitute sixth revised sheet No. 1-M.6.

Original Volume No. 2A

Substitute sixth revised sheet No. 7-MM.6.

[FR Doc. 78-27743 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-566, ER78-567, and ER78-19, et al.]

FLORIDA POWER & LIGHT CO.

Order Accepting Rate Schedules for Filing, Providing for Suspension and Hearing, Waiving Regulations, and Consolidating Proceedings

SEPTEMBER 21, 1978.

On August 21, 1978, in Docket No. ER78-566, Florida Power & Light Co. (FP&L) submitted for filing as an initial rate an executed agreement to provide transmission service to the city of Vero Beach, Fla. (Vero Beach).[1] FP&L states that under the agreement, it will transmit power and energy for Vero Beach in the implementation of its interchange agreements with the Orlando Utilities Commission, Tampa Electric Co. (Tampa), and Florida Power Corp.

On that date, FP&L submitted for filing in Docket No. ER78-567, an amendment to an agreement to provide transmission service for Tampa.[1] FP&L states that pursuant to the amendment, it will transmit power and energy as is required by Tampa in the implementation of its interchange agreement with Vero Beach.

FP&L requests an effective date of no late than 30 days after the date of its submittals in the two above-referenced dockets.

FP&L's submittal in Docket No. ER78-566 (Vero Beach) provides for a rate of $1.65 per MWh for transmission service. FP&L stated that it did not submit any estimate of revenues because service is dependent on the amount of power and associated energy purchased by Vero Beach from other parties.

FP&L states that the proposed amendment submitted in Docket No. ER78-567 (Tampa) was necessary because Tampa and Vero Beach entered into an interchange agreement subsequent to the date that FP&L filed a transmission agreement (Docket No. ER78-508) that implemented Tampa's interchange agreements with three other utilities.[2] The rates and terms of service remain unchanged from the original agreement.

FP&L has made previous filings for specified transmission service in Docket Nos. ER78-325, ER78-376, ER78-478, and ER78-508, providing service to Homestead, Fort Pierce, Lake Worth, and Tampa, respectively. In the above-listed dockets, FP&L proposed the same rate supported by the same cost data as that submitted in Docket No. ER78-566. The previously filed rates were suspended for 1 day, consolidated with the ongoing rate proceeding in Docket No. ER78-19, et al.

Notice of FP&L's filings was issued on August 28, 1978, with protests or petitions to intervene due by September 8, 1978. No such responses have been received.

FP&L's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission, therefore, shall suspend the proposed rates for 1 day, to become effective September 21, 1978, subject to refund, pending the outcome of a hearing and decision thereon.

The Commission finds that due to common issues of law and fact, it is appropriate to consolidate Docket Nos. ER78-566 and ER78-567 with the ongoing proceedings in Docket Nos. ER78-19, et al.

It was previously noted that FP&L filed its transmission service agreement with Vero Beach as an initial rate schedule pursuant to § 35.12 of the Commission's regulations. However, FP&L is presently interconnnected with Vero Beach pursuant to an interchange agreement dated November 1, 1971 (Rate Schedule FPC No. 6). FP&L should have tendered its submittal for filing under § 35.13 of the Commission's Regulations and section 205 of the Federal Power Act as a change in rate schedule.[3] Sales of power by FP&L to Vero Beach under the interchange agreement are transported to Vero Beach through FP&L's transmission lines. Thus, FP&L already has an effective rate recovering, inter alia, costs of transmission service to Vero Beach, and, therefore, the submittal in this docket is not that of an initial rate. The instant transmission rate submittal is supplemental to the current interchange rate, which inherently includes transmission charges.

FP&L failed to file complete cost support data as required by § 35.13 of the Commission's regulations for the two instant dockets. It has chosen to ignore our consistent admonition that its abbreviated cost support is insufficient for the purpose of ascertaining whether its proposed transmission rates are cost-justified. At least three orders issued prior to FP&L's August 21, 1978, submittals have directed the Company to comply with out filing requirements.[4]

FP&L's transmission rate filings in Docket Nos. ER78-325, ER78-376, ER78-478, ER78-508, ER78-527, ER78-566, and ER78-567 contain postage stamp rates. The rates for comparable services in all of the above-listed dockets are identical. FP&L has subsequently supplied the required data pursuant to Commission order for all but the instant dockets. As a practical matter, then, the Commission already has in hand the cost support we are empowered to order FP&L to submit in these dockets, and the Commission will not allow FP&L's persistent refusal to comply with its cost support requirements to further delay the proceeding in Docket No. ER78-19, et al.

The Commission finds: (1) Good cause exists to accept FP&L's proposed rate schedules in Docket Nos. ER78-566 and ER78-567 for filing and to suspend the use thereof for 1 day, until September 21, 1978, when they will become effective subject to refund, pending the outcome of a hearing and decision thereon.

(2) Good cause exists to waive the cost support requirements of § 35.13 of the Commission's regulations for FP&L's submittals in the instant dockets.

(3) Good cause exists to consolidate the instant dockets with the ongoing proceeding in Docket Nos. ER78-19, et al.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by FP&L in the instant dockets.

(B) Pending a hearing and decision thereon, FP&L's proposed rate schedules in the instant dockets are hereby accepted for filing and suspended for 1 day, to become effective September 21,

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[1] See Attachment A for designations and descriptions.

[2] Orlando Utilities Commission, Lake Worth Utilities Authority (Lake Worth), and Homestead.

[3] See *Florida Power & Light Co.*, ER77-175, order issued April 12, 1977 and *Florida Power & Light Co.*, ER78-325 order issued May 19, 1978.

[4] *Florida Power & Light Co.*, Docket No. ER78-325, order issued May 19, 1978, *Florida Power & Light Co.*, ER78-376, order issued June 15, 1977, and *Florida Power & Light Co.*, Docket No. ER78-478, order issued August 9, 1978.

1978, the rates thereunder to be subject to refund.

(C) The Commission hereby waives the cost support requirements of § 35.13 of its regulations.

(D) Docket Nos. ER78-566 and ER78-567 are hereby consolidated with Docket Nos. ER78-19, et al. for the purpose of a hearing and decision thereon.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27744 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Opinion and Order Approving the Gas Research Institute's 1979 Research and Development Program

SEPTEMBER 21, 1978.

INTRODUCTION

On June 30, 1978, the Gas Research Institute (GRI) filed its second annual application. GRI set forth its 1979 research and development program and a related 5-year plan for 1979-83. The 1979 program will cost nearly $40 million.[1] GRI asks the Commission to approve the proposed program and to permit jurisdictional members of GRI to collect a "funding unit" of 3.6 mills per Mcf during 1979 in order to finance it.

Under the regulations promulgated in Order No. 566,[2] each year GRI is to submit an application containing its R. & D. program for the coming year and an updated 5-year plan. Approval of the plan constitutes approval of the projects to be undertaken during the coming year, and jurisdictional companies are permitted to collect from their customers amounts to be contributed to GRI during that year.

GRI filed its first annual application on March 22, 1977, and it was approved in Opinion No. 11[3] on March 22, 1978. GRI's first year R. & D. program called for expenditures of just under $28 million. Of that amount, only the $9.5 million to be spent on planning, administration, and new projects was to be raised through contributions by jurisdictional pipelines. A 1.2 mill per Mcf "funding unit" was approved to be collected by jurisdictional GRI members in order to finance this $9.5 million. The remaining $18.4 million was to be spent for ongoing programs which had previously been administered by the American Gas Association (AGA), and AGA had agreed to fund those programs during GRI's first year. GRI contemplated that the members of GRI would take over responsibility for funding the projects during the second and subsequent years.

GRI's second year program and plan are in many regards similar to that for the first year. GRI will continue the projects approved for initial funding in Opinion No. 11, though at second year funding levels. The new projects which will be initiated are the ones which were, with minor exceptions, described in GRI's first 5-year plan as projects which would commence in GRI's second year.

A major difference between the first and second years, however, is that GRI will assume responsibility for funding the ongoing projects which had been started by AGA. AGA funding for those projects ends on December 31, 1978. Thus, beginning January 1, 1979, GRI's program will for the first time be financed entirely through contributions made by its members. This is the major reason for the requested increase in the funding unit from 1.2 mills per Mcf to 3.6 mills.[4]

Another feature of GRI's filing is that it will put GRI's programs on a calendar year basis. Since Opinion No. 11 was issued on March 22, 1978, the beginning of GRI's fiscal year would always fall on an inconvenient date, as would the effective date of future revisions of the GRI funding unit. This filing rectifies that problem.

Public notice of GRI's filing was issued on July 3, 1978, establishing July 28, 1978, as the date for submission of comments, protests, and petitions to intervene. Initial comments were submitted by the People of the State of California and the Public Utilities Commission of the State of California (California), the State of Michigan and the Michigan Public Service Commission (Michigan) and AGA.

Opinion No. 11 established that, in its second annual application, GRI would file a service list including all GRI members and all State regulatory commissions. Any party listed was to be granted intervention without filing a petition to intervene. GRI included the required service list in its application as Exhibit 12 and, as a result, only the Interstate Natural Gas Association of America (INGAA), the Associated Gas Distributors (AGD), and the Public Service Electric & Gas Co. (PSE&G) filed petitions to intevene. Those parties shall be permitted to intervene as well as the parties inlcuded in GRI's service list.

The July 3, 1978 notice required that the Commission's staff file a report on GRI's application by August 11, 1978, with comments on the report and any further comments on GRI's application due on September 1, 1978. The staff report was filed on August 11, 1978. Comments were filed by GRI, Michigan, the Public Service Co. of the State of New York (New York), and Southern Natural Gas Co. (Southern) by September 1, 1978. California filed a comment on September 8, 1978.[5] A GRI comment in response to New York was filed on September 18, 1978.

The Commission has reviewed GRI's application, the staff's report, and the various comments which have been filed. The Commission approves GRI's 1979 program and approves the collection of a funding unit of 3.5 mills per Mcf during 1979.

ANALYSIS OF THE SUFFICIENCY OF GRI'S APPLICATION

I. THE GUIDELINES OF ORDER NO. 566

The principal tests for the adequacy of GRI's proposed R&D program and plan are the five guidelines promulgated in Order No. 566 and set forth in § 154.38(d)(5)(iii) of the Commission's Regulations.[6] In its Report, Staff con-

[1] The exact amount the 1979 program is projected to cost GRI is $39,958,000. GRI projects $65,009,000 in co-funding from the Federal Government and $4,990,000 from "industry" (see section II A herein). Thus, expenditures for the 1979 projects by GRI, Government, and industry combined are projected to be $109,957,000.

GRI expects it will have collected but not expended $300,000 as of January 1, 1979. The $300,000 will be credited to the cost of the 1979 program, thereby reducing GRI's funding requirement for 1979 to approximately $39.7 million. This, then, is the amount which will have to be collected by GRI's members through natural gas rates charged during 1979.

[2] Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment, Docket No. RM76-17, "Order Prescribing Changes in Accounting and Rate Treatment for Research, Development and Demonstration Expenditures", issued June 3, 1978.

[3] Gas Research Institute, Docket No. RM77-14, "Opinion and Order Approving the Initial Research, Development, and Demonstration Program of Gas Research Institute", issued March 22, 1978.

[4] Jurisdictional AGA members include their contributions in their costs of service and thereby recover contributions from their ratepayers. Thus, the shift of the projects from AGA to GRI will not mean that the gas consuming public will be paying for R. & D. for which it would not otherwise pay. The shift, from a rate standpoint, only results in collection of funds for research through the Order 566 procedure rather than through inclusion in pipelines' costs of service.

[5] California was granted an extension of time by notice issued September 7, 1978.

[6] The five guidelines in § 154.38(d)(5)(iii) are:

1. Evidence that the R.D. & D. objectives of the company or research organization have been clearly established.

2. Evidence that the plan evolves from these R.D. & D. objectives and adequately

Footnotes continued on next page

cluded that GRI's program and plan satisfied Guidelines 1, 2, 4, and 5, and no party filing comments disagreed. The Commission concurs and holds that GRI has substantially complied with those guidelines.

The extent of GRI's compliance with Guideline 3 is, however, the subject of some debate. Guideline 3 requires that GRI submit "evidence that an effective mechanism exists and is used for coordinating this research and development plan with other relevant efforts of national scope." Some commentators question whether GRI's submission shows that it has effective procedures to coordinate its program with the programs of other R. & D. organizations.

In its application, GRI described its intensive efforts to develop a systematic approach to coordinating its program with those of other organizations. GRI has an Industry Technical Advisory Committee as well as a Research Coordination Panel to provide pertinent information on other R. & D. programs. Staff reported that its investigation shows that these panels are now actively functioning. Further, GRI has contracted with Booz-Allen & Hamilton, Inc., to assist in developing a plan for coordination and in preparing an R. & D. data system. GRI's coordination plan calls for identifying the specific groups involved in gas research, establishing lines of communication and collecting information to develop a gas research data base.

At present, however, there is a question as to whether GRI's coordination efforts are completely effective. Several of GRI's projects seem to duplicate projects or activities of other organizations. Staff cited three examples. First, GRI's project on gas recovery from coal deposits apparently duplicates a project at the Department of Energy's (DOE) Morgantown Research Center. Second, GRI's project on geological assessment of geopressurized zones is the same as the project cited in the "Region II Program" of DOE's Division of Geothermal Energy. Third, the project entitled "SNG from Oil Shale" appears to be quite similar to DOE's program on oil shale.[7]

New York seems to urge that these projects be elimintated from GRI's 1979 program, saying, "[GRI's] limited resources can be better used in non-duplicative projects." Staff, however, believes GRI should be given time to demonstrate that it is moving to correct the problem of duplication. Thus, staff would not require removal of any of the apparently duplicative projects from GRI's 1979 program.

This last year has been an organizational year for GRI as well as for the Department of Energy, the principal organization with which GRI's program must be harmonized. It would be unreasonable for the Commission to demand that GRI display at the outset the smooth coordination that is the ultimate objective of the efforts described in GRI's application. Therefore, we find that, for purposes of this second year's application, GRI is in reasonable compliance with Guideline 3, but we put GRI on notice that as its program matures we shall insist on clear evidence that its efforts are complimentary to and not competitive with those of other R.D. & D. organizations.

Staff recommends that the Commission require GRI to submit details on the coordination achieved on each contract proposal. GRI responds that staff's recommendation is unworkable if it means GRI must supply information on coordination with each of DOE's new contracts. Information is not a problem for old contracts. DOE obviously does have information on the contracts for work already undertaken, and GRI says it already provides its Research Coordination Panel with all the available information on current DOE projects. A problem arises with new contracts, however, since at the time GRI is planning its future program, DOE has not yet decided which new contracts it will enter. Thus, while GRI can specify the new contracts it proposes to fund, DOE cannot specify its new contracts.

The Commission shall require that in future applications GRI shall submit information on what coordination has been achieved with DOE or other R. & D. organizations on each GRI contract or "work element". If DOE plans are not contract specific, or if there has been no coordination, GRI should so state. The Commission does not wish to impose an onerous reporting requirement, but it does seek information which will permit it to determine the extent to which GRI's R. & D. activities have been coordinated with other R. & D. activities so that unproductively duplicative research will not be funded.

II. THE STIPULATION AND AGREEMENT

The parties to the proceeding on GRI's first annual application entered into an eighteen point Stipulation and Agreement on September 30, 1977. The Agreement was approved by the Commission in Opinion No. 11. A number of the provisions are pertinent to GRI's second application and received attention in the various comments.

A. Stipulation 1—manufacturer co-funding

Stipulation 1 of the Stipulation and Agreement provides that GRI shall use its best efforts to attract co-funding of its projects by the potential manufacturers who will make the hardware developed by the projects.[8] California is especially concerned that GRI achieve substantial levels of co-funding by equipment manufacturers. As California puts it: "[M]anufacturer co-funding is essential both as a test of the practical potential of specific projects and as a protection against rewarding manufacturers with the fruits of research to which they did not contribute."

GRI projects nearly $5 million in "industry co-funding." At least $1 million of this would come from gas utilities for field testing of fuel cells, however, and, in California's view, "Such utility co-funding should not be considered in assessing compliance with Stipulations 1 and 2, which concerned co-funding by manufacturers." Nevertheless, California concludes that "a serious and substantial effort is underway toward achieving satisfactory levels of co-funding." Staff reached a similar conclusion. The Commission finds that GRI has adequately shown that it intends to comply with Stipulation 1.

B. Stipulation 5—conflicts of interest

Stipulation 5 states that "GRI is, and will remain, committed to avoiding possible conflicts of interest between GRI Board members and co-funding manufacturers." No party

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Footnotes continued from last page

utilizes the viewpoints of scientific, engineering, industry, economic, consumers and environmental interests.

3. Evidence that an effective mechanism exists and is used for coordinating this research and development plan with other relevant efforts of national scope.

4. Evidence that the project or program is well conceived and has a reasonable chance of benefitting the ratepayer in a reasonable period of time, having due regard to the basic, exploratory or applied nature of each submitted R.D. & D. project.

5. Evidence that whatever achievements may result, including the knowledge gained or technology developed from the R.D. & D. effort, if any, will accrue to the benefit of the sponsoring jurisdictional company(s) and its/their customers.

[7] These three projects account for $750,000 or less than 2 percent of GRI's 1979 program.

[8] Stipulations 2, 3 and 5 of the September 30, 1977 Stipulation and Agreement also relate to manufacturer co-funding of GRI projects;

Paragraph 2 states that achievement of co-funding is an appropriate factor to be considered by the Commission in adjudging future applications;

Paragraph 3 requires GRI to use its best efforts to negotiate co-funding arrangements which preserve to GRI a share of patent or other rights in discoveries proportionate to the GRI share of the total funding; and

Paragraph 5 commits GRI to avoiding possible conflicts of interest between GRI board members and co-funding manufacturers.

suggested that GRI is not fully complying with the stipulation. In connection with its review, however, staff inquired broadly into GRI's actions to prevent all types of possible conflict of interest problems.

GRI has issued a policy statement which staff believes adequately deals with the problem of possible conflicts of interest between Board members and Advisory Committee members. The staff, however, sees an area of concern which has not been addressed. This involves relationships between GRI, the AGA and the Institute of Gas Technology (IGT).

The AGA and IGT were largely responsible for the creation and early development of GRI. Understandably, GRI has drawn many of its key administrative personnel from these two organizations. GRI now, however, is a separate and unique entity in the natural gas industry, and it currently has research contracts with both the AGA and IGT. Furthermore, both the AGA and IGT are expected to be important future GRI contractors. It is desirable that the AGA and IGT, with their considerable experience, be free to submit contract proposals to GRI, but it is equally important that neither of these organizations receive unduly favorable treatment. The staff, therefore, recommends that the Commission require GRI to submit to the Commission for is consideration procedures instituted by GRI's Board of Directors to avoid the preferential award of contracts to any particular party. California supports the staff's recommendation.

GRI states that it is well aware of the potential conflict about which the staff is concerned and says it has made good progress in dealing with it. GRI says it has no objection to providing the Commission with copies of policy statements and written procedures designed to preclude such conflicts. GRI's efforts in this area are, however, not complete, and thus GRI believes it would be more appropriate for the Commission to review this matter in conjunction with GRI's 1980 filing. GRI anticipates that, by then, a "full complement of pertinent policies and procedures" will have been adopted and will be functioning. In view of the comments of the staff, California, Michigan and GRI, the Commission shall require that GRI submit its procedures when it submits its 1980 application.

C. Stipulation 6—budget limitations.

Stipulation 6 provided that, for its first year, GRI would keep expenditures within ten percent (10 percent) of its budgeted limit or $25,000, whichever is greater, at the contract or "work element" level, and that GRI would keep expenditures within the budgeted limit at the "project" level. With the support of California and Michigan, staff proposes that this condition be extended to apply to GRI's 1979 program.

Staff says, however, that the following work elements in the "Gasification Processes" area should be excepted from the condition:

	1979 GRI funding level
HYGAS	$2,250,000
PEATGAS	1,300,000
Catalytic Gasification	2,420,000
Hydrogasification	2,220,000
Steam-Iron/BI-GAS/Advanced Gasification Processes	2,670,000
Total	10,860,000

These five work elements with the indicated funding level constitute GRI's "preferred" coal gasification project for 1979. Each of the five is so expensive, however, that GRI can proceed with it only if DOE offers co-funding. It is still not clear whether co-funding will be forthcoming.

GRI proposes a contingency plan. If DOE decides not to fund any or all of the first four work elements, i.e., HYGAS, PEATGAS, Catalytic Gasification or Hydrogasification, then GRI funds freed as a result will be used for the Steam-Iron/BI-GAS/Advanced Gasification Processes work element. Thus, if all of the first four work elements are denied co-funding by DOE, $10,860,000 will be spent on the last.[9] If no co-funding is forthcoming for any of the five "gasification processes" work elements, GRI proposes to shift the entire $10,860,000 to processes which have been designated for future funding by GRI's staff and the coal gasification project advisors.[10]

Staff proposes that Stipulation 6 be amended to provide GRI with the flexibility it wants in the Gasification Processes area. As amended to extend the "10 percent or $25,000" condition to the 1979 program and to permit flexibility in the Gasification Processes area, Stipulation 6 would read as follows:

> For its 1979 program, GRI shall keep expenditures within ten percent (10%) of its budgeted limits or $25,000, whichever is greater, at the contract or work element level as set forth in Volume II of Exhibit 1 to its 1979 application, provided, however, that GRI shall keep expenditures within the budgeted limits for the five major program areas. This provision shall not apply, however to project sub-area 1.2.1, "Gasification Processes". Expenditures in this subarea shall be limited to a total amount of $10,860,000 and shall conform with the preferred gasification program or the alternative program as set forth in Volume II of Exhibit 1 at pages A-49 to A-65.

A third change from the original Stipulation 6 approved in Opinion No. 11 is that the original stipulation specified that expenditures be kept within the budgeted limits for the "project" level,[11] but the amended Stipulation 6 provides only that expenditures must be kept within the "five major program areas."[12]

GRI states that it does not object to the 10 percent or $25,000 restriction being imposesd upon its 1979 program, though it does not believe the restriction will be appropriate in future years. The Commission finds that the September 30, 1977, Stipulation and Agreement approved in Opinion No. 11 should be modified as proposed by Staff.

D.

Stipulation 8 provided that GRI shall assign priorities

Stipulation 8 provides that GRI shall assign priorities to its projects and use the assignment as a guide to allocating funds.[13]

The thrust of this stipulation was endorsed and emphasized in Opinion No. 11. The Commission stated (at 36): "We are particularly concerned that

[9] The Commission notes, however, that at the present time Congress is considering funding of these four projects at levels even higher than those included in GRI's program.

[10] Processes that are being considered by GRI for future funding include the following: the Synthane Process, AVCO High Throughput Gasification, Atomics International Molten Salt Gasification, Westinghouse Two-Stage Fluid Bed Gasification, Hydrocarbon Research Fast Fluid Bed Gasification, Combustion Engineering Entrained Bed Gasification, Bell Aerospace High Flux Gasification, BI-GAS, and Steam-Iron. In addition, GRI says that several proposals on the gasification schemes are under evaluation and may be considered by funding in the 1979 program. *See* Exhibit 1, Vol. II, pp. A-49—a-65.

If any of the $10,860,000 is not spent in 1979, by terms of Section 6.1.3 of GRI's Funding Formula, the outstanding year-end balance will be credited to GRI's 1980 program. This is similar to how $300,000 from GRI's first year is to be credited to GRI's 1979 program. *See* footnote 1, *supra.*

[11] "Project" is defined in Stipulation 1 of the September 30, 1977, Stipulation and Agreement as being "a collection of work elements or contracts aimed at achieving a single, stated R & D goal."

[12] The five major program areas are: Supply, Economics and Systems Analysis, Operations-Distribution, Conservation, and Basic Research.

[13] The text of Stipulation 8 is as follows:

8. GRI shall assign priorities to its projects in future applications to the extent possible. Priorities shall be reviewed, annually, by GRI and shall be reported to the Commission in GRI's annual filings of updated 5-year plans and R&D programs. GRI shall use its assignment of priorities as a guide in allocating funds to projects. An objective of future programing and funding shall be to move high priority new technology into use for the benefit of pipeline gas rate-payers in the shortest practical time.

GRI assign priorities to its planned projects and that decisions as to which projects to pursue shall be based upon analysis, recognizing immediate gas shortage situations and the need to alleviate the effects thereof."

Considering that only 4 months elapsed between the issuance of Opinion No. 11 and GRI's second application, it is not surprising that the 1979 program is as broad in scope and as diverse as the program approved in Opinion No. 11. GRI has undertaken an expensive effort of program analysis and evaluation, but the results are not yet embodied in GRI's plan and program.

California suggests that the Commission "now let it be known" that it will assign and enforce priorities if GRI fails to do so. Staff requests that GRI be directed to comply with Stipulation 8.[14] Michigan supports Staff's request.

We will not take on the task of assigning priorities ourselves, as was suggested by California. That is a task which belongs to GRI. If GRI proves to be unable to perform it, we may be put in the position of having to disapprove a GRI program, but we shall not take over GRI's functions.

It is premature to face the problem at this time. As we have discussed previously, GRI's initial program was approved only last March. The requirement for setting priorities, though it is a sine qua non of an R. & D. organization, must be applied with reason during this formative period. It would be premature for us to demand perfect, full-blown compliance with Stipulation 8 now. We will adopt the recommendation of the staff and Michigan, however, and call GRI's attention to our admonishment that priorities be assigned. We direct GRI to assign priorities in its 1980 program in accordance with the provisions of the stipulation and agreement approved in opinion No. 11.

E. Stipulation 14—nonjurisdictional sales

Stipulation 14 commits GRI to using its best efforts to spread the cost of funding over the largest possible base of jurisdictional and nonjurisdictional services.[15] Additionally, the stipulation contains specific provisions detailing GRI's obligations regarding two principal categories of nonjurisdictional services: intrastate sales by pipelines and distributors and direct sales to large industrial users by interstate pipelines.

GRI is committed to use its "best efforts" to add intrastate distributors and intrastate pipelines as funding members of GRI. As for direct sales, GRI is obligated to include in its "funding services" a minimum percentage of the volumes of gas sold by GRI's interstate pipeline members to their direct sale customers, exclusive of sales for electric generation. The minimum percentage of direct sale volumes which must be included in GRI's funding services started at zero for GRI's first year and goes up each year until it reaches 90 percent. For 1979, the minimum is 20 percent.

As evidence of its satisfaction of Stipulation 14, GRI points out that it included in its calculation of funding services 50 percent of the intrastate gas of GRI members, and it included 20 percent of its members' direct industrial sales volumes.

GRI derives its funding unit in a straightforward manner. First, it determines the amount of money it will need to have contributed by its members. GRI calls this its "funding requirement". Then, GRI determines the volume of gas sold by its members which will be available for the collection of the funding requirement. These volumes are called "funding services". The "funding unit" is then derived by dividing the funding requirement by the funding services.

In its application, GRI divided its 1979 funding requirement of $39.7 million by 11,183 Bcf of funding services to derive its requested 3.6 mills per Mcf funding unit. The 11,183 Bcf included 815 Bcf representing 50 percent of members' intrastate sales, and it included 88 Bcf representing members' direct industrial sales. If these direct sales and intrastate volumes had not been included in the funding services figures, there would have been less gas over which to spread the $39.7 million funding requirement, and GRI's proposed 1979 funding unit would have been 3.9 mills per Mcf rather than 3.6 mills. Thus, inclusion of the nonjurisdictional volumes in funding services resulted in a savings to jurisdictional gas customers of approximately $3 million.

GRI concluded in its application that this showed it was satisfying Stipulation 14: "GRI submits that these factors demonstrate full satisfaction of the obligations GRI previously undertook in Paragraph 14 . . . ."

At the time it filed its application, GRI realized that assuming 50 percent of members' intrastate sales would be available to collect the funding unit in 1979 was a guess. GRI's bylaws provide that a member has no obligations to make contributions to GRI until the regulatory body having jurisdiction over the member has authorized it to collect from ratepayers the amounts to be contributed to GRI.[16] In many cases, the requisite State and municipal regulatory approvals had not been obtained by GRI's intrastate members.

Since it filed its application, GRI has obtained additional information on how much nonjurisdictional gas will be available to carry its funding unit. California and Michigan point out that the more recent data shows that approximately 40 percent of direct industrial sales will be available in 1979 to bear the GRI funding unit, but significantly less than 50 percent of intrastate sales will be availble.

None of GRI's members that have significant intrastate volumes have yet fully arranged with their state commissions for their intrastate sales to carry a GRI funding unit in 1979. As of September 1, 1978, however, five of the 28 GRI members with intrastate sales have agreed to make contributions in 1979 of specific dollar amounts totalling $1,119,000 in lieu of contributins based on a funding unit. GRI now estimates it will receive $1.5 million to $2.0 million from intrastate gas sales in 1979, rather than the approximately $2.9 million it originally expected.

California urges the Commission to adjust the quantity of direct industrial sales included in 1979 funding services from 20 to 40 percent. California believes it would not be appropriate to reduce the proportion of intrastate

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[14] GRI's response to staff's criticism that it has made little progress in assigning priorties is that staff uses the word "project" in a way different from how it is defined in the Stipulation Agreement. In the Agreement "project" is defined as a "collection of work elements or contracts aimed at achieving a single, stated R. & D. goal." GRI says that staff's criticism amounts to nothing more than a recommendation that GRI assign priorities to sub-projects or contracts (work elements). Review of staff's report and of GRI's 1979 program indicates not only that staff was correctly using "project" but that staff's comments regarding the assignment of priorities are correct.

[15] Stipulation 14 is as follows:

14. In each of its annual applications for continued funding of ongoing projects, and for initial funding of new projects, GRI is and will continue to be committed to use its best efforts to spread the cost of its funding over the broadest possible base of jurisdictional and nonjurisdictional services as contemplated by its by-laws and funding formula. To this end, GRI will use its best efforts to gain further intrastate utilities, including intrastate pipeline companies as funding members of GRI. Furthermore, GRI is willing to undertake, as a condition to any such further approvals, to include within its funding services for use in computing the funding units (per Mcf charges), at a minimum (in the event that the actual nominations for such year do not reach such volume on an industrywide basis) the following percentages of natural gas volumes sold, in interstate commerce, directly for ultimate consumption by GRI's interstate pipeline company members but excluding interstate direct sales for electric generation:

	Percent
1st year	0
2d year	20
3d year	40
4th year	60
5th year	70
6th year	90

GRI is also willing to undertake as a condition to any further approval that the funding required by such minimum industrywide percentages shall in fact be forthcoming from and provided by its members.

[16] Subsection 3.3.2 of GRI's bylaws, Exhibit 7 to GRI's application.

sales below 50 percent, however, and asks the Commission to place GRI on notice that even higher percentages will be included in funding services in future years. California believes this will give GRI a "practical incentive" to fulfill its best efforts commitment.

Michigan also believes that 40 percent of the direct sale volumes should be included in GRI's funding services. Michigan notes that 20 percent is the *minimum* percentage of direct sale gas which is to be included in funding services for GRI's second year. If actual nominations reach a higher percentage, it is that higher percentage which is to be used.

Turning to intrastate sales, Michigan questions how aggressive GRI has been in encouraging the participation of intrastate utilities and pipelines. Michigan, further, questions the support GRI has obtained thus far from its intrastate members. Although five have agreed to contribute to GRI, they have only agreed to contribute flat dollar amounts. They have not agreed to contribute an amount calculated by multiplying their funding services volumes by GRI's funding unit.[17] Thus, Michigan observes, we do not know what the five companies would have contributed if they were contributing on a funding unit basis, nor do we know the amount of intrastate volumes the five companies represent. Michigan notes that it will be difficult to monitor GRI's progress in complying with Stipulation 14 without calculating the percentage increase in volumes from one year to the next.

Finally, we do not know how the five intrastate companies will allocate the amounts they will contribute among their customers. This is important, Michigan cautions, since reliance on a funding unit applied to funding service volumes assumes that the burden of funding GRI is shared fairly by natural gas consumers.

Michigan suggests that if GRI's performance does not improve, it may be necessary to impose a minimum percentage requirement for including intrastate volumes in GRI's funding services. Michigan does not suggest that be done now. Rather, it proposes that GRI's progress should be monitored carefully when GRI files its next application.

In sum, California and Michigan are concerned about GRI's compliance with Stipulation 14 and want its progress to be watched closely. Additionally, they want the percentage of direct sales volumes increased from 20 to 40 percent, thereby increasing the total amount of nonjurisdictional volumes included in GRI's funding services.

GRI not only asks that the nonjurisdictional volumes not be increased, but it asks, in effect, that they be reduced. Staff reviewed GRI's calculation of funding services and found that some adjustments were necessary. As a result, GRI's total funding services figure was increased by 180 Bcf.[18] Since this increased the volumes over which GRI's $39.7 million funding requirement could be spread, the consequence was to decrease the 1979 funding unit from the requested level of 3.6 mills per Mcf to 3.5 mills.

GRI does not contest any of staff's adjustments. Instead, it points out that it now estimates it will only receive $1.5 to $2 million from intrastate sales rather than the nearly $3 million it anticipated when it filed its application. Thus, it faces on the order of a $1 million shortfall in revenue. To make this up, GRI asks that the Commission approve the originally requested 3.6 mills per Mcf funding unit rather than staff's 3.5 mills.

A tenth of a mill increase on the funding unit would result in nearly a million dollars more being collected from contributing GRI members. GRI's request for a 3.6 mill per Mcf funding unit is, therefore, tantamount to lowering the percentage of intrastate sales included in funding services from 50 percent to approximately 30 percent. If the volume of intrastate sales included in funding services were so reduced, the total amount of funding services would be reduced, and the funding unit per Mcf of funding services would be increased by .1 mill per Mcf.

Thus, there are two questions before the Commission: (1) Should the minimum percentage of direct sale volumes, exclusive of sales for electric generation, be increased from 20 percent to 40 percent as urged by California and Michigan? (2) Should the percentage of intrastate sales volumes be effectively decreased to something like 30 percent by approving a 3.6 mill per Mcf funding unit, as requested by GRI?

Regarding the direct sale issue, insofar as GRI is effectively asking for a net reduction in non-jurisdictional volumes included in funding services, it opposes the increase in such volumes which would result from including 40 percent rather than 20 percent of direct sales volumes. GRI pleads that it not be subjected to the possibility of a shortfall in revenues.

GRI also points out that while it is true that 40 percent of 1979 direct sales volumes, exclusive of sales for electric generation, will, "in all likelihood", be available to carry the GRI funding unit, "the total volume of such sales is expected to be somewhat less than 1976 volumes" used in GRI's original application. GRI provides neither the projected 1979 volumes nor the basis for the projection. We note, however, that it does not allege that by 1979 direct sale volumes will have dropped so much that 40 percent of 1979 volumes will be close to 20 percent of 1976 volumes. We are only told that 1979 volumes are expected to be "somewhat less" than 1976 volumes. The drop from 1976 to 1979 may be inconsequential.

In any event, this issue is inconsequential. Our calculations show that, using staff's corrected figures, if 40 percent of 1976 direct sale volumes, exclusive of sales for electric generation, were included in funding services

[17] These are the rules of § 4.1.2.2. of GRI's funding formula establishing the amounts intrastate pipelines or distribution companies are to contribute to GRI:

If all of the supplies on an intrastate pipeline or utility come from nonmembers of GRI or from its own production facilities, then all of its sales of every kind shall be "funding services", and the amount to be contributed to GRI is to be determined by multiplying the funding services by the GRI funding unit, e.g., 3.6 mills per Mcf for the year. Of course, nothing has to be contributed if the appropriate State regulatory commission has not authorized the intrastate company to collect the funding unit from its customers.

If more than 10 percent but not all of an intrastate company's supplies come from nonmembers or its own wells, only the volumes coming from the nonmembers or the company's own wells will be "funding services".

If an intrastate company receives 10 percent or less of its gas supply from nonmembers or its own wells, then none of its volumes are classified as "funding services", and it may remain a member of GRI even if it does not contribute. The reason for this is that the overwhelming preponderance of its supplies will then be coming from GRI members such as interstate pipelines which have already contributed to GRI on the basis of the volumes sold to the intrastate company, and a basic principle underlying GRI's funding formula is, according to section 2 of the formula, that "only one increment of cost will be borne by each element of the gas stream on its way from well to burner tip."

[18] GRI's total funding services volume was increased by staff from 11,183 Bcf to 11,363 Bcf. This 180 Bcf increase reflected a 75 Bcf increase in amount of interstate pipeline volumes available to GRI and a 105 Bcf increase in the amount of intrastate sales which would be available.

Staff's adjustments to the funding services of the interstate pipelines were based on 1976 Form 2's. 1976 was used since that was the year used by GRI. Staff's adjustments were made to reflect the addition of new members, to include the sales of some nonmembers, and to avoid duplication of sales as funding services.

Staff adjusted GRI's intrastate sales figures to include estimates for three companies, which had been left out by GRI. The other adjustments were based on refined data which GRI supplied to the staff in a July 19, 1978 letter.

Staff assumed, as had GRI in its application, that 20 percent of direct industrial sales should be included in funding services and 50 percent of intrastate sales should be included.

rather than 20 percent, the total funding services would be increased by only 95 Bcf to 11,458 Bcf. This increase is so slight that GRI's 1979 funding unit would still compute to be 3.5 mills per Mcf.[19] Nevertheless, we advise GRI that in filing future annual applications, if actual nominations of direct sales volumes, exclusive of sales for electric generation, are projected to be higher than the minimum percentage for the year for which GRI is filing, then GRI shall use the higher projected figure rather than the minimum percentage set forth in Stipulation 14.

As for GRI's plea that we approve a 3.6 mill per Mcf funding unit for 1979, we, again, observe that the effect of this is to reduce to roughly 30 percent the amount of intrastate sales included in funding services. GRI proposed including 50 percent in its original application. The initial comments filed on July 28, 1978, were filed in the belief that GRI was proposing 50 percent. Staff's report presumed 50 percent as did the state commissions' comments filed on September 1, 1978. Only California, filing on September 8, 1978, could have know of GRI's September 1, 1978, plea for 3.6 mills rather than staff's 3.5 mills, and California specifically states that it opposes any reduction in the percentage of intrastate sales included in GRI's funding services.

We are not able to approve a 3.6 mill funding unit on the basis of the record now before us. Neither the State commissions nor staff, however, objects to a finding that if GRI includes 50 percent of intrastate sales in funding services, GRI has satisfied Stipulation 14 for at least this year. Staff's 3.5 mill per Mcf funding unit presumes inclusion of 50 percent of intrastate sales in funding services. Accordingly, we shall approve it.

We are sensitive to the problem of insufficient funding which GRI says it faces with a 3.5 mill funding unit. We note, however, that, under the terms of GRI's funding formula, any deficiency in contributions experienced in 1979 can be made up by increasing the 1980 funding unit by enough to recover the deficiency.[20]

F. Stipulation 16—30 day limitation

Stipulation 16 provides that amounts collected by interstate pipelines as a result of including the GRI funding unit in their rates must be conributed to GRI within 30 days after collection.[21] Staff noted that GRI's first surcharge, 1.2 mills per Mcf, became effective on most pipeline systems on June 1, 1978. While staff found no indication that Stipulation 16 is not being followed,[22] staff urged that GRI be directed to report to the Commission if it has reason to believe that collected funds are not forthcoming. No party opposed staff's recommendation. Accordingly, the Commission shall modify Stipulation 16 of the September 30, 1977, Stipulation and Agreement in the manner suggested by staff.

G. Summary

The Commission finds that GRI has substantially complied with the provisions of the Stipulation and Agreement other than Stipulation 8, pertaining to the establishment of priorities. For the reasons stated above, we will not require full compliance with that Stipulation now but will readdress the compliance issue in connection with GRI's 1980 application.

III. THE DEFINITION OF "RESEARCH, DEVELOPMENT AND DEMONSTRATION"

In its August 11, 1978 report, Staff analyzed whether all of the individual projects in GRI's program conformed to the definition of R.D. & D. in the Commission's Regulations.[23] Staff concluded that the projects in the Supply, Operations-Distribution, Conservation and Basic Research categories were consistent with the definition, but certain projects in the Economics and Systems Analysis area were difficult to classify as R.D. & D. activities.

The definition of "research, development and demonstration" provides that the term includes "preliminary investigations and detailed planning for specific projects". In Order No. 566 the Commission explained that the definition does not include investigations and planning activities "where they are of a general nature or where they are preliminary to the determination to proceed with a project."[24]

Staff cited two projects ("work elements" in GRI's terms) as examples of projects in the Economics and Systems Analysis area that in staff's view were so general in nature as to appear to be outside the definition of "R.D. & D.". The first was the "World-wide Natural Gas Assessment" project, the objective of which is to carry out a world-wide assessment of recoverable volumes of natural gas. The second project was "Gas Supply Modeling". Its objective is to develop a gas supply model to be used to determine the need for supplemental supplies and to determine the price of the supplies to various end users.

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[19] The calculation of GRI's funding unit if 20 percent of 1976 direct sales volumes, exclusive of sales for electric generation, are included in funding services is as follows: Funding requirement ($39,700,000) divided by test year program funding services (11,363 Bcf) equals funding unit ($0.00349/Mcf; rounded to $0.0035/Mcf or 3.5 mills per Mcf).

Using 40 percent of 1976 direct sales volumes, exclusive of sales for electric generation, results in the following calculation: Funding requirement ($39,700,000) divided by test year program funding services (11,458 Bcf) equals funding unit ($0.00346/Mcf; rounded to $0.0035/Mcf or 3.5 mills/Mcf.

Section 3.7 of GRI's funding formula requires that each R. & D. funding unit will be rounded to one-tenth of one mill.

[20] Section 6.1.3 of GRI's Funding Formula provides that there shall be added to the amount GRI needs to have contributed during a coming year * * * that amount of money which the Board estimates will be required at the commencement of the funding period in order to offset operating deficiences in prior periods and restore liquid balances and reserves for contractual and other obligations to reasonable and necessary levels.

[21] The text of Stipulaton 16 is as follows: 16. It is understood and agreed that amounts collected by GRI's interstate pipeline members and attributable to the inclusion of an approved GRI Funding Unit in such member's rates shall be paid over to GRI within 30 days of collection.

[22] By terms of Ordering Paragraph (F) of Opinion No. 11, the R. & D. cost adjustment clauses applicable to payments to GRI are to provide that collections made under the clauses "shall be remitted to Gas Research Institute within 30 days."

[23] As revised in Order No. 566, definition 38B of Part 201, Title 18 of the Code of Federal Regulations, defines research, development, and demonstration as follows: Research, Development, and Demonstration (R.D. & D.) means expenditures incurred by natural gas companies either directly or through another person or organization (such as research institute, industry association, foundation, university, engineering company, or similar contractor) in pursuing research, development, and demonstration activities including experiment, design, installation, construction, or operation. This definition includes expenditures for the implementation or development of new and/or existing concepts until technically feasible and commercially feasible operations are verified. Such research, development, and demonstration costs should be reasonably related to the existing or future utility business, broadly defined, of the public utility or licensee or in the environment in which it operates or expects to operate. The term includes, but is not limited to: all such costs incidential to the design, development or implementation of an experimental facility, a plant process, a product, a formula, an invention, a system or similar items, and the improvement of already existing items of a like nature; amounts expended in connection with the proposed development and/or proposed delivery of substitute or synthetic gas supplies (alternate fuel sources, for example, an experimental coal gasification plant or an experimental plant synthetically producing gas from liquid hydro-carbons); and the costs of obtaining its own patent, such as attorney's fees expended in making and perfecting a patent application. The term includes preliminary investigations and detailed planning of specific projects for securing for customers non-conventional pipeline gas supplies that rely on technology that has not been verified previously to be feasible. The term does not include expenditures for efficiency surveys; studies of management, management techniques and organization; consumer surveys, advertising promotions, or items of a like nature.

[24] Order No. 566, *supra*, mimeo ed., p. 4.

Staff recognizes that the GRI program is still in an early stage of development and, accordingly, does not recommend that any individual project be rejected for 1979. Staff does recommend, however, that GRI be directed to set forth clearly the specific R.D. & D. projects that are the objective of the investigations in the Economics and Systems Analysis area. New York, in contrast, urges that funding for the "World-wide" and "Gas Supply Modeling" projects be rejected unless GRI supplies additional information showing that the projects are not general in nature.[25]

The ultimate consideration that must be applied to each project or "work element" in GRI's program is not whether it meets some abstract concept of R.D. & D. but whether the individual project makes a contribution to the overall R.D. & D. program in a manner that reflects sound and comprehensive planning and a meaningful R.D. & D. program. As the Federal Power Commission observed in its Notice of Proposed Rulemaking which led to Order No. 566, there are two methods for testing the reasonableness of R. & D. projects: [26]

> The first method is to examine the technical structure of each project to determine whether it meets a definition of research and development and has a reasonable chance of benefitting ratepayers * * *.
>
> The second method is to establish a set of criteria based on the planning process itself. In this approach, an individual R. & D. expenditure would be reasonable if it supported a comprehensive and integrated energy R. & D. program meeting the needs of the company and/or the industry to serve ratepayers and the general public.

The FPC wisely adopted the second method. In Order No. 566 (at 1) it announced that its rulemaking would "establish sound and comprehensive planning of research *programs* as the preferred test for granting advance approval of R. & D. expenditures * * *."

The studies in the Economics and Systems Analysis area, then, should make a contribution to an R. & D. program and should not be ends in themselves. Studies that serve to develop information that will support and direct the technical program at GRI are, therefore, appropriate for inclusion in GRI's R. & D. program. Studies designed to provide data, analysis and methodology to the public, the research community and industry, apart from any needs of GRI's overall program, are inappropriate.

It is not clear from GRI's submission whether all the studies in the Economics and Systems Analysis area are ends in themselves or are foundations for making sound planning decisions. The "World-wide Gas Resource Assessment" study is one we question. On the other hand, the "Gas Supply Modeling" project, according to GRI, will provide information that it says will be "crucial to the proper planning of gas technology R. & D.". If so, it would seem to bear an appropriate relationship to GRI's planning process.

For this application, we will not pursue this issue further. Rather, we will give GRI the benefit of the doubt and approve funding for these projects. We put GRI on notice, however, that in future applications there should be a better articulation of the connection between such studies and the basic program objectives. Studies in the Economics and Systems Analysis area require a special amount of attention with respect to explaining their roles in GRI's overall program.

Remaining Issues

I. Shareholder Contributions

Staff recommended that the Commission direct GRI to commit itself too getting contributions beyond those recovered from gas consumers. The primary source of these nonrecoverable contributions would be stockholders in the gas industry [27] though staff mentioned the coal industry, the uranium mining industry, the gas appliance industry and manufacturers of insulation materials as examples of other possible sources. Staff suggested, further, that GRI be instructed to develop a target level for such non-recoverable contributions beginning with the 1980 program. The target level, according to staff, could be expressed as a fixed percentage of the amount by which GRI's budget is increased each year above the 1979 budget.

Staff's argument for requiring that stockholders contribute to GRI begins with the premise that the R. & D. activities of GRI will benefit interstate pipelines and distribution company operations by, for example, increasing gas supplies, increasing safety in the transportation of LNG and improving conservation techniques. Staff then reasons that improved pipeline and distribution operations will directly benefit the stockholders of pipeline and distribution companies. Staff concludes that stockholders as well as the consumers of gas should contribute toward the R. & D. costs of GRI.

California and Michigan support Staff's proposal. GRI and Southern strenuously oppose it. GRI justifies passing the cost of the R. & D. on to the consumer by citing *Southwestern Bell Telephone* v. *Public Service Commission of Missouri*,[28] holding that the true test of whether an expenditure should be included in the cost of service of a regulated utility is whether the investment is "prudent". GRI notes that nowhere in the staff report does staff contend any of GRI's projects are imprudent, nor does the staff question that the benefits of the projects are intended for the ultimate customer.

GRI also points to Order No. 566 in which the Commission sanctioned the full flow-through of all prudent costs associated with R. & D. programs. Staff's proposal that the stockholders should contribute would, according to GRI, contravene the spirit of the Commission's advance approval regulation enunciated in Order No. 566. In a regulated business, GRI points out, the rate of return is controlled.

GRI argues that while stockholder contributions might be expected in the case of unregulated manufacturing or retail businesses, it is inappropriate to expect participation by a regulated company with a constrained return on investment. Thus, any benefit realized by the utility as a result of GRI's R. & D. will be flowed through to the consumer in the form of reduced rates. GRI argues that because a utility's rate of return is predicated on the cost of capital, to require the stockholder to pay part of GRI's cost would effectively lower the stockholder's return below the cost of capital. This would put management in the position of either accepting a return below the cost of capital or withdrawing his utility's support of GREI.

In sum, GRI contrasts the situation of regulated GRI contributors to that of an unregulated business. While the former have regulated margins of profit, the latter can hope to better themselves through R. & D. breakthroughs that will lead to larger profits.

Southern joins GRI in arguing that a regulated company is entitled to recover its total cost of service and all

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[25] These two projects would account for $350,000 or less than 1 percent of GRI's 1979 program.

[26] *Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment*, docket No. RM76-17, Notice of Proposed Rulemaking issued June 17, 1976, 3-4 (mimeo ed.).

[27] Staff points to the following statement in Opinion No. 11 as support for its recommendation: We subscribe to GRI's policy of spreading the expenditures for its R.D. & D. program as evenly as possible and over the broadest possible base of jurisdictional and non-jurisdictional natural gas services in this country. Since consumers of natural gas in particular, and Federal taxpayers generally, are expected to benefit from the results of GRI's R.D. & D. proram, it is proper that they should pay for the program. But since producers, pipelines and distributors also have a stake in the results of the program, it is proper that they too should pay for it. Accordingly, we strongly encourage GRI to obtain the broadest possible financial support from all of the expected beneficiaries of its activities, and will follow its efforts and successes in this direction with close attention in future annual reviews. With this assurance, we will refrain from imposing a condition to this effect.

[28] 262 U.S. 276 (1923).

reasonable and prudent expenses incurred in conducting its business. Southern says that staff rationalized its position on the grounds that the natural gas industry, as opposed to the consumer, will benefit from GRI's R. & D. programs. Southern counters with three arguments. First, any R. & D. effort which improves gas sevice directly benefits the gas consumer. Second, in paragraph number 4 of the Stipulation and Agreement in Docket No. RM77-14, GRI agreed to make publicly available the results of its research for the widest possible benefit to the consumer. Third, GRI agreed in the same paragraph to apply all revenues derived from such research as credits against future budgets, thereby directly and exclusively benefiting the gas consumer.

The Commission views this as a major issue. Staff's position may have vital implications for GRI's future. Further, because the arguments applied to GRI's activities would seem to be equally applicable to R.D. & D. expenses in general, our decision here may set a precedent for treatment of all other R.D. & D. projects brought before the Commission. The issue requires careful analysis and deliberation.

On the other hand, the determination of the issue will have no bearing on the 1979 GRI program. The 1980 program would be the first year affected by Staff's proposal. Thus, no delay will be occasioned by allowing opportunity for further briefing and additional discussion by the parties could be of assistance. Accordingly, we will sever this issue from the present proceeding and establish a schedule for further briefing.

Interested parties, including staff, should file comprehensive briefs on this subject covering the basic policy questions as well as other relevant matters. We shall also provide for answering briefs.

II. CO-FUNDING ESTIMATES

In its second year application, as in its first year application, GRI included numerous estimates of the amount of government co-funding that would be forthcoming for various projects. As staff observed, however, it is difficult to determine whether GRI's estimates of government co-funding are based upon specific information or are merely indications of co-funding levels that GRI would like to achieve. Staff recommends that in future applications GRI state the basis for its projections of government co-funding. The Commission shall require GRI to do so in future applications.

III. ACCOUNTING

The staff stated that the limited information included in GRI's filing about its accounting and reporting systems was insufficient for staff to evaluate the overall adequacy of GRI's system of accounting, reporting, and internal control. Accordingly, staff made five accounting recommendations. Michigan and California urged adoption of Staff's recommendations, and GRI did not object to any of them. The recommendations and GRI's responses to each of them are as follows:

A. GRI should obtain the services of independent certified public accountants to perform annual audits of its operation.

GRI states that this recommendation has already been implemented. At its March 29, 1978 meeting, the GRI Board of Directors approved the appointment of Arthur Anderson & Company as GRI's independent Certified Public Accountant for 1978.

B. The FERC staff should have the right to perform a review or audit of GRI's operations.

GRI says it has no objection to FERC staff review of its operations.

C. GRI should adopt costing standards and principles consistent with those found in Part 1-15, CFR 41, Public Contracts and Property, and require contractors to abide by such standards and principles.

GRI says this also has been implemented. GRI attached to its September 1, 1978 comment a copy of GRI's standard contract which GRI says is consistent with 41 CFR, Public Contracts and Property, Part 1-15.

D. GRI should establish an audit function to review and audit contractor activities to determine whether costing standards and principles have been met and whether work is being performed for intended purposes.

GRI says it has hired a contract cost analyst whose role will be to audit both pre-award and post-award proposals and contracts. GRI says that, further, its staff plan for 1979 calls for the addition of at least one and possibly two more employees in the auditing area.

E. GRI should file with the Secretary of the Commission quarterly financial statements prepared in accordance with generally accepted accounting principles, including a statement of funds collected and expenditures made during the quarter. GRI should file with the Secretary of the FERC annual financial statements audited by certified public accountants.

GRI agrees to comply with the request that it file quarterly financial statements and annual audited financial statements.

F. GRI should file with the Secretary of the FERC all statements, reports, and statistical computations it has prepared for dissemination to the public, members, or others outside GRI.

GRI does not state any objection to F.

The Commission shall direct that GRI comply with staff's accounting recommendations.

The Commission notes that New York and California express concern about the rise in GRI's administrative costs, and they request that Staff audits of GRI's administrative expense be required. The staff has already indicated in its report that it intends to audit GRI. These audits as well as the review of GRI's annual applications should, of course, encompass GRI's admininstrative costs.

IV. DATA COLLECTION

Staff's discovery of additional volumes which GRI should have included in funding services and GRI's statement that it did not have sufficient data to fully calculate total funding services when preparing its application demonstrate the need for improvement in collection and presentation of data. As Michigan points out, improved collection of information will serve two purposes. First, it will assure a more reliable basis for GRI's calculaion of its funding unit in future applications. Second, it will permit more thorough evaluation by the Commission and others of GRI's compliance with the various requirements of the Stipulation and Agreement approved in Opinion No. 11.

The staff suggests a breakdown of the sales and transportation volumes of interstate pipeline members to identify each customer more precisely. Staff also proposes that pipeline companies with direct sales customers identify the volumes of gas sold for electric generation.

With regard to data on intrastate gas utility sales, Staff recommends GRI revise its questionnaire to provide additional information concerning operations, supplies, actual sales, and the basis of departures from actual experience. Staff notes that every reasonable effort must be made to verify those volumes so as to insure that ultimate consumers are bearing a fair share of the R. & D. program without undue preference or discrimination.

Michigan and California agree with the staff's suggestion and GRI voices no objection. Accordingly, GRI shall be ordered to collect and present data in accordance with staff's suggestions.

V. ELIMINATING CERTAIN AGA COSTS FROM GRI MEMBERS' RATES

Staff notes that certain interstate pipeline members of GRI are currently collecting through their underlying rates amounts associated with the AGA utility research and coal gasification programs. Approximately $18.7 million are attributable to these programs, and during 1979 these AGA

programs will be funded by GRI. Since GRI is funded through a surcharge to pipeline company rates, a double recovery of funding for these projects would occur if underlying pipeline rates were not revised.

To eliminate this duplication of funding, staff recommends that those pipeline companies that are currently funding AGA projects which, in 1979, will be funded by GRI, be required to file revised tariff sheets to reflect a reduction in their base tariff rates to reflect the lowered expense of contribution to AGA. California supports staff's recommendation, and we agree. The Commission hereby puts jurisdictional pipeline companies on notice that they will be permitted to collect the 3.5 mills per Mcf GRI funding unit in 1979, only upon the condition that the costs of funding the transferred AGA projects are eliminated from their base tariff rates by the filing of revised tariff sheets.

VI. PROCEDURAL MATTERS

A. Service lists and intervention

California says it is troubled by "the apparent lack of a service list in this proceeding". As we have already mentioned, in Opinion No. 11, the Commission directed that GRI include in its second application, a list of its members and State regulatory commissions. That list was to be the service list for the proceeding on the second application. GRI complied. A service list of all municipal utility members, pipeline company members, distribution company members, and State regulatory commissions was included as exhibit 12 of the GRI's June 30, 1978 application. Thus, California is mistaken in its concern.

The Commission would take this occasion to note that its direction in Opinion No. 11 to GRI to include a service list in its application was "experimental". The Commission believes the exeriment was successful. So, too, has been the procedure of permitting all GRI members and commissions listed by GRI to participate as intervenors without their filing formal petitions and notices for that purpose. Accordingly, the Commission shall direct that, in future applications, GRI shall include a list of its members and State regulatory commissions as of a current specified date. The list shall be the service list for the proceeding on the application in which it is contained, and listed members and commissions will be permitted by the Commission to participate as intervenors in the proceeding without their filing formal petitions and notices for that purpose.

B. Extension of the time allowed for Commission action

California objects to the pace of this proceeding, commenting, "The entire course of this proceeding to date has been marked by extreme haste * * *." California proposes that the Commission amend § 154.38(d)(5)(iv) of its regulations to allow 120 days, rather than the current 90 days, for advance approval of an R.D. & D. program. California observes that this would permit GRI to file next year's application for its 1980 program on June 4, 1979, and obtain a final decision by October 1, 1979, the date by which GRI says it must have Commission action for planning and administration purposes. The Commission shall issue a Notice of Proposed Rulemaking to obtain comments on California's suggestion.

California also objected to several aspects of the procedure adopted in the July 3, 1978 notice in this proceeding. For example, California observes that no date was established for reply to the comments filed on September 1, 1978. The Commission regards the procedure adopted for this second annual application of GRI to have been experimental. We welcome comments on how to improve the procedure in the future. When we issue the Notice of Proposed Rulemaking on the proper length of the review period, we will invite parties to include in their comments, suggestions on the specific procedures to be followed in proceedings on GRI's future applications.

The Commission orders:

(A) The application of GRI for advance approval of its 1979 R. & D. program and related 1979-83 5-year R. & D. plan is hereby granted.

(B) A 1979 funding requirement of $39,700,000 is just and reasonable, and, effective January 1, 1979, without regard to purchase gas adjustment clause effective dates, jurisdictional members of GRI may collect a general R. & D. funding unit of 3.5 mills per Mcf, such funding unit to be applied to program funding services consisting of sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI, and to ultimate consumers.

(C) A jurisdictional member of GRI may collect the GRI funding unit only if it files, if it has not already done so, an R. & D. cost adjustment provision which complies with § 154.38(d)(5)(v) of the Commission's regulations and which contains a provision clearly indicating that the cost adjustment clause is applicable only to payments to GRI, that collections of the GRI funding unit by means of it shall be remitted to GRI within 30 days of receipt, and that such collections shall be made only from persons receiving program funding services; such an R. & D. cost adjustment provision may be placed into effect upon not less than 30 days notice, and it will be allowed to take effect without suspension, reduction, or refund.

(D) The issue of shareholder contributions shall be severed from this proceeding and docketed as RP78-76 (Phase II). Initial briefs shall be filed on or before January 15, 1979. Answering briefs shall be filed on or before February 15, 1979.

(E) In future applications, GRI shall furnish information on what coordination has been achieved with DOE or other R. & D. organizations on each GRI contract or "work element".

(F) In its next annual application, GRI shall detail how it is responding to the concern that it assign priorities to its planned projects.

(G) In its next annual application, GRI shall submit to the Commission for its consideration, procedures instituted by GRI's Board of Directors to assure the avoidance of the preferential award of contracts to any particular party.

(H) In future applications, GRI shall indicate the information upon which it is relying in arriving at projections of co-funding.

(I) Stipulation 6 of the September 30, 1977 Stipulation and Agreement, approved in Opinion No. 11, shall be amended to read as follows:

Stipulation 6. For its 1979 program, GRI shall keep expenditures within ten percent (10%) of its budgeted limits or $25,000, whichever is greater, at the contract or work element level as set forth in Volume 2 of Exhibit No. 1 to its 1979 program application: *Provided, however,* That GRI shall keep expenditures within the budgeted limits for the five major program areas. This provision shall not apply, however, to project sub-area 1.2.1, "Gasification Processes". Expenditures in this sub-area shall be limited to a total amount of $10,860,000 and shall conform with the preferred gasification program or the alternative program as set forth in Volume 2 of Exhibit No. 1 at pages A-49 to A-65.

(J) Stipulation 16 of the September 30, 1977 Stipulation and Agreement approved in Opinion No. 11, shall be amended to read as follows:

Stipulation 16. It is understood and agreed that amounts collected by GRI's interstate pipeline members and attributable to the inclusion of an approved GRI funding unit in such members' rates shall be paid over to GRI within 30 days of collection. *GRI should report to the Commission if it has reason to believe that collected funds are not forthcoming.*

(K) GRI shall comply with staff's six accounting and reporting recommendations, as discussed in the body of this order.

(L) GRI shall collect and present data on member's sales volumes, transportation volumes, operations, and supplies in accordance with staff's recommendations, as discussed in the body of this order.

(M) In its future applications, GRI shall list its members and State regulatory commissions as of a current specified date, such list to be used as a

service list, and GRI shall specify in a draft notice, which is also to be submitted with the application, that all such members and commissions will be permitted by the Commission to participate as intevenors without their filing formal petitions and notices for that purpose.

(N) All parties listed in the service list submitted as exhibit 12 in GRI's June 30, 1978 application, as well as INGAA, AGD, and PSE&G are permitted to intervene subject to the rules and regulations of the Commission: *Provided, however,* That the participation of the said parties shall be limited to matters affecting asserted rights and interests specifically set forth in their applications for leave to intevene, if such were submitted: *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(O) The Secretary shall cause prompt publication of this Order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27697 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Compliance Filing

SEPTEMBER 22, 1978.

Take notice that Gulf States Utilities Co. on September 11, 1978, tendered for filing a report in compliance with the Commission's letter order of August 7, 1978, indicating Commission approval of the settlement agreement entered into by Gulf States and Mid-South Electric Cooperative. The Commission's order directed Gulf States to refund to Mid-South $505,000 within 30 days of the date of the letter order and to file a compliance report with the Commission within 15 days after the refund was made.

Gulf States indicates that check No. 20822, dated August 24, 1978, in the amount of $505,000; payable to Mid-South was mailed, on August 31, 1978, by certified mail, to Mid-South.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 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 October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27745 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No CI78-1134]

HNG FOSSIL FUELS CO.

Application

SEPTEMBER 26, 1978.

Take notice that on August 28, 1978, HNG Fossil Fuels Co. (HNG) P.O. Box 1188 Houston, Tex. 77001, filed in Docket No. CI78-1134 an application pursuant to section 7(c) of the Natural Gas Act, as amended, and § 2.75 of the Commission's General Policy and Interpretations, *Optional Procedure For Certificating New Producer Sales of Natural Gas,* for a certificate of public convenience and necessity authorizing the sale of natural gas from its interest in Block 317 Field, High Island Area, Offshore Texas, to Natural Gas Pipeline Co. of America, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The contract is for a base period of 20 years and provides for an initial base rate of $4.53 per Mcf at 14.65 psia, subject to Btu adjustment and new or increased taxes.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be take, 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 apppear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27732 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. ER78-615]

ILLINOIS POWER CO.

Filing

SEPTEMBER 22, 1978.

Take notice that Illinois Power Co. (Illinois Power) on September 18, 1978, tendered for filing Supplement 2 to an Agreement dated August 19, 1974, between Illinois Power and City of Peru, Ill. (Peru).

Illinois Power states that the purpose of the filing is to revise the Agreement to reflect a change in permanent interconnection point from 138/13.8 Kv to 34.5/13.8 Kv.

Illinois Power requests an effective date of August 29, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Illinois Power copies of this filing have been mailed to Peru and the Illinois Commerce Commission.

Any person desiring to be heard or to portest said application should file a petition to intervene or protest with the Federal energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27746 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-86]

SMALL PRODUCER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND PETITION FOR SPECIAL RELIEF

Application of Kamlok, Inc.

SEPTEMBER 26, 1978.

Take notice that on August 16, 1978, Kamlok, Inc. (Kamlok), P.O. Box 40262, Houston, Tex. 77040, filed in Docket No. R78-I86, an application for a small producer certificate of public convenience and necessity pursuant to § 157.40 of the Commission's Regulations and petition for special relief pursuant to Section 2.76 of the Commission's General policy and Interpretations.

Kamlok acquired the Adams and Haggarty No. 2 and No. 6 wells located in Big Hill Field, Jefferson County, Tex. from Exxon Corp. Exxon ceases production on these wells in March 1977 when operations proved uneconomical. Kamlok intends to rework both wells and to sell any gas produced to Texas Eastern Transmission Co.

Kamlok seeks to obtain a small producer certificate of public convenience and necessity for the leases named in its application. In order to reestablish production, Kamlok proposes to install compression and saltwater treatment equipment and to perform workovers as needed. Due to the costs involved in this project, Kamlok requests that a rate be established for its gas in excess of the applicable ceiling rate.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee 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. 78-27733 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-78]

LIBERTY OIL & GAS CORP.

Petition for Special Relief

SEPTEMBER 26, 1978.

Take notice that on July 11, 1978, Liberty Oil & Gas Corp. (Petitioner), Suite 809, 234 Loyola Building, New Orleans, La. 70112, filed a petition for special relief in Docket No. RI78-78 pursuant to § 2.76 of the Commission's Statements of General Policy and Interpretations.

Petitioner requests permission to charge a total rate of $2.10 per Mcf at 15.025 psia for the sale of gas to United Gas Pipeline Co. from the Simoneaux No. 9 Well, Bayou Des Allemands Field, St. Charles Parish, La. Currently, petitioner charges a total rate of 37.25 cents per Mcf for its gas. Petitioner plans to spend $68,400 reworking the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27734 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-77]

MESSMAN RINEHART CORP.

Petition for Special Relief

SEPTEMBER 21, 1978.

Take notice that on July 7, 1978, Messman Rinehart Corp. (Petitioner), 125 North Market, Suite 1432, Wichita, Kans. 67202, filed a petition for special relief in Docket No. RI78-77 pursuant to § 2.76 of the Commission's Statements of General Policy and Interpretations.

Petitioner requests permission to change 1.03052¢ per Mcf at 14.73 psia for the sale of gas to Panhandle Eastern Pipe Line Co. from the Lerado Mississippi Gas Unit, located in Reno County, Kans. Currently, petitioner charges a total rate of 0.37128746¢ per Mcf for the sale of the subject gas. Petitioner states that at the present rate structure significant gas reserves will not be recovered from the subject gas unit.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 13, 1978 filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27754 Filed 9-29-78; 8:45 am]

[6740-02]

[Project No. 2826]

MONTEREY COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, CALIF.

Application for Preliminary Permit

SEPTEMBER 21, 1978.

Public notice is given that an application for preliminary permit was filed on November 14, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by the Monterey County Flood Control and Water Conservation District, Calif. (Applicant) (Correspondence to: Mr. Loran Bunte, District Engineer, Monterey County Flood Control and Water Conservation District, P.O. Box 930, County Court House, Salinas, Calif. 93901; Mr. William H. Stoffers,

Monterey County Counsel, P.O. Box 930 County Court House, Salinas, Calif. 93901) for the San Antonio and Nacimiento Rivers, tributaries of the Salinas River, in Monterey and San Luis Obispo Counties, Calif. and would affect lands of the United States within the Hunter-Liggett Military Reservation.

The proposed project would have a total installed capacity of 6,000 kW and would consist of: (1) the existing earthfill San Antonio dam, 18 feet high with a crest length of 1430 feet at elevation 798 feet msl; (2) the existing San Antonio Reservoir with gross storage capacity of 350,000 acre-feet and surface area of 5,200 acres at elevation 780 feet; (3) the existing earthfill Nacimiento dam, 25 feet high, with a crest length of 1,630 feet at elevation 825 feet; (4) the existing Lake Nacimiento with gross storage capacity of 5,370 acres at elevation 800 feet; (5) a proposed 10,800-foot-long tunnel connecting the two reservoirs; and (6) a proposed powerhouse adjacent to the existing San Antonio dam containing four turbine-generator units. The project energy would be sold to a wholesale power purchaser.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license. The Applicant seeks a 36-month permit.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before November 27, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27755 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-378]

NORTHWEST PIPELINE CORP.

Petition to Amend

SEPTEMBER 21, 1978.

Take notice that on September 1, 1978, Northwest Pipeline Corp. (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-378 a petition to amend the order of July 5, 1978, issued by the Commission in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for the continued sale and delivery of up to 200 billion Btu's equivalent of natural gas per day to Pacific Interstate Transmission Co. (Pac-Interstate) for a term extending through October 31, 1978, or such later date as may coincide with the expiration of Petitioner's Kingsgate import authorization which may be extended but in no event, later than September 30, 1989, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that in its original application filed in the instant docket on May 13, 1977, it requested authorization to sell and deliver natural gas, on a best-efforts basis, to Pac-Interstate through October 31, 1977, pursuant to an agreement dated April 29, 1977. Such temporary authorization was granted on July 1, 1977, it is said. Pursuant to a contract amendment dated October 21, 1977, Petitioner requested that the Commission extend its authorization for the sale and delivery through October 31, 1978, it is stated. It is indicated that the Commission granted such authorization on July 5, 1978. It is further indicated that concurrrently with authorizations of July 1, 1977 and July 5, 1978 granted Petitioner, the Commission authorized El Paso Natural Gas Company, in Docket NO. CP77-407, to transport for the account of Pac-Interstate the quantities of natural gas to be sold to Pac-Interstate by Petitioner and further authorized Pac-Interstate, in Docket No. CP77-381, to sell to Southern California Gas Co. these quantities of natural gas.

Petitioner states that it and Pac-Interstate have, by an agreement dated July 14, 1978, agreed to amend further the April 29, 1977 agreement to extend the term as described above. The other provisions of the April 29, 1977 agreement remain unchanged, it is said, including the three-part rate structure, which is comprised of: (1) a charge for gas equal to the border price paid by Petitioner for gas purchased in Canada, (2) a transportation charge of 16.03¢ per Mcf of gas sold to Pac-Interstate (this rate will increase to 20.69¢ per Mcf on October 1, 1978, subject to refund, as proposed in Petitioner's general rate increase filed March 31, 1978 in Docket No. RP 78-50), and (3) a fuel charge equal to 2 percent of the MM Btu's of gas sold to Pac-Interstate multiplied by Petitioner's then-average cost of purchased gas. The present estimated cost to Pac-Interstate, assuming a cost of $2.16 per million Btu's, would be approximately $2.39 per million Btu's, it is said.

Petitioner states that it has gas available to it at the Sumas import point during off-peak periods, particularly during August through mid-October. Petitioner indicates that it is proposing to sell quantities of gas to Pac-Interstate which Westcoast Transmission Co. has available for export from Canada under existing export licenses which quantities are excess to Petitioner's total requirements.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 13, 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 or its designee 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. 78-27756 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-511]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

SEPTEMBER 21, 1978.

Take notice that on September 7, 1978, Trunkline Gas Co. and Panhandle Eastern Pipe Line Co. (Applicants), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-511 a joint application pursuant to section 7 of the Natural Gas and the regulations thereunder for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Northern Natural Gas Company (Northern). It is indicated that the proposed agreement contains further elements of an agreement approved by the Commission in

Docket No. CP77-17. Applicants' proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to receive initial quantities of 15,000 Mcf per day for the account of Northern utilizing the existing facilities and capacity of their respective systems. It is stated that pursuant to a June 19, 1978 transportation agreement, Applicants would redeliver those volumes for Northern's account at Trunkline's compressor station at Longville, La., less compressor fuel and certain quantities to be sold to Panhandle. Further, it is stated that such gas would be transported thereafter pursuant to a Transportation Agreement dated September 24, 1976, between Applicants and Northern wherein Trunkline would receive the gas at Longville, La., and redeliver to Panhandle at the interconnection between Applicant's facilities near Tuscola, Ill., for further delivery by Panhandle to Northern in Kiowa County, Kans. It is asserted that the gas would be transported to Longville under a transportation agreement between Applicants and Northern dated June 19, 1978, pursuant to which Northern would make delivery to Trunkline in Acadia, Jefferson Davis or St. Mary Parish, La., through arrangements with Tennessee Gas Pipeline Co., a Division of Tenneco Inc., and Columbia Gulf Transmission Co. For the transportation service between the point of receipt and Trunkline's Longville, La., compressor station, Northern would pay a monthly charge of $19,080, it is indicated.

Applicants state that the initial volumes to be transported to Longville, La., may be reduced after 5 years by up to 50 percent.

Further, it is shown that as partial consideration for this transportation service, Northern has agreed to sell to Panhandle up to 20 percent of the volumes delivered at the points of receipt.

Applicants also seek authorization to effectuate a transportation agreement between Applicants which provides for the transportation by Trunkline of the gas purchased by Panhandle from Northern, and that in consideration for said transportation Panhandle would pay to Trunkline a monthly transportation charge of $20,280.

Protests and petitions to intervene may be filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with 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), on or before October 13, 1978. 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 or its designee 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 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 Trunkline or Panhandle to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-2775 Filed 9-29-78; 8:45 am]

[6740-02]

Docket No. CP78-516]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

SEPTEMBER 21, 1978.

Take notice that on September 12, 1978, Panhandle Eastern Pipe Line Co. (Panhandle) and Trunkline Gas Co. (Trunkline) (Applicants), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-516 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Co. (Northern), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants request authorization to transport initially 47,500 Mcf of natural gas for Northern which gas Northern would purchase from West Cameron Block 630, offshore Louisiana, pursuant to a transportation and sales agreement dated July 24, 1978, among Applicants and Northern. Pursuant to the subject agreement Trunkline would receive the gas at a point of delivery in Acadia, Jefferson Davis, and St. Mary Parishes, La., through arrangements made by Northern with Columbia Gulf Transmission Co. (Columbia) and Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), and Trunkline would redeliver said gas for Northern's account at Trunkline's Longville, La., compressor station in Beauregard Parish, La.

The application states that for transportation service between the points of receipt and Trunkline's Longville, La., compressor station, Northern would pay Panhandle a monthly charge of $60,420 subject to adjustment based on firm transportation for Northern of 38,000 Mcf per day at 14.73 psia saturated. An extra 0.62 cent above the aforesaid rate would be charged to Northern for each Mcf of gas taken at the Centerville point of receipt, and an upward or downward adustment of 5.22 cents per Mcf would be applied to any deficiency or excess in quantities taken, it is said. It is indicated that Panhandle would pay Trunkline for its pro rata share of the transportation service from the amounts paid by Northern and that Northern would reimburse Trunkline 1 percent of the volume received for fuel usage and line losses in transportation service between the point of receipt and Longville.

Applicants state that as partial consideration for the proposed transportation of such gas for Northern's account by Applicants as provided in the September 24, 1976, transportation agreement, Northern would sell to Panhandle up to 20 percent of the volumes received by Trunkline at the aforesaid points of delivery (Sales Gas). The purchase price for such gas would be Northern's weighted average purchase price per Mcf plus associated transportation charges paid to others to effectuate delivery to Trunkline plus associated cost of service charges applicable to facilities Northern installs or causes to be installed to provide service to effect deliveries herein it is indicated.

Applicants also seek authorization to effectuate a transportation agreement dated August 4, 1978, between themselves, which agreement provides for the transportation by Trunkline of the gas purchased by Panhandle from Northern. In consideration for said transportation Panhandle would pay Trunkline a monthly charge of $64,220 based on a firm transportation quantity of 9,500 Mcf per day during the period of 5 years from the date of first delivery, it is stated. The application states that Panhandle, however, would have an option to reduce said quantity in the sixth and subsequent years to no less than 50 percent of the initial volume, and an upward or downward adjustment of 22.21 cents per Mcf would be applied to any deviation

from said 9,500 Mcf per day in quantities taken. An extra 0.62 cent above the aforesaid rate would be charged to Panhandle for each Mcf of gas taken at the Centerville point of reciept, and that Trunkline would retain 5 percent of the volumes received hereunder as reimbursement for fuel and line losses, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 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 peition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulation 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 or its designee 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, futher notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27758 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-62]

PANHANDLE EASTERN PIPE LINE CO.

Proposed Changes

SEPTEMBER 25, 1978.

Take notice that Panhandle Eastern Pipe Line Co. (Panhandle) on September 15, 1978, tendered for filing proposed changes in the following revised tariff sheets:

FERC Gas Tariff, Original Volume No. 1

Substitute 24th revised sheet No. 3-A.
Substitute first revised sheet No. 3-B.
Substitute second revised sheet No. 43-1.
Substitute fourth revised sheet No. 43-2.
Substitute fifth revised sheet No. 43-3.
Substitute sixth revised sheet No. 43-4.

An effective date of November 1, 1978 is proposed.

These substitute tariff sheets are tendered to replace revised Volume 1 tariff sheets included in Panhandle's rate filing of May 1, 1978 in Docket No. RP78-62. The proposed rate increase in said docket was accepted for filing and suspended until November 1, 1978, by order of the Commission issued May 31, 1978.

Panhandle states that it seeks (1) to file the rates proposed in the substitute tariff sheets to be effective November 1, 1978, and (2) restate the base cost of gas in accordance with its currently effective PGA procedure, as required by the May 31, 1978 order.

Copies of this filing were served on Panhandle's jurisdictional customers, interested State regulatory agencies and all parties to the proceeding.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before October 20, 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27747 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-510]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

SEPTEMBER 26, 1978.

Take notice that on September 6, 1978, Trunkling Gas Co. and Panhandle Eastern Pipe Line Co. (Applicants), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-510 a joint application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Northern Natural Gas Co. (Northern). It is indicated that the proposed agreement contains further elements of an agreement approved by the Commission in Docket No. CP77-17. Applicants' proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to receive initial quantities of gas 30,000 Mcf per day for the account of Northern utilizing the existing facilities and capacity of their respective systems. It is stated that pursuant to a March 1, 1978 transportation agreement, Applicants would redeliver those volumes for Northern's account at Trunkline's compressor station at Longville, La., less compressor fuel and certain quantities to be sold to Panhandle. Further it is stated that such gas would be transported thereafter pursuant to a Transportation Agreement dated September 24, 1976, between Applicants and Northern wherein Trunkline would receive the gas at Longville, La., and redeliver to Panhandle at the interconnection between Applicants' facilities near Tuscola, Ill., for further delivery by Panhandle to Northern in Kiowa County, Kans. It is asserted that the gas would be transported to Longville under a transportation agreement between Applicants and Northern dated March 1, 1978, pursuant to which Northern would make delivery to Trunkline in Acadia, Jefferson Davis, or St. Mary Parish, La., through arrangements with Tennessee Gas Pipeline Co., a Division of Tenneco Inc., and Columbia Gulf Transmission Co. For the transportation service between the point of receipt and Trunkline's Longville, La., compressor station, Northern would pay a monthly charge of $38,160 based on firm transportation for Northern of 24,000 Mcf per day at 14.73 psia saturated, it is indicated.

Applicants state that initial volumes to be transported to Longville, La., may be reduced after 5 years by up to 50 percent.

Further, it is shown that as partial consideration for this transportation service, Northern has agreed to sell to Panhandle up to 20 percent of the volumes delivered at the points of receipt.

Applicants also seek Commission approval of a transportation agreement between them which provides for the transportation by Trunkline of the gas purchased by Panhandle from Northern, and that in consideration for said transportation Panhandle would pay to Trunkline a monthly transportation charge of $40,560, based on a firm transportation quantity of 6,000 Mcf per day during the period of 5 years from the date of first delivery.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules 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 or its designee 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 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 Trunkline or Panhandle to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27735 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-48]

PEOPLES NATURAL GAS DIVISION OF NORTHERN NATURAL GAS CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

SEPTEMBER 25, 1978.

Take notice that Peoples Natural Gas Division of Northern Natural Gas Co. on September 12, 1978, tendered for filing Second Substitute Twenty-first Revised Sheet No. 3a of its FPC Gas Tariff, Original Volume No. 4. The proposed change to become effective October 1, 1978, would increase the rate per Mcf to jurisdictional customers by 27.61 cents per Mcf. This increase reflects the net effect of a decrease in rates to Peoples resulting from a rate change by Colorado Interstate Gas Co. at Docket No. RP78-51 and a semiannual Purchased Gas Adjustment filed by CIG in accordance with the provisions of its FPC Gas Tariff. Colorado Interstate is the pipeline supplier to Peoples for sales made under Volume No. 4.

Copies of the filing were served upon the Gas Utility Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27736 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-85]

VILLAGE OF PAWNEE, ILL., ET AL., COMPLAINANT PETITIONERS v. PANHANDLE EASTERN PIPE LINE CO., RESPONDENT

Complaint and Petition for Relief

SEPTEMBER 21, 1978.

Take notice that on August 30, 1978, the Villages of Pawnee, Divernon, Pleasant Hill, and Riverton, Ill., the Cities of Auburn, Bushnell, Pittsfield, and Montgomery, Ill., and the Town Gas Co., complainant petitioners (petitioners), filed a petition, pursuant to the provisions of the Natural Gas Act, requesting relief from certain restrictions imposed under the FERC Gas Tariff of Panhandle Eastern Pipe Line Co., (Panhandle Eastern).

Petitioners state that they are full requirements customers of Panhandle Eastern with contract demands of less than 6,000 Mcf per day, and assert that the provisions of section 16.5(c)(4) of the General Terms and Conditions of Panhandle Eastern's FERC Gas Tariff preclude them from attaching new customers while other classes of Panhandle Eastern's customers are not subject to such restrictions, resulting in discrimination and financial hardship. Petitioners further assert that because of heavy temperature sensitive loads with little or no system flexibility they cannot add new customers and thus risk not meeting the conditions of section 16.5(c)(4) for exemption from the $10 per Mcf overrun penalty for volumes taken in excess of Panhandle Eastern's curtailment orders. They claim to have not been attaching any new Priority 1 loads even though they have sufficient peak day gas volume capabilities to serve new residential and small commercial customers. According to petitioners, many large customers of Panhandle Eastern have been connecting new customers with little or no restriction as to the type of load attached.

Petitioners estimate that during the first year they would add 383 new customers with annual requirements of 70,465 McF, respresenting about 0.0117 percent of Panhandle Eastern's annual deliveries.

It is requested that petitioners be allowed to connect new Priority 1 customers within the limits of their applicable daily contract demands and that Panhandle Eastern be directed to amend the latter portion of § 16.5(c)(4) of its tariff to read "and (b) it did not attach or supply any new gas usuage on its system, within Opinion No. 754 for Priorities 2 through 5 after September 1, 1978."

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Steet NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1978. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27765 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. OR78-6]

POWDER RIVER PIPELINE CORP. AND THE CRUDE CO. v. AMOCO PIPELINE CO.

Order Setting Complaint for Investigation Granting Intervention and Denying Motion To Dismiss

SEPTEMBER 22, 1978.

On January 4, 1978, Powder River Pipeline Corp. (Powder River) and its

affiliate the Crude Co. (TCC) filed a complaint that alleged that Amoco Pipeline Co. (Amoco) unreasonably favored Western Oil Transportation Co., Inc. (Western) in the allocation of Amoco's pipeline capacity at Reno station, Wyo.[1]

Powder River's complaint is predicated on section 3(1) of the Interstate Commerce Act (Act) which prohibits pipeline common carriers from discriminating between shippers by giving any undue preference or advantage to any shipper. (49 U.S.C. 3(1) (1970).)

Powder River requests, among other things, that the Commission order an investigation and hearing and thereafter order Amoco to cease from its discriminatory practices.[2] On April 13, 1978, Amoco filed a motion to dismiss grounded on the assertion that Powder River's complaint is legally insufficient on its face.[3]

Amoco contends that it has always allocated capacity at Reno station on the basis of current tenders; that any disadvantage experienced by Powder River is not the consequence of its conduct and that in allocating capacity at Reno station it was not under an obligation to consider the availability of capacity to Western at its Sussex station. Amoco also argues that the issues raised by the complaint are moot because Amoco presently has space capacity at Reno station.[4]

Amoco has failed to introduce facts or arguments that would support a Commission determination that Powder River's complaint was legally insufficient on its face, as required by 49 CFR 1110.34(a). Accordingly, Amoco's motion to dismiss is denied.

The Commission finds that it is necessary and in the public interest that the Commission enter upon a hearing concerning the complaint filed by Powder River.

The Commission orders:

(A) Petitioners—Western and Permian—shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations: *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; *And provided, further,* That the admission of such interveners shall not be construed as recognition that they might be agrieved by any order entered in this proceeding.

(B) Amoco's motion to dismiss Powder River's complaint is denied.

(C) Pursuant to the authority of section 13(1) of the Interstate Commerce Act (49 U.S.C. 13(1)), an investigation at this Commission shall be instituted and a public hearing shall be held concerning the allegations contained in Powder River's complaint.

(D) Powder River shall submit its case-in-chief within 45 days from the issuance of this order. Amoco shall submit its case-in-chief within 45 days after Powder River's filing and the Commission staff and petitioners—Western and Permian—shall file their cases within 30 days after Amoco's filing.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose shall convene a settlement conference in this proceeding to be held within 30 days after the filing of testimony as provided in paragraph (D) of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions as provided for the in the rules of practice and procedure. (49 CFR Part 1100.66.)

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27759 Filed 9-29-78; 8:45 am]

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[1] Public notice of Powder River's complaint was issued Feb. 13, 1978. On Mar. 17, 1978, Western and the Permian Corp. filed a motion to intervene. Western is a wholly owned subsidiary of Permian. The Commission finds that the petitioners have demonstrated an interest in this proceeding which warrants their participation. The petition shall therefore be granted.

[2] On Aug. 25, 1977, Powder River filed a complaint in the U.S. District Court for the District of Colorado against Western, Permian, and Amoco. Powder River also filed a motion for a temporary restraining order or preliminary injunction which was later withdrawn when Amoco agreed to accept Powder River's full tender for September. On Oct. 14, 1977, the court filed its memorandum Opinion and order in which the court found that the question of whether Amoco had violated the Act was within the primary jurisdiction of the FERC; retained jurisdiction of that case until after the Commission considers the propriety of Amoco's proration policy and retained jurisdiction of Powder River's antitrust claims. Further, the court issued a preliminary injunction against Amoco enjoining it from allocating capacity at Reno station in such a manner as to give an undue preference to Western and Permian.

[3] On Mar. 3, 1978, Amoco filed a motion to extend until Apr. 14, 1978, the time to file its complaint. On Apr. 27, 1978, Powder River requested an extension of time to file a response to Amoco's motion to dismiss. The request was granted and Powder River filed its opposition May 12, 1978.

[4] Powder River contends that: Amoco's initial adoption of an allocation system on historical tenders was improper; Amoco was required to take into account Western's access to Amoco's system at Sussex station; that public policy favors requiring Amoco to take account of available capacity at Sussex in allocating space at Reno Station, and that Powder River's damages are the direct consequence of Amoco's acts.

[6740-02]

[Docket No. E-9454]

PUBLIC SERVICE CO. OF NEW MEXICO

Compliance Filing

SEPTEMBER 22, 1978.

Take notice that Public Service Co. of New Mexico on July 20, 1978, tendered for filing, pursuant to ordering paragraph B of the Commission's July 5, 1978, order affirming initial decision of Administrative Law Judge, its contract with Western Coal Co. relating to the purchase of coal from Western.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 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 October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27748 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-337 and ER78-338]

PUBLIC SERVICE CO. OF NEW MEXICO

Order Revising Previous Order in Part

SEPTEMBER 22, 1978.

By motion filed August 24, 1978, Community Public Service Co. (CPSC) requests that the Commission revise its June 30 order [1] to the extent of empowering the Administrative Law Judge to provide for a Phase II procedural schedule that would permit the parties to move forward on Phase II issues without interfering with the expeditious processing of Phase I.

CSPC recites that portion of the June 30 order which provided that "Phase II will commence after a final order on rehearing has been issued in Phase I" [2] and states that the Administrative Law Judge was constrained by this language from providing for any procedural dates for Phase II until determination of Phase I issues. CPSC

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[1] Public Service Co. of New Mexico, Docket Nos. ER78-337 and ER78-338, order issued June 30, 1978.

[2] Id., at p. 6.

submits that after the conclusion of the Phase I hearing it is not necessary to defer the Phase II evidence while Phase I issues are pending before the Administrative Law Judge and, ultimately, the Commission.

A response to CPSC's motion was filed by Public Service Co. of New Mexico (PNM) on September 8, 1978. PNM states that to the extent that CPSC's motion seeks to move forward in Phase II without interference with expeditious resolution of Phase I, it does not oppose the relief requested.

We agree with the point raised by CPSC. Accordingly, we shall grant the Administrative Law Judge the discretion to provide for Phase II procedures without having to await final Commission resolution of Phase I. The June 30 order shall be revised to reflect this change.

The Commission orders:

(A) The Administrative Law Judge is hereby granted the discretion to provide for Phase II procedures without having to await final Commission resolution of Phase I issues. The June 30 order is hereby modified to reflect this change.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27749 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-92 (PGA78-3]

RATON NATURAL GAS CO.

Amendment to PGA Rate Filing

SEPTEMBER 22, 1978.

Take notice that on September 12, 1978, Raton Natural Gas Co. (Raton) tendered for filing Replacement Alternate Eighteenth Revised Sheet No. 3a amending rate changes proposed by its PGA filing in Docket No. RP73-92.

Raton states that the amendment is necessary to track a new filing by Colorado Interstate Gas Co. (CIG) which will change Raton's gas cost effective October 1, 1978. Tracking of the revised CIG gas cost increase results in increased rate from $1.40 to $1.50 per Mcf demand and from 116.54¢ to 147.32¢ per Mcf commodity.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27750 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP77-6]

SEA ROBIN PIPELINE CO.

Filing

SEPTEMBER 20, 1978.

Take notice that on September 8, 1978, Sea Robin Pipeline Co. (Sea Robin) filed the following revised tariff sheets with the Federal Energy Regulatory Commission:

Original Volume No. 1

Eighteenth revised sheet No. 4.
Second revised sheet No. 5.
Second revised sheet No. 7.

Original Volume No. 2

Substitute fifth revised sheet No. 39.
First revised sheet No. 39-A.
Sixth revised sheet No. 64.
Eighth revised sheet No. 96.
Sixth revised sheet No. 97.
Fourth revised sheet No. 127-D.
Fourth revised sheet No. 135-C.
Second revised sheet No. 150.
Second revised sheet No. 151.
First revised sheet No. 176.
First revised sheet No. 197.
First revised sheet No. 218.
First revised sheet No. 240.
Second revised sheet No. 264.
Substitute second revised sheet No. 264.
First revised sheet No. 288.
First revised sheet No. 289.
First revised sheet No. 314.
First revised sheet No. 315.
First revised sheet No. 340.
First revised sheet No. 357.
First revised sheet No. 365.
First revised sheet No. 390.
First revised sheet No. 391.
First revised sheet No. 416.
First revised sheet No. 417.
First revised sheet No. 446.
First revised sheet No. 447.

This filing was made in accordance with the terms of the settlement agreement in docket No. RP77-6, as modified by letter order dated May 11, 1978, and order denying rehearing and clarifying order approving settlement agreement subject to conditions issued July 12, 1978. Except for substitute second revised sheet No. 264 with a proposed effective date of August 20, 1978, it is proposed that these tariff sheets become effective on August 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27721 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP78-89]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 22, 1978.

Take notice that Southern Natural Gas Co (Southern), on September 1, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 3. The proposed changes would increase revenues from a field sale to Sea Robin Pipeline Co. under Southern's Rate Schedule F-9.

Southern states that this filing reflects rate increases in accordance with article 7 of the subject rate schedule up to the level allowed effective July 1, 1978 by § 2.56a(a)(2) of the Commission's Statements of General Policy and Interpretations. The increased rates reflected in the filing will increase annual revenues by $20,230. The proposed effective date is October 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Any such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with

the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27751 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RI78-45]

T.E.L. OIL & GAS CORP.

Amended Petition for Special Relief

SEPTEMBER 20, 1978.

Take notice that on August 14, 1978, T.E.L. Oil & Gas Corp. (Petitioner), 125 North Roosevelt, Box 292, Guymon, Okla. 73942, filed an amended petition for special relief in Docket No. RI78-45 pursuant to 18 CFR 2.76. In its original petition for special relief, petitioner requests permission to sell its gas, produced from the Halsell No. 1 Well, in Texas County, Okla., and sold to Panhandle Eastern Pipe Line, at the reduced rate of 54.1¢ per Mcf. In its original petition which was filed on March 23, 1978, and noticed on July 14, 1978, petitioner requested authorization to sell the above-referenced gas to the above-named purchaser at a rate of 72.06098¢ per Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27760 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP76-322]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC., AND EAST TENNESSEE NATURAL GAS CO.

Petition To Amend

SEPTEMBER 21, 1978.

Take notice that on September 12, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, and East Tennessee Natural Gas Co. (East Tennessee) (Petitioners), P.O. Box 20245, Knoxville, Tenn., filed a Docket No. CP 76-322 a petition to amend the order of June 30, 1976, issued in the instant docket (57 FPC —)[1] 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) so as to authorize Petitioners to transport gas for Stauffer Chemical Co. (Stauffer) for an additional 2-year period, 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 June 30, 1976, order Tennessee was authorized, inter alia, to transport for a 2-year period up to 1,700 Mcf of gas per day for Stauffer and East Tennessee was authorized to transport up to 1,688 Mcf per day for Stauffer, which gas was produced by Texas Pacific Oil Co. (Texas Oil) from the Beckwith Creek Field in Calcasieu Parish, La. It is stated that production from the Beckwith Creek Field declined more rapidly than anticipated and that on June 30, 1976, Petitioners requested permission to transport gas from a source in addition to the Beckwith Creek Field. The new deliveries were to be made by Texas Pacific Oil Co. (UK) Inc. (Texas Pacific) from the Waveland Field in Hancock County, Miss. Pursuant to the Commission order of March 24, 1978, Petitioners were granted temporary certificate authorization to transport up to 650 Mcf of natural gas per day from the Waveland Field with total transported volumes from all sources not to exceed a maximum of 1,700 Mcf per day. Such temporary authorization expired August 15, 1978, it is indicated. Petitioners state that they transported volumes for Stauffer's account for 2 years, and then abandoned same on August 15, 1978.

The petition indicates that Stauffer has a continuing need for gas to meet its high priority requirements, and that Stauffer has arranged to purchase up to 650 Mcf of gas per day from Texas Pacific for 2 additional years, pursuant to a gas purchase agreement between Stauffer and Texas Pacific, dated July 6, 1978, which gas would be produced from the Zengarling No. 1 well in the Waveland Field, Hancock County, Miss. It is stated that Stauffer would pay Texas Pacific $1.80 per million Btu's for the subject gas for the first additional year of the contract, which price would increase to $1.90 effective the first day of the second contract year and continuing thereafter. In addition, Stauffer would pay Texas Pacific $0.10 per million Btu's for the gathering and measuring of the gas, it is said. It is indicated that such gas is not available for resale in the interstate market.

Petitioners request authorization to render, to the extent their operating conditions permit, transportation services for Stauffer for an additional 2-year period, which transported gas would enable Stauffer to continue receiving natural gas for its plant in Mt. Pleasant, Tenn., to mitigate the effects of curtailment being imposed on Stauffer by East Tennessee. Tennessee proposes to receive from Texas Pacific up to 650 Mcf of natural gas per day together with volumes for Tennessee's fuel end use requirements associated with this transportation service, and to transport and deliver to East Tennessee equivalent daily volumes of natural gas, exclusive of fuel and use volumes, up to the said Maximum Daily Quantity (MDQ), to the extent its operating conditions permit through the utilization of its existing facilities and on the terms and conditions and at the rates set forth in the transportation contract among Petitioners and Stauffer.

It is stated that Stauffer would arrange to have the MDQ plus the fuel and use volumes delivered into Tennessee's existing pipeline at the interconnection of the facilities of Tennessee and Texas Pacific at Tennessee's Side Valve 530B-102 in Hancock County, Miss. Tennessee proposes to receive the gas at such point and to transport and deliver the MDQ, or a lesser volume to East Tennessee for the account of Stauffer at Tennessee's existing Lobelville Sales Meter Station delivery point to East Tennessee in Perry County, Tenn., at Tennessee's Main Line Valve No. 79-1 plus 1.85 miles (Lobelville).

East Tennessee proposes to receive from Tennessee at Lobelville daily volumes of natural gas up to the MDQ of 650 Mcf for the account of Stauffer, and to transport and deliver equivalent volumes of natural gas, less a daily volume for East Tennessee's fuel and use requirements associated with this transportation service, to Stauffer at East Tennessee's existing Stauffer

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Sales Meter Station in Maury County, Tenn.

It is stated that Stauffer would pay Tennessee each month for the transportation service (A) the sum of (i) a demand charge equal to the product of $1.32 multiplied by the MDQ of 650 Mcf, less any demand charge credit provided therein, if applicable; and (ii) a volume charge equal to the product of 16.79 cents per Mcf multiplied by the total of the scheduled daily volumes during such month; or (B) a minimum monthly bill consisting of the demand charge plus a minimum volume charge consisting of the product of 4.34 cents multiplied by (i) the number of days in said month and (ii) 66⅔ percent of the MDQ. However, at the end of each contract year, Stauffer would, under certain specified conditions, receive an annual bill credit, it is said. It is stated that Tennessee proposes to receive each day, in addition to the scheduled daily volume, a volume of natural gas equal to 5.76 percent of such scheduled daily volume for its fuel and use requirements associated with this transportation service. The receipt of such additional gas provides assurance that Tennessee's customers would not suffer a diminution in their supply of gas as a result of the proposed transportation service, it is asserted.

It is indicated that Stauffer would pay East Tennessee each month for the transportation service 29.14 cents per Mcf delivered by East Tennessee to Stauffer, and that East Tennessee proposes to retain each day a volume determined by multiplying the daily volume delivered by Tennessee to East Tennessee for the account of Stauffer by 0.72 percent. It is further indicated that East Tennessee's other customers would not suffer any loss of volumes as a result of this transportation service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 13, 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. 78-27761 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-114]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Refund Report

SEPTEMBER 25, 1978.

Take notice that on September 11, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), filed a plan for disposition of refunds which it received from Sea Robin Pipeline Co.

Tennessee states that upon Commission approval of its refund plan it will flow-through to its customers $939,293.14 by means of a credit to its Unrecovered Purchased Gas Cost Account. Tennessee states that it is not refunding the remaining $478,331.82 applicable to periods covered by settlements or Commission orders reflecting test period estimates rather than actual book figures.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 13, 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, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27737 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket Nos. RP 75-13, et al.]

TENNESSEE NATURAL GAS LINES, INC.

Proposed Plans of Refund

SEPTEMBER 25, 1978.

Take notice that Tennessee Natural Gas Lines, Inc. (Tennessee Natural), on September 10, 1978, tendered for filing a Report of Flow Through of Refunds resulting from refunds made by Tennessee Gas Pipeline Co. (Tennessee) to Tennessee Natural in compliance with a Stipulation and Agreement approved by the Commission's letter order of May 1, 1978, in Docket Nos. RP75-13, et al.

Tennessee Natural states that on July 17, 1978, it received a refund from Tennessee and it completed distribution of a refund to its sole jurisdictional customer, Nashville Gas Co. (Nashville), in accordance with its tariff on August 31, 1978. Tennessee Natural states that the refund to Nashville, including principal and interest, totals $3,316,331.23 and covers the period March 15, 1975, through December 31, 1977.

Tennessee Natural further states that the refund from Tennessee to Tennessee Natural reflects a reduction in the demand rate which results in Tennessee Natural having received more demand charge credit in prior periods than under the rates approved in this docket and therefore, Tennessee reduced the amount of Tennessee Natural's refund accordingly. However, since no demand credits were given Nashville Gas Co., no reduction was made in Nashville's refund. Tennessee Natural states that the issue of demand charge credit will be ultimately resolved when Commission Docket Nos. RP76-71, RP71-11 (PGA-76-1) is concluded and the appropriate adjustments made at that time.

Tennessee Natural states that copies of the filing have been mailed to Tennessee Natural's sole jurisdictional customer and to the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27738 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP75-13, et al.]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Refund Report

SEPTEMBER 25, 1978.

Take notice that on September 12, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), tendered for filing a report on further refunds made pursuant to the Stipulation and Agreement approved by the Commission's letter order of May 1, 1978 in this proceeding.

Tennessee states that it refunded to its jurisdictional customers in August 1978 $840,338 related to State income tax refunds which it had received.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27779 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-509]

TEXAS EASTERN TRANSMISSION CORP.

Application

SEPTEMBER 21, 1978.

Take notice that on September 6, 1978, Texas Eastern Transmission Corp. (Texas Eastern), Post Office Box 2521, Houston, Tex. 77001, filed in Docket No. CP78-509 an application pursuant to section 7 of the Natural Gas Act and section 2.79 of the Commission's General Policy and Regulations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing Texas Eastern to construct interconnection facilities and to transport natural gas for Aluminum Co. of America (Alcoa) for 2 years for use at its Warrick Operations located in Newburgh, Ind., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern proposes to construct facilities at a point where its 30-inch line and a pipeline of Lavaca Pipeline Co. (Lavaca), a wholly owned subsidiary of Alcoa, intersect in Calhoun County, Tex. It is said that Texas Eastern would receive at this point up to 6,361 dths per day equivalent of natural gas for Alcoa's account. Texas Eastern proposes to then transport the stated quantities, less 3 percent for gas used in providing such a service, to an existing point of interconnection between Texas Eastern and Texas Gas Transmission Corp. (Texas Gas) located in Clairborne Parish, La., for redelivery by Texas Gas to Southern Indiana Gas & Electric Co. (SIGECo.) for ultimate delivery to Alcoa's Warrick Operations facility in Newburgh, Ind. Texas Eastern proposes to charge 14.89 cents per dth for the service. Texas Eastern asserts that construction of the interconnection and metering facilities between Texas Eastern and Lavaca in Calhoun County, Tex. is estimated to cost approximately $76,700.

It is stated that Alcoa has purchased from Weeks Petroleum Corp. (Weeks) gas produced from its Matagorda Bay Field in Calhoun County, Tex. and from Sun Gas Co. (Sun Gas) gas produced from its Swan Lake Field in Jackson County, Tex. It is further stated Alcoa has agreed to pay $1.95 per Mcf for the gas from Sun Gas, and $1.85 per Mcf subject to a 10-cent escalation in price starting on April 1, 1979 for Weeks gas.

It is stated that the subject gas is owned and produced by Weeks and Sun Gas and committed to Alcoa only, and, therefore, not available to Texas Eastern.

It is stated that Alcoa's Warrick, Ind., facility is an aluminum plant currently experiencing curtailments from its supplier, SIGECo. It is further stated that the Warrick plant produces aluminum needed by the food packaging and container industry and that an alleged emergency need exists for the subject gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 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, or its designee, 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. 78-27762 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP74-41]

TEXAS EASTERN TRANSMISSION CORP.

Compliance Filing

SEPTEMBER 25, 1978.

Take notice that on September 7, 1978, Texas Eastern Transmission Corp. (Texas Eastern) tendered for filing several revised tariff sheets to Fourth Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which are proposed to be effective August 9, 1978. Texas Eastern states that these sheets are being filed in compliance with the terms of Opinion No. 21, issued August 9, 1978 in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, pro-

vided, however, that any person who has previously filed a petition to intervene in this proceeding in not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27780 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP76-403]

TEXAS GAS TRANSMISSION CORP.

Application to Amend Further

SEPTEMBER 26, 1978.

Take notice that on September 12, 1978, Texas Gas Transmission Corp. (Texas Gas), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP76-403, an application, pursuant to section 7 of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), to amend further the certificate of public convenience and necessity issued in the said docket on August 13, 1976 [1] so as to authorize Texas Gas to extend the transportation service for the account of Owens-Corning Fiberglas Corp. (Owens-Corning) for an additional year from August 27, 1978, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Texas Gas states that the volumes of natural gas to be transported for the additional year would be purchased by Owens-Corning from Kilroy Properties Inc. and Dawson Exploration, Inc. (Kilroy) from production of wells in Jefferson Davis Parish, La.

It is asserted that the subject natural gas would be delivered to Texas Gas at an existing meter station at or near the site of Woodlawn Junction in section 7, Township 9 South, Range 5 West, Jefferson Davis Parish, La. It is stated that Texas Gas would simultaneously redeliver for Owens-Corning's account (1) up to 300 Mcf per day to Texas Eastern Transmission Corp. (Texas Eastern) at a point of delivery located near Lebanon, Ohio; (2) up to 2,000 Mcf per day to its existing point or points of delivery with Jackson Utility Division, City of Jackson, Tenn. (Jackson) or; (3) divert all or a portion of the volumes up to 2,000 Mcf per day to be transported and delivered to Jackson and deliver such volumes to Transcontinental Gas Pipe Line Corp. (Transco) for ultimate delivery to Owens-Corning's Anderson, S.C., plant.

It is stated that Texas Gas would not retain any volumes of natural gas hereunder for its own system supply but would retain as makeup for compressor fuel and line loss 10.34 percent of those volumes delivered to Texas Eastern, 2.45 percent of those volumes delivered to Jackson and .55 percent of those volumes delivered to Transco. It is asserted Texas Gas would collect an initial charge of 30.36 cents per Mcf for those volumes delivered to Texas Eastern for the account of Owens-Corning, 19.29 cents per Mcf for those volumes delivered to Jackson and 5.77 cents per Mcf for those volumes delivered to Transco.

Owens-Corning has agreed to pay Kilroy $1.82 per one million Btu's for an initial term of 12 months commencing August 24, 1978, $1.97 for the next twelve month period, and a price mutually agreed upon thereafter.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules 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. 78-27781 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. OR78-1]

TRANS-ALASKA PIPELINE SYSTEM

Granting Extension of Time

SEPTEMBER 25, 1978.

On September 18, 1978, Commission Staff Counsel filed a motion for extension of the date within which to reply to the motion to quash subpoenas filed by Arctic Constructors and its joint venture partners (Arctic) in the above captioned proceeding. The motion states that staff has had to review a vast quantity of material in preparing a response and that the other parties in the proceeding do not object to the proposed extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 6, 1978, for filing replies to Arctic's motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27782 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP72-182]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND TEXAS GAS TRANSMISSION CORP.

Application To Amend Further

SEPTEMBER 26, 1978.

Take notice that on September 12, 1978, Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, and Texas Gas Transmission Corp., (Texas Gas), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP72-182, [1] a joint application to amend further the FPC's order issued June 27, 1972, in said docket pursuant to section 7(c) of the Natural Gas Act so as to add an additional exchange point between Applicants, all as more fully set forth in the application to amend further in this proceeding.

The order of June 27, 1972, authorized an exchange of gas between Transco and Texas and was amended, February 7, 1974, October 16, 1974, and April 12, 1977, to add additional exhange points between the companies.

Under the instant proposal, Transco and Texas Gas seek authorization for an additional delivery point, in accordance with the letter agreement between them, dated August 31, 1978, which further amends the Exchange Agreement between them, dated July 27, 1973, as amended. Such delivery point would be at the existing point of interconnection between the systems of Texas Eastern Transmission Corp. (Texas Eastern) and Transco near Ragley, Beauregard Parish, La., where either Transco or Texas Gas can cause volumes of natural gas to be delivered to the other party, it is said.

The addition of the Ragley delivery point would permit Texas Gas to receive volumes of natural gas into its system which Texas Gas would be purchasing from Block 237, West Cameron Area, offshore Louisiana, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend further should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[1] This proceeding was commenced before the FPC. By joint regulation to October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

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. 78-27783 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-76]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition to Amend

SEPTEMBER 26, 1978.

Take notice that on August 28, 1978,[1] Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-76 a petition pursuant to section 7(c) of the Natural Gas Act to amend the order issued on January 30, 1978 in Docket No. CP78-76 so as to remove the condition imposed upon the rate for the transportation service authorized, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Petitioner was authorized to provide interruptible transportation service for a period of 2 years for Owens-Corning Fiberglas Corp. (Owens-Corning) under Petitioner's presently effective long-haul interruptible transportation rate. Petitioner was also authorized, it is said, to transport gas for redelivery to both Texas Gas Transmission Corp. and Texas Eastern Transmission Corp. within Petitioner's production and gathering area for ultimate delivery to two other Owens-Corning plant locations. For this latter service Petitioner charges a rate of 3.5 cents per dekatherm (dt) equivalent of gas which represents Petitioner's minimum charge for transportation in its gathering facilities, it is stated.

In the order of January 30, 1978 in the instant docket, Petitioner states that the Commission conditioned its authorized of the transportation service at the rate proposed by Petitioner upon the final determination of the proceedings in Docket Nos. RP76-316, RP77-26 and RP77-108. Petitioner states that on June 27, 1978 the Commission approved a settlement in Docket Nos. RP76-136 and RP77-26 and that Petitioner's Rate Schedule T became effective on August 1, 1978. Additionally, Petitioner states that its rate for transportation service in its gathering area facilities was not involved in the above-mentioned rate proceedings. Consequently, Petitioner requests that the order issued on January 30, 1978 in the instant docket be amended to remove the condition that the authorization is subject to the final determination in the above-mentioned rate proceedings.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules 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 beome 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. 78-27784 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP77-426]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application to Amend

SEPTEMBER 21, 1978.

Take notice that on September 8, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-426 an application to amend the order issued August 29, 1977 [1] in said docket pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79), authorizing the transportation of natural gas for Owens-Corning Fiberglas Corp. (Owens-Corning), Applicant's only direct industrial customer, for use at Owens-Corning's Anderson, S.C. plant, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

By the application to amend, Applicant requests authority to continue transportation service for an additional 2-year term for Owens-Corning, beyond the initial termination date of August 28, 1978.

Applicant proposes to transport up to 2,000 Mcf of natural gas per day for Owens-Corning. It is stated that Owens-Corning has purchased gas from Kilroy Properties Inc. (Kilroy) and Dawson Exploration, Inc. from production of the Racca Well, Woodlawn Field, Jefferson Davis Parish, La. at a price of $1.35 per million Btu's for the first 12 months and $1.40 per million Btu's for the second 12 months.

It is asserted that such gas would be received by Texas Gas Transmission Corp. in the field for delivery to Applicant for ultimate delivery to Owens-Corning.

Applicant proposes to charge Owens-Corning an initial rate of 23.5 cents per dekatherm equivalent of natural gas delivered under the agreement and would retain, initially, 3.8 percent of the quantities received for transportation for compressor fuel and line loss.

It is stated that Owens-Corning's Anderson, S.C. plant, employs 1,650 employees and that a complete shutdown of the plant or a severe cutback in operations resulting from a shortage of natural gas supply would have a direct and immediate adverse impact on the vitality and economic health of the Anderson community as well as upon Owens-Corning. It is further stated that Petitioner's curtailments of gas supply to the Anderson plant has reached 100 percent of its firm demand during each winter period since 1976. It is stated that it is necessary for Owens-Corning, in order to continue normal operations at its Anderson plant, to rely solely on its ability to obtain supplemental natural gas supplies.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 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 inter-

[1] The petition was initially tendered for filing on August 28, 1978, however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until September 14, 1978; thus, the filing was not completed until the latter date.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

vene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27763 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. RP73-3 (PGA78-3)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Purchased Gas Cost Adjustments to Rates and Charges

SEPTEMBER 25, 1978.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on September 15, 1978, tendered for filing certain substitute revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 to become effective September 1 and September 2, 1978.

Transco states that its revised PGA filing is being made as a result of the Commission's August 31, 1978 "Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Initiating Hearing, and Consolidating Proceedings" issued in Docket Nos. RP73-3 (PGA78-3), et al. Transco's filing contained two sets of revised sheets, one to be made effective September 1, 1978 without suspension, the other to be made effective September 2, 1978 subject to refund.

Transco states that the revised sheets filed to be effective September 1, 1978 without suspension reflect a reduction in rates from the sheets originally filed on August 1, 1978, due to elimination of the so-called "out-of-period" costs in computing such rates, consistent with the provisions of Ordering Paragraphs (A) and (C) of the Commission's Order issued August 31, 1978 in Docket Nos. RP73-3 (PGA78-3) et al. The rates in these tariff sheets reflect the same increase of 13.9 cents per dt in the current gas costs as included in the August 1, 1978 filing but the amount of the Deferred Adjustment has been reduced from 3.3 cents per dt to 2.9 cents per dt.

Transco further states that the tariff sheets proposed to be effective September 2, 1978, subject to refund, provide for recovery of the full balance of $48,877,612 recorded in Transco's Unrecovered Purchased Gas Cost Account as of June 30, 1978. Except for the designation thereof, these tariff sheets are identical to the sheets filed on August 1, 1978 to be effective September 2, 1978. In that connection, Transco states that it is filing concurrently an Application for Rehearing and Request for Stay of the Commission's August 31, 1978 Order, wherein it has requested that the Commission grant rehearing of its order and permit the full balance of the deferred account to be reflected in the rates to be effective September 2, 1978, subject to refund, and to set the propriety of the recovery of the so-called "out-of-period" costs for hearing.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27752 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket Nos. RP76-136 and RP77-26]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

SEPTEMBER 25, 1978.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on September 19, 1978, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume No. 2. The sheets are proposed to become effective on various dates from January 31, 1978 to November 1, 1978.

On June 27, 1978, the Commission approved the settlement agreement in Docket Nos. RP76-136 and RP77-26. Article VII of the agreement provided that Transco would reduce its rates for interruptible transportation service into or within Transco's rate zones to the levels provided in the agreement. Transco filed on August 23, 1978, revised tariff sheets reflecting rate reductions for all such services in effect during the period February 1, 1977 through December 31, 1977, under Docket Nos. RP76-136, RP77-26, and RP77-106. Also, by filing dated August 23, 1978, Transco reduced its rates to such levels effective January 1, 1978 in Docket No. RP77-108.

Transco states that while the aforementioned August 23, 1978 filings provided for basic changes in rate levels for the interruptible transportation services reflected in the two general rate proceedings, there are certain additional revisions which revisions which are necessary to fully effectuate the terms of the approved settlement agreement. The purpose of revised tariff sheets included in this filing is explained below:

(1) To reflect such reduced transportation rate levels for Rate Schedules X-154, X-155, and X-156, which agreements became effective on January 31, 1978;

(2) To provide for a prospective rate increase, effective November 1, 1978, under Rate Schedules X-145 and X-146 to the level approved under the aforementioned settlement agreement;

(3) To revise Rate Schedules X-67, X-71, X-99, X-114, X-118, X-135, X-137, X-139, X-154, X-155, and X-156 to reflect, as of June 1, 1978, the inclusion of the 0.12 cents per dt charge related to Gas Research Institute (GRI), as approved by Commission order dated June 1, 1978 in Docket No. RM77-14; and

(4) To provide changes in fuel and line loss makeup percentages, as follows: (a) as of September 1, 1978, for reductions in such percentages under Rate Schedules X-71, X-99, X-110, X-111, X-130, X-131, X-132, X-133, X-134, X-135; and (b) as of November 1, 1978, for an increase in such percentage under Rate Schedule X-80.

Transco further states that copies of the instant filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27753 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. CP78-518]

TRUNKLINE GAS CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Pipeline Application

SEPTEMBER 21, 1978.

Take notice that on September 13, 1978, Trunkline Gas Co. (Trunkline),

P.O. Box 1642, Houston, Tex. 77001 and Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-518, a joint application pursuant to section 7(c) of the Natural Gas Act and the regulations thereunder for temporary and permanent certificates of public convenience and necessity authorizing the exchange and transportation of natural gas on behalf of Transco, all as more fully set forth in the application on file with the Commission and open to public inspection.

Trunkline proposes to exchange and/or transport for Transco on a firm basis up to 105,000 Mcf of gas per day which represents Transco's interest in gas to be produced from Vermilion Block 325 and West Cameron Blocks 405 and 576. Trunkline proposes to receive the gas from such Blocks at existing side taps on the Stingray Pipeline Co. system in Vermilion Block 321, West Cameron Block 277 and West Cameron Block 537, respectively, for exchange and/or transportation for the account of Transco at one of five Points of Redelivery: (1) High Island Block A-330; (2) the Mobil Oil Corp. Cow Island Processing Plant in Vermilion Parish, La.; (3) near Ragley, La. at the interconnection between the facilities of Trunkline and Transco; (4) the terminus of the U-T Offshore System in Cameron Parish, La.; and (5) at Katy in Waller County, Tex., at the Interconnection between the facilities of Trunkline and Transco.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 13, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make 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 to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27764 Filed 9-29-78; 8:45 am]

[6740-02]

[Docket No. ER78-512]

WISCONSIN ELECTRIC POWER CO.

Granting Extension of Time

SEPTEMBER 25, 1978.

On September 14, 1978, counsel for the cities, villages, and towns of Cedarburg, Clintonville, Deerfield, Elkhorn, Florence, Hartford, Jefferson, Kaukauna, Kiel, Lake Mills, Menasha, New London, Oconomowoc, Oconto Falls, Shawano, Slinger, and Waterloo, Wis., the city of Crystal Falls, Mich., and the Ontonogan County Rural Electrification Association (The Intervenors) filed a motion for extension of time in which to make a price squeeze allegation as provided for in the Commission order of August 31, 1978, in the above captioned proceeding. The motion states tht the Intervenors cannot accurately make a price squeeze allegation until after WEPC files reduced wholesale rates pursuant to the August 31, 1978, Commission order.

Upon consideration, notice is hereby given that the time within which the Intervenors may file price squeeze allegations pursuant to the Commission order of August 31, 1978, is extended to and including October 20, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27786 Filed 9-29-78; 8:45 am]

[3128-01]

Hearings and Appeals Office

CASES FILED

Week of September 8 through September 15, 1978

Notice is hereby given that during the week of September 8, 1978 through September 15, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 22, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Sept. 8-15, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 11, 1978	Cabot Corp., Houston, Tex	DXE-1825, DXE-1826.	Extension of relief granted in *Cabot Corp.*, Case Nos. FXE-4509 and FXE-4510 (decided Nov. 4, 1977) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its North Terrebone and Prentice plants.
Do	Professor Harold Fruchtbaum, New York, N.Y.	DFA-0211	Appeal of information request denial. If granted: The DOE's June 30, 1978 information request denial would be rescinded and Harold Fruchtbaum of Columbia University would receive access to certain DOE data regarding the nuclear weapons development program.
Do	L & M Oil Co., Indianapolis, Ind	DEE-1827	Price exception (section 212.73). If granted: L & M Oil Co. would be permitted to sell the crude oil produced from the Allen 2A well located in Lewisville, Ark., at market prices.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 8-15, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Monsanto Co., Houston, Tex	DEE-1824	Price exception (section 212.73). If granted: Monsanto Co. would be permitted to sell the crude oil produced from the Navajo 138 wells located in Apache County, Ariz., at upper tier ceiling prices.
Do	Powerine Oil Co., Santa Fe Springs, Calif	DEE-1823	Exception to the entitlements program. If granted: Powerine Oil Co. would receive additional entitlements to compensate the firm for the cost of shipping residual fuel oil from its California refinery to the east coast.
Do	State of Illinois, Chicago, Ill	DFA-210	Appeal of information request denial. If granted: The DOE's July 3, 1978 information request denial would be rescinded and the State of Illinois would receive certain DOE data regarding the General Electric nuclear waste facility in Morris, Ill.
Sept. 12, 1978	Burl C. Smith, Portage, Ohio	DEE-1832	Price exception (section 212.93). If granted: Burl C. Smith would be permitted to increase retroactively its maximum permissible ceiling prices for the period Nov. 1, 1973 to June 30, 1975.
Do	....do	DMR-0031	Request for rescission. If granted: The DOE's Dec. 6, 1977 decision and order denying the firm's appeal of a remedial order would be reversed and that remedial order would be rescinded.
Do	Green Pipe & Supply Co., Tulsa, Okla	DEE-1829	Price exception (section 212.73). If granted: Green Pipe & Supply Co. would be permitted to sell crude oil produced from the Nora Brunner lease located in Seminole County, Okla., at upper tier ceiling prices.
Do	Petroleum International Associates, Inc., Washington, D.C.	DRA-0212, DRS-0212.	Appeal of an ancillary order, request for stay. If granted: The ancillary order issued by DOE region II on Aug. 10, 1978 would be rescinded and Petroleum International Associates, Inc. would not be required to pass through certain refunds which it received from Oskey Gasoline & Oil Co. and Stillings Petroleum Corp.
Do	San Joaquin Refining Co., Newport Beach, Calif..	DEE-1828	Exception to the entitlements program. If granted: San Joaquin Refining Co. would receive additional entitlements to compensate it for the cost of shipping residual fuel oil from its California refinery to the east coast.
Do	Sun Co., Inc., Dallas, Tex	DXE-1831	Extension of relief granted in *Sun Co., Inc.*, Case No. DXE-0896 (decided Apr. 28, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Elmwood plant.
Do	Texas Oil & Gas Corp., Corpus Christi, Tex.	DEE-1830	Price exception (section 212.73). If granted: Texas Oil & Gas Corp. would be permitted to sell crude oil produced from the Pete Rydolph "A" lease located in the North McFaddin Field, Victoria County, Tex., at upper tier ceiling prices.
Do	Transcontinental Oil Corp., Shreveport, La	DEE-1835	Price exception (section 212.73). If granted: Transcontinental Oil Corp. would be permitted to sell the crude oil produced from State Lease 4041, Well No. 1 located in St. John the Baptist Parish, La., at upper tier ceiling prices.
Do	Universal Mineral Corp., Dallas, Tex	DEE-1834	Price exception (section 212.73). If granted: Universal Mineral Corp. would be permitted to sell the crude oil produced from the No. 1 Humble-Dowdy Fee well located in Duval County, Tex., at market prices.
Sept. 13, 1978	Charter Oil Co., Washington, D.C	DES-1398	Stay request. If granted: Charter Oil Co. would be granted a stay of its obligation to purchase entitlements under the provisions of 10 CFR 211.67 for the period September 1978 through February 1979 pending a determination on an application for exception which it has filed.
Do	Fuel Distributors, Inc., Temple, Tex	DFA-0213	Appeal of information request denial. If granted: The DOE's Aug. 15, 1978 information request denial would be rescinded and Fuel Distributors, Inc. would receive access to DOE data relating to a DOE investigation of Foremost Petroleum Corp., Inc.
Do	Northland Oil & Refining Co., Tulsa, Okla.	DES-0102	Stay request. If granted: Northland Oil & Refining Co. would be granted a stay of its obligation to purchase entitlements under the provisions of 10 CFR 211.67 commencing with the month of September 1978 pending a determination on an application for exception which the firm has filed.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 8, 1978	American Petroleum Refiners Association, Washington, D.C	FEE-4443.

Proposed Remedial Orders

Sept. 13, 1978	Whittier Fuel & Marine Corp., Anchorage, Alaska	DRO-0110.
Sept. 14, 1978	Crown Central Petroleum Corp., Washington, D.C	DRO-0111.

[FR Doc. 78-27694 Filed 9-29-78; 8:45 am]

[3128-01]

CASES FILED

Week of August 25 through September 1, 1978

Notice is hereby given that during the week of August 25, 1978 through September 1, 1978, the appeals and applications for exception or other relief listed in the Appendix to the Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 22, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Aug. 25-Sept. 1, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 25, 1978	Matrix Land Co., Taylor County, Tex	DXE-1782	Extension of relief granted in *Matrix Land Co.*, Case No. DEE-0034 (decided Feb. 15, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Box-Elmdale/Tuscola plant.
Aug. 28, 1978	Batzell, Nunn & Bode, Washington, D.C	DRD-0084	Motion for discovery. If granted: Discovery would be granted with respect to objections to a remedial order issued to Ashland Oil Co. by special counsel for compliance on July 7, 1978.
Aug. 29, 1978	Getty Oil Co., Los angeles, Calif	DEE-1801 and DEE-1802.	Price exception (section 212.165). If granted: Getty Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Dollarhide and Stephens plants.
Do	Gibbs Oil Co., Washington, D.C	DRH-0024	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened to permit Gibbs Oil Co. to present certain factual contentions in connection with an appeal of a remedial order filed by Champlin Petroleum Co. (Case No. DRA-0012).
Do	Marathon Oil Co., Findlay, Ohio	DXE-1786 through DXE-1789.	Extension of relief granted in *Marathon Oil Co.* Case Nos. DXE-0551 through DXE-0554 (decided on Apr. 20, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Rock River, West Foulaude, West Sidney, and Welder plants.
Do	Mid-Valley Petroleum Corp., Washington, D.C.	DRH-0025	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened to permit Mid-Valley Petroleum Corp. to present certain factual contentions in connection with an appeal of a remedial order filed by Champlin Petroleum Co. (Case No. DRA-0012).
Do	Relco Exploration Co., Inc., Monroe, La	DEE-1785	Exception to filing requirements of the certification of domestic crude oil sales. If granted: Relco Exploration Co., Inc. would be granted an exception to the provisions of 10 CFR 212.131 with respect to the filing of the certification of domestic crude oil sales.
Do	Standard Oil Co. (Indiana), Chicago, Ill	DEE-1792	Price Exception (section 212.165). If granted: Standard Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Kalkaska plant.
Do	Sun Co., Inc., Dallas, Tex	DXE-1803 through DXE-1809.	Extension of relief granted in *Sun Co., Inc.*, Case Nos. DXE-1850, DXE-0852, DXE-0919, DXE-0920, DXE-0914, DXE-0916, and DXE-0943 (decided Apr. 28, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Bayou Sale, Tonkawa, Wakita, Belle Isle, Fordache, Mermentau and Victoria plants.
Do	Supreme Petroleum Co. of New Jersey, Inc	DRH-0011	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened to permit Supreme Petroleum Co. of New Jersey, Inc. to present certain factual contentions in connection with an appeal of a remedial order filed by Champlin Petroleum Co. on Sept. 19, 1977 (Case No. DRA-0012).
Do	Union Oil Co. of California, Los Angeles, Calif.	DEE-1800	Price exception (section 212.165). If granted: Union Oil Co. of California would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Mooreland plant.
Aug. 30, 1978	Akin, Gump, Hauer, & Field, Washington, D.C.	DFA-0205	Appeal of an information request denial. If granted: The DOE's July 28, 1978, information request denial would be rescinded and Akin, Gump, Hauer, & Feld would be granted access to various DOE data regarding the entitlements program and imports of residual fuel oil.
Do	Andrews, Kurth, Campbell, & Jones, Washington, D.C.	DFA-0204	Appeal of an information request depial. If granted: The DOE's July 28, 1978 information request denial would be rescinded and Andrews, Kurth, Campbell, & Jones would be granted access to various DOE data regarding ruling 1977-5.
Do	A. C. Duerr, Tulsa, Okla	DXE-1783	Extension of relief granted in *A. C. Duerr* Case No. FEE-3207 (decided Jan. 1, 1977) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its R. M. Stephens plant.
Do	F-M Oil Co., Cinnaminson, N.J	DRA-0206	Appeal of remedial order issued Aug. 4, 1977. If granted: The Aug. 4, 1977, remedial order issued by DOE region III would be rescinded.
Do	Ke-La-Da Enterprises, Inc., Archie, Mo	DEE-1790	Price exception (section 212.73). If granted: Ke-La-Da Enterprises, Inc. would be permitted to sell the crude oil produced from Limpus Field located in Cass County, Mo., at upper tier ceiling prices.
Do	Maguire Oil Co., Dallas, Tex	DXE-1791	Extension of relief granted in *Maguire Oil Co.*, 1DOE Par. — (Aug. 4, 1978). If granted: Maguire Oil Co. would be permitted to sell the crude oil produced from the Chandler lease located in Howard County, Tex., at upper tier ceiling prices.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 25-Sept. 1, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Monsanto Co., St. Louis, Mo	DXE-1793 through DXE-1799.	Application for extension of relief granted in *Monsanto Co.* Case Nos. DXE-0727 through DXE-0733 (decided Mar. 31, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Adena, Como, Diamond K, Dollarhide, Gillette, Pledger, and Spivey plants.
Do	Special Counsel, Washington, D.C	DRD-0004	Motion for discovery. If granted: Discovery would be granted to the Office of Special Counsel for Compliance with respect to objection filed by Chevron, U.S.A. and Time Oil Co. in response to a proposed remedial order issued to Chevron, U.S.A. (Case No. DRO-0083).
Do	Varibus Corp., Beaumont, Tex	DEX-0106	Supplemental order. If Granted: Escrowed funds would be distributed in a manner consistent with the provisions of a remedial order issued by DOE region VI to Varibus Corp. on September 20, 1976.
Aug. 31, 1978	Andrews, Kurth, Campbell & Jones, Washingjton, D.C.	DFA-0207	Appeal of an information request denial. If granted: The DOE's July 5, 1978 information request denial would be rescinded and Andrews, Kurth, Campbell & Jones would be granted access to documents concerning various aspects of the DOE crude oil price regulations.
Do	O. B. Mobley, Sr., Shreveport, La	DES-0100	Request for stay. If granted: O. B. Mobley, Jr. would be granted a stay pending a judicial review by the U.S. District Court for the Western District of Louisiana.

Notices of Objections Received

Date	Name and location of applicant	Case No.
Aug. 25, 1978	R. W. Tyson Producing Co., Jackson, Miss	DXE-1370 through DXE-1373
Aug. 29, 1978	Fairgrove Oil Co., Fairgrove, Mich	DEO-0103

Proposed Remedial Orders

Aug. 28, 1978	Bright and Schiff, Washington, D.C	DRO-0099
Aug. 25, 1978	California Petroleum Distributors, Inc., Westburg, N.Y	DRO-0100
Aug. 30, 1978	Duval County Ranch Co., Houston, Tex	DRO-0102
Aug. 29, 1978	King Resources Co., Denver, Colo	DRO-0101
Aug. 30, 1978	Cooper & Brain, Inc., Washington, D.C	DRO-0104

[FR Doc. 78-27695 Filed 9-29-78; 8:45 am]

[3128-01]

GULF REFUND PROCEDURES

Extension of Time for Comments

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of extension of comment period.

SUMMARY: On August 28, 1978, a Notice was published in the FEDERAL REGISTER that pertained to the settlement of claims resulting from a $42,240,000 refund by Gulf Oil Corp. 43 Fed. Reg. 38,548 (1978). Attached to the Notice was a copy of an Interim Decision and Order that established procedures for refund applications. The Notice sought public comments on the procedures by September 18, 1978. On September 15, 1978, the Department of Energy published a second Notice extending the period for filing comments until September 29, 1978. 43 Fed. Reg. 41,266 (1978). Since that time several interested parties have requested a further extension of the comment period in order to complete and fully document their statements. In view of the importance of the refund procedure and the complexity of the issues involved in this proceeding, the comment period will be extended until October 16, 1978.

DATES: Comments by October 16, 1978.

ADDRESS: Office of Public Hearing Management, Box VH, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

Issued in Washington, D.C. on September 26, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-27773 Filed 9-29-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 980-2; OPP—31021]

PESTICIDE PROGRAMS

Notice of Receipt of Application To Register Pesticide Product Entailing a Changed Use Pattern

E. I. Du Pont De Nemours & Co., Wilmington, Del. 19898, has submitted to the Environmental Protection Agency (EPA) an application to amend the registration of the pesticide product "Velpar" weed killer (EPA registration No. 352-378), which contains 90 percent of the active ingredient 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine -2,4(1*H*,3*H*)-dione. The application received from E. I. Du Pont De Nemours & Co., proposes that the use pattern of this pesticide product be changed from non-crop use to crop use for the control of weeds in sugarcane. The application also proposes that the product be classified for general use.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the FEDERAL REGISTER Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The comments must be received on or before November 1, 1978, and should bear a notation indicating the EPA registration No. "352-378". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202-755-2196. The label furnished by E. I. Du Pont De Nemours & Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the FEDERAL REGISTER section from 8:30 a.m. to 4 p.m., Monday through Friday.

Notice of approval or denial of this application to register "Velpar" weed killer will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: September 25, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-27617 Filed 9-29-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

HUB OIL CO., INC.

In re Applications of Hub Oil Co., Inc. P.O. Box 22, Rochester, N.Y. 14601. For resinstatement of authorizations for stations KO8427 and KER642 in the Special Industrial Radio Service. SS Docket No. 78-305, file Nos. 20310/11-IS-88.

Designating Application for Hearing on Stated Issues

MEMORANDUM OPINION AND ORDER

Adopted: September 20, 1978.

Released: September 21, 1978.

By the Chief, Safety and Special Radio Services Bureau:

1. The Chief, Safety and Special Radio Services Bureau (the Bureau has before him for consideration the above-captioned applications filed August 28, 1978, by Hub Oil Co., Inc. (Hub) for reinstatement of expired authorizations for facilities in the Special Industrial Radio Service at Rochester, N.Y. Also before the Bureau in connection with its consideration of the above-captioned applications is the Investigative Case Report of the Commission's Field Operations Bureau (FOB) concerning unlicensed operation by Hub.

2. The Bureau's license records show that on October 4, 1972, Hub was authorized to operate stations KO8427 and KER642 in the Special Industrial Radio Service. Those licenses expired, as shown on their face, on October 4, 1977. FOB's Investigative Case Report indicates that its Canandigua, N.Y., office discovered through monitoring on December 13, 1977, that Hub was operating on its previously licensed frequencies although its licenses had expired more than 2 months earlier without an application for renewal having been filed. On January 17, 1978, the Canandaigua Office issued a warning letter to Hub concerning its unlicensed operation. That letter, to which no reply was received, also explained the procedures for obtaining a license and special temporary authority. It appears that Hub eventually did file an application for reinstatement of its applications on March 7, 1978. That application was returned by the Bureau as incomplete and was not resubmitted until August 28, 1978.

3. Hub's continued radio transmissions were noted by the Canadaigua office on July 5, 1978, and a second warning letter was issued. Further monitoring on July 13, 1978, revealed that the unlicensed operation was continuing. In a telephone conversation of that date between the Canandaigua office and the Hub employee who signed a response to the second warning letter, the employee disclaimed any involvement with the operation of Hub's radio system. Later that same day the Canandaigua office was called by Hub's president, William F. Huberlie (Huberlie). Huberlie was warned that operation of the radio system must be terminated until a valid license or special temporary authority had been obtained and that there were possible criminal penalties for continued violation. According to FOB, Huberlie stated that Hub had been attempting to become licensed but could not obtain the proper application forms, and that he needed the radio system for his business and would continue to use it whether or not he had a license. In response to the warning in that telephone conversation of possible criminal prosecution Huberlie challenged the Commission to take whatever action it wished, but stated that he nevertheless would continue operation of the radio stations in the face of Commission action and regardless of whether he were issued the special temporary authority which he indicated that he would seek. The Bureau has no record of Hub ever having filed a request for special temporary authority. Monitoring by the Canandaigua office as recently as September 14, 1978, indicates that Hub is still operating without a license.

4. In light of Hub's unlicensed operation, which evidently continues to this day, serious questions exist as to Hub's character qualifications and responsibility to receive the authorizations which it here seeks. Because the Bureau cannot make the requisite finding, pursuant to section 309(a) of the Communications Act of 1934, as amended, that a grant of Hub's applications would serve the public interest, convenience and necessity, the applications must, in accordance with section 309(e) of the Act, be designated for evidentiary hearing.

5. 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 Hub Oil Co., Inc., file Nos. 20310/11-IS-88, are, pursuant to authority delegated in §§ 0.131(a) and 0.331 of the Commission's rules, "designated for hearing," at a time and

place to be specified at a later date, on the following issues.

(a) To determine whether Hub Oil Co., Inc. has willfully violated the Communications Act of 1934, as amended, and the Commission's rules by operating unlicensed radio facilities in the Special Industrial Radio Service.

(b) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether Hub Oil Co., Inc. possesses the requiste character qualifications to receive a grant of the applications which are the subject of this proceeding.

(c) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether Hub Oil Co., Inc., is so inept in the management and conduct of its affairs with respect to operation and licensing of its radio system that it cannot be entrusted with a Commission authorization.

(d) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-captioned applications will best serve the public interest, convenience and necessity.

6. *It is further ordered,* That Hub Oil Co., Inc. and the Chief, Safety and Special Radio Services Bureau "are made parties" in this proceeding.

7. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof on the issues specified in paragraph 5 hereinabove are, pursuant to section 309(e) of the Communications Act of 1934, as amended, and §§ 1.254 and 1.973(e) of the Commission's rules, upon Hub Oil Co., Inc.

8. *It is further ordered,* That each of the parties named in paragraph 6 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of the notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date to be fixed for hearing and present evidence on the issues specified in this Order, as prescribed in § 1.221 of the Commission's rules.

9. *It is further ordered,* That the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Hub Oil Co., Inc. and by first class mail upon Hub's counsel.

FEDERAL COMMUNICATIONS COMMISSION,
CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 78-27637 Filed 9-29-78; 8:45 am]

[FCC 78-662]

TELE-COMM, INC.

Designating Applications for Consolidated Hearing on Stated Issues

MEMORANDUM OPINION AND ORDER

Adopted: September 19, 1978.

Released: September 27, 1978.

In re applications of Tele-Comm, Inc., for renewal of license for Station KON925 operating on 152.12 MHz in the Domestic Public Land Mobile Radio Service at Bremerton, Wash., and Rad Com Electronics, Inc., for a construction permit to establish a new two-way station to operate on 152.12 MHz in the Domestic Public Land Mobile Radio Service near Olympia, Wash. CC Docket No. 78-303, File No. 2618-C2-R-74; and CC Docket No. 78-304, File No. 21023-C2-P-(2)-74.

By the Commission: Commissioner Quello absent.

1. Presently before the Commission is an application filed by Tele-Comm, Inc. (Tele-Comm) for renewal of license for two-way Station KON925 operating on 152.12 MHz at Bremerton, Wash., File No. 2618-C2-R-74. This application was filed on April 3, 1974, 32 days after it should have been filed under § 21.14(f) (now § 21.11(c)) of the rules [1] and 2 days after its license expiration date of April 1, 1974. Tele-Comm's application appeared on Public Notice as having been accepted for filing on April 15, 1974. Also under consideration is the application of Rad Com Electronics, Inc. (Rad Com), File No. 21023-C2-P-(2)-74, filed on June 14, 1974, for a construction permit to establish a new two-way station to operate on 152.12 MHz at Buck Mountain and Rock Candy Mountain near Olympia, Wash. These applications are electrically mutually exclusive. Rad Com has filed an informal objection against the Tele-Comm application and a motion for expedited action with respect to its own application. Various responsive pleadings have been filed.

2. Because Tele-Comm filed its renewal application after the expiration date of its license, Rad Com argues that Tele-Comm has forfeited its license under § 21.34(b) of the rules,[2] that it has lost any *Ashbacker*[3] rights to a comparative hearing, and that its frequency became available to be claimed by other applicants. Rad Com further argues that our consideration of Tele-Comm's application would constitute a de facto grant of a license in excess of the statutory maximum of 5 years as set forth in section 307(d) of the Communications Act of 1934, as amended (the Act).[4] Rad Com requests the Commission to dismiss Tele-Comm's application and grant its own application for the frequency previously held by Tele-Comm.

3. In response to the above arguments Tele-Comm states that its principal thought the renewal application was timely filed if postmarked by the expiration date, that the renewal application was in fact postmarked by the expiration date and that the filing was delayed in any case because the entire staff of Tele-Comm (consisting apparently only of the principal of Tele-Comm and his wife) was busy with the birth of a child at the time the renewal application should have been prepared. On this basis, Tele-Comm requests a waiver of § 21.14(f) of the rules so that its application will be accepted for filing. Tele-Comm argues that because a waiver should be granted, the issue of forfeiture under § 21.34(b) will not be reached. In any case, Tele-Comm states that it is entitled on equitable grounds to have its application considered because, if its application is now dismissed, it will not be able to reapply as a new applicant since the time period has passed for

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[1] Section 21.14(f) was amended and redesignated 21.11(c) (47 CFR 21.11(c)(1976)) by First Report and Order in Docket No. 20490, FCC 7501073, released October 6, 1975. Section 21.14(f) provided in part: "Renewal of Station License. Unless otherwise directed or permitted by the Commission, each application for renewal of license other than special temporary authorizations shall be submitted on FCC Form 405 not less than 30 days or more than 60 days prior to the expiration date of the license sought to be renewed."

[2] At the time Tele-Comm filed its application § 21.34(b) provided:

"A license or Special Temporary Authorization shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license or authorization shall have been filed with the Commission (See Sec. 21.14(f))

"In our 1975 *Notice of Proposed Rulemaking*, 55 FCC 2d 36, we stated that we would amend our rules to provide a 30-day grace period to file renewal applications in order to 'more clearly reflect current policy with respect to expired construction permits and licenses'. 55 FCC 2d at 37. This proposal was adopted in *Report and Order*, 55 FCC 2d 744 (1975). Section 21.34(b) was redesignated 21.44(b) without change by *First Report and Order*, 60 FCC 2d 549 (1976). Section 21.44(b) (47 CFR 21.44(b)) provides:

"A license shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license has been filed with the Commission. An application for renewal filed after the expiration date of the license will be considered only if:

"(1) It is filed within 30 days of such expiration date;

"(2) It explains the failure to timely file a renewal application; and

"(3) It describes procedures which have been established to insure timely filings in the future."

[3] *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945).

[4] Section 307(d) of the Communications Act of 1934, as amended, 47 U.S.C. 307(d), provides in part:

"No license granted for the operation of a broadcasting station shall be for a longer term than 3 years and no license so granted for any other class of station shall be for a longer term than 5 years, and any license granted may be revoked as hereinafter provided."

filing an application mutually exclusive with Rad Com's application.[5]

4. Section 307(d) of the Act limits to 5 years our grant of original licenses and renewals for stations other than broadcast. Section 307(d) also provides that a license will be continued in effect pending final determination of a renewal application.[6] Therefore, while the Act prohibits the Commission from granting a license beyond the maximum statutory period, the Act does not place "inexorable limitations on the duration of the licenses themselves." *Committee for Open Media*, 543 F.2d 861, 866 (D.C. Cir. 1976). In our view, acceptance of a renewal application filed after the expiration date does not violate the Act's proscription against the award of a license beyond the statutory period.

5. Tele-Comm's application appeared on public notice as having been accepted for filing on April 15, 1974. Pursuant to section 307(d) of the Act, its license has been continued in effect pending disposition of its renewal application. The brief period between the expiration date and filing date, as well as the four years that have passed since Tele-Comm's filing persuade us that forfeiture under then § 21.34(b) of the Rules would not be warranted and therefore the rule is waived. At the time of its filing Rad Com recognized that its application would be in frequency conflict with Station KON925. Thus, our resolution of this matter will merely put Rad Com in the circumstances it could normally expect when filing "on top of" an existing carrier, namely, a comparative hearing. In short, we find that acceptance and, consideration of Tele-Comm's renewal application is reasonable, fair, and within our statutory authority. Accordingly, we reject Rad Com's arguments on this issue, subject to our concerns on Tele-Comm's comparative and basic qualifications as stated below.

6. As we have indicated, Tele-Comm failed to file its renewal application for Station KON925 within the time prescribed by our rules. See note 1, *supra* and accompanying text. Tele-Comm also failed to file timely renewals for Stations KOP253 and KOP246 Seattle, Wash.[7] It is our understanding, moreover, that these latter two stations were inoperative since 1968. In addition, an examination of the station file for Station KON925 indicates that Tele-Comm on February 5, 1974, was issued a construction permit to modify the facilities of Station KON925. However, Tele-Comm never filed an application for a radio station license to cover this construction permit, which by its own terms was to expire on October 10, 1974. Finally, a recent field investigation of Tele-Comm's Station KON925 indicates that its control point was inoperative for at least 6 months prior to the time of the field investigation.[8] The record does not reflect an adequate explanation of these matters. For this reason, we find it necessary to explore further these matters in an evidentiary hearing. Our concern is that Tele-Comm may be careless, negligent, or inept to a degree sufficient to warrant a denial of its application.[9] See *Beamon Advertising, Inc.*, 45 FCC 1101 (Rev. Bd. 1963). Accordingly, we will designate appropriate issues to explore these matters.

7. Rad Com has requested a waiver of § 21.505 of the rules to permit operation at a power greater than that authorized by that section.[10] Rad Com states that there is a need for its proposed service in Tacoma and Bellevue, but that because of mountainous terrain it will be unable to serve these areas without the requested excess power. However, based on terrain data submitted by Rad Com, the proposed transmitter sites on Buck Mountain and Rock Candy Mountain appear to afford after a few miles from the transmitter site virtually unobstructed coverage to the lower lying areas it intends to serve. A substantial likelihood exists, therefore, that the reliable service area of Rad Com's proposed facilities will cover Tacoma and Bellevue without the requested waiver. Accordingly, we will designate an issue to determine if Rad Com has adequately demonstrated a need for its requested waiver of § 21.505 of the rules.[11]

8. The above-referenced applications are electrically mutually exclusive. Accordingly, a comparative hearing must be held to determine which applicant would better serve the public interest, convenience and necessity. *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945).

9. Except to the extent indicated below, we find the applicants to be legally, financially, technical and otherwise qualified to construct and operate the proposed facilities.

10. Accordingly, *it is ordered*, Pursuant to sections 309 (d) and (e) of the Communications Act of 1934, as amended (47 U.S.C. Sections 309 (d) and (e)), that the above-captioned applications of Tele-Comm, Inc. and Rad Com Electronics, Inc., are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine the facts and circumstances surrounding the inoperative status of Tele-Comm's former Stations KOP253 and KOP246, the inoperative status of its control point for Station KON925, Tele-Comm's failure to file a license to cover a construction permit granted to it on February 5, 1974, and its failure to file timely renewals for Stations KON925, KOP246 and KOP253 as required by then § 21.14(f) of the rules;

(b) To determine whether the facts adduced pursuant to the foregoing issue reveal such negligence, carelessness or ineptness to reflect on the licensee's basic and/or comparative qualifications;

(c) To determine whether § 21.505 of the rules should be waived to allow operation of the facilities proposed in the application of Rad Com Electronics, Inc. at a power in excess of that prescribed by that rule section;

(d) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(e) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 37 dbu contours, based upon the standards set forth in §21.504(a) of the Commission's Rules,[12] and to determine the need for

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[5] Section 21.31(b) of the rules (47 CFR 21.31(b) (1976)) provides that an application will be entitled to comparative consideration with one or more conflicting applications only if it is received within 60 days after the date of the public notice listing the first of the conflicting applications as accepted for filing or, in other circumstances not relevant here.

[6] Section 307(d) of the Communications Act of 1934, as amended (47 U.S.C. 307(d)) provides in part: "Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect."

Section 9(b) of the Administrative Procedure Act (5 U.S.C. 558(c)) provides a similar extension for licenses generally: "When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

[7] The renewal applications for these stations were received on the same day as the renewal application for KON925. Pursuant to settlement agreements with Ultra Radio Communications, Inc., the renewal applications for Stations KOP253 and KOP246 were dismissed with prejudice on January 25, 1977, and July 14, 1977, respectively.

[8] Tele-Comm admits that its control point was inoperative at the time of the field investigation.

[9] Section 308(b) of the Communications Act of 1934, as amended (47 U.S.C. 308(b)) requires that all prospective licensees show the requisite "character . . . and other qualifications" that the Commission might require.

[10] Section 21.505 of the Commission's rules (47 CFR 21.505) prescribes required reductions in effective radiated power for antenna heights in excess of 500 feet above average terrain.

[11] Rad Com's waiver request may ultimately be denied. In that event, its proposal will be evaluated on the basis of conformance with § 21.505 of the rules.

[12] Section 21.504(a) of the Commission's Rules (47 CFR 21.504(a)) describes a field

Footnotes continued on next page

the proposed services in said areas; and

(f) To determine, in light of the evidence adduced pursuant to the foregoing issues, what dispostion of the above-referenced applications would best serve the public interest, convenience and necessity.

11. *It is further ordered,* That, with respect to issues (a) and (b) the burden of proceeding with the introduction of evidence and the burden of proof are placed on Tele-Comm, Inc.

12. *It is further ordered,* That, with respect to issue (c) the burden of proof and the burden of proceeding with the introduction of evidence are placed on Rad Com Electronics, Inc.

13. *It is further ordered,* That, with respect to issues (d) and (e) the burden of proof and the burden of proceeding with the introduction of evidence are placed jointly on the applicants, and, that, with respect to issue (f) the burden of proof is placed jointly on the applicants.

14. *It is further ordered,* That the hearing shall be held at the Commission's offices in Washington, D.C. at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

15. *It is further ordered,* That, the Chief, Common Carrier Bureau, is made a party to the proceeding.

16. *It is further ordered,* That, the applicants may vail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the rules within 20 days of the release date hereof, a written notice stating an intention to appear on the day of the hearing and present evidence on the issues specified in this memorandum opinion and order.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-27636 Filed 9-29-78; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Notice of Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

SPECIAL COMMITTEE No. 72

"Numerical Identification of Stations in Maritime Telecommunications Systems"

Notice of 10th meeting: Wednesday, October 18, 1978, 9:30 a.m., Conference Room 7327, 2025 M Street NW., Washington, D.C.

AGENDA

1. Call to order; Chairman's report.
2. Administrative matters.
3. Discussion of U.S. position for CCIR special preparatory meeting (SPM).
4. Adoption of U.S. position.

Contact person: Francis K. Williams, Chairman, SC-72, Federal Communications Commission, Washington, D.C. 20554, phone: 202-632-7054.

RTCM EXECUTIVE COMMITTEE

Notice of October meeting: Thursday, October 19, 1978, 9:30 a.m., Conference Room 7200, Nassif Building, 400 Seventh Street SW., Washington, D.C.

AGENDA

1. Call to order.
2. Administrative matters.
3. Approval of amendment to Bylaws, article IV, section 1.
4. Discussion on amendment of Constitution, article VI, section 8.
5. New business.

SPECIAL COMMITTEE No. 73

"Minimum Performance Standards (MPS)—Marine Omega Receiving Equipment"

Notice of 4th meeting: Tuesday, October 24, 1978, 9:30 a.m., Conference Room, Maritime Institute of Technology and Graduate Studies, 5700 Hammonds Ferry Road, Linthicum Heights, Md. 21090.

AGENDA

1. Call to order; Chairman's report.
2. Administrative matters.
3. Reports of working groups.

Contact person: M. H. Carpenter, Co-Chairman, CDR T. P. Nolan, Co-Chairman, Maritime Institute of Technology and Graduate Studies, Linthicum Heights, Md. 21090, phone: 301-636-5700.

RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meetings may contact either the designated chairman or the RTCM Secretariat, phone: 202-632-6490.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-27667 Filed 9-29-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on September 26, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such acceptance.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 20, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of revisions to Form NRC-7, Application for License to Export Nuclear Material and Equipment. Several new items have been added to the form and others revised. The revisions to Form NRC are necessary to implement the Commission's new regulations in 10 CFR Part 110. NRC estimates that respondents will number approximately 200 and burden will average 30 minutes per application.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-27775 Filed 9-29-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT BOARD

Proposed MAC Limit on Doxepin HCl Capsules

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

Footnotes continued from last page

strength contour of 37 decibels above one microvolt per meter as the limits of the reliable service area for stations engaged in two-way communications service in the 152-162 MHz band. Propagation data set forth in § 21.504(b) are the proper bases for establishing the location of service contours for the facilities involved in this proceeding.

ACTION: Extension of comment period.

SUMMARY: Because additional information of possible significance to the setting of a MAC level for Doxepin HCl capsules has been received after the close of the comment period, the comment period for that drug is extended.

DATE: End of extended comment period: October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: On August 18, 1978, the Pharmaceutical Reimbursement Board proposed maximum allowable cost (MAC) limits on three forms of Doxepin HCl capsules. (See 43 FR 36698.) At that time, the Board announced that it would consider all comments received within 30 days of the date of the notice. After the close of the comment period, a comment was received stating that Doxepin HCl was not available to pharmacists at the proposed MAC limits. Although we would not ordinarily consider comments received after the close of the comment period, we were concerned that the proposed MAC llimit, if adopted, might unfairly burden practicing pharmacists. In order to test the validity of this comment, we contacted one of the major wholesalers which distribute this drug. We were informed that their prices compared to the proposed MAC levels as follows:

Proposed MAC's and Wholesale Price

Doxepin HCl 10 mg. $0.0940—$0.0999.
Doxepin HCl 25 mg. $0.1150—$0.1222.
Doxepin HCl 50 mg. $0.1765—$[illegible] 1875.

The Board intends to consider this information in arriving at final MAC levels for Doxepin HCl. In order that the public be given the opportunity to comment on this information, or to bring other relevant information to our attention, the comment period for Doxepin HCl is extended until October 11, 1978.

Dated: September 28, 1978.

PETER RODLER,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 78-27917 Filed 9-29-78; 9:33 am]

[4110-08]

National Institutes of Health

ANIMAL RESOURCES REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, October 25, 1978, at the Oregon Primate Research Center, Beaverton, Oreg. 97005.

The meeting will be open to the public on October 25 from 8:30 a.m. to 10:30 a.m., during which time there will be a brief staff presentation on the current status of the primate research centers program. The committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 25 from 10:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Dennis O. Johnsen, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health.)

Dated: September 22, 1978.

SUZANNE L. FREMEAU,
NIH Committee Management Officer.

[FR Doc. 78-27646 Filed 9-29-78; 8:45 am]

[4110-08]

CHANGE OF DATE OF THE PRESIDENT'S CANCER PANEL

Amended Notice of Meeting

Notice is hereby given of the change of meeting date for the President's Cancer Panel, National Cancer Institute, October 10, 1978, National Institutes of Health, Bethesda, Md., which was published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39430). The meeting will now be held October 18, 1978, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Md., and will be entirely open to the public from 9 a.m. to adjournment. Attendance by the public will be limited to space available.

For further information, please contact Dr. Richard A. Tjalma, Executive Secretary, Building 31, Room 11A46, National Institutes of Health, Bethesda, Md. 20014, 301-496-5854.

Dated: September 22, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-27645 Filed 9-29-78; 8:45 am]

[4110-08]

NIDR SPECIAL GRANTS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the NIDR Special Grants Review Committee, National Institute of Dental Research, on November 28-29, 1978, in building 31-C, Conference Room 9, National Institutes of Health, Bethesda, Md. This meeting will be open to the public from 9 a.m. to 10 a.m. on November 28 to discuss administrative details relating to committee business and general discussion. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 28 from 10 a.m. to adjournment and on November 29 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Emil L. Rigg, Chief of Scientific Review Branch, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, Md. 20014, phone 301-496-7658, will provide summaries of meetings, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.845, National Institutes of Health.)

Dated: September 22, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-27647 Filed 9-29-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the merger on September 8, 1978, of the Clinical Trials Committee and the Combined Modality Committee, and the renewal of these committees as one under the title of the Clinical Trials Committee, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

This Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, NCI, advice on the technical and scientific merit of contract proposals. The Committee will terminate September 8, 1980, unless renewed by appropriate action as authorized by law.

Dated: September 22, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27648 Filed 9-29-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the merger on September 8, 1978, of the Carcinogenesis Program Scientific Review Committee and the Virus Cancer Program Scientific Review Committee, and the renewal of these committees as one under the new title of the Cause and Prevention Scientific Review Committee, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

This Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, NCI, advice on the technical and scientific merit of contract proposals. The Committee will terminate September 8, 1980, unless renewed by appropriate action as authorized by law.

Dated: September 22, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27649 Filed 9-29-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the merger on September 8, 1978, of the Cancer Control Prevention, Detection, Diagnosis, and Pretreatment Evaluation Review Committee, and the Cancer Control Treatment, Rehabilitation, and Continuing Care Review Committee, and the renewal of these committees as one under the new title of the Cancer Control Intervention Programs Review Committee, under the authority of section 410(a)(3) and section 410A(a) of the Public Health Service Act (42 U.S.C. 286d and 42 U.S.C. 286e). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

This Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, NCI, advice on the technical and scientific merit of contract proposals and grant applications. The Committee will terminate September 8, 1980, unless renewed by appropriate action as authorized by law.

Dated: September 22, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27650 Filed 9-29-78; 8:45 am]

[4110-08]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewals

The Director, National Institutes of Health, announces the merger on September 8, 1978, of the Committees on Cancer Immunobiology; Cancer Immunodiagnosis, and Cancer Immunotherapy, and the renewal of these committees as one under the new title of the Tumor Immunology Committee, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees. This Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, NCI, advice on the technical and scientific merit of contract proposals. The Committee will terminate September 8, 1980, unless renewed by appropriate action as authorized by law.

Dated: September 22, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-27651 Filed 9-29-78; 8:45 am]

[4110-85]

Office of the Assistant Secretary for Health

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1978:

Name: Health Services Research Study Section.
Date and Time: October 12-13, 1978, 9 a.m.
Place: Room 10-57, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.
Open October 12, 9 a.m. to 10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session on October 12, 1978, will be devoted to a business meeting covering administrative matters and reports. During the closed session, the study section will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Assistant Secretary for Health, pursuant to Public L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Marco Montoya, Ph. D., National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, MD 20782, telephone 301-436-6918.

Name: Health Services Developmental Grants Study Section.
Date and Time: October 25-27, 1978, 8 p.m.
Place: Hotel Washington, Capital Room, Pennsylvania at 15th and F Streets NW., Washington, D.C. 20004.
Open October 25, 8 p.m. to 10 p.m. and October 26, 9 a.m. to 10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for

Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The open sessions of the meeting on October 25 and 26, 1978, will be devoted to a business meeting covering administrative matters and reports. During the closed sessions, the study section will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. David McFall, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6916.

Agenda items are subject to change as priorities dictate.

Dated: September 26, 1978.

WAYNE RICHEY, Jr.,
Associate Director for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-27058 Filed 9-29-78; 8:45 am]

[4110-07]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Public Hearings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given of the location of the December 7, 1978, field hearing of the Advisory Council on Social Security, in Miami, Fla.:

Bayfront Park Auditorium, 499 Biscayne Boulevard, Miami, Fla.

Details concerning this and the other three public hearings have been published previously in the FEDERAL REGISTER, 43 FR 39608, dated September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Joe Brittain, Intergovernmental Relations Specialist, DHEW, 101 Marietta Tower, Suite 1403, Atlanta, Ga. 30323, 404-221-2277.

(Catalog of Federal Domestic Assistance Program Nos. 13.800-13.805, Social Security Programs.)

LAWRENCE H. THOMPSON,
Executive Director, Advisory Council on Social Security.

[FR Doc. 78-27663 Filed 9-29-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

NAVAHO LAND SELECTION

Additional Public Hearings

SEPTEMBER 26, 1978.

A previous notice on public hearings concerning the Navaho land selection was published in the FEDERAL REGISTER, Vol. 43, No. 161, dated August 18, 1978.

Additional public hearings on the Navaho land selection environmental impact statement, each to begin at 7:30 p.m., will be held on November 2, 1978, in Flagstaff, Ariz., at the South Campus Student Union, Northern Arizona University, and November 3, 1978, in Kanab, Utah, in the high school auditorium. These hearings are being held to enable members of the public to present comments concerning the Department of the Interior's draft environmental impact statement on the proposal, under which 250,000 acres of public domain land in Arizona or New Mexico will be made available for purchase by the Navaho Indian Tribe.

Previous public hearings on the statement were held in Farmington, N. Mex., on September 11; Oraibi, Ariz., September 12; Page, Ariz., September 13; and Phoenix, Ariz., September 15.

Oral and written comments by interested parties are invited. The number of persons desiring to present oral statement may make it necessary to limit the time allowed for any single statement. Written comments supplementary to, or in lieu of, oral statements will be accepted at the hearings. The deadline for such comments has been extended to November 3. Copies of the draft environmental impact statement may be obtained from the Flagstaff Administrative Office, Bureau of Indian Affairs, P.O. Box 1889, Flagstaff, Ariz. 86002.

Those desiring to make an oral presentation at the hearings should make that fact known by advising the Flagstaff Administrative Office, Bureau of Indian Affairs, 125 East Birch Street, Room 307, Arizona Bank Building, Flagstaff, Ariz. 86001, in advance of the hearing or by registering on the date and at the place of hearing prior to the scheduled hour.

LARRY E. MEIEROTTO,
Deputy Assistant, Secretary of the Interior.

[FR Doc. 78-27635 Filed 9-29-78; 8:45 am]

[4310-84]

Bureau of Land Management

[Civil No. 1983-73]

NATURAL RESOURCES DEFENSE COUNCIL, INC. ET. AL.

Proposed Deviation from Scheduled Preparation of Environmental Impact Statements on Livestock Grazing; Correction

In the above titled Notice published in the FEDERAL REGISTER of Tuesday, September 12, 1978, on page 40550, the closing date for submission of comments on the Draft Supplement to the Challis Environmental Statement was erroneously stated to be October 22, 1978. The correct date is October 2, 1978, as noted in the Environmental Protection Agency Notice of Availability of Environmental Impact Statements published in the FEDERAL REGISTER on August 21, 1978, page 37009.

ARNOLD E. PETTY,
Acting Associate Director.

[FR Doc. 78-27812 Filed 9-29-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT FES 78-23]

HOT DESERT GRAZING MANAGEMENT PLAN FOR THE VIRGIN RIVER PLANNING UNIT, WASHINGTON COUNTY, UTAH

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Virgin River planning unit. The proposal involves implementing a grazing management program on public lands within the Virgin River planning unit of the Cedar City District in southwestern Utah.

A limited number of copies are available upon request to the District Manager, Bureau of Land Management, P.O. Box 729, Cedar City, Utah 84720.

Public reading copies will be available at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-5717.

Utah State Office, Bureau of Land Management, University Club Building, 135 East South Temple, Salt Lake City, Utah 84111, telephone 801-524-4257.

Cedar City District Office, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, telephone 801-586-2401.

Dixie Resource Area Office, Bureau of Land Management, 24 East St. George Boulevard, St. George, Utah 84770, telephone 801-673-4654.

Dated: September 27, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-27666 Filed 9-29-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 78-40]

NASA ADVISORY COUNCIL (NAC) SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The Ad Hoc Informal Advisory Subcommittee on Technology Transfer of the NAC-STAAC will meet on October 26 and 27, 1978, at NASA headquarters, room 226A, Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting at 8:30 a.m. on both days on a first-come-first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This Subcommittee, chaired by Dr. Robert P. Morgan, is comprised of seven members of the NAC-STAAC and will review and discuss the 5-year program plan and the role of the private sector in technology transfer.

The approved agenda for the meeting is as follows:

OCTOBER 26, 1978

TIME AND TOPIC

8:30 a.m.—5-year plan.
1:15 p.m.—Discussion.
3 p.m.—Role of the private sector in NASA technology transfer.
4:30 p.m.—Adjourn.

OCTOBER 27, 1978

8:30 a.m.—Role of private sector in NASA technology transfer (continued).
11:30 a.m.—Findings and recommendations.
12:30 p.m.—Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C., at 202-755-8601.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

SEPTEMBER 22, 1978.

[FR Doc. 78-27638 Filed 9-29-78; 8:45 am]

[7510-01]

[Notice 78-41]

SEMIANNUAL AGENDA OF SIGNIFICANT REGULATIONS

AGENCY: National Aeronautics and Space Administration.

ACTION: Advanced public notice of NASA's planned activities.

SUMMARY: In accordance with Executive Order 12044, "Improving Government Regulations," this Semiannual Agenda describes the significant regulations being considered for development or amendment by NASA, and the need and legal basis for the actions being considered.

EFFECTIVE DATE: October 2, 1978.

ADDRESS: Director, Information Systems Division (Code NSM-12), Office of Management Operations, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Joan Cavanaugh, 202-755-3219.

SUPPLEMENTARY INFORMATION: On May 22, 1978, NASA published in the FEDERAL REGISTER (43 FR 21981) its first report implementing Executive Order 12044. It proposed that any regulation that meets one or more of the following criteria will be considered significant.

(1) It is a matter of major concern to the public, especially if substantial public comments are anticipated;

(2) It may impose heavy compliance and reporting burdens on the public, especially on small business;

(3) It may substantially affect the quality of the environment, and the public health and safety; and

(4) It involves important NASA policy which will require substantial resources to develop and enforce.

ROBERT A. FROSCH,
Administrator.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Semiannual Agenda of Regulations

Title	Description	Legal citation	Status	Contact	Reg. analysis required
STS services for users of small self-contained payloads.	Describes the policy for services provided by NASA to users of small self-contained payloads and the implementation of the policy.	.....	Proposed rule ..	Donna J. Skidmore, Manager, Small Self-Contained Payload Program, Office of Space Transportation Systems, NASA Headquarters, Washington, D.C. 20546, 202-755-2427.	No.

[FR Doc. 78-27716 Filed 9-29-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Correction

In the FEDERAL REGISTER Document No. 78-24925 which appeared in the FEDERAL REGISTER issue for Wednesday, September 6, 1978, on page 39612 the following correction should be made. On the table showing the signature in the second column under the heading "Material in Kilograms or Reactor Type and Power Level", the first two entries should read 233.3 Uranium grams and 98.8 Plutonium grams.

Dated this day September 25, 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 78-27682 Filed 9-29-78; 8:45 am]

[7590-01]

APPLICATIONS FOR LICENSES TO EXPORT/IMPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses during the period of September 10–16, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated this day September 25, 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Program.

Name of applicant, date of application, date received, and application No.	Material in kilograms or reactor type and power level	Enrichment (in percent)	End-use	Country of origin
Transnuclear, Inc., Sept. 7, 1978, Sept. 9, 1978, ISNM 78017.	44,000 uranium.....	1.0	Toll enrichment, under contract UES/EU/41, by DOE, Oak Ridge.	West Germany

[FR Doc. 78-27686 Filed 9-29-78; 8:45 am]

[7590-01]

[Docket No. 70-2623]

DUKE POWER CO.

Special Prehearing Conference

SEPTEMBER 22, 1978.

On July 28, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of opportunity for public participation in the proposed NRC licensing action for amendment to special materials license SNM-1773 (43 FR 32905). The proposed amendment to SNM-1773 would authorize the Applicant, Duke Power Co., to transport spent nuclear fuel from the Oconee nuclear station for storage in the spent fuel pool located at the McGuire nuclear facility in accordance with the Duke's application for amendment dated March 9, 1978. The notice provided that any person whose interest may be affected by the proceeding could file a request for a public hearing in the form of a petition for leave to intervene with respect to whether the proposed amendment to SNM-1773 should be issued.

Pursuant to the Notice,* timely petitions have been filed: (1) by the Safe Energy Alliance (the Alliance); (2) by Carolina Action in Charlotte (Carolina Action); (3) by the Natural Resources Defense Council (the Council); and (4) by the State of South Carolina.

Please take notice that a special prehearing conference pursuant to the provisions of § 2.751a of the Commission's Rules of Practice (10 CFR § 2.751a) will be held at 10:00 a.m., local time, on Tuesday, October 24, 1978, at the Board Room (4th Floor), Charlotte-Mecklenburg Education Center, 701 East Second Street, Charlotte, N.C. 28230. All parties and petitioners for intervention and their counsel are directed to appear at such special prehearing conference to consider the intervention petitions, including the interest or standing of petitioners under either the judicial standing tests for intervention as a matter of right, or intervention as a matter of discretion, as well as the identification of relevant issues in controversy.

Not later than fifteen (15) days prior to the holding of the special prehearing conference each petitioner shall file a supplement to his petition for leave to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies the requirements of this paragraph with respect to at least one contention will not be permitted to participate as a party.

The parties and the petitioners or their representatives are directed to conduct such informal conferences as may be practicable prior to the prehearing coference in order to expedite the proceeding and in particular to advance the purposes of the prehearing conference.

It is so ordered.

Dated at Bethesda, Md, this 22d day of September, 1978.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc. 78-27684 Filed 9-29-78; 8:45 am]

*The Notice treated the May 23, 1978 motion of Carolina Environmental Study Group (CESG) in *Duke Power Co.* (William B. McGuire nuclear station, units 1 and 2) as a request for hearing in the captioned matter pursuant to 10 CFR 2.105, and as the basis for affording an opportunity for hearing on the amendment of license No. SNM-1773.

[7590-01]

[Docket Nos. 50-387 and 50-388]

PENNSYLVANIA POWER & LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

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 §§ 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:

PENNSYLVANIA POWER & LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

SUSQUEHANNA STEAM ELECTRIC STATION, UNITS 1 AND 2; CONSTRUCTION PERMIT NOS. CPPR-101 AND CPPR-102

This action is in reference to a notice published by the Commission on August 9, 1978, in the FEDERAL REGISTER (43 FR 35406) entitled "Receipt of Application for Facility Operating Licenses; Availability of Applicant's Environmental Report; and Consideration of Issuance of Facility Operating Licenses Opportunity for Hearing".

The Chairman of this Board and his address is as follows: Charles Bechhoefer, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their address are as follows: Mr. Glenn O. Bright and Dr. Oscar H. Paris, Atomic Safety and Licensing

Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md., this 25th day of September 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-27683 Filed 9-29-78; 8:45 am]

[7590-01]

[Docket Nos. 50-259, 50-260 and 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-33, Amendment No. 39 to Facility Operating License No. DPR-52 and Amendment No. 16 to Facility Operating License No. DPR-68, issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Ala. The amendments are effective as of date of issuance.

The amendments change the Technical Specifications and authorize the licensee to increase the storage capacity of each of the three on-site spent fuel pools to 3471 fuel assemblies.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on January 9, 1978 (43 FR 1412). 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 for the amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Final Environmental Statement for the Facility dated September 1, 1972.

For further details with respect to this action, see (1) the application for amendments dated December 2, 1977, as supplemented by letters dated December 20, 1977, May 24, May 26, June 30, August 2, August 10, and September 1, 1978, (2) Amendment No. 42 to License No. DPR-33, Amendment No. 39 to License No. DPR-52, and Amendment No. 16 to License No. DPR—68, (3) the Commission's related Environmental Impact Appraisal and (4) 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 Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2), (3) and (4) 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 21st day of September, 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-27685 Filed 9-29-78; 8:45 am]

[7905-01]

RAILROAD RETIREMENT BOARD

ACTUARIAL ADVISORY COMMITTEE WITH RESPECT TO THE RAILROAD RETIREMENT ACCOUNTS

Public Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the Actuarial Advisory Committee will hold a meeting on October 31, 1978, at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Ill., on the conduct of the 14th Actuarial Valuation of the Railroad Retirement Account. The agenda for this meeting will include economic assumptions and valuation methods to be used for the 14th Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Ill. 60611.

Dated: September 25, 1978.

R. F. BUTLER,
Secretary of the Board.

[FR Doc. 78-27698 Filed 9-29-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CAYMAN CORP., ET AL.

Suspension of Trading

SEPTEMBER 25, 1978.

In the Matter of Trading in Securities of Cayman Corp., Ilikon Corp., and Mackey International, Inc.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of the above-named issuers being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:30 p.m. on September 25, 1978 through October 4, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-27660 Filed 9-29-78; 8:45 am]

[8010-01]

[File No. 500-1]

PASTA KING, INC.

Suspension of Trading

SEPTEMBER 25, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Pasta King, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (e.d.t.) on September 25, 1978, through October 4, 1978.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-27661 Filed 9-29-78; 8:45 am]

[8010-01]

[Release No. 34-15186; File No. SR-MSE-78-21]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on September 6, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 7 of Article XL is hereby amended as follows (Additions italicized—[Deletions Bracketed]):

ARTICLE XL

Restriction of Out-of-the-Money Options. Rule 7(a) No change in text.

(b) The prohibition of paragraph (a) shall not apply to:

1. The entry of an order for any opening writing transaction intended to create a covered short position or, in the case of a call option contract, a short position that is covered in the account on a share-for-share basis by a long position in a security immediately exchangeable or convertible without restriction, other than the payment of money, into the underlying stock;

(2) The entry of a spread order for the purchase and sale of the same number of option contracts of the same class; [or]

(3) The entry of an order for any opening transaction which would, upon execution, create a spread position for the same number of option contracts of the same class;

(4) The entry of an order for the purchase of a put against a long position in either the underlying stock or a security immediately exchangeable or convertible without restriction, other than the payment of money, into the underlying stock; or

[(3)] (5) Any transaction of a Market Maker pursuant to the provisions of Rule 6 of Article XLVII.

(c) No change in text.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of proposed Rule 7(b)(3) is to permit investors to enter an order in a restricted option, the execution of which would result in a spread position. Under present Rule 7(b)(2), the entry of a spread order is exempt from the prohibition of the restricted options rule provided both sides of the order are executed simultaneously. That is, a spread order, by definition, requires the simultaneous purchase and sale of the same number of option contracts of the same class.

Under the proposed rule change, investors would be permitted to execute each side of a spread at different times, which might be advisable depending on market conditions. For example, an account which already has a long position in a particular option class would be able to sell (opening) a restricted option provided each such option sold is offset by a long option which results in a spread position. Similiarly, if an account has an existing short position in a particular option class, it would be permitted to purchase (opening) a restricted option to offset the short position provided the transaction results in a spread position.

The proposed rule change would not permit, however, a spread position to be established by initiating an opening purchase or sale in a restricted option and subsequently executing the other side of the spread.

With respect to proposed Rule 7(b)(4), the amendment would permit investors to purchase (opening) restricted puts provided they are offset in the account by long stock or convertible security positions.

The basis of this rule change is section 6(b)(5) of the act, where the rules of the Exchange are designed to promote just and equitable principles of trade.

The Midwest Stock Exchange, Inc., has neither solicited nor received any comments.

The Midwest Stock Exchange, Inc., believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER (November 6, 1978), or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 23, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

SEPTEMBER 25, 1978.

[FR Doc. 78-27662 Filed 9-29-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/110]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Meeting

The Department of State will hold a meeting on October 12 of the Working Group on U.N./OECD investment undertaking of the Advisory Committee on Transnational Enterprises. The Working Group will meet from 2:30 p.m. until 5:30 p.m. The meeting will be held in room 6320 of the State Department, 2201 C Street NW., Washington, D.C. The meeting will be open to the public.

The subject of the meeting will be the ongoing negotiations in international bodies aimed at codes of conduct related to international investment. In particular, the Working Group will review the results of the September 18-29 meeting of the U.N. Intergovernmental Working Group on a Code of Conduct. In addition, the Working Group will discuss the forthcoming meeting of the OECD subgroups concerned with national treatment, and the guidelines on multinational enterprises. The Working Group will also review the preparations for the October 30-31 meeting of the full OECD Committee on International Investment and Multinational Enterprises (CIME). We will also consider in further detail issues relating to the formal review of the OECD investment package.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on 202-632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of each Working Group will, as time permits, entertain

oral comments from members of the public attending the meeting.

Dated: October 21, 1978.

RICHARD D. KAUZLARICH,
Executive Secretary.

[FR Doc. 78-27699 Filed 9-29-78; 8:45 am]

[4710-07]

[Public Notice CM-8/111]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, October 18, 1978 in rooms 8236 and 8238 of the Department of Transportation Building, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of this meeting is to finalize preparations for the XIX Session of the Subcommittee on Ship Design and Equipment of the Intergovernmental Maritime Consultative Organization (IMCO) which is scheduled to meet November 27 to December 1, 1978 in London. The agenda for this meeting includes, inter alia, noise levels onboard ships, draught requirements for Segregated Ballast Tankers less than 150 meters in length, steering gear standards, special purpose ships (research vessels and offshore supply vessels) and diving systems.

Requests for further information on the meeting should be directed to Captain R. L. Brown, United States Coast Guard. He may be reached by telephone at 202-426-2167.

The Chairman will entertain comments from the public as time permits.

JOHN LLOYD III,
Acting Director,
Office of the Maritime Affairs.

SEPTEMBER 20, 1978.

[FR Doc. 78-27700 Filed 9-29-78; 8:45 am]

[4710-01]

[Public Notice CM-8/112]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on fire protection of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9 a.m. on Thursday, October 19, 1978 in rooms 8236 and 8238 of the Department of Transportation Building, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of this meeting is to finalize preparations for the XXII Session of the Subcommittee on Fire Protection of the Intergovernmental Maritime consultative Organization (IMCO) which is scheduled to meet November 6-10, 1978 in London. The agenda for the meeting includes, inter alia, the discussion of reservations on the proposed Code for Mobile Offshore Drilling Units (MODU's) and the discussion of special purpose ships other than MODU's.

Requests for further information on the meeting should be directed to Mr. Daniel F. Sheehan, U.S. Coast Guard, Washington, D.C. 20590. He may be reached by telephone at 202-426-2197.

The Chairman will entertain comments from the public as time permits.

JOHN LLOYD, III,
Acting Director,
Office of Maritime Affairs.

SEPTEMBER 20, 1978.

[FR Doc. 78-27701 Filed 9-29-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-133]

COAST GUARD ACADEMY ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory committee to be held at the U.S. Coast Guard Academy, New London, CT, on Tuesday and Wednesday, October 17-18, 1978. The session on Tuesday will begin at 1 p.m. and end at 4 p.m. On Wednesday the session will begin at 8:45 a.m., and adjourn at 3:45 p.m.

The agenda for this meeting is as follows: (a) Impact of corps size reduction, (b) accreditation, (c) McAllister Hall (Engineering), (d) educational media center, (e) Academy non-cadet programs, (f) Cadet Administration Division, (g) admissions.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the status of the curriculum and faculty of the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should not later than the day before the meeting notify: Capt. Roderick M. White, USCG, Dean of Academics/Executive Secretary of Academy Advisory Committee, U.S. Coast Guard Academy, New London, Conn. 06320, phone 203-443-8463.

Any member of the public may present a written statement to the Committee at any time.

W. H. STEWART,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Personnel.

[FR Doc. 78-27720 Filed 9-29-78; 8:45 am]

[4910-14]

[CGD 78-135]

WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

Suspension of Requirements for Survey, Inspection, and Measurement

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed order.

SUMMARY: The Coast Guard proposes to suspend the provisions of law requiring survey, inspection, and measurement of the foreign built vessel, M/V *Lionheart*, in order to admit the vessel to American registry. This action is considered necessary, due to restraints on the shipping trade between the United States and Ecuador recently imposed by the Ecuadorian government. Suspending the provisions of law requireing survey, inspection, and measurement will allow the vessel to be registered under United States laws following its sale to a United States corporation.

DATES: Comments must be received on or before October 13, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 78-135), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain J. E. DeCarteret, Chief, Merchant Vessel Inspection Division, U.S. Coast Guard, Room 8302, 400 7th Street, SW., Washington, D.C. 20590, 202-426-2178.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed action by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 78-135) and give reasons for the comments. All comments received before the expiration of the comment period

will be considered before final action is taken on this proposal.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Captain J. E. DeCarteret, Project Manager, Office of Merchant Vessel Inspection, and A.F. Bridgman, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION

In the interest of preserving the needs for foreign commerce between the United States of America and Ecuador the Coast Guard is considering suspending the provisions of law requiring survey, inspection, and measurement by officers of the United States of foreign built vessels admitted to American registry under 46 U.S.C. 11 for the M/V *Lionheart*, for a period of approximately 9 months. The *Lionheart* is of Norwegian registry, currently under charter to Coordinated Carribean Transport, Inc. an American owned corporation. The vessel has been engaged in roll-on-roll-off shipping between the United States and Ecuador. Recently the Ecuadorian government refused to issue the manifest stamps which are necessary to permit the shipment of goods on the M/V *Lionheart* from Miami, Fla. to Ecuador.

The action has apparently been taken under the provisions of Ecuadorian law reserving the general cargo trade between Ecuador and the United States to U.S. flag vessels and Ecuadorian flag vessels.

Coordinated Carribean Transport, Inc. currently has under construction two U.S. flag vessels scheduled to engage in trade on this route. The completion of the construction of these vessels has been delayed and delivery is not anticipated until March 1979. The applicant has stated that no United States flag vessels of a type and size suitable for roll-on-roll-off operation in the U.S.-Ecuador trade are available for charter or purchase. This waiver is proposed to permit the M/V *Lionheart* to be registered for the foreign trade, as a U.S. flag vessel.

The *Lionheart* is the only vessel currently providing direct roll-on-roll-off service between the United States and Ecuador. The suspension of the service occurred suddenly and left substantial amounts of cargo stranded at the Coordinated Carribean Transport, Inc. Terminal in Miami. The unavailability of other vessels to move this cargo, and other shipments scheduled, has resulted in hardship to numerous U.S. shippers. Delay in acting on this suspension will have adverse affects on the shipping trade that has come to rely on the service provided by the M/V *Lionheart*.

Since this proposed Order could have an effect on other persons, the Coast Guard is providing an opportunity for comment, however, due to the circumstances giving rise to the proposed Order, it has been found necessary to limit the comment period to 10 days. The Coast Guard has determined that this proposed Order is exempt from the requirements of Executive Order 12044 and the DOT Policies and Procedures for Improving Government Regulations (46 FR 9582).

In consideration of the foregoing, the Coast Guard proposes to issue the following Order:

The Commandant, U.S. Coast Guard has found it necessary in the interest of the foreign commerce of the United States, to suspend the provisions of law requiring survey, inspection, and measurement, by officers of the United States, of foreign built vessels prior to their being registered as vessels of the United States under 46 U.S.C. 11. The provisions of 46 U.S.C. 71, 46 U.S.C. 361, 46 U.S.C. 362, 46 U.S.C. 367, and 46 U.S.C. 404 requiring surveys, inspections, and measurement are suspended, until July 1, 1979, and, if otherwise eligible, the M/V *Lionheart*, of 5940 gross tons and 3201 net tons, built in Oslo, Norway in 1960, may be admitted to registry under 46 U.S.C. 11, provided the vessel is engaged solely in the United States-Ecuador trade.

(46 U.S.C. 82; 49 U.S.C. 1655(b)(1); E.O. 10289; and 49 CFR 1.45(a).)

Dated: September 28, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-27799 Filed 9-29-78; 8:45 am]

[4910-13]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 134—GENERAL PURPOSE ELECTRONIC TEST EQUIPMENT

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 134 on General Purpose Electronic Test Equipment to be held October 19 and 20, 1978, conference room 9W67, National Center No. 1, Naval Electronics Systems Command, 2511 Jefferson Davis Highway, Arlington, Va., commencing at 9 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of minutes of fourth meeting held August 24 and 25, 1978; (3) report and discussion on warranty shortfalls issue; (4) briefing on cost and utilization of test equipment in an airline environment; (5) working groups meet in separate sessions; (6) report and discussion on specification confusion issue; (7) report and discussion on wasteful cost of obsolescence issue; and (8) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006, 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 15, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-27451 Filed 9-29-78; 8:45 am]

[4910-22]
[4910-59]

Federal Highway Administration

National Highway Traffic Safety Administration

HIGHWAY FATALITY COUNTING RULE

Fatalities Within 30 Days of Causative Accidents

AGENCIES: Federal Highway Administration (FHWA); National Highway Traffic Safety Administration (NHTSA).

ACTION. Notice.

SUMMARY: The Department of Transportation is adopting for its statistical purposes a rule that counts as traffic fatalities only those deaths occurring within 30 days of the causative accidents. The rule has been adopted in the interest of promoting uniformity in the reporting of highway fatalities.

EFFECTIVE DATE: January 1, 1979.

ADDRESS: Administrator, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

William E. Scott, National Center for Statistics and Analysis, NHTSA, Washington, D.C. 20590, 202-426-1470.

SUPPLEMENTARY INFORMATION: Motor vehicle traffic fatality statistics are the most widely used indicators of highway safety trends and of the relative magnitude of highway safety problems. National traffic fatality figures are currently being issued by such organizations as the National

Center for Health Statistics (U.S. Department of Health, Education, and Welfare), the FHWA, the NHTSA and the National Safety Council (NSC).

While all of the basic data for these national statistics are provided by the States, the organizations which compile the national figures use different rules for determining whether a fatality is to be counted as a traffic fatality. As a result national fatality figures vary greatly. In 1976, for example, fatality figures ranged from about 44,800 (NHTSA) to 47,100 (NSC).

Until now, the FHWA and the NHTSA have been using different fatality counting rules. Under the FHWA rule, a death which occurred within 12 months of a traffic accident would be counted as a traffic fatality, but under the NHTSA rule a death would not be counted as a traffic fatality unless it occurred within 30 days of the accident.

In December 1977, the Department advised the States by letter that it was considering a 30-day fatality rule for both the FHWA and the NHTSA and requested the comments of the States on the 30-day fatality rule. Over 40 States responded to the Department's request for comments. A review of the responses shows that all of the States agree that national uniformity is desirable. Although several States preferred a different counting rule, there were no indications that reporting to the Department on the basis of the 30-day rule would cause unreasonable difficulties.

A small percentage of fatalities occur beyond the 30-day period. If persons using the data need an estimate of these additional fatalities, statistical methods exist to derive such an estimate.

Consequently, in the interest of promoting uniformity in the reporting of highway fatalities, the Department has decided to adopt the 30-day fatality counting rule beginning January 1, 1979. No changes will be required for data submitted by the States to NHTSA; however, data submitted to FHWA should be based on the 30-day counting rule rather than the 12-month rule previously used.

The 30-day fatality rule will apply to the Department's data systems and will affect the data submitted by the States to these systems. It does not apply to the States methods of counting traffic fatalities for their own use.

Issued on September 21, 1978.

JOAN CLAYBROOK,
Administrator, National Highway Traffic Safety Administration.

KARL S. BOWERS,
Administrator, Federal Highway Administration.

[FR Doc. 78-27581 Filed 9-29-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-16; Reference: ATF O 1100.97]

DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 231, TAXPAID WINE BOTTLING HOUSES

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 231, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to approval of the bottling and packaging of taxpaid United States and foreign wines at premises other than the bottling premises of a distilled spirits plant operated under 27 CFR Part 201. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 231, Taxpaid Wine Bottling Houses, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assitant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 231, Taxpaid Wine Bottling Houses:

a. To prescribe all forms required by regulations including applications, notices, reports, returns, and records, under 27 CFR 231.2.

b. To prescribe the format of ATF F 2060(5140.1), Record of Wine Cases Filled, which is provided by proprietors at their own expense, under 27 CFR 231.111.

c. To approve applications for:

(1) Alternate methods or procedures including alternate construction or equipment in lieu of a method or procedure specifically prescribed in regulations, under 27 CFR 231.120(a).

(2) Emergency variations from requirements for construction, equipment, and methods of operations, under 27 CFR 231.120(b).

d. To withdraw authorization of any alternate method or procedure or of any variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization or variation, under 27 CFR 231.120.

4. *Redelegation.* a. The authorities in paragraphs 3a, 3b, and 3d above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authority in paragraph 3c above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authority in paragraph 3c(2) above to approve emergency variations may be redelegated to regional regulatory administrators, who may redelegate this authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor.

d. The authority in paragraph 3c(1) above may be redelegated to regional regulatory administrators to approve, without submission to headquarters, subsequent applications for alternate methods or procedures which are identical to those previously approved by Bureau headquarters. The authority in paragraph 3d above may be redelegated to regional regulatory administrators and, where an alternate method or procedure is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal. Regional regulatory administrators may redelegate this authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor.

Effective date: This order becomes effective on September 21, 1978.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 78-27642 Filed 9-29-78; 8:45 am]

[4830-01]

Internal Revenue Service

[Delegation Order No. 8 (Rev. 6)]

REGIONAL DIRECTORS OF APPEAL

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division job titles are changed, an obsolete job title is deleted, and delegation of authority to one official is terminated. Redelegation of authority is amended to reflect a single level of administrative appeal.

The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to sign agreements as to liability for personal holding company tax.

Issued: October 1, 1978.

1. The authority granted to the Commissioner of Internal Revenue and District Directors by 26 CFR 301.7701-9 and 26 CFR 1.547-2 to enter into agreements relating to liability for personal holding company tax, is hereby delegated to the following officials:

a. Regional Directors of Appeals;
b. Chiefs, Appeals Offices;
c. Associate Chiefs, Appeals Offices;
d. Director of International Operations;
e. Assistant District Directors; and
f. Chiefs of District Examination Divisions.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff; and to Revenue Agents (Reviewers) not lower than GS-11.

3. This order supersedes Delegation Order No. 8 (Rev. 5), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27590 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 12 (Rev. 7)]

ASSISTANT REGIONAL COMMISSIONER (APPELLATE) AND EXECUTIVE ASSISTANT TO THE ASSISTANT REGIONAL COMMISSIONER (APPELLATE)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Assistant Regional Commissioner (Appellate) and the Executive Assistant to the Assistant Regional Commissioner (Appellate) job titles are changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Designation of acting supervisory officials.

Issued: October 1, 1978.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 177-19, Revision No. 1; Administrative Circular No. 46 and Supplement 1 thereto; and Chapter 250, Treasury Personnel Manual there is hereby delegated the authority to designate acting supervisory officials in the Internal Revenue Service, *unless or until the official making the designation, or a line superior of the official making the designation, designates another employee to serve as acting* as follows.

1. All Internal Revenue Service employees in supervisory positions other than positions specifically provided for in sections 2 through 12 of this Order are authorized to designate an employee to serve as acting during their absence and, in case a supervisory position under their supervision and control becomes vacant, to designate an employee to serve as acting.

2. The Commissioner shall designate an Acting Deputy Commissioner when necessary.

3. In an Office of Assistant Commissioner having a Deputy Assistant Commissioner, such Deputy Assistant Commissioner shall automatically become Acting Assistant Commissioner in case of the absence of the Assistant Commissioner or a vacancy in the office. The Assistant Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in the absence of both the Assistant Commissioner and Deputy Assistant Commissioner. If the position of Deputy Assistant Commissioner becomes vacant, the Assistant Commissioner shall designate an employee who shall serve as Acting Deputy Assistant Commissioner. In an Office of Assistant Commissioner where there is no Deputy Assistant Commissioner, the Assistant Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in the absence of the Assistant Commissioner and the Commissioner shall designate an employee who shall serve as Acting Assistant Commissioner in case the position of Assistant Commissioner becomes vacant.

4. In the Office of the Assistant to the Commissioner (Public Affairs), the Assistant Director shall serve as Acting Assistant to the Commissioner (Public Affairs) in the absence of the Assistant to the Commissioner (Public Affairs) or during a vacancy in the office. The Assistant to the Commissioner (Public Affairs) shall designate an employee to serve as Acting Assistant to the Commissioner (Public Affairs) when both the Assistant to the Commissioner (Public Affairs) and the Assistant Director are absent.

5. Each Regional Commissioner shall designate an Assistant Regional Commissioner, Regional Director of Appeals, District Director or Service Center Director who shall serve as Acting Regional Commissioner in the absence of the Regional Commissioner. If the position of Regional Commissioner becomes vacant, the Commissioner shall designate an employee to serve as Acting Regional Commissioner.

6. In an Office of Regional Director of Appeals, the Assistant Regional Director of Appeals shall automatically become Acting Regional Director of Appeals in case of the absence of the Regional Director of Appeals or a vacancy in the office. The Regional Director of Appeals shall designate an employee who shall serve as Acting Regional Director of Appeals in the absence of both the Regional Director of Appeals and the Assistant Regional Director of Appeals. If the position of Assistant Regional Director of Appeals becomes vacant, the Regional Director of Appeals shall designate an employee who shall serve as Acting Assistant Regional Director of Appeals.

7. In an Office of Assistant Regional Commissioner (other than the Assistant Regional Commissioner (Compliance), Midwest Region, and the Assistant Regional Commissioner (Examination)) having an Executive Assistant to the Assistant Regional Commissioner, such Executive Assistant shall automatically become Acting Assistant Regional Commissioner in case of the absence of the Assistant Regional Commissioner or a vacancy in the office. The Assistant Regional Commissioner shall designate an employee who shall serve as Acting Assistant Regional Commissioner in the absence of both the Assistant Regional Commissioner and the Executive Assistant. If the position of Executive Assistant becomes vacant, the Assistant Regional Commissioner shall designate an employee who shall serve as Acting Executive Assistant. If the position of Assistant Regional Commissioner becomes vacant in an office where there is no Executive Assistant, the Regional Commissioner shall designate an employee to serve as Acting Assistant Regional Commissioner.

8. In offices of Assistant Regional Commissioners (Examination), the Executive Assistant shall automatically become Acting Assistant Regional Commissioner in case of the absence of the Assistant Regional Commissioner except to the extent provided for specific periods of time by written Assistant Regional Commissioner designation orders. In offices of the Assistant Regional Commissioners (Examination), the Executive Assistant shall automatically become Acting Assistant Regional Commissioner in case of the vacancy in the office of the Assistant Regional Commissioner, except to the extent provided for specific periods of time by written Regional Commissioner designation orders. If positions of Executive Assistants become vacant, the Assistant Regional Commissioner shall designate employees who shall serve as Acting Executive Assistants.

9. In the Office of the Assistant Regional Commissioner (Compliance), Midwest Region, the Executive Assistant (Examination) shall automatically become Acting As-

sistant Regional Commissioner in case of the absence of the Assistant Regional Commissioner, except to the extent otherwise provided for specific periods of time by written Assistant Regional Commissioner designation orders. In the vacancy of the position of Assistant Regional Commissioner, the Executive Assistant (Examination) shall automatically become Acting Assistant Regional Commissioner, except to the extent otherwise provided for specific periods of time by written Regional Commissioner designation orders. If the positions of Executive Assistants become vacant, the Assistant Regional Commissioner shall designate employees who shall serve as Acting Executive Assistants.

10. In a District Office having an Assistant District Director of Internal Revenue, such Assistant shall automatically become Acting District Director in case of the absence of the District Director or a vacancy in the office. The District Director shall designate an employee who shall serve as Acting District Director in the absence of both the District Director and the Assistant District Director. If the position of Assistant District Director becomes vacant, the District Director shall designate an employee who shall serve as Acting Assistant District Director. In a District Office where there is no Assistant District Director, the District Director shall designate an employee who shall serve as Acting District Director in the absence of the District Director and the Regional Commissioner shall designate an employee who shall serve as Acting District Director in case the position of District Director becomes vacant.

11. In case of the absence of a Director, Internal Revenue Service Center, or a vacancy in the office, the Assistant Director of the Service Center shall automatically become Acting Director. The Service Center Director shall designate an employee who shall serve as Acting Service Center Director in the absence of both the Service Center Director and the Assistant Service Center Director. If the position of Assistant Service Center Director becomes vacant, the Service Center Director shall designated an employee who shall serve as Acting Assistant Service Center Director.

12. In case of the absence of the Director, Data Center, or the Director, National Computer Center, or a vacancy in the office, the Assistant Director of the Center shall automatically become Acting Director. The Data Center Director and the National Computer Center Director shall designate an employee who shall serve as Acting Director in the absence of both the Director and the Assistant Director. If the position of Assistant Director becomes vacant, the Director shall designate an employee who shall serve as Acting Assistant Director.

13. All designations as acting shall be made in writing and retained as a record, and a record shall be maintained of the periods during which an official automatically became acting under the provisions of this delegation order or by automatic designations issued under authority of this delegation order. The loss of such records, or the failure to maintain such records, will not invalidate the authority of the individual acting pursuant to this delegation order.

14. The authority delegated herein may not be redelegated.

15. This Order supersedes Delegation Order No. 12 (Rev. 6), issued May 28, 1976.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27591 Filed 9-29-78 8:45 am]

[4830-01]

[Delegation Order No. 14 (Rev. 1)]

REGIONAL COMMISSIONERS AND ASSISTANT COMMISSIONER (COMPLIANCE)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Regional Appellate Division organizational title is changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This documents does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Granting Extension of Time for Filing Statements in Accordance with 26 CFR 1.534—2.

Issued: October 1, 1978.

Regional Commissioners and the Assistant Commissioner (Compliance) are hereby authorized to delegate to appropriate officials of the offices of District Directors, the Regional Directors of Appeals and the Director of International Operations authority to grant taxpayers an extension of time not in excess of thirty additional days for the purpose of the purpose of filing the statement of grounds called for in registered mail notification sent pursuant to the authority vested in the Commissioner of Internal Revenue by 26 CFR 1.534-2.

This order supersedes Commissioner's Delegation Order No. 14, issued January 11, 1956.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27592 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 25 (Rev. 9)]

ASSISTANT TO THE COMMISSIONER

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Delegation of authority is extended to Regional Directors of Appeals. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2334, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Reimbursement for actual subsistence expenses or per diem allowance to high/rate geographical areas for official travel.

Issued: October 1, 1978.

1. Pursuant to authority delegated to the Commissioner of Internal Revenue by the Department of the Treasury Directives Manual, Chapter 70, the officials named below are authorized, when the unusual circumstances of the travel assignment justify,

a. To authorize or approve reimbursement for subsistence expenses on an actual expense basis, or

b. To authorize in advance of performance of travel appropriate per diem allowances in lieu of actual subsistence reimbursement for travel to high-rate geographical areas, except when written IRS/Union agreements provide otherwise.

2. This authority applies to employees traveling on official business in accordance with the General Travel Order or individual travel orders subject to the limitations prescribed by the Federal Travel Regulations.

3. List of delegated officials: Assistant to the Commissioner (Public Affairs); Assistant Commissioners; Deputy Assistant Commissioners; Director of International Operations; Director, Data Center; Director, National Computer Center; Chief Counsel; Regional Commissioners; Regional Directors of Appeals; Assistant Regional Commissioners; Regional Inspectors; Regional Counsel; District Directors; and Service Center Directors.

4. This authority may only be redelegated to National Office Division Directors.

5. This Order supersedes Delegation Order No. 25 (Rev. 8) issued November 2, 1977.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27593 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 27 (Rev. 7)]

ADMINISTRATION OF OATHS FOR EMPLOYMENT IN THE FEDERAL SERVICE

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: An Appellate Division job title is changed and an obsolete job title is deleted. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131, (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to administer oaths required by law in connection with employment in the Federal Service.

Issued: October 1, 1978.

A. Pursuant to the authority granted to me in Treasury Department order No. 125, dated September 18, 1950, the incumbents of, and persons acting in, the positions listed below are hereby authorized to administer, without charge or fee, the oath of office required by section 1757 of the Revised Statutes, as amended (5 U.S.C. 16) of any other oath required by law in connection with employment in the Federal service:

1. *National office.* Assistant Commissioner (Resources Management); Director and Assistant Director, Personnel Division; Chief and Assistant Chief, National Office Personnel Branch; Chief, Team Leaders, Personnel Management Specialists, and Personnel Staffing Specialists, Employment Section, National Office Personnel Branch; Chief and Appointment Clerks of the Services Section, National Office Personnel Branch; and Director and Assistant Director of International Operations.

2. *Regional offices.* Regional Commissioner; Assistant Regional Commissioner (Resources Management); Chief, Personnel Branch; Chiefs, Personnel Management Specialists and Appointment Clerks of the Employment and Regional Office Personnel Sections, Personnel Branch; and Chiefs, and Associate Chiefs, Appeals Offices.

3. *District offices.* District Director: Assistant District Directors; Chiefs, Resources Management Division; Chief, Personnel Branch; Chief, Employment Section, Personnel Management Specialists, Personnel Assistants and Appointment Clerks, Personnel Branch; and the Administrative Officer or Representative of the District Director at an area, zone, or local office.

4. *Service centers.* Director; Assistant Director; Chief, Resources Management Division Chief, Personnel Branch; Chief, Employment Section, Personnel Management Specialists, Personnel Assistants and Appointment Clerks, Personnel Branch.

5. *Data center.* Director; Assistant Director; Chief, Resources Management Division; Chief, Personnel Branch; Personnel Management Specialists, Personnel Assistants, Personnel Clerks, and Appointment Clerks, Personnel Branch.

6. *National computer center.* Director; Chief, Resources Management Division; Chief, Personnel Branch; Personnel Management Specialists and Appointment Clerks, Personnel Branch.

7. *Puerto Rico collection branch.* Director's representative, Office of International Operations.

B. All supervisors authorized by section A of this order to administer oaths are also authorized to designate in writing employees under their supervision and control who may administer such oaths.

C. Pursuant to the above authority vested in me as Commissioner of Internal Revenue, employees designated to serve as grievance examiners and executive secretaries in agency grievances are herey authorized to administer oaths to witnesses testifying in hearings, being conducted under the agency grievance process contained in IRM 0771.1. This authority may not be redelegated.

D. This order supersedes delegation order No. 27 (Rev. 6), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27594 Filed 9-29-78 8:45 am]

[4830-01]

[Delegation Order No. 35 (Rev. 9)]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Employee plans and exempt organizations appeals program is transferred to the Regional Director of Appeals. Appellate Division job titles are changed. Redelegation of authority is amended due to establishment of a single level of administrative appeal. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Agreements as determinations under section 1313(a)(4) of the Internal Revenue Code of 1954.

Issued: October 1, 1978.

1. Pursuant to the authority granted to the Commissioner of Internal Revenue and District Directors by 26 CFR 301.7701-9 and 26 CFR 1.1313(a)-4, the authority to enter into agreements pursuant to section 1313(a)(4), Internal Revenue Code of 1954, relating to agreements treated as determinations, is hereby delegated to the following officials:

a. Regional Directors of Appeals;

b. Chiefs and Associate Chiefs of Appeals Offices;

c. Director of International Operations;

d. Assistant District Directors;

e. Chiefs of Examination Divisions; and

f. Chiefs of Employee Plans and Exempt Organizations Divisions.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff; to revenue agents and tax law specialists (reviewers) not lower than GS-11 for field examination cases; and to revenue agents and tax technicians (reviewers) not lower than GS-9 for office examination cases.

3. This order supersedes delegation order No. 35 (Rev. 8), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27595 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 39 (Rev. 8)]

ASSISTANT COMMISSIONER (RESOURCES MANAGEMENT)

Delegation of Authority

AGENCY: Internal revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division job title is changed. Delegation of authority is extended to Regional Directors of Appeals. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the

FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Tours of duty and overtime.
Issued: October 1, 1978.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by chapter 610 of the Treasury Personnel Manual, the following officials are hereby authorized to prescribe, for personnel listed below, the official hours of duty and, when necessitated by operating requirements, to establish an administrative workweek of five 8-hour days other than Monday through Friday for individual employees or groups of employees whose services are required on Saturday or Sunday, or both, and flexible tours of duty for criminal investigators consisting of five 8-hour days, Monday through Friday.

Official and Personnel

Assistant Commissioner (Resources Management), national office (except Data Center and National Computer Center).
Assistant Commissioner (Data Services), Data Center and National Computer Center.
Assistant Commissioner (Inspection), regional inspectors.
Director of International Operations, employees of Office of International Operations stationed outside the Washington metropolitan area.
Regional Commissioners, District Directors, and Service Center Directors, personnel under their supervision and control.

2. The above-named officials are required, in accordance with 5 U.S.C. 6101, to establish tours of duty for individual employees or groups of employees in accord with the following criteria:

(1) Assignments to tours of duty shall be scheduled in advance over periods of not less than 1 week;

(2) The basic 40-hour workweek shall be scheduled in 5 days, which shall be Monday through Friday wherever possible, and the 2 days outside the basic workweek shall be consecutive;

(3) The working hours in each day in the basic workweek shall be the same;

(4) The basic nonovertime workday shall not exceed 8 hours;

(5) The occurrence of holidays shall not affect the designation of the basic workweek; and

(6) Breaks in working hours of more than 1 hour shall not be scheduled in any basic workday.

3. In accordance with 5 U.S.C. 6101, an exception to the criteria in section 2 may be made in those instances where the authorizing official determines that application of one or more of the above enumerated criteria would result in a serious handicap in carrying out the organization's functions, or that costs would be substantially increased. Such exceptions and the reasons therefor shall be made a matter of record.

4. The authority delegated in section 1 may be redelegated as follows:

(1) By the Assistant Commissioner (Data Services) to the Directors, Data Center and the National Computer Center; and

(2) By Regional Commissioners, District Directors, and Service Center Directors, but not lower than to: Branch Chiefs in the regional headquarters office; Associate Chiefs, Appeals Offices; and Division Chiefs in Districts and Service Centers.

5. Assistant Commissioners, Regional Commissioners, Regional Directors of Appeals, Assistant Regional Commissioners, District Directors, and Service Center Directors, are hereby authorized:

(1) To order or approve the performance of paid overtime duty by employees under their supervision and control, provided funds are available for such duty;

(2) To order or approve the performance of overtime duty for personnel under their supervision and control for which compensatory time off will be granted in lieu of overtime pay;

(3) To order or approve the performance of work on holidays, provided funds are available for such duty; and

(4) To establish tours of duty for educational purposes under the provisions of 5 U.S.C. 6101(a)(4).

6. The authority delegated in section 5 may be redelegated to supervisors for employees under their supervision and control.

7. This order supersedes delegation order No. 39 (Rev. 7), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27596 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 42 (Rev. 10)]

REGIONAL DIRECTORS OF APPEAL

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Employee plans and exempt organizations appeals program is transferred to the Regional Director of Appeals. Appellate Division organizational and job titles are changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to execute consents fixing the period of limitations on assessment or collection under provisions of the 1939 and 1954 Internal Revenue Codes.
Issued: October 1, 1978.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department order No. 120, dated July 31, 1950; order No. 150-2, dated May 15, 1952; 26 CFR 301.6501(c)-1; 26 CFR 301.6502-1; 26 CFR 301.6901-1(d); and 26 CFR 301.7701-9; the authority to sign all consents fixing the period of limitations on assessment or collection is delegated to the following officials:

a. Regional Directors of Appeals;
b. Service Center Directors;
c. District Directors;
d. Director of International Operations.

2. This authority may be redelegated but not below the following levels for each activity:

a. Service Centers—Chief, Accounting Branch; Chief, Correspondence Examination Branch; and Revenue Officers;
b. Collection—Chiefs, Office Branch and Office Groups; and Revenue Officers;
c. Examination—Reviewers, Grade GS-11; Group Managers; Case Managers: and Returns Program Managers;
d. Criminal Investigation—Chief, Criminal Investigation Division;
e. Appeals—Appeals Officers;
f. Office of International Operations—Representatives at foreign posts; Revenue Agents, Tax Auditors, and Special Agents on foreign assignments; and levels b, c, and d, above; and
g. District Employee Plans and Exempt Organizations—Reviewers, Grade GS-11; Group Managers.

3. This order supersedes delegation order No. 42 (Rev. 9), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27597 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 47 (Rev. 11)]

ASSISTANT COMMISSIONERS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Regional Directors of Appeals are added to the delegation order. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the

FEDERAL REGISTER for Wednesday, May 24, 1978

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to authorize or approve attendance at meetings at Government expense.

Issued: October 1, 1978.

1. There is hereby delegated to the following officials the authority to authorize or approve attendance of employees performing functions under their general supervision, at Government expense, within the geographic limits authorized by the general travel order, at meetings of scientific or professional societies, municipal, State, Federal, or international organizations, congresses, and law enforcement or other groups for the purpose of transmitting or receiving information or knowledge relating to the substantive or administrative activities of the Internal Revenue Service:

Assistant Commissioners
Chief Counsel
Assistant to the Commissioner (Public Affairs)
Regional Commissioners
Regional Counsel
Regional Inspectors

2. The authority delegated herein to Regional Commissioners, Regional Counsel, and Regional Inspectors does not include attendance at meetings which are national in scope. The authorization or approval of the Assistant Commissioner (Resources Management), Assistant Commissioner (Compliance), Assistant Commissioner (Taxpayer Service and Returns Processing), Assistant Commissioner (Employee Plans and Exempt Organizations), Assistant Commissioner (Inspection), Assistant to the Commissioner (Public Affairs) or the Chief Counsel, in their respective areas of operation, must be obtained for employees under the general supervision of Regional Commissioners, Regional Counsel, or Regional Inspectors to attend meetings which are national in scope.

3. The authority herein delegated may not be redelegated except by Regional Commissioners to: (1) Assistant Regional Commissioners, Regional Directors of Appeals, and District Directors to authorize or approve attendance of employees under their supervision at meetings not national in scope held within their respective regions; and (2) Service Center Directors to authorize or approve attendance of service center employees at meetings not national in scope held within the geographical area serviced.

4. The authorization or approval of the Regional Commissioner must be obtained for attendance of employees under the general supervision of Assistant Regional Commissioners, Regional Directors of Appeals and District Directors at meetings held outside their respective regions. Attendance of district or service center employees at meetings national in scope requires approval of the Assistant Commissioner (Resources Management), Assistant Commissiner (Compliance), Assistant to the Commissioner (Public Affairs), Assistant Commissioner (Employee Plans and Exempt Organizations), or Assistant Commissioner (Taxpayer Service and Returns Processing) in their respective areas of operation.

5. The restrictions (other than on redelegation) set forth in sections 2, 3, and 4, above, do not apply to meetings or conventions held by recognized employee groups, organizations, or associations. Assistant Commissioners, the Assistant to the Commissioner (Public Affairs), the Chief Counsel, and Regional Commissioners are authorized to approve attendance of employees under their general supervision at meetings held by such employee groups, organizations, or associations when attendance is for the purpose of transmitting or receiving information or knowledge relating to the substantive or administrative activities of the Internal Revenue Service.

6. This order supersedes delegation order No. 47 (Rev. 10), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27598 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 75 (Rev.8)]

REGIONAL DIRECTOR OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed. The delegation of authority to Conferee-Special Assistants is terminated. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone No. 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority of Regional Director of Appeals in offers in Compromise.

Issued: October 1, 1978.

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department order No. 150-25, dated June 1, 1953, as amended by order No. 180, dated November 17, 1953 and order No. 150-36, dated August 17, 1954, 26 CFR 301.7122-1 and 26 CFR 301.7701-9 it is hereby ordered:

1. Each Regional Director of Appeals and each Chief and Associate Chief, Appeals Office, is authorized to determine the disposition to be made of any offer in compromise submitted under the provisions of section 7122 of the Internal Revenue Code of 1954, in which: (a) The proponent does not agree with the rejection or proposed rejection of the offer in the district office, the Office of International Operations, or a Service Center and requests Regional Director of Appeals consideration; or (b) the liability was previously determined by Appeals officials and the offer is based on doubt as to liability or doubt as to both liability and collectibility.

2. A determination by Appeals officials to accept an offer (other than one involving specific penalties only) based solely on doubt as to liability will be subject to approval by the Regional Commissioner if the unpaid amount of tax (including any interest, penalty, additional amount, or addition to the tax) is $100,000 or more.

3. A determination by Appeals officials to accept an offer (other than one involving specific penalties only) based solely on doubt as to collectibility or on doubt as to collectibility and liability will be subject to approval by the Regional Commissioner or the Director, Collection Division, if the unpaid amount of tax (including any interest, penalty, additional amount, or addition to the tax) is $100,000 or more.

4. The authorities delegated herein may not be redelegated and are not applicable to offers in compromise coming within the jurisdiction of the Chief Counsel under existing procedures, rules, or delegations. These authorities include any Federal excise or employment tax under the Internal Revenue Code of 1954, except any tax imposed by the following provisions or corresponding provisions of the Internal Revenue Code of 1939:

(a) Subtitle E; or

(b) Subchapter D, chapter 78 of subtitle F, insofar as it relates to taxes imposed under subtitle E.

5. This order supersedes delegation order No. 75 (Rev. 7) issued January 25, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27599 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 77 (Rev. 11)]

REGIONAL DIRECTOR OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The Regional Director of Appeals is designated the appeals responsibility for employee plans and exempt organizations cases. Delegation of authority to conferees in Examination Divisions is deleted. Appellate Office titles are changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to issue statutory notices of deficiency.

Issued: October 1, 1978.

1. The authority granted to the Commissioner of Internal Revenue and District Directors, by 26 CFR 301.7701-9, 26 CFR 301.6212-1, and 26 CFR 301.6861-1 to sign and send to the taxpayer by registered or certified mail any statutory notice of deficiency is hereby delegated to the following officials:

a. Regional Director of Appeals;
b. Chiefs and Associate Chiefs of Appeals Offices;
c. Director of International Operations;
d. Service Center Directors;
e. Assistant District Directors;
f. Assistant Service Center Directors;
g. Chiefs of Examination Divisions;
h. Chiefs of Correspondence Examination Branch; and
i. Chiefs of Employee Plans and Exempt Organizations Divisions.

2. This authority may be redelegated only by district directors, service center directors, and the Director of International Operations, but not lower than to reviewers, grade GS-9, in examination divisions, and reviewers, grade GS-12, in employee plans and exempt organizations divisions.

3. This order supersedes delegation order No. 77 (Rev. 10), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27600 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 89 (Rev. 4)]

DEPUTY COMMISSIONER

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Regional Directors of Appeals are added to the delegation order. National Office Associate Division Director is an obsolete title and is deleted. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Administrative classification of documents and material.

Issued: October 1, 1978.

The authority vested in the Commissioner of Internal Revenue by Treasury Department order No. 222 of August 3, 1972, for the administrative classification of information necessarily restricted for official purposes is hereby delegated as follows:

(1) The Deputy Commissioner is authorized to classify for LIMITED OFFICIAL USE documents or materials dealing with important, delicate or sensitive matters which must be so restricted as to be available only for the information of officials who have a need to know such information. This authority may not be redelegated.

(2) The Deputy Commissioner, Assistant Commissioners, Assistant to the Commissioner (Public Affairs); Director, Tax Administration Advisory Services Division; Director of International Operations; National Office Division Directors; National Office Assistant Division Directors; Chief, Disclosure Operations Division; Regional Commissioners; Regional Inspectors; Regional Directors of Appeals; Assistant Regional Commissioners; District Directors; Service Center Directors; Director, Data Center; and Director, National Computer Center are authorized to classify for OFFICIAL USE ONLY documents or materials which require restriction to a lesser degree than those marked LIMITED OFFICIAL USE, but which may be made available only to authorized officials. This authority may not be redelegated.

(3) The authority to declassify documents or material classified under this delegation order may be exercised only by the official authorizing the original classification, a successor in that capacity, or a line supervisory official of either and may not be redelegated.

This order supersedes delegation order No. 89 (Rev. 3) issued February 21, 1974.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27601 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 93 (Rev. 5)]

REGIONAL DIRECTORS APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed or deleted. The delegation of authority is amended. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, Telephone 202-566-6131 (Not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to Consent to a Redetermination of Aggregations by a Taxpayer in the Case of Invalid Basic Aggregations or Invalid Additions.

Issued: October 1, 1978.

1. The authority vested in the Commissioner of Internal Revenue as prescribed in 26 CFR 1.614-2(d)(5) and 26 CFR 1.614-3(f)(8) is hereby delegated to Regional Directors of Appeals; Chiefs, and Associate Chiefs, Appeals Offices; District Directors; and Chiefs, District Examination Divisions to:

Consent to the reforming of aggregations by a taxpayer where the taxpayer has formed invalid basic aggregations or made invalid additions to valid or invalid basic aggregations, and

Consent, in the case of oil and gas wells where an invalid aggregation has been formed under section 614(b), to the treatment by a taxpayer of all the properties included in the aggregation, which fall within a single operating unit, under the provisions of section 614(d) rather than section 614(b) of the 1954 Code is so requested by the taxpayer.

2. In the case of oil and gas wells this delegation order shall apply only to taxable years subject to the 1954 Code beginning before January 1, 1964.

3. The authority delegated herein may not be redelegated.

4. This Order supersedes Delegation Order No. 93 (Rev. 4), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27602 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 95 (Rev. 5)]

ASSISTANT TO THE COMMISSIONER (PUBLIC AFFAIRS)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The regional directors of appeals and additional chief counsel officials are added to the delegation

order. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authorization for Use of First-Class Air Accommodations, Superior Rail and Ship Accommodations, and to Approve Travel Vouchers.

Issued: October 1, 1978.

1. The authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 72, Revised, is hereby delegated to the officials designated below, to direct official travel and administratively approve vouchers claiming reimbursement therefor when performed under the General Travel Order by (a) themselves (except Fiscal Management Officer), and (b) personnel under their supervision and control.

Assistant to the Commissioner (Public Affairs)
Assistant Commissioners
Division Directors
Fiscal Management Officer
Director of International Operations
Director, National Computer Center
Director, Data Center
Chief Counsel
Deputy Chief Counsel
Regional Commissioners
Regional Directors of Appeals
Assistant Regional Commissioners
Regional Inspectors
Assistant Regional Inspectors
Regional Counsels
Deputy Regional Counsels
Assistant Regional Counsels
District Counsels
District Directors
Service Center Directors

a. The authority to direct official travel and administratively approve travel vouchers may be only redelegated by the officials specified in this order.

b. The authority to direct one's own official travel or administratively approve one's own travel voucher may not be redelegated.

2. The officers named in item 1 above may authorize or approve the use of first-class air accommodations by themselves (except Fiscal Management Officer), employees and, where applicable, their immediate families only when all regularly scheduled flights between the authorized origin and destination points (including connection points) provide only first class accommodations.

a. This authority may not be redelegated.

3. The officers named in item 1 above may authorize or approve the use of accommodations superior to the lowest first-class rate for transportation by rail or ship by themselves (except Fiscal Management Officer), employees and, where applicable, their immediate families, for reasons defined in Chapter 1 of the Federal Travel Regulations.

a. This authority may not be redelegated.

4. This Order supersedes delegation order No. 95 (Rev. 4) issued May 25, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27603 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 97 (Rev. 16)]

ASSISTANT COMMISSIONER

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed. Appeals responsibilities for employee plans and exempt organizations are transferred to the Regional Director of Appeals. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, Telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Closing Agreements concerning Internal Revenue Tax Liability.

Issued: October 1, 1978.

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7121-1(a); Treasury Department Order No. 150-32, Dated November 18, 1953; Treasury Department Order No. 150-36, dated August 17, 1954 (C.B. 1954-2, 733); and Treasury Department Order No. 150-83, dated August 21, 1973, subject to the transfer of authority covered in Treasury Department Order No. 221, dated June 6, 1972, as modified by Treasury Department Order No. 221-3 (Rev. 2), dated January 14, 1977, this authority is hereinafter delegated.

1. The Assistant Commissioner (Technical) is hereby authorized in cases under his/her jurisdiction to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in respect to any prospective transactions or completed transactions affecting returns to be filed.

2. The Assistant Commissioner (Compliance) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods. The Assistant Commissioner (Compliance) is also authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) with respect to the performance of his/her functions as the competent authority in the administration of the operating provisions of the tax conventions of the United States.

3. The assistant Commissioner (Employee Plans and Exempt Organizations) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in cases under his/her jurisdiction, that is, in respect of any transaction concerning employee plans or exempt organizations.

4. Regional Commissioners; Regional Directors of Appeals; Assistant Regional Commissioners (Examination); District Directors; Director of International Operations; Chiefs and Associate Chiefs of Appeals Offices, are hereby authorized in cases under their jurisdiction (but excluding cases docketed before the United States Tax Court) to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods.

5. Regional Commissioners; Regional Directors of Appeals; Chiefs and Associate Chiefs of Appeals Offices are hereby authorized in cases under their jurisdiction docketed in the United States Tax Court and in other Tax Court cases upon the request of Chief Counsel or his/her delegate to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) but only in respect to related specific items affecting other taxable periods.

6. The Director of International Operations is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) to provide for the mitigation of economic double taxation under section 3 of Revenue Procedure 64-54, C.B. 1964-2, 1008, under Revenue Procedure 72-22, C.B. 1972-1, 747 and under Revenue Procedure 69-13, C.B. 1969-1, 402, and to enter into and approve a written agreement providing the treatment available under Revenue Procedure 65-17, C.B. 1965-1, 833.

7. The authority delegated herein does not include the authority to set aside any closing agreement.

8. Authority delegated in this Order may not be redelegated, except that the Assist-

ant Commissioner (Technical) may redelegate the authority contained in paragraph 1 to the Deputy Assistant Commissioner (Technical) and to the Technical Advisors on the staff of the Assistant Commissioner (Technical) for cases that do not involve precedent issues, the Assistant Commissioner (Compliance) may redelegate the authority contained in paragraph 2 of this Order to the Deputy Assistant Commissioner (Compliance), and the Assistant Commissioner (Employee Plans and Exempt Organizations) may redelegate the authority contained in paragraph 3 of this Order to the Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) and to the Technical Advisors on the Staff of the Assistant Commissioner (Employee Plans and Exempt Organizations) for cases that do not involve precedent issues.

9. Delegation Order No. 97 (Rev. 15), issued July 2, 1978, is hereby superseded.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27604 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 107 (Rev. 4)]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed and one job title is deleted. The delegation of authority is amended. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP: PP 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to Determine that Certain "Savings Institutions" do not intend to Avoid Taxes by Paying Dividends or Interest for Periods Representing More than 12 Months.

Issued: October 1, 1978.

1. The authority granted to the Commissioner of Internal Revenue under 26 CFR 1.461-1(e)(3)(ii) to determine that an organization referred to therein does not intend to avoid taxes (and therefore be permitted to deduct one-tenth of the amount of dividends or interest not allowed as a deduction for a taxable year under 26 CFR 1.461-1(e)(1) in each of 10 succeeding taxable years) is hereby delegated to the following officials:

(a) Regional Directors of Appeals,
(b) District Directors,
(c) Director of International Operations,
(d) Chiefs, Appeals Offices,
(e) Associate Chiefs, Appeals Offices,
(f) Assistant District Directors, and
(g) Chiefs of District Examination Divisions.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff.

3. This Order supersedes delegation Order No. 107 (Rev. 3), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27605 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 109 (Rev. 4)]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed and one job title is deleted. The delegation of authority is amended. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, Telephone 202-566-6131 (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to Sign Agreements Determining Inapplicability of Exclusion under Section 963 of Internal Revenue Code of 1954.

Issued: October 1, 1978.

1. The authority granted to the Commissioner of Internal Revenue and to District Directors by 26 CFR 301.7701-9 and 26 CFR 1.963-6(c) to sign agreements determining that the exclusion under section 963 of the Internal Revenue Code of 1954 does not apply to United States shareholders for certain taxable periods due to their failure to receive minimum distributions is hereby delegated to the following officials:

(a) Regional Directors of Appeals;
(b) District Directors;
(c) Director of International Operations;
(d) Chiefs, Appeals Offices;
(e) Associate Chiefs, Appeals Offices;
(f) Assistant District Directors;
(g) Assistant Director of International Operations;
(h) Chiefs of District Examination Divisions; and
(i) Chief of Examination Division, Office of International Operations.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff.

3. This Order supersedes Delegation Order No. 109 (Rev. 3), issued July 2, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27606 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 112 (Rev. 5)]

DISTRICT DIRECTORS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This revision changes the redelegation level for issuing certain letters in employee plans matters; authorizes Regional Director of Appeals and the Assistant Commissioner (E) to take certain actions; provides for procedural changes caused by processing certain applications in the National Office instead of district offices; and provides for technical changes necessitated by the Tax Reform Act of 1976. Other minor changes are made. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Leonard J. Finkel, E:EP:O, 1111 Constitution Avenue NW., Room 2232, Washington, D.C. 20224, 202-566-3950 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

LEON MOURTON,
Director, Program Staff, Office of Assistant Commissioner (Employeee Plans and Exempt Organizations).

DELEGATION ORDER

Subject: Authority to Issue Determination Letters Relating to Employee Plans Matters.

Issued: October 1, 1978.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority with respect to issuance of determination letters pertaining to employee plans and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt Organizations key district subject to paragraph 3, is authorized to:

(a) Issue determination letters involving the provisions of sections 401, 403(a), 405, and 501(a) of the Internal Revenue Code of 1954 with respect to:

(1) Initial qualification of stock bonus, pension, profit-sharing, annuity, and bond purchase plans;

(2) Initial exemption from Federal income tax under section 501(a) of trusts forming a part of such plans, provided that the determination does not involve application of section 502 (feeder organizations) or section 511 (unrelated business income), or the question of whether a proposed transaction will be a prohibited transaction under section 503;

(3) Compliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402(c)) and deductions for employer contributions (section 404(a)(4)); and

(4) Amendments, curtailments, or terminations of such plans and trusts.

(b) Issue determination letters with respect to whether a plan constitutes an employee stock ownership plan as contemplated in section 46(a)(2)(B) or section 4975(e)(7) of the Internal Revenue Code of 1954.

(c) Issue modifications or revocations of determination letters described above in accordance with currently applicable appeal procedures.

(d) Issue revocations of union negotiated plans maintained by more than one employer only after concurrence by the Assistant Commissioner (E).

(e) Redelegate this authority as follows:

(1) With respect to issuance and modification of determination letters, not below Internal Revenue Agent and Tax Law Specialist, GS-12, provided such individual is a person other than the initiator;

(2) With respect to issuance of proposed and final adverse determination letters or proposed revocation letters not below Chief, EP/EO Division; and

(3) The authority to issue final revocation letters may not be redelegated.

2. In each region, the Regional Director of Appeals, Chiefs and Associate Chiefs, Appeals Office, are authorized to:

(a) Issue final determination letters on appeals from proposed adverse determinations and proposed revocations issued by key district offices under this delegation.

(b) This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations) is authorized to issue instructions requiring preissuance review of final adverse determinations. These instructions must be approved by Chief Counsel to be issued.

4. The District Director of each Employee Plans and Exempt Organizations key district is authorized with regard to single employer plans to:

(a) Extend the remedial amendment period described IRC 401(b) in accordance with currently applicable 401(b) procedures but not in excess of 8 months after the later of:

(1) The due date of the employer's income tax return with extensions, for the year in which the remedial amendment periods begin, or

(2) The end of the plan year within which the remedial amendment period begins.

(b) The authority referred to in paragraph 4(a) may be redelegated, but not below Chief, EP/EO Division.

Delegation Order No. 112 (Rev. 4) issued January 14, 1977, is hereby superseded.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27607 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 113 (Rev. 6)]

DISTRICT DIRECTORS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: With the adoption of a single level of appeals, appeals of exempt organizations issues will be handled by the Regional Director of Appeals. The delegation to the Assistant Regional Commissioner (Examination) in this area is rescinded.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Leon Mourton, E, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-4546 (not toll free).

This document does not meet the criteria for signficant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

LEON MOURTON,
Director, Program Staff, Office of Assistant Commissioner (Employee Plans and Exempt Organizations).

DELEGATION ORDER

Subject: Authority to Issue Exempt Organization Determination Letters.

Issued: October 1, 1978.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, authority with respect to issuance of determination letters pertaining to the exempt status of organizations under section 501(a) and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt Organizations key district is authorized to:

(a) Issue determination letters, except as noted in section 2, below, with respect to exemption from Federal income tax under sections 501 and 521; status under IRC 120, 170(c)(2), 507, 508, 509, 4942(j)(3), 4947, 4948, and 6033; imposition of tax under IRC 11, 511 through 514, 527(f), 641, 1381, and chapters 41 and 42; provided the requests present questions the answers to which are clear from an application of the provisions of the statute, Treasury decisions or regulations, or by a ruling, opinion, or court decision published in the Internal Revenue Bulletin, and

(b) Issue modifications or revocations of rulings or determination letters described above in accordance with currently applicable appeal procedures, and

(c) Redelegate this authority but not below Exempt Organizations Specialist, Grade GS-12 (other than the originator) and not below Chief, Employee Plans and Exempt Organizations Division with respect to adverse modifications or revocations of such letters.

2. In each region, the Regional Director of Appeals, Chief and Associate Chief, Appeals Office are authorized to issue final determination letters on appeals from proposed adverse determinations and proposed revocations issued by key district offices under this delegation. This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with the concurrence of the Chief Counsel, is authorized to require preissuance review of specific types of final adverse determinations of issues described in IRC 7428(a)(1).

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27608 Filed 9-29-78 8:45 am]

[4830-01]

[Delegation Order No. 136 (Rev. 3)]

REGIONAL DIRECTORS OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed and one job title is deleted. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority to Sign Agreements Under Revenue Procedure 74-6 With Respect to Exercise by Trustee of Administrative and Investment Powers.

Issued: October 1, 1978.

1. Pursuant to authority vested in the Commissioner of Internal Revenue, the authority to sign agreements entered into under the provisions of Revenue Procedure 74-6, is hereby delegated to the following officials:

a. Regional Directors of Appeals;
b. District Directors;
c. Director of International Operations;
d. Chiefs, Appeals Offices, and
e. Associate Chiefs, Appeals Offices.

2. The authority delegated herein may be redelegated by Regional Directors of Appeals, District Directors, and Director of International Operations, and may not be further redelegated.

3. Delegation Order No. 136 (Rev. 2), issued January 25, 1978, is superseded.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27609 Filed 9-29-78; 8:45 am]

[4830-01]

[Delegation Order No. 160 (Rev. 2)]

REGIONAL DIRECTOR OF APPEALS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Appellate Division organizational and job titles are changed. The text of the delegation order appears below.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas H. Hall, CP:AP:PP, 1111 Constitution Avenue NW., Room 2324, Washington, D.C. 20224, telephone 202-566-6131 (not a toll-free number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

THOMAS H. HALL,
Chief, Programs and Procedures Branch, National Office Appeals Division.

DELEGATION ORDER

Subject: Authority of Regional Director of Appeals in Termination Assessments of Income Tax and Jeopardy Assessments.

Issued: October 1, 1978.

1. Pursuant to the authority vested in the Commissioner of Internal Revenue under 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9 and Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated to each Regional Director of Appeals, each Chief, and Associate Chief, Appeals Office, to conduct conferences and determine final disposition of requests for administrative reviews in termination assessments of income tax and jeopardy assessment cases.

2. This authority may not be redelegated.

3. Delegation Order No. 160 (Rev. 1), issued January 25, 1978, is superseded.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-27610 Filed 9-29-78; 8:45 am]

[4810-25]

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Meetings

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that meetings will be held in Washington on October 24 and 25, 1978, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee
Public Securities Association, U.S. Government and Federal Agencies Securities Committee

The agenda for the American Bankers Association Government Borrowing Committee meetings provides for working sessions on October 24 and a report to the Secrtetary of the Treasury and Treasury staff on October 24.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meetings provides for working sessions October 24 and a report to the Secretary of the Treasury and the Treasury staff on October 25.

Pursuant to the authority placed in heads of departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under section 552b(c) (4) and (9)(A) of title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of the Office of the Secretary. When so utilized they are recognized to be advisory committees under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the advice provided in reports of these committees, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: September 18, 1978.

ANTHONY M. SOLOMON,
Under Secretary for Monetary Affairs.

[FR Doc. 78-27641 Filed 9-29-78; 8:45 am]

[4810-22]

PORTLAND GRAY CEMENT FROM PORTUGAL, ETC.

Tentative Determination To Modify or Revoke Dumping Findings

AGENCY: U.S. Treasury Department.

ACTION: Tentative revocation of dumping findings.

SUMMARY: This notice is to inform the public that portland gray cement from Portugal; pig iron from the U.S.S.R., Czechoslovakia, East Germany, Romania, and West Germany; aminoacetic acid (glycine) from France; whole dried eggs from Holland; clear sheet glass weighing over 28 ounces per square foot from France; asbestos cement pipe from Japan; and canned Bartlett pears from Australia are no longer being sold at less than fair value under the Antidumping Act, 1921. Notice is hereby given that the Department of the Treasury intends to revoke these findings of dumping.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Kugelman, 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: The 11 findings of dumping listed below were published in the FEDERAL REGISTER on the dates indicated.

A review of § 153.46, Customs Regulations (19 CFR 153.46) and import statistics has resulted in the conclusion that these findings of dumping can be revoked in accordance with § 153.44(b), Customs Regulations (19 CFR 153.44(b)).

STATEMENT OF REASONS OF WHICH THIS TENTATIVE DETERMINATION IS BASED

The findings listed below have been in effect for at least 4 years and there appears to be no likelihood of resumption of sales at less than fair value. There is no record in the last 4 years of imports of the merchandise covered by these findings, with the single exception of one shipment of pig iron from West Germany. That importation was determined to be at fair value. In this factual situation, and in the absence of any special circumstances, a tentative revocation is deemed appropriate.

The findings of dumping referred to above relate to:

Commodity and country	T.D.	FR Date
Portland gray cement, Portugal.	55501	Nov. 7, 1961.
Pig iron, U.S.S.R.	68-261	Oct. 29, 1968.
Pig iron, Czechoslovakia	68-262	Do.
Pig iron, East Germany	68-263	Do.
Pig iron, Romania	68-264	Do.
Pig iron, West Germany	71-192	July 24, 1971.
Aminoacetic acid (glycine), France.	70-71	Mar. 24, 1970.
Whole dried eggs, Holland	70-198	Sept. 18, 1970.
Clear sheet glass weighing over 28 oz. per sq. ft., France.	71-293	Dec. 9, 1971.
Asbestos cement pipe, Japan	72-178	June 28, 1972.
Canned Bartlett pears, Australia.	73-84	Mar. 23, 1973.

[1] Modified by T.D. 78-242; July 19, 1978.

Accordingly, notice is hereby given that the Department of the Treasury intends to revoke the findings of dumping with respect to the products from the countries in the above listing.

In accordance with section 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford and opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than October 11, 1978. Requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in 10 copies in time to be received by his office not later than November 1, 1978. All persons submitting views or arguments should avoid repetitious and merely cumulative material, and they are reminded of the requirement to include nonconfidential summaries or approximated presentations of all confidential material.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

ROBERT H. MUNDHEIN,
General Counsel of the Treasury.

SEPTEMBER 2, 1978.

[FR Doc. 78-27639 Filed 9-29-78; 8:45 am]

[4810-34]

PRIVACY ACT OF 1974

Proposed Revision to System of Records, Correction

In FR Doc 78-22354 appearing on page 35572 in the issue for Thursday, August 10, 1978, the following title was inadvertently omitted:

In the second column under System managers and address, the title, Head, Production Scheduling Staff, should be added following "Chief, Office of Research and Technical Services."

This correction was filed with the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget on September 27, 1978.

Dated: September 29, 1978.

WILLIAM J. BECKHAM, Jr.,
Assistant Secretary for Administration.

[FR Doc. 78-27813 Filed 9-29-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

PRIVACY ACT OF 1974

Revised System Notice

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the FEDERAL REGISTER, at least annually, a notice of the existence and character of their systems of records. Accordingly, the Veterans Administration published and adopted a notice of its inventory of personal records on September 27, 1977 (42 FR 49726).

Notice is hereby given that the Veterans Administration is changing the system of records entitled "Patient Fee Basis Medical and Pharmacy Records-VA" (23VA136). It is the policy of the Veterans Administration to provide medical care on a fee-for-service basis when such care is determined by the Administrator to be necessary or appropriate for the effective and economical treatment of disabilities of veterans who meet eligibility criteria. The size of this program has increased significantly over recent years as new laws expanded these medical benefits to greater categories of veterans. There are approximately 300,000 veterans actively receiving fee-basis care and approximately 100,000 health care providers who could participate in this program. To reduce overall processing time and thereby expedite payment to health care providers for services rendered to eligible veterans on a fee basis, the automated fee basis functions are being centralized from all the Veterans Administration data processing centers to the data processing center at Austin, Tex. In addition, the exchange of system data between the Austin Data Processing Center and VA health care facilities will be via ARS (Automated Record System) telecommunications network. These changes have been designed to increase security for the system, simplify functional requirements, and, most importantly enable the Veterans Administration to expedite payment to health care providers for services they are rendering to eligible veterans at Veterans Administration expense.

The changes to the system in no way alter the purposes for which the information is used; therefore, the requirement to give 30 days prior notice of such change does not apply.

A "Report on New System" and an advance copy of the revised system notice were sent on August 30, 1978, to the Speaker of the House, the President of the Senate, and the Office of Management and Budget, as required by the provisions of 5 U.S.C. 552a(o) of the Privacy Act and guidelines issued by the Office of Management and Budget (40 FR 45877), October 3, 1975.

Notice is hereby given that this description is effective the date of final approval, September 25, 1978.

Approved: September 25, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

23VA136

System name:

Patient Fee Basis Medical and Pharmacy Records-VA.

System location:

Records are maintained at the VA Data Processing Center at Austin, Tex. and VA health care facilities. Address locations are listed in VA Appendix 1: Addresses of Veterans Administration Facilities.

Categories of individuals covered by the system:

Individuals furnished medical and pharmacy services authorized by the Veterans Administration on a fee-for-service basis.

Categories of records in the system:

Personal identification information on veteran and physician; date of visit; type of service; charge for service; pharmacy dispensing; and travel pay.

Authority for maintenance of the system:

Title 38, United States Code, Chapter 17, Subchapter I, Section 601; Chapter 3, Subchapter II, Section 213.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. To provide statistical and other information in response to other legitimate and reasonable requests as approved by appropriate VA authorities, such as the release of information under the Freedom of Information Act.

2. In the event that a 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, regulation, or order issued pursuant thereto.

3. 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 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 health, educational, or welfare benefits.

4. 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 necessaary to the requesting agency's decision on the matter.

5. To the Treasury Department to facilitate payments to physicians, clinics, and pharmacies for reimbursement for services rendered.

6. To the Treasury Department to facilitate payments to veterans for reimbursements of travel expenses.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made to NARS (National Archives and Records Service), GSA (General Services administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

(a) Paper documents at VA Health Care Facilities. (b) Magnetic tape and disk at the data processing center.

Retrievability:

Indexed by veteran's social security number and physician's, or other health care provider's social security number or, if social security number is unavailable, taxpayer's identification number or DUNS (Dun and Bradstreet Uniform Numbering System) number.

Safeguards:

Access to the authorized VA data Processing Center is restricted to authorized VA employees and authorized representatives of vendors. Access to the computer rooms within the data processing center is further restricted to especially authorized VA personnel and vendor personnel. Protection is provided by alarm systems as well as guard service.

Exchange of data from the system between the data processing center and the VA health care facilities is by use of the ARS telecommunications network. Access to the ARS network equipment is restricted since it is in the communications center of each facility. Strict control measures are enforced to insure that disclosure is limited to a "need to know" basis.

At VA health care facilities access to working and storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Strict control measures are enforced to insure that disclosure is limited to a "need to know" basis.

Retention and disposal:

Paper documents at the VA health care facility authorizing the fee basis care are maintained in the Patient Consolidated Medical Record portion of the VA Medical Records system. These consolidated medical records, in turn are retained at the VA health care facility for a minimum of three (3) years after the last episode of care. After the third year of inactivity the paper record is screened, and vital documents are removed and retained at the facility indefinitely; the remaining portion of the record is transferred to the nearest Federal Record Center for twelve (12) more years of storage.

Working magnetic tapes and disks at the data processing center are disposed of as soon as the purpose for which these were established has been served. Magnetic tapes and disks containing historical and statistical data are retained at the data processing center and are disposed of after a five (5) year retention period.

System manager(s) and address:

Director, Medical Administration Service (136), VA Central Office, Washington, DC 20420.

Notification procedure:

An individual seeking information concerning the existence and contents of a record pertaining to himself or herself should submit a written request or apply in person to the nearest VA health care facility (136). All inquiries must reasonably identify the system of records involved. Inquiries should include the individual's full name, social security number, and approximate date(s) of services rendered or received.

Record access procedures:

Veterans, beneficiaries, service personnel or duly authorized representatives seeking information regarding access to and contesting of Patient Fee Basis Medical and Pharmacy System-VA records may contact the Medical Administration Officer at the nearest VA health care facility.

Contesting record procedures:

(See Record Access Procedures above.)

Record source categories:

Patient Consolidated Medical Record portion of the VA Medical Records System.

[FR Doc. 78-27675 Filed 9-29-78; 8:45 am]

[8320-01]

PROCEDURES FOR IMPLEMENTING EXECUTIVE ORDER 12044, "IMPROVING GOVERNMENT REGULATIONS"

Schedule of Semiannual Agenda of Regulations

AGENCY: Veterans Administration.

ACTION: Notice of Schedule for Publication of VA's Semiannual Agenda of Regulations.

SUMMARY: The Executive Order of March 23, 1978, "Improving Government Regulations" directed that all agencies publish a notice in the FEDERAL REGISTER on the first Monday in October indicating when the agency's semiannual agenda of signficant regulations under development or review will be published during the coming fiscal year.

FOR FURTHER INFORMATION:

Mr. William E. Stewart, Management Services (61), 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-3770.

SUPPLEMENTAL INFORMATION: To give the public adequate notice for comment on proposed significant regulations under development or those proposed for review, the VA will publish a semiannual agenda of regulations in the FEDERAL REGISTER in December and June of each year. In addition, non-significant regulations may be included in the agenda if the responsible Department or staff office head feels that it would be beneficial and of great interest to the veteran population. Supplements to this agenda may be published at other times during the year if it is determined that circumstances warrant such a supplement.

The semiannual agenda of regulations will have the concurrence of the General Counsel and will be signed by the Administrator or the Deputy Administrator.

The agenda will include:

(1) The regulations or significant regulations under development or being considered;
(2) Those regulations under review;
(3) Existing regulations scheduled to be reviewed;
(4) The need for and legal basis for such action;
(5) The status of regulations previously listed in other agendas;
(6) The name, title, address, and telephone number of a knowledgeable agency official who may be contacted for additonal information; and
(7) If possible, whether or not a regulatory analysis will be required.

The Director, Management Services will forward advance copies of the agenda to the Senate and House Committees on Veterans' Affairs as well as other interested, service-oriented individuals and organizations (presently 39). The Assistant Administrator for Information Service will also send notices of the agendas to publications likely to be read by those affected.

Approved: September 27, 1978.

MAX CLELAND,
Administrator of Veterans' Affairs.

[FR Doc. 78-27787 Filed 9-29-78, 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Corrected Service Order No. 1304, Revised Exception No. 10]

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO.

Car Service

Decided: September 15, 1978.

The Chicago, Rock Island & Pacific Railroad Co. (RI) owns 5,702 jumbo hopper cars subject to Corrected Service Order No. 1304. On August 1, 1978, 564, or 9.9 percent of these cars were being used in unit-grain-train services, 4,069 for general grain traffic and 1,068 for transportating commodities other than grain.

Several shippers have financed repairs of RI jumbo covered hopper cars, and many of the cars are still in a payback status. These cars have been placed in assigned service to the shipper who financed repairs. Some shippers need to use a number of these cars in unit-grain-train service. Use by RI of these shipper-financed jumbo hopper cars in unit-grain-train service will not impair its ability to furnish jumbo covered hopper cars to general grain shippers at the present level of orders for these cars.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service Order No. 1304, Chicago, Rock Island & Pacific Railroad Co., is authorized to use shipper-financed repaired Rock Island jumbo covered hopper cars in unit-grain-train service of the specific shippers who financed the rehabilitation of the cars regardless of the provisions of section (a)(1), (2) and (a)(5) of this order.

By the Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Effective September 15, 1978.
Expires December 15, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-27503 Filed 9-29-78; 8:45 am]

[1505-01]

[Decision—Volume No. 14]

DECISION—NOTICE

Correction

On page 41332 in the issue for September 15, 1978, in the third column, there appeared a correction to FR Doc. 78-21577 which had been published in the issue of Tuesday, August 8, 1978. The correction stated that "MN" should have read "NM" in the sixteenth line of MC 115816 (Sub-320F); however the MC number cited in the correction should have been "MC 115826 (Sub-320F)".

[7035-01]

[Exception No. 4]

MISSOURI PACIFIC RAILROAD CO.

Car Service

Decided September 20, 1978.
By the Board.

The Missouri Pacific Railroad Co. (MP) has been given permission to use National Railways of Mexico (NdeM) 50-foot plain boxcars account there is an available supply of these cars on the NdeM. ICC Revised Exemption No. 133 authorizes MP to use certain NdeM boxcars without regard to the requirements of Car Service Rules 1 and 2. The MP is holding some of these cars beyond the 60-hours permitted in section (a)(2)(ii) of this order prior to placing of cars for loading, and in Section (a)(4)(i) prior to forwarding of cars.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Revised Service Order No. 1332, Missouri Pacific Railroad Co. is authorized to hold empty National Railways of Mexico 50-foot boxcars listed in ICC Revised Exemption No. 133 for loading, or prior to forwarding empty, regardless of the provisions of section (a)(2)(ii), and of section (a)(4)(i) of this order.

These cars shall become fully subject to all provisions of Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective September 20, 1978.
Expires October 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-27502 Filed 9-29-78 8:45 am]

[7035-01]

[Notice No. 176]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 3, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Sub-No. 565TA), filed July 24, 1978. Applicant: ROADWAY EXPRESS, INC. (a Delaware corporation), P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) serving Longview, TX, and Marshall, TX, as intermediate points on applicant's regular route between Birmingham, AL, and Dallas, TX; (2) serving Jacksonville, TX, as an intermediate point on applicant's regular route between Denison, TX, and Houston, TX; and, (3) serving Cleburne, TX, as an off-route point to applicant's regular route between Denton, TX, and Hillsboro, TX, for 180 days. Supporting shippers: There are approximately (26) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 63417 (Sub-No. 157TA), filed July 24, 1978. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molded wood pulp, peat or expanded or foam products*, from Florin, CA, to Kansas City, MO, and its commercial zone, and Salina, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keyes Fibre Co., Waterville, ME. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 63417 (Sub-158TA), filed July 24, 1978. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Microfoam and microfoam* articles, from Wurtland, KY, to points in GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. DuPont de Nemours and Co., Inc., Wilmington, DE 19898. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 93235 (Sub-11TA), filed July 24, 1978. Applicant: INDIANA TRUCKING, INC., (an Indiana corporation), 6500 Industrial Highway, Gary, IN 46408. Representative: Eugene L. Cohn, One North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, aluminum and plastic articles, in sheets plates, bars, tubes, and structurals*, from the warehouse and facilities of Joseph T. Ryerson, Inc., at Chicago and Elk Grove Village, IL, to Angola, South Bend, Elkhart, Indianapolis, Peru, Bluffton, Kendallville, Warsaw, Carmel, Bristonl, Rochester, Wabash, Terre Haute, Logansport, Huntington, Columbia City, Ft. Wayne, LaGrange, Garrett, Berne and Anderson, IN, under a continuing contract or contractss with Joseph T. Ryerson & Son, Inc., for 180 days. Supporting shipper: Joseph T. Ryerson & Son, Inc., 2621 W. 15th Place, Chicago, IL 60608. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 95084 (Sub-123TA), filed August 1, 1978. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building Components and agricultural building accessories* (1) from points in Dallas County, IA and Ankeny, IA to points in IL, IN, MI, MO, OH, and WI; (2) from Norton, KS and Raymond, SD to points in Dallas County, IA and Ankeny, IA. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ploytek Manufacturing, Inc., P.O. Box 178, Granger, IA 50109, Swine-Cycle, Inc., 613 E. Magazine Road, Ankeny, IA 50021. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 96992 (Sub-11TA), filed August 1, 1978. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Clayton Farr, P.O. Box 1517, Edinburg, TX 78539. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, from Brownsville, TX, to Memphis, Bels, Rosselle, and Humbolt, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wintergarden, Inc. P.O. Box 1752, Brownsville, TX 78520. Send protest to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400, Federal Building, 727 E. Durango, San Antonio, TX 78206.

MC 103051 (Sub-124TA), filed August 1, 1978. Applicant: FLEET TRANSPORT COMPANY, INC., (an Iowa corporation), 934 44th Avenue, North, Nashville, TN 37209. Representative Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yeast Slurry*, in bulk, in tank vehicles, from the facilities of Pabst Brewing Co. at or near

Perry, GA to Jacksonville, FL. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Anheuser-Busch, Inc., 721 Pestalozzi St., St. Louis, MO 63118. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 107403 (Sub-1104TA), filed July 24, 1978. Applicant: MATLACK, INC. 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, in bulk, in tank vehicles, from Baltic, OH to Chatham, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Pantasote Co., of NY., Inc., 26 Jefferson Street, Passaic, NJ 07055. Send Protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 112963 (Sub-78TA), filed July 24, 1978. Applicant: ROY BROS., INC., (a Massachusetts corporation), 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, MA 01866. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poly vinyl chloride*, in bulk, in tank vehicles from New Bedford, Mass., to points in Rhode Island, Connecticut, New York, and New Jersey, for 180 days. Supporting shipper: International Materials, 54 Middlesex Turnpike, Bedford, MA 01730. Send protests to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 01760.

MC 113908 (Sub-445TA), filed August 1, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G. S. S., 2105 E. Wale St., Springfield, MO 65804. Representative: B. B. Whitehead, Traffic Manager, P.O. Box 3180 G. S. S., 2105 E. Wale St., Springfield, MO 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rum, in bulk*, from points in CA, to Harford, CT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Heublein, Inc. Hartford, CT. Send protest to: DS John V. Barry, room 600, 911 Walnut, Kansas City, MO 64106.

MC 119798 (Sub-7TA), filed July 24, 1978. Applicant: SOUTHWEST SUPPLY, INC., (a West Virginia corporation), 350 Roanoke Street, P.O. Box 1404, Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and articles* distributed by meat packing plants (except hides and commodities in bulk) between the facilities of Southwest Supply, Inc., Bluefield, WV, on the one hand, and, on the other, points in TN on and east of Interstate Hwy 75, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Larry L. Brown, Manager Transportation & Purchasing, Geo. A. Hormel & Co., So. Iowa Avenue, Ottumwa, IA 52501. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

MC 123885 (Sub 27TA), filed July 24, 1978. Applicant: C & R TRANSFER CO., P.O. Box 1010, Rapid City, SD 57701. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Truss rafters for mobile homes and modular units* from Sioux Falls, SD to Greeley, CO; Minden, NE; and Newton, KS; and (2) *Pre-cut wood flooring materials* from Sioux Falls, SD to Hutchinson and Newton, KS; Blue Earth, MN; Minden and Tekamah, NE, for 180 days. Supporting shipper: Component Manufacturing, Inc., 1105 North Cliff, Sioux Falls, SD 57101. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 124328 (Sub-121TA), filed July 24, 1978. Applicant: BRINK'S INCORPORATED, Thorndal Circle, Darien, CT 06820. Representative: Richard H. Street, Wheeler & Wheeler, 1729 H Street, NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, from denver, CO; to Lake Tahoe, NV; Reno, NV; Las Vegas, NV; and Phoenix, AZ, for 180 days. Supporting shipper: General Services Administration, Federal Supply Service (FZTC), Washington, DC 20406. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commissin, Bureau of Operation, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129908 (Sub-12TA), filed July 24, 1978. Applicant: A & H, INC., (a Wisconsin corporation), P.O. Box 346, Footville, WI 53537. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, excluding commodities in bulk, in vehicles equipped with mechanical refrigeration from the facilities utilized by Universal Foods in the N.Y., NY commercial zone and Lancaster, PA; to points in OH, PA, and IN, under a continuing contract or contracts with Universal Foods Corporation. Restricted to traffic originating at the named origins and destined to points in the named destination States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Universal Foods Corp., 433 East Michigan Avenue, Milwaukee, WI 53201. Send protests to: District Supervisor Ronald A. Morken, Interstate Commerce Commission, 212 E. Washington Avenue, Room 317, Madison, WI 53703.

No. MC 129923 (Sub-15TA), filed July 24, 1978. Applicant: SHIPPERS TRANSPORTS, INC., 5005 Commerce Street, West Memphis, AR 72301. Representative: Edward G. Grogan, Suite 2020, First Tennessee Bank Bldg., Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in containers, other than in bulk, not requiring refrigeration from Milton, DE to all points and places in the State of Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Draper King Cole, Inc., Chestnut Street, Milton, DE 19968. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135070 (Sub-9TA), filed August 1, 1978. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79105. Representative: Gailyn Larsen, 521 South 14th, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring, and washing compounds.* From the facilities of Procter & Gamble Company at Alexandria, LA, to Houston, TX and points in its commercial zone. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protest to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 135185 (Sub-35TA), filed July 24, 1978. Applicant: COLUMBINE CARRIERS, INC., (a Delaware corporation), P.O. Box 15246, 1720 East Garry

Avenue, Santa Ana, CA 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning compounds, disinfectants, deodorants, drugs and toilet preparations, insecticides, household cleaning supplies, chemicals, hydraulic cement, sand, coal tar, adhesive tape, plastic tape, plastic synthetics, paint solvents, rubber cement, caulking and brazing compounds, varnish, paints phosphoric acid, and titaniu, dioxide*, except commodities in bulk, from the facilities of Lehn & Fink Products Co., a Division of Sterling Drug, Inc., at or near Lincoln and Decatur, Ill., to points in Louisiana and Mississippi; and (2) *drugs and medicines*, from the facilities of Sterling Drug, Inc., at or near Gulfport, Miss., to the facilities of Sterling Drug, Inc., at or near Des Plaines, Ill. and Secucus, N.J.; both (1) and (2) restricted to service under contract with Sterling Drug, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lehn & Fink Products Co., Division of Sterling Drug, Inc., 225 Summit Avenue, Montvale, N.J. 07645.

Send protests to: Irene Carlos, Interstate Commerce Commission, Bureau of Operations, 300 N. Los Angeles Street, room 1321, Los Angeles, CA 90012.

MC 135861 (Sub-33TA), filed July 24, 1978. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, 2715 Ellis Avenue, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packing houses as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk, in tank vehicles) from Brownwood, TX, to points in KY for the account of Swift Fresh Meats Co., under a continuing contract or contracts with Swift & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 136384 (Sub-11TA), filed July 24, 1978. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, New Dean Forest Road, Savannah, GA 31402. Representative: W. W. Palmer, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, except in bulk, in tank vehicles, between the facilities of Union Camp Corp., at or near Savannah, GA, on the one hand, and, on the other, points in FL, for 180 days. Supporting shipper: Union Camp Corp., 1600 Valley Road, Wayne, NJ 07470. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 138104 (Sub-56TA), filed July 24, 1978. Applicant: MOORE TRANSPORTATION CO., INC. (a Texas corporation), 3509 North Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and construction materials*, (except commodities in bulk), and (2) *materials and supplies* used in the manufacture of and/or distribution of commodities named in (1) above (except commodities in bulk), (1) from the facilities of the Celotex Corp., located at or near Texarkana, AR to points in AL, AR, FL, GA, KS, LA, MS, MO, OK, and TX and (2) from points in AL, AR, FL, GA, KS, LA, MS, MO, OK, and TX to the facilities of the Celotex Corp. located at or near Texarkana, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., P.O. Box 22602, Tampa, FL 33622. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 142929 (Sub-4TA), filed August 1, 1978. Applicant: YEAGER TRUCKING, INC., Route 1, Box 868, Woodland, CA 95695. Representative: MILTION W. FLACK, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, over irregular routes, transporting (1) *Beer*, from the facilities of the Budweiser Brewery, located at Fairfield, CA, to Clarkston, WA, with no transportation for compensation on return except as otherwise authorized, and (2) *domestic wine*, from the facilities of Italian Swiss Colony Winery, located at Madera, CA, and from the facilities of the Almaden Winery, located at San Jose, CA, to Clarkston, WA, with no transportation for compensation on return except as otherwise authorized, restricted in (1) and (2) above to a transportation service to be performed under a continuing contract, or contracts, with Seaport Distributing Co., of Clarkston, WA, (3) *beer*, from the facilities of the Budweiser Brewery, located at Fairfield, CA, to La Grande, OR, with no transportation for compensation on return except as otherwise authorized, restricted in (3) above to transportation service to be performed, under a continuing contract, or contracts, with Sno-Cap Beer Distributors, of La Grande, OR, and (4) *beer*, from the facilities of the Miller Brewery, located at Azusa, CA, to Pendleton, OR, with no transportation for compensation on return except as otherwise authorized, restricted in (4) above to a transportation service to be performed, under a continuing contract, or contracts, with Pendleton Distributing, of Pendleton, OR. For 180 days. Supporting shipper: Seaport Distributing Co, 1301 Commercial Way, Clarkston, WA 99403. Pendleton Distributing, 605 S. W. Emigrant, Pendleton, OR 97801. Sno-Cap Beer Distributors, Highway 30, E. La Grande, OR 97850. Send protests to: District Supervisor A. J. Rodriguez, 211 Main, Suite 500, San Francisco, CA 94105.

MC 144910 (Sub-1TA), filed July 24, 1978. Applicant: TYREE D. PRUITT, d.b.a., TY PRUITT TRUCKING, 811 Landay Avenue, Baltimore, MD 21237. Representative: Chester A. Zyblut, Esq., 1030, 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning products, toilet preparations, nonmedicated syrup and shortening* (except in bulk) from the facilities of Lever Bros. Co., Baltimore, MD to FL, for 180 days. Supporting shipper: Bruce M. Pershan, Transportation Manager, Lever, Bros. Co., 390 Park Avenue, New York, NY 10022. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 145088 (Sub-1 TA), filed July 24, 1978. Applicant: S & T TRUCKLOAD, INC., 2527 North East 28th Street, Fort Worth, TX 76106. Representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt water proofing compounds and materials and lubricating oils and greases* from Fort Worth, TX, to all points in the United States except AK and HI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwestern Petroleum Corp., 534 Main, Fort Worth, TX 76101. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 145096TA, filed August 1, 1978. Applicant: LIBERTY WASTE CARRIERS, INC., P.O. Box 3370, Baytown, TX 77520. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic waste or scrap, dry, in bulk, in roll-off steel containers* between points in TX and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Synthetic Material Corp., 700 Turkey Street, Houston, TX 77020. Send protests to: District Supervisor John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

PASSENGER CARRIER

MC 145139, filed August 1, 1978. Applicant: AVENTOURS TRAVEL, LTD., 801 Second Avenue, New York, NY 10017. Representative: Herbert A. Rosenthal, Esq., Hausman and Rosenthal, P.C., 1747 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, sleeping bags, tents and other outdoor equipment*, also carrying a mobile cooking unit (Camper Kitchen), primarily in all-expense paid camping and special tours, in vehicles with a capacity greater than 35 passengers including three crew members consisting of a driver, tour manager and a cooking manager. The tours will be structured and provided for passengers between the ages of 18 and 30, and will be sold internationally and domestically. Applicant requests authority to operate beginning and ending at New York, NY, and San Francisco, CA, and extending to points in the United States (except Hawaii and Alaska). For 180 days. Supporting shipper(s): U.S. Student Travel Service Inc., 801 Second Avenue, New York, NY 10017, People-to-People International Crown Center, 2440 Pershing Road, G-30, Kansas City, MO 64108, Great Places Travel, 216 South Fourth Avenue, Ann Arbor, MI 48107, Campus Holidays USA, 590 Valley Road, Upper Montclair, NJ 07043, Transit Travel Limited, 43 Kensington High Street, London W8 ED, England, USIT Ltd., Anglesea Street, Dublin 2, Ireland. There are approximately six statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Maria Be. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

By the Commission.

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

[FR Doc. 78-27508 Filed 9-29-78; 8:45 am]

[7035-01]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 177]

OCTOBER 4, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 8973 (Sub-53TA), filed July 26, 1978. Applicant: METROPOLITAN TRUCKING, INC., P.O. Box 93, 2424 95th Avenue, North Bergen, NJ 07047. Representative: E. Stephen Heisley, No. 805, 666 Eleventh Street, NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire and cable*, from Linden, NJ, to points in TX, LA, AR, OK, KS, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C. C. S. Hatfield Wire and Cable Corp., 12 Commerce Drive, Cranford, NJ 07016. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 43246 (Sub-27TA), filed July 26, 1978. Applicant: BUSKE LINES, INC., 123 W. Tyler Avenue, Litchfield, IL 62056. Representative: Howard Buske (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, from Bardstown, KY, to Detroit, MI, and Chicago, IL, under a continuing contract, or contracts, with Hiram Walker Importers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. J. Lavigne, Traffic Manager, Hiram Walker Importers, Inc., P.O. Box 14100, Detroit, MI 48214. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 61396 (Sub-351TA), filed July 25, 1978. Applicant: HERMAN BROS., INC., P.O. Box 189, 2565 St. Marys Avenue, Omaha, NE 68101. Representative: John E. Smith, II, (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Cement*, from Clarksville, MO, to points in NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Walton H. Rice, Jr., Dundee Cement Co., P.O. Box 67, Clarksville, MO 63336. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 61396 (Sub-352TA), filed July 25, 1978. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: John E. Smith, II, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Des Moines, IA, to Omaha, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George R. Bathe, President, Ready Mix Concrete Co., 4315 Cuming Street, Omaha, NE 68131. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 65920 (Sub-6TA), filed July 25, 1978. Applicant: BISHOP MOTOR EXPRESS, INC., 607 Century Avenue, SW., Grand Rapids, MI 49503. Repre-

sentative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, class A and B explosives, and commodities requiring the use of special equipment), (1) From Grand Rapids to the intersection of M-46 and M-37 via M-37; thence via M-46 to the intersection of M-46 and U.S. 131; and return over the same route; (2) From Grand Rapids to Reed City via U.S. 131, and return over the same route; (3) From the intersection of U.S. 131 and M-57 to Greenville via M-57; thence via M-91 to the intersection of M-44; with return over the same route; (4) From Grand Rapids to Belding via M-44, with return over the same route; (5) From Grand Rapids to Grand Haven via M-45 and U.S. 31, with return over the same route; serving all intermediate points and the Commercial Zone of each of said named points and all intermediate points, for 180 days. Applicant intends to tack authority and interline with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately (35) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: C.R. Flemming, District Supervisor, Interstate Commerce Commission, Room 225 Federal Building, Lansing, MI 48933.

MC 109064TA, filed July 25, 1978. Applicant: TEX-O-KAN TRANSPORTATION CO., INC., 3301 E. Loop 820 South, Box 8367, Fort Worth, TX 76112. Representative: Thomas F. Sedberry, 1102 Perry-Brooks Bldg., Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and accessories* used in the installation of such articles, from Huston County, TX, to points in OK, LA and AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vulcraft Division/Nuclear Corp., of America, Box 186, Grapeland, TX 75844. Send protests to: Robert J. Kirspel District Supervisor, Room 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, TX 76102.

MC 112595 (Sub-81TA), filed July 25, 1978. Applicant: FORD BROTHERS, INC., 510 Riverside Drive, P.O. Box 727, Ironton, OH 45638. Representative: Jerry B. Sellman, Suite 1815, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carerier*, by motor vehicle, over irregular routes, transporting: *Petroleum pitch*, (in bulk, in tank vehicles), from refineries at or near Catlettsburg, KY, to AL, CT, DE, FL, GA, LA, MD, MA, MN, MS, MO, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WI, DC, OH, WV, IL, IN, MI, AR, and IA, for 180 days. Supporting shipper: Emil M. Sturzenegger Traffic Manager, Ashland Petroleum Co., Division of Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41101. Send protests to: Frances A. Ciccarello Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

MC 114569 (Sub-235TA), filed July 25, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* used by, dealt in or distributed by wholesale or retail department, drug, grocery, and variety stores and institutional supply firms (except frozen in bulk), in mechanically refrigerated equipment, from the facilities of Dry Storage Corp. at Chicago and Des Plaines, IL, to points in OH and MI, restricted to traffic originating at the facilities of Dry Storage Corp., and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dry Storage Corp., 2005 W. 43d Street, Chicago, IL 60609. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 115162 (Sub-422TA), filed July 26, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, P.O. Drawer 500, Evergreen AL 36401. Authority sought to oerate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials*, from the facilities of The Celotex Corp. located at or near Texarkana, AR., to points in the States of AL, AR, FL, GA, KS, LA, MI, MO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 117686 (Sub-215TA), filed July 25, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet preparations*, and (2) *materials and supplies* used in the sale of toilet preparations, from the facilities of LaMaur, Inc., at Minneapolis, Minn., to points in AL, AR, FL, GA, KS, KY, LA, MO, MI, OK, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eugene Schwarz Traffic Manager, LaMaur, Inc., 5601 East River Road, Minneapolis, MN 55432. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 119654 (Sub-56TA), filed July 26, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 36952. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, not frozen, from the facilities of Campbell Soup Co., at Napoleon, OH to IL, IN, KY, MI, and that part of PA on and west of U.S. Highways 219 and 119, for 180 days. Supporting shipper: Campbell Soup Co., East Maumee Avenue, Napoleon, OH. 43545. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 124078 (Sub-843TA), filed July 26, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, (in bulk), from Vassar, MI., to IL, IN, and IA, for 180 days. Supporting shipper(s): Great Lakes Minerals Co., 2855 Coolidge Highway, Troy, MI 48084, and (2) Sargent Sand Co., 2840 Bay Road, Saginaw, MI 58605. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124211 (Sub-334TA), filed July 26, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 DTS, Omaha, NE 68101. Representative: Thomas L. Hilt, (same address as ap-

plicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compounds, tree or weed killing (herbicides)*, from Columbus, MS, to points in AZ, CA, ID, OR, and WA., for 180 days. Supporting shipper: Ronald J. Graham Transportation Coordinator, Occidental Chemical Co., P.O. Box 198, Lathrop, CA 95330. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 124896 (Sub-64TA), filed July 26, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Thorne & Ralston Street, Wilson, NC 27893. Representative: Jack H. Blanshan, 205 West Touhy Street, Suite 200, Park Ridge, IL 27893. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas for Chiquita Brands*, from Charleston, SC, to MN, MO, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Chiquita Brands, 95 Chestnut Ridge Road, Montvale, NJ 07645. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 125335 (Sub-29TA), filed July 25, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen of Peterson, Bowman, Larsen & Swanson, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Louisville Freezer Center, at or near Louisville, KY, to points in the United States in and east of NM, CO, WY, and MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisville Freezer Center, Clifton Juckett, Vice President, Sales & Distribution, 2000 South Ninth Street, Louisville, KY. Send protests to: Charles Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, PA 17108.

MC 128205 (Sub-55TA), filed July 25, 1978. Applicant: BULKMATIC TRANSPORT CO., 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone and limestone products*, from the plantsite of Marblehead Lime Co. in Centre County, PA, to the following States: IL, IN, KY, MI, OH, WV, DE, DC, NJ, NY, CT, RI, MA, VT, NH, ME, and MD, for 180 days. Supporting shipper: Marblehead Lime Co., 300 West Washington Street, Chicago, IL 60606. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 136208 (Sub-7TA), filed July 26, 1978. Applicant: CREAGER TRUCKING CO., INC., 4 Northeast Marine Drive, P.O. Box 17007, Portland, OR 97217. Representative: Roy Leatham, 4 Northeast Marine Drive, P.O. Box 17007, Portand, OR 97217. Authority sought to operate as a *common carrier*, by motor vehicle, over irrregular routes, transporting: *Asphalt, roofing products*, from Portland, OR on the one hand, and, on the other hand, Salt Lake City and Ogden, UT, southern ID, and western WY, for 180 days. Supporting shipper: Cantwell Bros. Lumber, Inc., Wholesale Division, 532 South Main, Smithfield, UT 84335. Send protests to: R. V. Dubay District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Court House, Portland, OR 97204.

MC 138882 (Sub-119TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINE, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irrregular routes, transporting: *Construction materials*, from the facilities of the Celotex Corp., located at or near Texarkana, AR, to points in AL, AZ, CO, CA, AR, FL, GA, LA, MS, NM, OK, NV, TN, UT, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-120TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINE, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irrregular routes, transporting: *Bricks*, from facilities of Delta-Macon Brick and Tile Co., Inc., located at or near Macon, MS, and Delta-Shuqulak Brick and Tile Co., Inc., located at or near Shuqulak, MS, to Mobile, Birmingham, and Montgomery, AL, Atlanta, GA, and Pensacola, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jenkins Brick Co., P.O. Box 91, Montgomery, AL 36101. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-121TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINE, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, particle board, plywood, wood turnings and laminated or solid squares*, from points in CA, WA, and OR to points in ID, TX, OK, AR, and AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tumac Wood Components, 3000 South 31st, Suite 508, Temple, TX 76501. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-122TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Galdstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum resin in bags, drums or packaged*, from the facilitites of Southern Resins located at or near Moundvile, AL to Chicago, IL and its commercial zone, Lancaster, PA, Gulfport, MS, Jackson, MS, Columbus, OH, Coshocton, OH, Windsor, VT, Dallas, TX, South Kearney, NJ, Monrovia, CA, Holland, MI, Clarksville, TN, Simpsonville, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Resins Division of Lawter Chemicals, Inc., P.O. Box 128, Moundville, AL 35474. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-123TA), filed July 26, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of Harrigan Lumber Co., lo-

cated at or near Monroeville, AL to points in FL, GA, IL, IN, IA, KY, LA, MI, MS, MO, OH, TN, TX, AR, NC, PA, WI, and AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Harrigan Lumber Co., Inc., P.O. Box 926, Monroeville, AL 36460. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139495 (Sub-370TA), filed July 25, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 E. 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and plastic products*, (except in bulk), from Shelbyville, IL to points in CO, KS, OK, NE, ID, and MO for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, 800 East Northwest Highway, Palatine, IL 60067. Send protests to: M. E. Taylor District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 140914 (Sub-2TA), filed July 26, 1978. Applicant: DOBSON TRUCKING, INC., P.O. Box 498, Dobson, NC 27017. Representative: Eric Meierhoefer, 1511 K Street, NW., Suite 423, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cut granite products*, (in dump trailers), from Mt. Airy, NC and points in its commercial zone, to points in NY, NJ, PA, CT, VA, WV, MD, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supportings shipper: NC Granite Corp., Box 151, Quarry Road, Mt. Airy, NC 27030. Send protests to: Terrell Price District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 141774 (Sub-16TA), filed July 26, 1978. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbonated beverages, N.O.I., non-alcoholic and* (2) *empty cans, aluminum or steel*, (1) From Birmingham, AL to AR, MS, and TN and (2) from Tampa, FL to Birmingham, AL for 180 days. Supporting shipper: Shasta Beverages, 26901 Industrial Blvd., Hayward, CA 94545. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

By the Commission.

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

[FR Doc. 78-27509 Filed 9-29-78; 8:45 am]

[7035-01]

[Notice No. 720]

Assignment of Hearings

SEPTEMBER 27, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135874 (Sub-106F), LTL Perishables, Inc., now being assigned December 5, 1978 (1 day), at St. Paul, MN, in a hearing room to be later designated.

MC 135874 (Sub-114F), LTL Perishables, Inc., now being assigned December 6, 1978 (1 day), at St. Paul, MN, in a hearing room to be later designated.

MC 114457 (Sub-397F), Dart Transit Co., now being assigned December 7, 1978 (2 days), at St. Paul, MN, in a hearing room to be later designated.

AB-1 (Sub-58), Chicago & North Western Transportation, Co. abandonment near Currie and Bingham, in Cottonwood and, Murray Counties, MN, now being assigned December 11, 1978 (5 days), at Slayton, MN, in a hearing room to be later designated.

MC 127042 (Sub-211F), Hagen, Inc., now being assigned November 13, 1978 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC 144285F, Bay Haven Marina, Inc., now being assigned November 15, 1978 (3 days), at Chicago, IL, in a hearing room to be later designated.

MC 140024 (Sub-111F), J. B. Montgomery, Inc., now being assigned November 27, 1978 (1 day), at New York, NY, in a hearing room to be later designated.

MC 136109 (Sub-1F), Hetem Bros., Inc., now being assigned November 28, 1978 (1 day), at New York, NY, in a hearing room to be later designated.

MC 144622 (Sub-2F), Glenn Bros. Meat Co. Inc., now being assigned November 29, 1978 (1 day), at New York, NY, in a hearing room to be later designated.

MC 118127 (Sub-25F), Hale Distributing Co., Inc., now being assigned November 30, 1978 (2 days), at New York, NY, in a hearing room to be later designated.

MC 114211 (Sub-344F), Warren Transport, Inc., now assigned November 13, 1978, at Columbus, Ohio, is cancelled and reassigned for November 13, 1978, at Chicago, IL, in a hearing room to be later designated.

MC 2202 (Sub-556F), Roadway Express, Inc., now assigned November 13, 1978 at Texanka, TX (5 days) in a hearing room to be later designated.

MC 144509F, Holston Motor Express, Inc., now assigned November 6, 1978 at Kingsport, TN (5 days) in the Tennessee Motor Lodge, 1017 West Stone Drive.

MC 143515 (Sub-2), P & W Charter Service, Inc., now assigned December 11, 1978 (3 days), at Olympia, WA in a hearing room to be later designated.

MC 136006 (Sub-7F), Walkill Air Freight now assigned October 16, 1978, at New York NY (5 days) is cancelled and transferred to Modified Procedure.

MC 2229 (Sub-196) (M1F), Red Ball Motor Freight, Inc., and MC 2229 (Sub-197F), Red Ball Motor Freight, Inc., now being assigned November 27, 1978 (2 weeks) at Albuquerque, NM, in Airport Marine Hotel, 2910 Yale Boulevard SE.

MC 140024 (Sub-106F), J. B. Montgomery, Inc., now being assigned December 11, 1978 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 105566 (Sub-167F), Sam Tanksley Trucking Inc., now being assigned December 12, 1978 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 140024 (Sub-110F), J. B., Montgomery, Inc., now being assigned December 13, 1978 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 144533F, Frank Pagliughi, an individual d.b.a. General, Transfer, Co., now being assigned December 14, 1978 (2 days), at Philadelphia, PA, in a hearing room to be later designated.

MC 127078 (Sub-833F), Schwerman Trucking, Co., now assigned October 10, 1978, at Denver, CO, is postponed indefinitely.

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

[FR Doc. 78-27770 Filed 9-29-78; 8:45 am]

[7035-01]

SEPTEMBER 27, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC on or before October 17, 1978.

FSA No. 43607, Southwestern Freight Bureau, Agent's No. B-776, annual volume rates on acetic acid and acetic anhydride, from Kings Mill., Tex., to Celco, Va., in Sup. 22 to its Tariff 11-I, ICC 5300, to become effective October 24, 1978. Grounds for relief—revision of minimum weight.

By the Commission.

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

[FR Doc. 78-27771 Filed 9-29-78; 8:45 am]

[7035-01]

[Notice No. 110]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 2, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC 77855. By application filed September 15, 1978, KEN ROSE TRANSPORT LTD., St. Lawrence Street East, Madoc, ON, CD KOK 2KO, seeks temporary authority to transfer the operating rights of Ross Clark Freightways Ltd., St. Lawrence Street East, Madoc, ON, Canada KOK 2KO, under section 210a(b). The transfer to Ken Rose Transport Ltd., of the operating rights of Ross Clark Freightways Ltd., is presently pending.

MC-FC 77856. By application filed September 13, 1978, MARYLAND CONTINENTAL EXPRESS, INC., 129 Overhill Drive, Hagerstown, MD 21740, seeks temporary authority to transfer a portion of the operating rights of Arthur H. Fulton, Inc., Post Office Box 86, Stephens City, VA 22655, under section 210a(b). The transfer to Maryland Continental Express, Inc., of a portion of the operating rights of Arthur H. Fulton, Inc., is presently pending.

MC-FC 77858. By application filed September 5, 1978, MONROE TRANSPORT, INC., Union, Monroe County, WV 24983, seeks temporary authority to transfer the operating rights of Jullian M. Shrader, an Individual, Pickaway Monroe Co., WV, under section 210a(b). The transfer to Monroe Transport, Inc., of the operating rights of Julian M. Shrader, an individual, is presently pending.

By the Commission.

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

[FR Doc. 78-27769 Filed 9-29-78; 8:45 am]

[7035-01]

[Finance Docket No. 28842]

WISCONSIN BARGE LINE, INC.

Purchase of Midwest Towing Co., Inc.

Wisconsin Barge Line, Inc., Cassville, Wis. 53806, represented by Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill. 60606, hereby gives notice that on the 28th day of August 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5 of the Interstate Commerce Act for a decision approving and authorizing Wisconsin Barge Line, Inc., to purchase the operating authority of Midwest Towing Co., Inc., pursuant to authority granted in Docket No. W-764, a common carrier by towing vessels in the performance of general towage, and by self-propelled vessels and non-self-propelled vessels with the use of separate towing vessels in the transportation of commodities generally, between points on the St. Cairo River and the Mississippi River from Minneapolis, Minn. to Cairo, Ill. both inclusive.

No application for temporary authority has been filed under section 311(b).

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data, the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969*, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28842 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than November 16, 1978. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation, and the Attorney General.

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

[FR Doc. 78-27772 Filed 9-29-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

[6320-01]

1.

[M-168; Sept. 25, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m., October 2, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 29044, Part 252 of the Board's Economic Regulations—(1) Final rule on seating segregation; (2) proposed rules on further amendments (Memo 7323-E, OGC).
3. Creation of the Bureau of Consumer Protection (OGC, BCP, OMD, BAS).
4. Dockets 31618 and 31828, In the Matters of C.L. Lofstrom and J.S. Fliedner, respectively, versus TransWorld Airlines, Inc., petition for review of Bureau of Consumer Protection dismissal of "smoking" complaints against TWA (OGC).
5. Dockets 31129 and 32910, Commuter Airlines exemptions to operate large aircraft (BPDA, OGC, BCP).
6. Docket 32911, Increased excess baggage charges proposed by Northwest and TWA. DHL petitions for reconsideration of Order 78-7-132 on the ground that the comparison of proposal with priority freight charges implies that those charges can be used to evaluate excess baggage charges (BPDA).
7. Docket 30356, Transcontinental Low-Fare Route Proceedng (Instructions to staff).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-1991-78 Filed 9-28-78; 3:44 pm]

[6320-01]

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[M-167, Amdt. 1; Sept. 26, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items to the September 29, 1978, agenda.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Addition: 8a. Docket 32752, Application of Pan American for temporary suspension authority at Fairbanks, Alaska, on Route 150 (Memo 8204, BPDA, OGC).

Addition: 8b. Dockets 30170, 32749, 32799, 32787, 32878, 32897, and 33114, Motion of Northwest to establish expedited procedures for deciding the Seattle-Fairbanks issues in the *West Coast-Alaska Investigation* applications of Alaska, Wien, Western, Northwest, Pacific Alaska, and Aeroamerica for Seattle-Fairbanks nonstop authority granted by show cause, temporary certificate, and/or exemption procedures (Memo 8203, OGC).

Deletion: 2. Docket 29044, Part 252 of the Board's Economic Regulations—(1) Final rule on seating segregation; (2) proposed rules on further amendments (Memo 7323-E, OGC, BCP).

Deletion: 5. Dockets 31129 and 32910, Communter Airlines' exemptions to operate large aircraft (BPDA, OGC, BCP).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff has asked that items 8a and 8b be added to the September 29 agenda. Pan American has asked to suspend its Fairbanks-Seattle/Portland service over Route 150 effective September 30, 1978. Six carriers have filed exemption applications to institute replacement service on October 1. Due to other pressing items the staff was not able to get the separate memoranda to the Board in time to meet the regular notice requirements. Member Bailey has requested that items 2 and 5 be deleted from the September 29 agenda. She will not be present at the meeting and requests that the items be rescheduled for the October 2 Board meeting in order that she may be present when the items are discussed. Accordingly, the following Members have voted that agency business requires the addition of items 8a and 8b and the deletion of items 2 and 5 from the September 29, 1978 agenda and that no ealier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer (did not vote)

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-1992-78 Filed 9-28-78; 3:44 pm]

[6320-01]

3

[M-167, Amdt. 2; Sept. 27, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the September 29, 1978, agenda.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 21. Revision of record retention requirements (Memo 8197, BAS).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On September 26, 1978, the staff received late comments from the Director-Designate of the Bureau of Consumer Protection concerning the draft proposed amendment of part 249, item 21 on the September 29 agenda. Since the comments are substantive, they must be evaluated. Accordingly, the following Members have voted that agency business requires the deletion of item 21 and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

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-1993-78 Filed 9-28-78; 3:44 p.m.]

[6570-06]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1985-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, October 3, 1978.

CHANGE IN THE MEETING: The date of the meeting is changed to 9:30 (eastern time), Monday, October 2, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 27, 1978.

[S-1989-78 Filed 9-28-78; 2:38 pm]

[7910-01]

5

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 43617, September 26, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Friday, September 29, 1978; 9 a.m.

CHANGE IN MEETING: Time postponed to: Friday, September 29, 1978; 10 a.m.

STATUS: Open to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 28, 1978.

GOODWIN CHASE,
Chairman.

[S-1990-78 Filed 9-28-78; 2:38 pm]

[8010-01]

6

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUCEMENT: 43 FR 42853, September 18, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, September 28, 1978.

CHANGES IN THE MEETING: The following item will not be considered at the closed meeting, immediately following the 10 a.m. open meeting, on Thursday, September 28, 1978, but has been rescheduled for Thursday, October 4, 1978, at the closed meeting, immediately following the 10 a.m. open meeting:

Injunctive action.

The following additional items will be considered at the closed meeting, immediately following the 10 a.m. open meeting, on Thursday, September 28, 1978:

Investigatory matter bearing enforcement implications.
Regulatory matter bearing enforcement implications.
Regulatory matter regarding financial institutions.
Other litigation matter.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

SEPTEMBER 27, 1978.

[S-1988 Filed 9-28-78; 11:52 am]

Federal Register

MONDAY, OCTOBER 2, 1978
PART II

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

AMERICAN ALLIGATOR IN LOUISIANA

Proposed Reclassification, Changes To Special Rules and Review of Status

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Review of the Status of the American Alligator in Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Review of the status of the American alligator in Louisiana.

SUMMARY: The Service will review the status of the American alligator, *Alligator mississippiensis*, in Louisiana, to determine if it should be reclassified to endangered, threatened, or threatened (similarity of appearance) within the State.

DATE: Information regarding the status of this species should be submitted on or before December 26, 1978.

ADDRESS: Comments on this notice of review should be submitted to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, Washington, D.C. 20240, phone 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The American alligator is a large conspicuous member of its environment and consequently is very important to the ecosystem that it inhabits. However, it has an extremely valuable skin which can be fashioned into luxury items. Because of large demands for products made from alligators, the species experienced severe population declines in the late 1950's and 1960's. As a result, the species was listed as endangered under provisions of the Endangered Species Conservation Act of 1966.

The alligator is a somewhat remarkable species in that, as a result of strict Federal and State conservation measures, protection from trade in its products, a long lifespan, numerous eggs per clutch, and parental care, the species has been able to make a dramatic recovery in many areas of the Southeast. Consequently, the alligator has been reclassified as threatened or threatened (similarity of appearance) throughout much of its range (see the FEDERAL REGISTER of September 26, 1975 (40 FR 44412-44429) and January 10, 1977 (42 FR 2071-2077) for complete details of past reclassifications).

The State of Louisiana has developed through the years a rather comprehensive management and research program for the alligator. Limited hunting is already allowed in Cameron, Calcasieu, and Vermilion Parishes where alligator populations are quite high (over 91 alligators/square mile of habitat). In spite of hunting, alligators increased in these parishes from 99,551 to 168,265 between 1973 and 1976, according to State figures. Throughout many parishes, the general picture of dramatic increases in numbers is much the same.

On July 30, 1976, Gov. Edwin Edwards of Louisiana petitioned the Service to delist the alligator in southern parishes within the State. Supporting information was later supplied by the Louisiana Wildlife and Fisheries Commission, and consists of the following:

(1) A letter (dated April 12, 1977) from J. Burton Angelle requesting delisting of alligators in the following parishes: Cameron, Calcasieu, Vermilion, Acadia, Allen, Beauregard, Jeff Davis, Iberville, Lafayette, Point Coupee, St. Landry, St. Martin, West Baton Rouge, East Baton Rouge, Ascension, St. John, St. James, Assumption, Lafourche, Terrebonne, St. Mary, Iberia, Livingston, St. Tammany, Tangipahoa, St. Bernard, Orleans, Jefferson, Plaquemines, and St. Charles. A total of 4.5 million acres of potential alligator habitat is included and a total of 308,000 alligators (1976 figures) would be involved. This estimate is based on a combination of expansion of the nesting density index and comments from field personnel. A parish by parish estimate was not included although estimates were provided on the basis of habitat type.

(2) A letter (dated December 7, 1977) and supporting documents received from J. Burton Angelle as follows:

(a) Letter—282,000 alligators were estimated from 3.4 million acres of coastal marshlands censused by individuals. A 2- or 1-percent sample (depending on area) was taken and expanded for the nesting density index. Twenty-eight percent of the area was surveyed by estimates from field personnel.

(b) News releases on the 1972, 1973, 1976, and 1977 alligator harvests.

(c) A parish-by-parish breakdown of population estimates in 1973 and 1976.

(d) A table showing nesting effort in comparison to precipitation levels, 1970-76.

(e) A table showing results of the 3-year experimental harvest program in southwestern Louisiana, 1972, 1973, 1975.

(f) "Population Distribution of Alligators With Special Reference to the Louisiana Coastal Marsh Zone" by T. Joanen and L. McNease. 1972.

(g) "Louisiana's Experimental Alligator Harvest Program" by T. Joanen and L. McNease. 1976.

(h) "An Analysis of Louisiana's 1972 Experimental Alligator Harvest Program" by A. W. Palmisano, T. Joanen, and L. McNease. 1973.

(i) "Simulation of a Commercially Harvested Alligator Population in Louisiana" by J. D. Nichols, L. Viehman, R. H. Chabreck, and B. Fenderson. 1976.

(3) A letter (dated June 14, 1978) by T. Joanen with another group of documents:

(a) Letter—Provided an updated parish-by-parish estimate of the alligator population and a more precise picture of how the alligator is censused within the State.

(b) "Artificial Incubation of Alligator Eggs and Post Hatching Culture in Controlled Environmental Chambers" by T. Joanen, L. McNease. 1977.

(c) "Effects of Simulated Flooding on Alligator Eggs" by T. Joanen, L. McNease, and G. Perry. 1977.

(d) "A Comparison of Native and Introduced Immature Alligators in Northeast Louisiana" by D. Taylor, T. Joanen, and L. McNease. 1976.

(e) "Culture of the American Alligator" by T. Joanen and L. McNease.

(f) "Time of Nesting for the American Alligator" by T. Joanen and L. McNease. 1978.

(g) "Status of Louisiana Alligator Farm Program" by T. Joanen and L. McNease. 1978.

(h) "Preliminary Results of Louisiana's Alligator Harvest Program, 1977" by T. Joanen, L. McNease, and G. Linscomb. 1977.

(i) "Alligator Diets in Relation to Marsh Salinity" by L. McNease and T. Joanen. 1977.

The Director of the Service has assessed these data, as well as the recommendations of a review panel appointed by him to review the data, and has directed that a proposal be prepared to change the status of the alligator in Louisiana to threatened (similarity of appearance) in nine parishes primarily along the coast. Accordingly, a proposal to that effect was prepared and is published in the same issue of the FEDERAL REGISTER as this notice. At the same time, the Service believes that a comprehensive review of the status of this species should be undertaken to determine if additional changes in the classification of the alligator in Louisiana is warranted.

The Service is seeking the views of the Governor of Louisiana, and soliciting from him information on the status of this species within Louisiana. Other interested parties are invited to submit any factual information, especially publications and written reports, which is germane to this status review.

This notice of review was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 21, 1978.

LYNN G. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-27393 Filed 9-29-78; 8:45 am]

[4310-55]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Reclassification of the American Alligator in Louisiana, and proposed Changes to Special Rules Concerning the Alligator

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: It is proposed to change the legal status of the American alligator, *alligator mississippiensis*, in nine parishes of southern Louisiana from their present threatened status to threatened under the similarity of appearance clause of the Endangered Species Act of 1973. This proposal is being made because in recent years the alligator has increased its numbers significantly in nine parishes. These nine parishes are located primarily within the coastal zone of Louisiana and include the following: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. As such, the special rules which presently apply to alligators in Cameron, Calcasieu, and Vermilion Parishes in southwestern Louisiana, would apply to these parishes as well. In addition, the service proposes to amend the special rules which apply to American alligators in order to simplify application procedures for those seeking buyer's, tanner's, and fabricator's licenses. This amendment would also authorize the sale of meat from lawfully taken alligators in States where such activity is permitted. Also included in this proposal is a limitation upon the applicability to American alligators of general permits pertaining to threatened wildlife issued under 50 CFR 17.32.

DATES: Comments from the public and the Governor of Louisiana must be received by December 26, 1978.

Public hearings will be held on this proposal. The dates and places for the hearings will be published in the FEDERAL REGISTER at a later date.

ADDRESSES: Submit comments to Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All material received will be available for inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Office of Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, 202-343-9237, or Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-7814.

SUPPLEMENTARY INFORMATION

BACKGROUND

Introduction.—The alligator is a large conspicuous member of its environment and has been feared, praised, and exploited probably since man first came to southeastern North America. Early naturalists and explorers presented startling and unbelievable stories concerning the species and its behavioral patterns. However, in spite of its major role in the ecosystems of the South, surprisingly little scientific work was conducted on it and then often with conflicting observations. Today, the importance of the alligator as a top predator, modifier of its environment, and behaviorally sophisticated species is universally recognized by the scientific and wildlife management communities.

One of the main commercial values of the alligator is for its hide, which can be fashinoned into leather articles. Hunting and poaching at one time seriously reduced the number of alligators and led to its inclusion as endangered throughout its range under provisions of the Endangered Species Conservation Act of 1966. Strict Federal protection coupled with strong State laws, enabled the alligator populations to recover dramatically in many parts of its former range. Because of this, the alligator has been reclassified twice to reflect its improved status (September 26, 1975 (40 FR 44412-44429), and January 10, 1977 (42 FR 2071-2077). The Endangered Species Act authorizes the protection of species, subspecies, or any other groups of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature. The Service has designated four different groups or populations of the American alligator, and has classified these groups as endangered, threatened, or threatened (similarity of appearance) depending on the locality involved.

At present, the alligator is classified in Louisiana under the Act as threatened (similarity of appearance) in Cameron, Calcasieu, and Vermilion Parishes, threatened in other coastal parishes, and endangered in inland parishes.

On July 30, 1976, Gov. Edwin Edwards of Louisiana petitioned the Fish and Wildlife Service to delist the American alligator in all southern parishes in Louisiana. On February 7, 1977, Curtis Bohlen, then Acting Assistant Secretary of the Department of the Interior, advised the State that supporting data were required before the Service could act on the State's petition. Accordingly, the State supplied supporting documentation on April 12, 1977, December 7, 1977, and June 14, 1978, which they believe supports the reclassification as requested. This information is as follows:

(1) A letter (dated April 12, 1977) from J. Burton Angelle requesting delisting of alligators in the following parishes: Cameron, Calcasieu, Vermilion, Acadia, Allen, Beauregard, Jefferson Davis, Iberville, Lafayette, Point Coupee, St. Landry, St. Martin, West Baton Rouge, East Baton Rouge, Ascension, St. John, St. James, Assumption, Lafourche, Terrebonne, St. Mary, Iberia, Livingston, St. Tammany, Tangipahoa, St. Bernard, Orleans, Jefferson, Plaquemine, and St. Charles. A total of 4.5 million acres of potential alligator habitat is included and a total of 308,000 alligators (1976 figures) would be involved. This estimate is based on a combination of expansion of the nesting density index and comments from field personnel.

A parish-by-parish estimate was not included although estimates were provided on the basis of habitat type.

(2) A letter (dated December 7, 1977) and supporting documents received from J. Burton Angelle as follows:

(a) Letter—282,000 alligators were estimated from 3.4 million acres of coastal marshlands censused by individuals. A 2- or 1-percent sample (depending on area) was taken and expanded for the nesting density index. Twenty-eight percent of the area was surveyed by estimates from field personnel.

(b) News releases on the 1972, 1973, 1976, and 1977 alligator harvests.

(c) A parish-by-parish breakdown of population estimates in 1973 and 1976.

(d) A table showing nesting effort in comparison to precipitation levels, 1970-76.

(e) A table showing results of the 3-year experimental harvest program in southwestern Louisiana, 1972, 1973, and 1975.

(f) "Population Distribution of Alligators With Special Reference to the Louisiana Coastal Marsh Zone" by T. Joanen and L. McNease. 1972.

(g) "Louisiana's Experimental Alligator Harvest Program" by T. Joanen and L. McNease. 1976.

(h) "An Analysis of Louisiana's 1972 Experimental Alligator Harvest Program" by A. W. Palmisano, T. Joanen, and L McNease. 1973.

(i) "Simulation of a Commercially Harvested Alligator Population in Louisiana" by J. D. Nichols, L. Viehman, R. H. Chabreck, and B. Fenderson. 1976.

(3) A letter (dated June 14, 1978) by T. Joanen with another group of documents:

(a) Letter—Provided an updated parish by parish estimate of the alligator population and a more precise picture of how the alligator is censused within the State.

(b) "Artificial Incubation of Alligator Eggs and Post Hatching Culture in Controlled Environmental Chambers" by T. Joanen and L. McNease. 1977.

(c) "Effects of Simulated Flooding on Alligator Eggs" by T. Joanen, L. McNease, and G. Perry. 1977.

(d) "A Comparison of Native and Introduced Immature Alligators in Northeast Louisiana" by D. Taylor, T. Joanen and L. McNease.

(e) "Culture of American Alligator" by T. Joanen and L. McNease.

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(g) "Status of Louisiana Alligator Farm Program by T. Joanen and L. McNease. 1978.

(h)"Preliminary Results of Louisiana's Alligator Harvest Program, 1977" by T. Joanen, L. McNease, and G. Linscomb. 1977.

(i) "Alligator Diets in Relation to Marsh Salinity" by L. McNease and T. Joanen. 1977.

The Service has reviewed all available data and the Director has determined that because of large population sizes and increasing numbers, the American alligator is no longer likely to become endangered in the foreseeable futhre so as to be threatened in the following parishes in southern Louisiana: Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany. The Service believes that the alligator can be managed within these areas and that no harm will be done to the species by controlled harvest. However, because of similarity of appearance, it is still necessary to impose some restrictions on commercial activities involving specimens taken in these nine parishes to insure the conservation of other alligator populations that are threatened or endangered.

Section 4(e) of the Act authorizes the treatment of a species (or sub-species or group of wildlife in common spatial arrangement) as an endangered or threatened species even though it is not otherwise listed as endangered or threatened, if it is found: (a) That the species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act. The Service currently treats the group of American alligators found in Cameron, Vermilion, and Calcaseau Parishes in Louisiana as threatened because of their similarity in appearance to other groups of American alligators that are listed as threatened or endangered. Certain restrictions are imposed on commercial activities involving specimens taken from these three parishes, as is discussed below, to insure the conservation of those groups of American alligators that are listed as threatened or endangered. The Service now proposes to treat the group of American alligators found in Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes in Louisiana as threatened because of similarity in appearance, and to impose similar restrictions on commercial activities involving specimens taken from those parishes.

American alligators found in Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, Jefferson, Plaquemines, St. Bernard, and St. Tammany Parishes in Louisiana are indistinguishable from American alligators existing elsewhere which are treated by the Service as endangered or threatened under relevant provisions of the Act. Hides from American alligators have proved to have a great commercial value owing to the substantial demand which exists for them in the international leather trade. In addition, representatives of the food industry in Louisiana and Florida have recently expressed an interest in test marketing alligator meat as a novelty item. Historically, it has been shown that the taking of American alligators for commercial purposes was a substantial factor contributing to the decline of the species. This resulted in the previous listing of the American alligator as endangered or threatened over the major portion of its range. Restrictions on taking and commercial activities that stem from such listing would remain for those segments of the American alligator population which continue to be classified as endangered or threatened. In order to insure maximum protection for these endangered and threatened alligators, some restrictions on commercial activities have been found necessary for the physically similar group which exists in the nine parishes affected by this proposal.

Although the State requested that additional parishes be delisted, these parishes either have small population sizes or the populations are stable, based on the State's population status information 1973-76. Therefore, the Service does not believe that a reclassification is warranted for these areas at this time. The Service will continue to monitor the alligator's status, however, and should reclassification be warranted in the future, the Service will act accordingly.

The Fish and Wildlife Service also proposes to amend 50 CFR Part 17 through the revision of certain paragraphs, and revocation of others, found in § 17.42. This section allows for the taking of American alligators under certain specified circumstances, including the taking by Federal or State conservation officers in the performance of their duties, and the taking by any persons in three parishes of Louisiana in accordance with the laws of that State. Also included in this section are provisions for the issuance of licenses authorizing the commercial buying, tanning, and fabrication of lawfully taken alligator hides. The Service has undertaken a review of its enforcement program relating to this provision and has concluded that the permit application process can be substantially simplified without impairing its objectives. As a result, it proposes that present regulatory provisions requiring the submission of detailed information regarding the permit applicant's business organization, methods of operation, previous experience, and accounting systems be eliminated. In addition, owing to the fact that the Service is capable of ascertaining previous wildlife law violations through the record system of its Enforcement Division, the proposed regulations eliminate the necessity for permit applicants to furnish such information on themselves. The burden placed upon those seeking tanner's licenses would be slightly increased under the proposed regulations through the addition of a requirement that all hides to be processed bear a series of markings on their underside applied by the tanner. This is intended to facilitate the Service's enforcement efforts by allowing lawfully taken hides to be identified as such throughout the tanning fabrication process. The Service's interest in this regard is protected prior to the tanning stage through the tagging requirement placed upon those responsible for harvesting and shipping the alligator hides. The burden placed upon fabricators of alligator hide articles has

been decreased under the proposed regulations through the elimination of certain recordkeeping requirements which the Service has found to be unnecessary and the further elimination of marking requirements which are rendered superflous by the proposed regulations.

Under § 17.42 as presently constituted, the sale of meat from lawfully taken alligators is strictly prohibited. This position was adopted owing to the fact that control factors were lacking on the level for the regulation of such sale through licensing and recordkeeping requirements. The State of Louisiana has since imposed such controls. In recognition of this circumstance, and in further consideration of the fact that the present regulations mandate the wastage of an economically valuable source of protein, the proposed regulations would allow the sale of alligator meat in the State where the taking occurs, and where this activity is permitted and regulated through the imposition of licensing and recordkeeping requirements on selling parties. Section 17.42 presently applies to all American alligator permits issued under section 17.32, authorizing the performance of activities otherwise prohibited with regard to threatened wildlife. Importation and exportation are two such prohibited activities. Despite the fact that its regulations would thereby allow permits to be issued for the importation and exportation of American alligators, the Service has few such permits to date, owing to its concern that legally exported alligator hides would be commingled with illegally taken hides that are known to exist outside the United States and because the alligator is listed on appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora which restricts international trade in species for primarily commercial purposes. However, the United States is presently considering a proposal to change the alligator's status under the Convention from appendix I to appendix II. This would remove the convention's absolute restriction on international trade. In other words, alligators from the 12 Louisiana parishes would be able to be exported and imported as far as the convention is concerned, subject to review and approval (for exports) of the U.S. Management Authority and Scientific Authority. The Service desires consistency between the convention and these rules, and favors a position which recognizes the greatly improved biological status of the alligator while retaining reasonable and necessary enforcement controls. Therefore, the rule would allow export consistent with the convention. Whether reimport of alligator hides or products could also be allowed, because of the lack of control over possible smuggled skins, is a question on which the Service desires recommendations from the public. The Service's present position is not to allow such reimport.

The above changes in the special rules pertaining to alligators would apply to the three parishes (Cameron, Calcasieu, Vermilion) where the alligator is classified as threatened (similarity of appearance), to the nine parishes proposed for reclassification to such status, and to any other American alligators which are so classified by the Service in the future. It should be recognized that by the express terms of this special rule, the "similarity of appearance" permits provided for in § 17.52 are not available for these alligators. They are only available for captive alligators.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Louisiana with respect to this proposal and request his comments and recommendations before making final determinations.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Final promulgation of the regulations on the American alligator in Louisiana will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from these proposals.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of these proposed rules are Mr. Coleman Sachs, Legal Specialist, Division of Law Enforcement, 202-343-9347, and Dr. C. Kenneth Dodd, Jr. Office of Endangered Species, 202-343-7814.

Regulations Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. Amend § 17.11(i) by changing the status of the American alligator in Louisiana under "Reptiles" on the list of animals to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Reptile:							
Alligator, Am.	*Alligator mississippiensis*	NA	U.S.A. (Southeast).	Wherever found in the wild, except in those areas where it is listed as Threatened as set forth below.	E	11	NA
Do	do	NA	do	In the wild in Florida and in certain areas in GA, LA (except in those 12 parishes described below), SC and TX, as set forth in Sec. 17.42 (a)(2)(iv).	T	20	17.42(a)
Do	do	NA	do	In the wild in Cameron, Calcasieu, Vermilion, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, Plaquemines parishes in LA.	T(S/A)	11	17.42(a)
Do	do	NA	Worldwide	In captivity wherever found.	T(S/A)	11	

(2) Also, part 17, subpart D, title 50 of the Code of Federal Regulations is proposed to be amended as set forth below.

§ 17.42 [Amended]

1. Paragraph (a)(1) of § 17.42 is revised to read as follows:

(a) * * *

(1) *Prohibitions.* Except as provided by permits issued under paragraph (a)(3) of this section, the following prohibitions apply to the American alligator.

* * * * *

2. Paragraph (a)(1)(i)(E) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(i) * * *

(E) Any person may take American alligators in Cameron, Vermillion, Calcasieu, Iberia, St. Mary, Terrebonne, St. Bernard, St. Tammany, Lafourche, St. Charles, Plaquemines, and Jefferson Parishes in accordance with the laws and regulations of the State of Louisiana provided the following requirements are met:

(*1*) The hides of such alligators are only sold or offered for sale to persons holding a valid Federal license to buy hides, issued under this subsection;

(*2*) The meat and other parts are sold only in the State of Louisiana, and only in accordance with the laws and regulations of that State.

* * * * *

3. Paragraph (a)(1)(i)(F) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(i) * * *

(F) When American alligators are taken by Service or State officials in accordance with pargraph (a)(1)(i)(D) of this section, the hides may be sold by their respective agencies to any person holding a valid Federal license to buy hides, issued under this subsection, provided the following requirements are met:

(*1*) The hides have been tagged by the State of origin with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(*2*) The tag number, length of belly skin, and date and place of the specimen's taking are recorded;

(*3*) A tag label is affixed to the outside of any package used to ship the hides, identifying its contents as alligator hides, indicating their quantity and tag numbers, and providing the name and address of the consignor and consignee;

(*4*) The meat and other parts are only sold in the State where the taking occurs, and only in accordance with the laws and regulations of that State.

* * * * *

4. Paragraph (a)(1)(iv) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, ship, sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any American alligator: *Provided,* That the hides of American alligators lawfully obtained from the State of Louisiana prior to December 28, 1973, may be sold or offered for sale in interstate (not foreign) commerce if the director of the State wildlife conservation agency certifies to the Director that all such hides were lawfully obtained and can be identified; and such hides are sold, offered for sale, delivered, carried, transported, or shipped only to a person holding a valid Federal license to buy hides, issued under this subsection.

* * * * *

5. Paragraph (a)(2)(i) of § 17.42 is revised to read as follows:

(a) * * *

(2) * * *

(i) "Buyer" shall mean a person engaged in the business of buying hides of American alligators for the purpose of resale. A buyer may also be a tanner or fabricator.

* * * * *

6. Paragraph (a)(2)(iv) is amended by adding the following words after the words "occurring in the wild in * * *":

(a) * * *

(2) * * *

(iv) * * * Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, Plaquemines * * *

7. Paragraph (a)(3)(i) of § 17.42 is revised to read as follows:

(a) * * *

(3) * * *

(i) Permits are available under § 17.32 (General permits—threatened wildlife) for all the prohibited activities referred to in paragraph (a)(1) of this section, except that import and export shall be allowed only as consistent with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (see 50 CFR, Part 23 for rules implementing this convention). All the terms and provisions of § 17.32 shall apply to all such permits issued under the authority of this paragraph and in addition, any permit which authorizes the sale, delivery, care, carriage, transportation, or shipment of American alligators will be subject to the special conditions set forth below in paragraph (a)(3)(iii) of this section.

* * * * *

8. Paragraph (a)(3)(iii)(A)(*2*) of § 17.42 is revised to read as follows:

(a) * * *
(3) * * *
(iii) * * *
(A) * * *

(*2*) The name and address of the applicant's business organization, the address of any other facilities from which it is operated, and the names and addresses of its principal officers.

* * * * *

9. Paragraph (a)(3)(iii)(A)(*3*) of § 17.42 is revoked.

10. Paragraph (a)(3)(iii)(A)(*4*) of § 17.42 is revoked.

(a) * * *
(3) * * *
(iii) * * *
(A) * * *
(*3*) and
(*4*) [Revoked]

11. Paragraph (a)(3)(iii)(B) of § 17.42 is revised to read as follows:

(a) * * *
(3) * * *
(iii) * * *

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) of this section, the Director will decide whether or not a permit for the requested activity should be issued.

* * * * *

12 Paragraph (a)(3)(iii)(C)(*4*) of § 17.42 is revised to read as follows:

(a) * * *
(3) * * *
(iii) * * *
(C) * * *

(*4*) A tanner must leave all tags on the hides, but must collect, record, and return to the issuer all shipping tags; in addition there must be applied in indelible ink to the underside of each hide a mark of the tanner's choosing that has been approved by the Service, placed at least every one-half inch throughout its surface area

* * * * *

13. Paragraph (a)(3)(iii)(C)(*7*) of § 17.42 is revoked.

14. Paragraph (a)(3)(iii)(C)(*8*) of § 17.42 is revoked.

(a) * * *
(3) * * *
(iii) * * *
(C) * * *
(*7*) and (*8*) [Revoked]

15. Paragraph (a)(3)(iii)(C)(*6*) of § 17.42 is revised to read as follows:

(a) * * *
(3) * * *
(iii) * * *
(C) * * *

(6) Every licensee must maintain complete and accurate records of all American alligator hides, including all State tags.

* * * * *

16. Paragraph (a)(4) of § 17.42 is revised to read as follows:

(a) * * *

(4) Products of American alligator which have been manufactured by licensed fabricators and marked in accordance with paragraph (a)(3)(iii)(C)(*4*) of this section may be transported, shipped delivered, carried, or received in interstate commerce in the course of a commerical activity, and may be sold or offered for sale in interstate commerce.

* * * * *

17. Paragraph (a)(5) of § 17.42 is revoked.

(a) * * *
(5) [Revoked]

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 21, 1978.

LYNN A GREENWALT.
Director, Fish and Wildlife Service.

[FR Doc. 78-27394 Filed 9-29-78; 8:45 am]

Federal Register

MONDAY, OCTOBER 2, 1978
PART III

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

■

MILK IN THE NEW ENGLAND MARKETING AREA

Decision on Proposed Amendments To Marketing Agreement and To Order

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1001]

[Docket No. AO-14-A57]

MILK IN THE NEW ENGLAND MARKETING AREA

Decision on Proposed Amendments To Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides for changes in the present order provisions based on industry proposals considered at a public hearing held February 14-16, 1978. The major changes would adjust milk prices throughout the production area to more closely relate the location value of milk to the costs incurred in transporting milk from farms and country plants to bottling plants in the major consuming centers of the market. The changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing, issued January 18, 1978, published January 23, 1978 (43 FR 3127).

Recommended decision, issued July 14, 1978, published July 20, 1978 (43 FR 31146).

Notice of extension of time for filing exceptions to the recommended decision, issued August 4, 1978, published August 10, 1978 (43 FR 35490).

PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the New England marketing area. The hearing was held, 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 (7 CFR Part 900), at Boxborough, Mass., on February 14-16, 1978, pursuant to notice thereof issued on January 18, 1978 (43 FR 3127).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on July 14, 1978, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings, and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

INDEX OF CHANGES

1. Issue No. 1—*"Location adjustments to handlers and producers".*

a. Paragraphs 24 and 25 are revised and combined.

b. Two new paragraphs are added after the 27th paragraph.

2. Issue No. 2—*"Establishing several price zones within the 'nearby plant' zone".*

a. Two paragraphs are added after paragraph 28.

b. The 32d paragraph is revised.

c. Two paragraphs are added after paragraph 33.

d. Two paragraphs are added after paragraph 36.

3. Issue No. 3—*"Class I price differential".*

a. Five paragraphs are added after paragraph 23.

b. Paragraph 24 is revised.

c. Three paragraphs are added after paragraph 24.

d. Paragraph 27 is revised.

e. Four paragraphs are added after paragraph 27.

The material issues on the record of the hearing relate to:

1. Location adjustments to handlers and producers.

2. Establishing several price zones within the "nearby plant" zone.

3. Class I price differential.

4. Conforming changes.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Location of adjustments to handlers and producers.* The current plant location adjustment rate of 1 cent for each 10-mile pricing zone more distant than the 201-210 mile zone should be increased to 1.5 cents per hundredweight. The 1.2-cent location adjustment presently applicable to each of the first 20 price zones (starting at Boston) should be increased to 1.8 cents per zone. The additional 16 cents per hundredweight that is added in adjusting prices at the 14th zone should be changed to 14 cents. These modifications would result in a class I and blended price adjustment at Boston of 50 cents per hundredweight compared to the present 40 cents. Under the order, prices are announced for the 21st zone.

A producer association proposed changing the location adjustment rates to 1.8 cents per zone for the first 20 zones and 1.5 cents per zone beyond zone 21. The association proposed leaving the fixed price adjustment of 16 cents at the 14th zone unchanged. This proposal would establish a class I and blended price adjustment at Boston of 52 cents. In addition to the proponent cooperative, this proposal was supported by a proprietary handler and two New York-based cooperatives with members shipping to New England handlers.

The proponent cooperative association indicated that these order modifications are necessary to reflect the current cost of hauling bulk milk from distant plants to the Boston or Providence areas. The cooperative's witness claimed that since the adoption of the present rate structure in 1967, transportation costs have increased significantly. Because of this, the witness contended, the order pricing does not now properly reflect transportation costs incurred in hauling milk from distant plants to distributing plants.

The witness also contended that if location adjustments reflect less than the entire hauling cost from the farm to the city, equity problems develop. He pointed out that a substantial portion of the city-priced milk is assembled at nonpricing point reload stations that compete with country manufacturing plants for supplies. The witness claimed that producers shipping to the city through a reload station have a lower pay price, after deductions for hauling, than their neighbors supplying a local pool plant. Under these circumstances, he noted, producers are reluctant to deliver milk to city distributing plants. It was claimed that when milk is obtained from distant producers for city bottling needs, one of two inequities occur. If the buying handler subsidizes the hauling, he is disadvantaged costwise relative to his competitors receiving direct-delivered milk FOB their plant. If the cooperative subsidizes the hauling, its members are disadvantaged on their returns relative to producers whose milk is priced at country manufacturing plants. To remove these marketing inequities, proponent contended, location adjustments must adequately reflect hauling costs.

The cooperative's witness presented data regarding 48 long-distance hauling rates that were applicable to movements of milk between reload stations or supply plants and city plants. The hauling rates were those being charged by six haulers for transporting milk from 5 reload stations and 2 supply plants to several different dealers throughout the entire marketing area. The rates were applicable to hauls varying in distance from 61 to 278 miles. The cooperative performed a regression analysis on 48 different hauls. The result indicated a variable

hauling cost of .199 cent per mile and a fixed cost of 9.38 cents per hundredweight. Although the proponent concluded that the regression analysis justified a location adjustment rate of 2.0 cents per 10-mile zone, he advocated the 1.8-cent per zone location adjustment to provide alignment with the rate used in the neighboring New York-New Jersey order. The cooperative's witness justified using a rate of 1.5 cents per 10-mile zone beyond zone 21 on the basis that marketing efficiency increases when the outlying parts of the milkshed supply the fluid market only in times of need. He endorsed the 1.5-cent per zone adjustment as a means of encouraging reserve milk supplies to stay in the country for manufacturing.

The witness also stated that his cooperative's cost of operating facilities to reload milk range from 6.5 to 14 cents per hundredweight, averaging approximately 8 cents per one hundred pounds.

A proprietary handler indicated that its hauling and reloading costs were generally of the same magnitude as those reported by this cooperative.

Four producer associations jointly proposed changing the location adjustment rates to those advocated by the other cooperative just mentioned, except that they proposed that the 16 cents per hundredweight now added at the 14th zone be decreased to 8 cents. By changing Order 1 in this manner, a plus location adjustment of 44 cents would be established for Boston.

A spokesman for these cooperative associations stated that the current transportation allowance under the order is insufficient to cover the cost of hauling milk 200 miles. However, they are opposed to a large increase in the transportation allowance because they believe this would result in a corresponding increase in trucking rates. The witness hypothesized that if the location adjustment for Boston were increased to 52 cents per hundredweight, numerous haulers, as well as handlers who haul their own milk supply, would receive undue windfall gains.

The witness contended that a degree of subsidization of hauling costs provides an incentive to market milk in an efficient manner. He believes that if the full hauling cost is reflected under the order there is less incentive for traffic managers to develop efficient marketing patterns.

Another proponent witness testified that it costs his cooperative association 44 cents per hundredweight to move milk from zone 21 to the Providence, R.I., area. This charge covers the fixed and variable hauling costs. The cooperative's cost of operating a reload station is an additional 5 cents per hundredweight.

One producer association proposed changing the location adjustment rates to 1.5 cents per 10-mile zone for the first 20 zones and 1.2 cents per 10-mile zone beyond zone 21. The cooperative was in favor of leaving the present additional 16-cent price adjustment at the 14th zone unchanged. This location adjustment rate schedule would establish a class I and blended price adjustment at Boston of plus 46 cents.

The proponent cooperative presented data regarding its major hauler's rate schedule for 1978. This independent hauler is transporting milk to plants in the marketing area for 55 cents per round trip mile, figured on loads of 50,000 pounds. At this rate a haul from zone 21 to Boston (round trip of 400 miles) would cost 44 cents per hundredweight. This cooperative also submitted data regarding the cost of getting milk hauled to the Boston and Providence areas from zones 17 and 20. Its hauling rates for shipments to Boston from zones 17 and 20 are 38 cents and 42 cents per hundredweight, respectively. The hauling costs per hundredweight from these same zones to Providence are 44 cents and 47 cents, respectively. These charges cover only the fixed and variable hauling costs. There is an additional expense of 5.5 cents per hundredweight for operating the reload stations through which these supplies are moved.

The witness noted that the aforementioned proposal by four cooperatives, which included reducing the 16 cents added to the location adjustment at zone 14 to 8 cents, increases only slightly the location adjustments for zones 16 through 21. Thus, he contended, such a proposal would not provide enough transportation allowance for shipping milk from plants in zones 16 through 21. He also contended that the other cooperative proposal, which would establish a 52-cent location adjustment at Boston, would provide transportation allowances in excess of the actual hauling rates he is charged to ship milk to the market.

The cooperative's witness supported a decrease in the location adjustment rate beyond zone 21 for two reasons. First, he pointed out that historically the location adjustment rate for the more distant zones has differed from the rate applicable in the first 20 zones. The witness also contended that within 210 miles of Boston there is adequate milk produced to normally satisfy the marketing area's class I needs. This being the case, he felt that the order should not provide for a location adjustment rate schedule that makes it attractive to move milk into the metropolitan centers from the most distant parts of the milkshed.

Under the existing New England order, the class I price and blended price difference between the 21st and "nearby plant" zones is 40 cents. Plants located outside the "nearby plant" zone but within 31 to 40 miles (4th zone) of Boston have a location adjustment of plus 36.4 cents. For each successive 10-mile zone through the 14th zone the adjustment decreases 1.2 cents. At the 15th zone the country plant and fixed transportation costs of 6 cents and 10 cents, respectively, are subtracted, making the total adjustment between the 14th and 15th zones 17.2 cents. The zone increments beyond the 15th zone are 1.2 cents through the 21st zone and 1 cent beyond.

It is clear that the present location adjustment provisions of the New England order are not compatible with current marketing conditions. Major increases in the cost of transporting milk during the last few years have occurred without corresponding changes in the transportation allowances under the order. Consequently, the present Order 1 location adjustments are significantly less than the actual transportaion costs.

This is having a disruptive effect on the procurement of milk by distributors and the marketing of milk by cooperatives and producers. A substantial portion of the Order 1 city-priced milk is assembled at non-pricing point reload stations. When milk is procured from farmers located in an area void of a local plant outlet, the handler is able to pay the dairy farmers his city plant price and deduct the entire hauling and reloading costs of moving these supplies to his facility. Thus, in such cases, the handler is able to procure the milk at the order minimum class prices applicable to his city plant location.

However, there are a number of country pool plants located throughout most of the New England milkshed. Milk received from producers at a country plant is priced at that plant in accordance with the plant location adjustment schedule in the order. When the location adjustment schedule does not reflect the full cost of moving milk through country plants to the city, as is presently the case, the class I and blended prices at country plants are too high relative to the location value of milk delivered to city plants.

This circumstance has resulted in hauling subsidies in supplying city distributing plants. A city plant operator procuring direct-shipped milk produced near a country pool plant has an order blended price at his plant, after deductions for hauling, less than the blended price for such milk delivered to the country plant, less the farm-to-plant hauling costs. Since the

producers involved prefer to deliver their milk to the country plant to obtain the higher pay price after deductions for hauling, it forces the city plant operator to subsidize part of the hauling cost to be competitive in procurement with country plants.

A similar hauling subsidy situation exists in the case of procuring milk shipped through country pool plants. Such milk is priced at the country plant location and the cost of hauling the milk from the country plant exceeds the difference between the order class I price at the country plant and the order class I price at the city plant. If the city handler operates his own country supply plant, he is faced with a hauling subsidy. In the case of a supply plant operator who sells milk to other handlers operating city plants, either the supply plant operator or the city plant operator must subsidize the hauling cost, or share the costs in some way.

Several problems have resulted from not reflecting enough transportation cost in the class I and blended price plant location adjustment. Producers shipping to the city through a nonpricing point reload station would have a lower pay price, after deductions for hauling, than their neighbors supplying a local pool plant, if the producer pays the entire hauling cost. Under these circumstances, producers in these areas are reluctant to supply the city distributing plants. If a city handler subsidizes hauling costs, then his supplies cost more than those of his nonsubsidizing competitor. If the producer or his cooperative association pays the entire hauling costs, then there are inequities between him and his neighbors supplying a local pool plant. Moreover, cooperatives that subsidize the cost of hauling milk to city plants must pass such cost back to member producers. This in turn encourages member producers to leave the cooperatives and market their milk directly to proprietary handlers who are required to pay the full amount of the blended price. Corrective action is essential if the order is to fulfill its purpose of providing stable and orderly marketing conditions for producers and for the handlers through whom they market their milk.

The class I and blended price location adjustments under the New England order should be revised to reflect the decreased value of milk delivered to plants in the production area relative to its value when delivered to city bottling plants as a result of increased transportation costs. Specifically, location adjustments for each zone more distant than the 201/210 mile zone should be increased from 1 cent per 10 miles to 1.5. cents per 10 miles; the 1.2-cent rate presently applicable to the first 20 zones should be increased to 1.8 cents per 10-mile zone; and the 16 cents per hundredweight added at the 14th zone should be decreased to 14 cents. These revisions would result in a class I and blended price adjustment at zone 1 of plus 50 cents.

Data presented at the hearing indicate that hauling costs have increased significantly since the Order 1 location adjustment schedule was adopted in 1967. Presently, a proprietary handler and an independent New England hauler used by several Vermont cooperatives are moving bulk milk 200 miles for 44 cents per hundredweight. The data indicate that the variable costs associated with efficient long-distance shipments are 1.8 cents per hundredweight per 10 miles, or 36 cents for 200 miles. Thus, the rates reflect fixed costs of 8 cents per hundredweight (44 cents minus 36 cents). Some of the other hauling data, particularly data presented for 7 of the 37 supply plants and bulk reload stations in the milkshed, suggest slightly higher fixed and variable costs. In exceptions filed a cooperative and a proprietary handler argued that such higher costs should be made the basis for establishing location adjustments. However, when the location adjustments reflect fixed hauling costs and reloading costs, as well as variable hauling costs, as the Order 1 location adjustment schedule is designed to do, it is preferable to remain on the conservative side of the cost range in order to discourage unneeded hauling of milk to city plants. Since some cooperatives and proprietary handlers are moving milk to market at a trucking cost of 44 cents per hundredweight for a distance of 200 miles, any higher location adjustment rate under the order for such distance could encourage moving country plant milk unnecessarily to city plants at the expense of the pool rather than having city plant operators rely on milk moved directly from farms and through the more efficient assembly operations.

Proprietary handler and producer association representatives submitted a wide range of data on the costs of receiving milk through country plants. Two spokesmen for cooperatives that operate a number of country plants testified that their costs were about 5 cents per hundredweight. Another cooperative's witness stated that his association's records indicate that country plant operating costs are ranging from 6.5 to 14 cents per hundredweight. One handler witness said that his costs averaged about 8 cents per one hundred pounds of milk. After considering all the data presented at the hearing, it is concluded that the 6 cents now specified under the Order 1 location adjustment schedule for operating country plants should not be changed. Thus, the present price adjustment of 16 cents at the 14th zone should be decreased to 14 cents (8 cents fixed hauling cost plus 6 cents reload cost).

Changing the present 16-cent price adjustment at the 14th zone to 14 cents would bring the location adjustments for distant zones generally in line with the actual hauling cost some handlers are incurring in moving milk to the primary market. If the price adjustment at the 14th zone were reduced 8 cents, as one proposal would do, the location adjustments would not sufficiently cover the cost of moving milk from the production area to the primary consumption centers.

Several cooperative associations and proprietary handlers excepted to the recommended location adjustment rate of 50 cents per hundredweight for zone 1. They contended that the rate proposed by one cooperative, 52 cents per hundredweight, more nearly covers the cost of moving milk through country plants into the city. Some of the exceptors stated that their actual reloading costs are above 6 cents per one hundred pounds of milk. They also contend that hauling costs have increased since the time of the hearing.

The record does indicate that it costs more than 6 cents per hundredweight to reload milk at small-volume operations. However, it also demonstrates that a substantial amount of milk is being reloaded at a cost of 6 cents or less per hundredweight. Although various handlers contended in their exceptions that hauling costs have increased since the hearing, the decision must be based on evidence contained in the hearing record. In its exceptions, one producer association suggested that lowering the location adjustment between the 14th and 15th zones to 14 cents per hundredweight was not enough and asked that the adjustment be lowered to 8 cents per hundredweight. However, the association did not present any new arguments in support of this request. No departure from the 50-cent location adjustment for zone 1 should be made on the basis of the information provided in these exceptions.

At the hearing and in their briefs, numerous proprietary handlers and cooperative associations supported a lower location adjustment rate beyond the 21st zone. In fact, there was no testimony opposing this type of location adjustment schedule.

Analysis of production and class I sales statistics in the New England milkshed support one witness' contention that within 210 miles of Boston there is adequate milk produced to satisfy the market's normal class I demand. The industry wants to maintain as high a degree of marketing ef-

ficiency as possible. This is achieved when the fluid milk requirements are obtained from the closest available sources and reserve supplies are processed into the more concentrated manufactured dairy products in the outlying areas of the milkshed, thus minimizing total transportation costs. Therefore, an economic incentive for handlers to keep reserve milk supplies in the country for manufacturing should be incorporated into the location adjustment schedule. By decreasing the location adjustment rate of 1.8 cents applicable in the inner zones to 1.5 cents for each 10-mile zone beyond zone 21, the desired procurement patterns would be promoted.

2. *Establishing several price zones within the "nearby plant" zone.* In conjunction with the changes in class I and blended price location adjustments to reflect increased hauling costs, the current "nearby plant" zone should be divided into several pricing zones to encourage efficient milk movements and to promote more orderly marketing. Generally, the zone structure should provide for decreasing class I and blended prices in an east to west as well as a south to north direction in recognition of a westward shift of the New England procurement area into New York State.

Class I prices [1] currently are not adjusted for location within the "nearby plant" zone, which encompasses a substantial proportion of the New England marketing area. All plants located in the States of Connecticut, Massachusetts (except Berkshire County), or Rhode Island are included in this zone and thus are subject to identical minimum order prices. The vast majority of pool distributing plants operated by handlers who are regulated under the order are located in the "nearby plant" zone, which accounts for over 90 percent of the marketing area population.

The current "nearby plant" zone should be divided into three geographically-defined pricing zones plus a fourth area in which the zone location of any plant would be determined on the basis of highway mileage from the nearer of Boston, Mass. or Providence, R.I. The order minimum class I prices that should apply in these areas are described under issue 3 that deals with the level of class I price under the order.

All plants located in the State of Rhode Island, the Massachusetts counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth, or Suffolk, or the area between Boston and Massachusetts highway number 128 should be in zone 1. This zone includes the major cities of Boston and Providence and is generally described as southeastern New England. The class I price at plants in this zone would be 50 cents per hundredweight above the class I price at the 21st (base) zone.

Plants located in the Connecticut counties of Fairfield, Hartford, Litchfield, Middlesex (only the townships of Cromwell, Durham, Haddam, Middlefield, or Portland), New Haven, or Tolland (only the townships of Ellington or Somers) should be in zone 7. This western area of Connecticut, which includes the cities of Danbury, Hartford, and New Haven, is adjacent to the eastern boundary of the New York-New Jersey marketing area. The class I price in this zone would be 10.8 cents less than that for zone 1 (6 zones at 1.8 cents per zone) and 39.2 cents more than the zone 21 class I price.

All plants located in the Massachusetts counties of Hampden (except the townships of Brimfield, Holland, Monson, Palmer and Wales) or Hampshire (except the township of Ware) should be in zone 8. At plants located in this area, which includes the city of Springfield, the class I price would be 12.6 cents less than the zone 1 price and 37.4 cents more than the zone 21 class I price.

The zone location of each plant located in the States of Connecticut or Massachusetts (except Berkshire County) that is also located outside the specific zones previously listed should be determined on the basis of highway mileage from the nearer of Boston or Providence. In general, this area encompasses the territory between zone 1 (southeastern New England) and zones 7 and 8 (western Connecticut and Massachusetts) and areas north of zones 1 and 8.

Cooperative associations that represent producers supplying the New England market proposed a restructuring of the "nearby plant" zone in a manner similar to that which is provided herein. Two hearing notice proposals submitted by cooperative associations were identical with respect to the areas to be included in each zone as well as the differences in prices among areas curently within the "nearby plant" zone. At the hearing, the proposals were modified slightly in identical fashion.

The zoning structures provided herein differs from the cooperatives' revised proposals in two respects. First, the adopted zone 1 is smaller in area than the proposed "Eastern City Plant Location Zone." The cooperatives' proposed eastern zone would encompass the area in the adopted zone 1 as well as additional territory in Massachusetts, namely, all of Essex County, Middlesex County (except the Townships of Ashby, Groton, Pepperell, Shirely and townsend) and an eastern tier of 12 townships in Worcester county. Second, the areas included in the adopted zones 7 and 8 were proposed by cooperatives to be included in one "Western City Plant Location Zone," which would not have provided for a price decrease from south to north in the western portion of the current "nearby plant" zone.

The cooperatives' specific zoning proposal, or the concept of zoning, for the present "nearby plant" zone was supported at the hearing or in briefs by several cooperative associations that represent producers supplying the New England and New York-New Jersey marketing areas and a proprietary handler regulated under the New England order. A trade association of 21 handlers regulated under the order also supported the proposed zoning approach provided the issue of intermarket price alignment (discussed under the following issue) was adequately resolved.

Some of the reasons advanced by proponents for zoning were interrelated with their desire to realign class I prices between the New England (Order 1) and New York-New Jersey (Order 2) Federal order markets. They testified that pricing changes effective November 1, 1977, in the Order 2 market necessitated a price reduction in New England, particularly in the areas of the New England market adjacent to New York. Some witnesses stated that a price reduction of a magnitude necessary to align prices in the western portion of the New England market was not necessary in eastern segments of the market (Boston/Providence) that are well protected from the Order 2 market by distance. Also, some testified that by establishing different pricing zones in the "nearby plant" zone the blend price to New England order producers would decline by a lesser amount than if the same price reduction were applied throughout the area.

Proponents also testified that the action is necessary to encourage marketing efficiency by establishing the incentive to move milk from west to east to the major consuming centers of the market (Boston/Providence). They stated that as the market shifts to greater dependence on supplies of milk from New York, it will become increasingly important to maintain a high enough price in the eastern consumption areas to attract this milk from beyond the consumption centers in the western portions of Connecticut and Massachusetts. Consequently, they claimed, an eastern zone price above the western zone price by the

[1] Class I and blended price location adjustments are identical under the order. For purposes of this discussion, location adjusments will be discussed only in the context of the class I price. However, the location adjustments applied to the class I price must be applied similarly to the blended price. This is necessary to provide the proper incentive for producer milk to move to the major consumption centers for fluid use.

cost of transportation between the two zones is necessary to place a producer in New York in a position of indifference as to which zone he ships milk.

Proponents testified that the boundaries of their proposed eastern and western zones were determined on the basis of the location of existing distributing plants and the areas of substantial overlapping route disposition. They indicated that the proposed price difference between the two zones was based on the variable hauling cost of 1.8 cents per hundredweight per 10 miles. Since Hartford, Conn. and Springfield, Mass. are about 70 miles from Providence, R.I., prices in the western zone were proposed to be 12.6 cents less than those for the eastern zone (7 zones times 1.8 cents). It was noted that the area between the eastern and western zones would serve as a "buffer" zone in which the zone location of any plant should be determined on the basis of distance from the nearer of Boston or Providence. Proponents indicated that such a "buffer" zone would eliminate any sharp difference in class I prices to handlers that could result if only two zones were established. Proponents stated that although handlers probably could not transport packaged milk for 1.8 cents per 10 miles, the overall zoning approach comes closer than the current structure in achieving competitive price alignment for handlers in procuring milk supplies.

At the hearing, a proprietary handler regulated under the order suggested that the proposed eastern zone be extended westward to include the area of Worcester, Mass. The handler, who operates a fluid milk plant in the eastern zone, stated that Worcester area handlers with whom he competes for class I sales in both the Worcester and Boston areas should have the same class I price as handlers in the eastern zone.

In their briefs, the proprietary handler and a trade association of 49 New England milk dealers opposed any rezoning of the current "nearby plant" zone. Handlers stated that rezoning the "nearby plant" zone must be rejected on statutory grounds since nonuniform prices to handlers would result. They further indicated that the record of the proceeding did not support any price differentiation among handlers in the "nearby plant" zone in that there is no indication of a benefit to be derived by handlers. Rather, the benefit of rezoning would accrue to dairy farmers in the form of a lesser blended price reduction than if prices in the "nearby plant" zone were reduced the same amount throughout the zone in sufficient magnitude to align prices with Order 2.

The issue of determining whether the pricing structure within the "nearby plant" zone should be revised is not dependent upon the possible resulting impact on the overall level of returns to producers. Such consideration, as well as the issue of intermarket alignment of prices, is appropriately considered under the following issue that deals with the level of the class I price that is necessary to assist in assuring an adequate supply of milk for the New England market.

There is substantial evidence in the record of the proceeding to firmly establish a need to revise the pricing structure within the "nearby plant" zone. The "nearby plant" zone contains almost 93 percent of the marketing area population [2] and at the time of the hearing all but 8 of 89 pool distributing plants were located in this three-State area. On the other hand, production within this area, which accounted for less than 24 percent of the approximately 414 million pounds of milk pooled under the order in December 1977, is far short of that needed to meet the fluid milk needs of handlers. Consequently, distributing plants must depend on sources of milk in other areas to obtain milk for bottling needs. New York and Vermont represent by far the largest sources of supply for the marketing area and in December 1977 accounted for 27.9 and 37.8 percent, respectively, of the milk pooled under the order. Maine and New Hampshire, the remaining States that comprise the order 1 milkshed, accounted for 4.7 and 6.1 percent, respectively, of the market supply during the same period.

Adjustment of milk prices for plant location facilitates the orderly and efficient movement of milk supplies from the major production areas to the consuming centers of the market and, conversely, it discourages uneconomic movements away from consumption centers toward supply areas. Since the New England market must depend on substantial supplies of milk located to the west and north of the principal and secondary consumption centers in the "nearby plant" zone, it is logical that location adjustments should increase milk prices from west to east as well as from north to south.

The "nearby plant" zone, in which prices are currently not adjusted for plant location, does not promote orderly marketing conditions. It is simply too large an area in which to maintain a "flat" pricing system. There is no price incentive to move milk either eastward or southward from the current western and northern boundaries of the zone. Furthermore, there is no price incentive to discourage backward movements of milk toward northern and western production areas within the "nearby plant" zone. For example, milk in the relatively heavier production areas of the "nearby plant" zone (New London, Tolland, and Windham Counties, Conn., and Worcester County, Mass.) may move north or west to distributing plants. Should this occur, it would require additional shipments of milk from distant areas to meet the fluid milk needs of the major consumption areas in southeastern New England. Such occurrences, which would increase transportation and energy costs to the detriment of the total interests of the market, are not representative of an orderly and efficient marketing system.

The Boston/Providence area is the largest consumption center in the "nearby plant" zone. The population of the area included in the cooperatives' proposed eastern plant zone represents over 50 percent of the total marketing area population. Milk production in this area is minimal and consequently it is the principal deficit area in the "nearby plant" zone. Therefore, prices in this area must be higher relative to consumption centers located to the north and west that are nearer to the primary production areas.

The need to decrease prices in a westward direction across the "nearby plant" zone is based on the importance of east central New York as a major source of supply for the New England market, as well as the fact that secondary but significant consumption centers in the western parts of Connecticut and Massachusetts are nearer to this supply source than the Boston/Providence area. New York has been a source of supply for New England for a substantial period of time, with the volume of New York milk pooled in the New England markets continually increasing. The volume of New York milk pooled on the New England markets increased from about 100 million pounds in December 1969 to 115 million pounds in December 1977, a 15-percent increase.[3] A further comparison on a county basis between December 1969 and December 1976 reveals that the volume of New England pooled milk originating in the four eastern New York counties of Columbia, Dutchess, Rensselaer, and Washington declined by about 1 percent,

[2] Official notice is taken of Federal Milk Order Market Statistics, Annual Summary for 1976, issued June 1977, and Current Population Reports, Population Estimates, Series P-26, No. 76-45 (issued Aug. 1977), Series P-26, No. 76-29 (issued Aug. 1977), Series P-26, No. 76-39 (issued July 1977), Series P-26, No. 76-7 (issued Aug. 1977) and Series P-25, No. 715 (issued Dec. 1977), published by the Bureau of the Census, U.S. Department of Commerce.

[3] Official notice is taken of Sources of Milk for Federal Order Markets by State and County, U.S. Department of Agriculture, Consumer and Marketing Service, Dairy Division, issued Feb. 1971.

from 67 to 66 million pounds. However, milk originating in the more western counties of New York (Orange, Ulster, Greene, Albany, Saratoga, Delaware, Schoharie, Montgomery, Fulton, and Otsego) doubled in volume, from about 14 to 28 million pounds. These data clearly indicate that there has been an increasing reliance on New York milk and that the New England milkshed has expanded westward into east central New York in recent years.

If handlers in western Connecticut and western Massachusetts did not rely on nearby New York milk, it normally would not be necessary to apply location adjustments from east to west. Alternative supply sources in Vermont are relatively equidistant from Boston and Hartford and would provide a basis to continue a flat price structure across southern New England. However, Hartford and other areas in the western portions of the marketing area, such as Springfield, Mass., are located much closer to supply sources in New York than to the heavy production areas in northern Vermont. Therefore, prices in the Hartford/Springfield area need not be as high as those in the Boston/Providence area to attract milk supplies from New York.

A lower price in Hartford/Springfield than Boston/Providence will also establish the incentive to move milk from west to east across the current "nearby plant" zone. This is desirable in that a substantial part of the New York production area, which in addition to being nearer to the western portions of Connecticut and Massachusetts, is also essentially equidistant from Boston and Providence. For example, Oneonta, N.Y. (Otsego County), which generally represents the western edge of the current New England milkshed in New York, is 242 and 236 miles, respectively, from Boston and Providence.[4] In addition, a lower price in Hartford/Springfield would discourage westward movements of milk from relatively heavy production areas in Connecticut and Massachusetts toward the New York supply area.

Cooperative associations proposed a lower class I price for the western portions of Connecticut and Massachusetts than for the major consumption area of Boston/Providence. The concept of the cooperatives' proposal is valid, for reasons previously stated, and should be adopted, but in a somewhat modified form.

The Connecticut portion of the cooperatives' proposed western zone should be in zone 7 since the city of Hartford is approximately 70 miles nearer to major production areas in New York than the major consumption center of Providence. Consequently, the class I price in the Hartford area should be 10.8 cents lower than in the Providence area, which for reasons hereinafter stated should be in zone 1.

The city of Hartford is used to determine the price level in zone 7, relative to Providence, since it and the surrounding areas represent the largest consumption center in western Connecticut. All plants in this zone will have identical minimum order prices, as is currently the case. Any finer delineation of location adjustments within this zone, on either an east to west or south to north basis, is not supported on the basis of this record.

The Massachusetts portion of the cooperatives' proposed western zone should be included in a lower priced zone than western Connecticut. Springfield, which is the major consumption center in western Massachusetts, is a junction for the east-west and north-south Interstate Highway System. Springfield is also 25 miles north of Hartford and as such is nearer to production areas in Vermont and most of the heavy production areas in east central New York. Thus, a substantial proportion of the milk originating in either New York or Vermont can be expected to pass through Springfield en route to Hartford and other areas in zone 7. It is essential, therefore, to establish a lower price level in Springfield than Hartford to recognize its proximity to production areas as well as to provide an additional incentive for milk to move beyond Springfield to plants in western Connecticut.

The difference in prices at Springfield and Hartford should be based on the extent to which Springfield is nearer to the major production areas than Hartford, as measured from the nearest major consumption area of Providence. Since Springfield is approximately one zone (8 miles) more distant from Providence than Hartford, prices at Springfield area plants should be 1.8 cents less than at Hartford. Consequently, the Massachusetts portion of the cooperatives' proposed western zone should be in zone 8.

A proprietary handler that operates a plant in the zone 7 area excepted to placing the Springfield and Hartford areas in different price zones on the grounds that such zoning was neither proposed nor supported by record evidence.

Contrary to this handler's views, the record evidence does establish the need to divide the proposed western zone into two different price zones. The fact that Hartford area handlers are located further from the major procurement areas than Springfield area handlers, as well as the structure of the Interstate Highway System, justifies a difference in prices between the two areas. Although this specific zone differentiation was not specified in the hearing notice, two witnesses at the hearing specifically stated that there might well be a need to establish higher prices in the southern portions of the proposed western zone to either improve the intermarket price alinement or to insure that plants in such areas would be able to obtain adequate supplies of milk. Another witness also expressed concern over the ability of Connecticut handlers to obtain milk supplies at certain price levels that were proposed for the western zone. These concerns highlighted the need to fully explore record evidence concerning the geography of the milkshed and the routes by which milk would move from the production area to the secondary markets in the proposed western zone. As previously stated, these factors provide the basis for a finer delineation of pricing within the western zone area than was originally proposed by cooperatives.

The cooperatives' proposed eastern zone should be reduced in size for several reasons. First, any zone within which prices are not adjusted for location should be as small in area as possible to eliminate the likelihood of relatively large price differences between plants that are close to each other at the edge of two bordering price zones. The larger the zone the greater the price difference there will be between a plant that is located just inside the zone and a plant located just outside the zone. Such a situation exists under the current pricing structure and would be intensified by adopting the cooperatives' proposed eastern zone that would include territory north of Boston extending to the Massachusetts border, including all of Essex County and most of Middlesex County. Currently, order prices at pool plants located in zone 4 in southeastern New Hampshire are 3.6 cents per hundredweight lower than prices at pool plants located a few miles south of the Massachusetts border that are included in the "nearby plant" zone. The adopted location adjustment rate of 1.8 cents would result in a 5.4-cent difference in price between these plants that are within a few miles of each other. This price disparity problem can be rectified by excluding a portion of northeastern Massachusetts from the eastern (zone 1) zone.

Another reason for excluding areas north and northwest of Boston from zone 1 is the obvious fact that plants in such areas are located closer to production areas in Maine, New Hampshire, and Vermont than plants in the

[4] Mileages are obtained from Mileage Guide No. 11, Supplement No. 1, issued by Household Goods Carriers' Bureau, Agent, Arlington, Va., on Feb. 21, 1978, effective May 15, 1978, of which official notice is taken.

Boston area. Several cooperative association witnesses presented testimony with respect to hauling costs incurred in moving milk southward from these northern areas. They indicated that it costs less to move milk to northeastern Massachusetts than to Boston. Consequently, it would not be appropriate to extend a zone 1 price, which reflects total hauling costs to Boston, to plants located some 40 miles north of Boston.

The border of zone 1 in northeastern Massachusetts should be Massachusetts Highway No. 128. It represents a clearly recognizable and distinguishable zone boundary around Boston at a distance of approximately 10 miles from the city. Plants located to the north and the northwest of such highway will be in either zones 2, 3, or 4 depending on their distance from Boston. Consequently, price differences among plants that are located within a few miles of each other would not be expected to exceed 1.8 cents per hundredweight. Plants located in these zones would have location adjustments that relate to the cost of transporting bulk milk from production areas to the north and west.

An eastern tier of 12 townships in Worcester County that was proposed to be included in the eastern zone should not be included in zone 1. There are no pool plants located in this area and no testimony was presented to indicate a special need for its inclusion.

Testimony by cooperative witnesses concerning the cost of moving milk from north to south might indicate the need for a relatively higher price in Providence than Boston. Providence is 46 miles southwest of Boston and as such is more distant from the northern production areas. However, Providence is relatively closer to production areas in New York than heavy production areas in northern Vermont. Also, most of the heavy production areas in east central New York are either nearer to Providence of are virtually equidistant to Providence and Boston. Therefore, a higher price in Providence relative to Boston in view of north to south movements is not necessary in view of west to east movements of milk that can be made to satisfy the fluid milk requirements to Providence area handlers.

Two cooperative associations, a U.S. Congressman, and two proprietary handlers filed exceptions to the zone 1 definition. One of the cooperative associations and one handler requested that additional territory north of Boston be included in zone 1 as was proposed at the hearing, while the other exceptors requested that certain territory in Norfolk County be excluded from zone 1.

The exceptions requesting the addition of territory north of Boston were filed by a cooperative association that operates a pool manufacturing plant in zone 3 and a proprietary handler that operates a distributing plant in zone 1. They indicated that the exclusion of such area from zone 1 would create competitive problems for dealers since there is a substantial overlap of sales between dealers in such area with Boston area dealers. The cooperative association further stated that the reduction in transportation allowance at its manufacturing plant that results from its being in a lower priced zone would increase the cost of using the plant to balance the fluid milk requirements of Boston and Providence area handlers. The cooperative also stated that hauling costs are greater to this plant due to the intermittent nature of shipments to the plant and that south-to-north zoning would be contrary to pricing needs if the New England market were extended to include additional territory in Maine.

The reasons advanced by exceptors do not provide a basis to extend the zone 1 boundary to include areas north of Boston. The record clearly establishes that it costs less to haul milk from northern supply areas to plants located north of Boston than to plants located in Boston. To extend zone 1 to include territory up to 40 miles north of Boston would overprice milk at plants in such territory. In addition, no valid reasons were presented to indicate a unique situation with respect to areas north of Boston that would require consideration of the alternative zoning procedures suggested.

A proprietary handler who operates a distributing plant in Franklin Township in Norfolk County excepted to being included in zone 1. The handler stated that he would be competitively disadvantaged on a large proportion of his fluid milk sales in the lower priced areas of western Connecticut and western Massachusetts. The handler stated that nearly 40 percent of his fluid milk sales are in the proposed zones 7 and 8 and that, consequently, zone 8 should be extended eastward to include his plant location.

A U.S. Congressman and a cooperative association also filed exceptions relative to this handler's situation. These views basically reiterated those expressed by the handler, i.e., he would be at a competitive disadvantage in a large proportion of his sales area because dealers with whom he competes would have lower prices applicable at their plants under the new zoning structure. The cooperative association stated that the handler's situation is unique in that he is the only handler in zone 1 that has substantial route disposition in zone 7. The association suggested, therefore, that the handler's location be removed from zone 1 to allow him to be competitive with respect to his sales in zone 7.

The record does not contain evidence regarding the sales pattern of the handler as described in the various exceptions. Nevertheless, a situation of this nature would not provide a basis for changing the zone designation of the handler's plant. The pricing structure adopted herein is intended to reflect the relative difference in costs of moving raw milk supplies from procurement areas to various plant locations rather than to accommodate the disposition of fluid milk products from processing plants to secondary consumption areas. The area in which a plant distributes fluid milk products has no relationship to prices that are necessary to assure the delivery of raw milk supplies to a specific location. Consequently, an attempt to establish prices at various plants on the basis of different sales areas would neither insure the delivery of adequate supplies of milk nor result in uniform prices to handlers similarly located. In addition, there is no evidence in the record of this proceeding to indicate that the location of exceptor's plant requires the application of prices different than those of other handlers in zone 1 to secure an adequate supply of milk.

Plants located in areas that are currently within the "nearby plant" zone that are not located in the geographically defined pricing zones provided herein should be zoned on the basis of mileage from the nearer of Providence or Boston, as proposed. In addition to establishing a "buffer" zone between eastern and western consumption centers, it is consistent with the overall objective of encouraging eastward and southward movements of milk toward the major consumption centers of Boston and Providence. Class I prices at any plants so zoned will thus be based on the fact that the plant is located nearer to the major sources of supply relative to the nearest primary market center of Boston or Providence.

The arguments of proprietary handlers who are opposed to restructuring the pricing system in the "nearby plant" zone are not convincing. They indicated that it would be more difficult for Boston area handlers to compete for sales in areas west of Boston, such as Worcester, with handlers located in lower priced zones. Consequently, they contend that prices at Worcester area plants, as well as prices at plants throughout the "nearby plant" zone, should be the same as those at Boston and Providence.

Such argument does not recognize the failure of the current pricing structure to reflect the lower value of milk delivered to plants located closer to the primary production areas for

the market. The application of prices at Worcester area plants at the same level as Boston area plants results in overvaluing milk in the former area by at least the additional cost of transporting bulk milk from Worcester to Boston. Worcester is located 40 miles west of Boston and is nearer to production areas in New York. Consequently, milk delivered to Worcester is not worth as much at that location as milk delivered to Boston.

Two proprietary handlers that operate distributing plants in zone 1 filed exceptions requesting that zone 1 be extended westward to include areas around the city of Worcester because both Boston area and Worcester area handlers have almost the same sales areas. In addition, one of the exceptors, while opposing any change in the pricing structure of the "nearby plant" zone for reasons indicated in his post-hearing brief, specifically excepted to the conclusion that milk delivered to Worcester-area plants has a lower value than milk delivered to Boston. The handler stated that such conclusion is erroneous since there is no evidence in the record to show that such handlers have ever relied on supplies of milk from New York sources. Instead, he contends that Worcester area handlers secure milk supplies from either local or northern New England sources.

As previously stated elsewhere in this decision, the extent to which handlers may compete with each other for fluid milk sales does not provide a proper basis to establish pricing zones under the order. Such zone prices must be based on plant location, rather than sales area, relative to the location of the principal supply areas for the market. In this regard, it is anticipated that there will be an incentive for milk supplies located north of Worcester and Boston to move to Boston. This is in keeping with the goal of encouraging the nearest available milk supplies to move toward the nearest major consuming centers of the market, in this instance, Boston. To the extent that this should result in the need for Worcester area handlers to seek alternative milk supplies, they may be obtained in New York. There has been an increasing reliance on New York supplies to fulfill the fluid milk requirements of New England handlers in the past and it is expected that this trend will continue. Since New York and other western areas represent the alternative sources of supply for Worcester area handlers, and since such handlers are closer to these supplies than Boston area handlers, prices at such plants must reflect a lower value than milk delivered to Boston.

The pricing structure provided herein is intended also to provide greater assurance that adequate supplies of milk will be made available to distributing plants in the Boston/Providence segment of the market. This can best be effected by providing plant location adjustments to the class I and blended prices in the present "nearby plant" zone that reflect the cost of moving milk across such zone from country supply plants. If the present "nearby plant" zone were retained, it would be necessary to limit the amount of the location adjustments under the order to cover transportation costs in moving milk from country supply plants to the northern and western edge of the zone and thereby rely on either producers or handlers to subsidize the additional cost of transporting milk across such zone.

As indicated, New York and Vermont represent the largest sources of supply for the New England market. Also, the Boston/Providence area is the principal consumption center of the market. Any pricing structure that is intended to encourage orderly marketing conditions must recognize the above factors and provide the incentive for milk to move from the production areas to the major consumption center. The pricing structure provided herein recognizes these relevant factors and should be more effective in promoting orderly marketing conditions to the benefit of the entire market than the maintenance of a "flat" price throughout the current "nearby plant" zone.

3. *Class I price differential.* The present class I differential of $2.58 that is applicable at the 21st zone should be reduced to $2.42. With the adopted location adjustment schedule, this would result in a class I differential at zone 1 of $2.92, compared with $2.98 presently.

A basic purpose of the hearing was to consider proposals that were designed to improve class I price alinement between the New England market and the New York-New Jersey market. Cooperative associations and proprietary handlers offered a number of proposals which they believed would improve intermarket price alignment.

Proponent witnesses contended that the amendments to the New York-New Jersey Federal order that became effective on November 1, 1977, changed the class I milk cost alinement between distributing plants in the Order 1 and Order 2 markets. Various witnesses pointed out that these amendments changed the cost of Order 2 class I milk in a variety of ways. The class I differential was lowered 15 cents per hundredweight and the handlers now receive a pool transportation credit of 15 cents per hundredweight on all farm bulk tank milk received at their plant. Also, the transportation differentials were increased from 1.2 cents per 10-mile zone to 1.8 cents per 10-mile zone for the first 20 zones and to 1.5 cents per 10-mile zone beyond the 201-210 mile zone. In addition, the negotiable hauling deduction was increased from 10 cents per hundredweight to 15 cents per hundredweight. It was noted that another amendment affecting the cost of class I milk under Order 2 is the increased direct delivery differential. The direct delivery differential for bulk tank milk received from producers within the 1-70 mile zone or from producers who deliver their milk in cans to plants within such zones was increased from 5 cents per hundredweight to 15 cents per hundredweight. It was argued that these changes could result in various reductions in the cost of class I milk to an Order 2 plant depending upon the freight zone from which the milk was received. For example, a witness testified that the class I cost for milk received from the 71-80, 141-150, and 201-210 mile zones in the Order 2 market was reduced by 27.2 cents, 31.4 cents, and 35 cents per hundredweights, respectively.

Proponent witnesses contended that before Order 2 was amended, southeastern New York handlers already had a significant advantage over southern New England handlers on their cost of class I milk. They claimed that for milk obtained from the 71-80, 141-150, and 201-210 mile zones by New York handlers the Order 2 class I milk cost advantage over the "nearby plant" zone class I milk cost to southern New England handlers was 22 cents, 29 cents, and 38 cents, respectively. It was claimed that since November 1, 1977, these differences have increased to 49 cents, 60 cents, and 73 cents per hundredweight, respectively. A proponent witness contended that the increased cost differences have created competitive pressures over the short run and if not minimized will have damaging long-run effects on the New England dairy industry.

A Connecticut handler organization representative expressed particular concern over the alinement of class I milk costs between Order 2 distributing plants in Albany, N.Y., and Order 1 distributing plants in southwestern New England. The witness stated that Albany is 83 miles from Springfield, 135 miles from Bridgeport, Conn., 164 miles from Providence, and 171 miles from Boston. Using a transportation differential rate of 1.5 cents per 10 miles, he calculated that the proper alinement between Albany and the Order 1 "nearby plant" zone would require reducing the Order 1 price from 13.5 to 27 cents per hundredweight of milk. He contended that the disparity between his calculated alinement and

the present alinement of class I costs makes it very apparent that eventually Order 2 handlers will increase their route distribution in the New England market.

A spokesman for several producer associations was in full agreement with this contention. He further contended that the present alinement of class I prices between Order 1 and Order 2 would cause a substantial loss of class I sales by Order 1 handlers and create disorderly marketing. The witness stated that although it is never an easy decision to lower milk prices, it is the belief of the cooperatives he represents that there must be a decrease in the Order 1 class I price to correct the price disparity between the two orders.

Witnesses opposing any price reduction presented data that demonstrated that there had not been a substantial increase in class I sales by Order 2 bottlers in the New England marketing area since the New York-New Jersey order was amended. On the other hand, a proponent witness noted that there is not complete reciprocity of health inspections between New York, Massachusetts, and Connecticut. He contended that this lack of reciprocity is one of the main reasons that the lower class I costs experienced by New York handlers has not resulted in the immediate influx of Order 2 packaged milk into the Order 1 market. He pointed out, however, that a number of bills that might abolish this lack of reciprocity had been introduced in the Massachusetts House of Representatives. He contended that if the health inspection laws are changed, Order 2 handlers would acquire a lot of fluid milk accounts in the New England marketing area, thereby forcing several New England plants to close because of a loss of sales.

Presently, there is an Order 1 handler in Danbury, Conn., that has 40 percent of his route disposition in the Order 2 marketing area. At the hearing, this handler contended that the recent changes in Order 2 gave his New York competitors a cost advantage of up to 35 cents per 100 pounds of class I milk. He contended that the interstate highway system makes it economically feasible for numerous New York handlers to penetrate the western Massachusetts and western Connecticut class I markets. Consequently, he argued, the alinement problem not only threatens his New York sales but it could eventually undermine the entire southwestern New England class I market. He stated that unless the New England class I differential is reduced he will be forced to adjust his route disposition to become regulated by Order 2.

Opponent witnesses also presented data demonstrating that the route disposition of New England bottlers in the Order 2 market had not decreased since the recent Order 2 amendments. However, a Connecticut Order 1 bottler attributed this to the long-term nature of some fluid milk supply contracts. He contended that since school and institutional bid contracts are binding for an entire season, the misalinement of class I costs between the two orders would not immediately decrease the class I sales of Order 1 handlers into the Order 2 marketing area.

Proponent witnesses were also concerned about the potential movement of bulk milk from Order 2 plants to Order 1 plants. The proponents contended that the current price difference between Order 1 and Order 2 exceeds the cost of transporting bulk milk from an Order 2 plant to a New England plant. Under these circumstances, they claimed, milk might be transshipped from an Order 2 plant to a high class I use plant in New England at less than the Order 1 class I price. Proponents argued that these shipments would disrupt the competitive relationship of handlers in Order 1 as well as result in the loss of class I sales to producers on the New England market.

A cooperative association witness introduced into the record numerous statistics portraying the recent history of milk prices and production in the Northeast markets. During August, September, and October of 1977, the Order 1 blended price at the 21st zone was 31, 33, and 35 cents higher, respectively, than the Order 2 uniform price at the 201-210 mile zone. The first 2 months that the amendments to Order 2 were in effect, November and December of 1977, the differences increased to 53 and 55 cents per hundredweight, respectively. Milk produced in New York and New England during the last quarter of 1977 exceeded production in the same quarter of 1976 by 4 and 5 percent, respectively. The witness believed that a small drop in the Order 1 class I differential would not, at this time, jeopardize the ability of dairymen to adequately supply the class I needs of the New England market. He contended, however, that it is critical that the proper price alinement be achieved to prevent a disorderly flow of milk.

Another cooperative association witness contended that if the class I price under Order 1 is not reduced there will be significant shifts in route dispositions that will cause drastic reductions in the New England blended price. He noted that a 1-percent drop in the Order 1 class I utilization would result in a blended price decrease of approximately 2.5 cents. He further stated that his producer association is willing to sustain a small reduction in blended prices, due to a decreased class I price, to prevent the loss of class I sales which would translate into a much larger reduction later.

Although several proprietary handlers and numerous cooperative associations agreed that it was imperative that the New England class I price be reduced, they did not concur on the magnitude of this reduction. One witness testifying for the Connecticut trade association supported the alinement of class I prices which existed between Order 1 and Order 2 distributing plants prior to November 1, 1977. To reinstate that alinement, the association proposed that the Order 1 zone 21 fluid differential be lowered 30 cents, to $2.28. Numerous cooperative associations contended instead, that a reduction of this magnitude was not necessary and advocated reductions ranging from 12 to 20 cents per hundredweight. Various witnesses supported a class I differential ranging for the proposed western zone from $2.68 to $2.854 and for the proposed eastern zone from $2.68 to $2.98.

Twenty-two individual dairy farm operators testified during the course of the hearing. The dairymen indicated strong opposition to any proposal that would result in a decrease in the class I differential. They claimed that dairy farmers cannot afford a reduction in their returns for milk.

Two cooperative associations also testified in opposition to a decrease in the class I differential. The witnesses claimed that production costs in the Order 1 milkshed have been increasing and returns to producers have not been keeping up. The cooperatives contended that a decrease in the New England class I differential would be contradictory to the higher production costs.

Two New York-based cooperatives with members shipping to New England handlers opposed a decrease in the Boston class I differential. One cooperative association witness stated that the weighted average cost of class I milk to an Order 2 New York City handler is $2.88 over the basic formula price. The distance from Washington, D.C., to New York is 235 miles and from New York to Boston is 208 miles. The witness contended that since the price spread is 10 cents between Washington and New York ($2.78 at Washington versus $2.88 at New York) and 10 cents between New York and Boston ($2.88 at New York versus $2.98 at Boston), it would be logical and consistent to continue the Boston price at $2.98. However, because of the close proximity of the proposed western zone to New York City, he supported a 12-cent decrease in the western zone's class I differential.

The record of this proceeding does not indicate any significant changes in

handlers' sales patterns or changes in the volume of either bulk or packaged milk movements between the Order 1 and Order 2 markets since the amendment of Order 2 on November 1, 1977. However, it may well be that an insufficient period of time had elapsed between the date of the hearing and the Order 2 amendments for any such changes to occur. Also, it may well be that the absence of health reciprocity among the various States has tended to restrict interorder milk movements or sales pattern changes that are anticipated by those supporting a decrease in the class I price differential at this time. Except for the competitive situation faced by the Danbury, Conn., handler who has route disposition in the Order 2 market, the record does not demonstrate the existance of current disorderly marketing conditions resulting from the current relationship of class I costs between the two Federal orders, as contended by opponents of any class I price reduction in New England.

Although there was no showing on the record of any major intermarket disorderly marketing conditions attributable to class I pricing, the potential for such conditions clearly exists. It would not be unreasonable to expect some eventual change in the reciprocity arrangements among States in the Northeast regarding milk. Should milk begin moving freely into New England, there could be some difficult competitive problems facing both Order 1 fluid milk distributors and producers. Order 1 handlers would be threatened with a loss of their business due to an inability to compete in price with Order 2 distributors. At the same time, the established outlets of New England order producers would be jeopardized. Consequently, it is reasonable at this time to establish a pricing structure for New England that ties in properly with the Order 2 market. This will provide both Order 1 and Order 2 handlers with the opportunity to plan their future operations within the pricing framework that presumably would have to be established at some later time in response to changed distribution patterns.

It must be noted at this point that the revised location adjustments and rezoning of the "nearby plant" zone, which are necessary to reflect increased hauling costs and current procurement patterns, would aid materially in alining prices in western New England with the Order 2 market. However, in increasing the location adjustment rate, it is necessary to determine whether the present class I price differential at the 21st zone should be continued, which would necessitate a higher price at zone 1, or whether the Boston price should be continued, which would require a lower price at the 21st zone, or whether some combination of adjustments is necessary. In deciding this issue, recognition should be given to intermarket price alinement problems.

Two basic price alignment concerns were presented by Order 1 handlers. One is the disparity in fluid milk costs between Order 2 handlers in the Albany, N.Y., area and Order 1 handlers supplying the New England market. The other concern is the disparity in class I milk costs between handlers under Order 2 who are in the New York City metropolitan area and Order 1 handlers in the southwestern part of the New England area.

The record demonstrates that the Order 1 class I differential is not in harmony wih the current market situation. The value that the order attaches to milk affects the degree to which Order 1 handlers are able to compete effectively with handlers regulated under other orders. Thus, revision of the Order 1 class I differential is essential if orderly and stable marketing conditions for handlers and producers in the New England market are to be assured.

The record shows that there is a significant amount of intermarket class I milk sales competition between an Order 1 handler whose plant is in Danbury, Conn., and Order 2 handlers located in the New York City metropolitan area. The area of overlapping sales competition is in the Order 2 marketing area. However, if the Order 1 handler at Danbury were to adjust his sales volume in the respective markets to become pooled in the Order 2 market, he undoubtedly would continue to maintain a significant amount of his class I milk sales in the Order 1 market in competition with Order 1 handlers. In these circumstances orderly marketing would be enhanced if the class I price level established for a plant in Danbury, Conn., was the same under both orders. Thus, if this handler shifts regulation between orders it would have no impact on the class I price relationship faced by such a handler and his competitors in either market.

The record indicates that on the basis of the costs of procuring milk from supply plants and directly from farms and the relative proportions from each source, the weighted average cost of class I milk to an Order 2 New York City handler is $2.88 over the basic formula price. The Order 1 distributing plant at Danbury, Conn., is located in the Order 2 41-50 mile zone. Plants in the Order 2 41-50 mile zone have a class I location differential that is 7.2 cents lower than the differential applicable at New York City plants. Under the Order 1 zoning adopted herein, Danbury and the rest of western Connecticut would be in zone 7 and Boston would be in zone 1. Also, the adopted class I location adjustment for zone 1 would be 10.8 cents higher than that adopted for zone 7. Therefore, for the two markets to be properly alined under these circumstances, Boston must have a class I differential of $2.92 ($2.88−7.2 cents+10.8 cents=$2.92). Since the adopted zone 1 location adjustment under Order 1 class I would be plus 50 cents, the Order 1 differential at zone 21 should be $2.42 over the basic formula price for the second preceding month.

In responding to the recommended decision, two New York based cooperatives excepted to the 6-cent per hundredweight decrease in the zone 1 class I differential. They contended that it is not proper to reduce the class I differential for zone 1 by tieing the Order 1 class I differential at an isolated point in the marketing area (Danbury, Conn.) to the Order 2 class I differential at that location and then adjusting prices by 1.8 cents per 10 miles from that plant zone to Boston. They hypothesized that if a handler at Danbury, Conn., were to become an Order 2 distributing plant it would have to procure milk in a northwesterly direction to obtain an adequate supply of milk. They claimed that handlers would be involved in obtaining milk from similar production areas and with similar hauling distances as his Order 2 competition. It was also their contention that the fact that this plant is located in the Order 2 41-50 mile zone is insignificant because it is no closer to the milk supply than Order 2 plants situated at Yonkers, N.Y., or Wallington and Union, N.J., and would therefore have the same raw milk costs as its Order 2 competition located in these areas.

The proposed Order 1 intramarket price structure was set out in the first two issues of this decision. Once the appropriate intramarket alinement was determined, the class I price for the entire New England market could be established by finding the proper class I price level at any location within the market. To determine the proper class I price level for the market, it is necessary to consider intermarket alinement. Intermarket alinement is most crucial to the maintenance of orderly marketing in the areas of greatest intermarket competition. The areas of greatest intermarket competition between the New England and New York-New Jersey markets are western Connecticut and southeastern New York.

If a handler at Danbury, Conn., became regulated under Order 2 and procured supplies from northwest of his plant, he would not have to haul these supplies as far as New York City plants procuring from the same areas.

New York City is 189 miles from Oneonta, N.Y., and 229 miles from Utica N.Y. Danbury is only 151 miles and 191 miles from these locations, respectively. A large proportion of the Order 2 milk supply is produced in the vicinity of Oneonta and Utica, which is in central New York State. Since a Danbury plant would be 35 to 40 miles closer to these supplies than a New York City plant, hauling costs to Danbury would be 6.3 to 7.2 cents less than hauling costs to New York City (35 miles×0.18 cent per mile=6.3 cents; 40 miles×0.18 cent per mile=7.2 cents). It is therefore proper intermarket alinement for the raw milk class I cost at Danbury to be 6.8 cents per hundredweight less than at New York City. It is true that plants near Yonkers, N.Y., and Wallington, N.J., are not as far from the supply areas as plants in New York City. However, for the same reason, their cost of class I milk would be something less than the $2.88 per hundredweight over the basic formula price that New York City handlers pay. Therefore, a class I differential of $2.812 ($2.88−6.8 cents=$2.812) for western Connecticut will effectuate intermarket alinement between Order 1 plants in this area and Order 2 plants in southeastern New York.

Moreover, a class I differential of $2.92 at Boston and Providence is in alinement with a New York City differential of $2.88 in the procurement of milk from the heavy production areas of central New York State. For example, the highway mileages from Utica, N.Y., to Boston, Providence, and New York City are 251, 248, and 229, respectively. Thus, the central New York production area is only some 20 miles farther from Order 1 zone 1 plants than New York City plants. The 4-cent higher price at Order 1 zone 1 plants should closely reflect the amount of the additional cost in hauling milk from central New York to such plants compared to plants in New York City.

In their exceptions, several proprietary handlers and a cooperative association favored a 20-cent reduction in the Order 1 zone 21 class I differential, contending that this figure, rather than the proposed 16-cent decrease, would bring about better alinement with Order 2 class I prices. On the other hand, in another exception certain Vermont dairy farmers reiterated their opposition to any decrease in the Order 1 class I differential. These exceptions, however, did not raise any points that had not already been considered in determining the appropriate class I differential. Based on these exceptions, no departure from the recommended decision should be made with respect to the class I differential to be included in the revised order.

Numerous witnesses were concerned about the class I cost alinement between the Albany, N.Y., area and southwestern New England. The average differential cost to any Order 2 Albany handler in the 131-140 mile zone for class I bulk tank milk obtained directly from farms in that zone is $2.376 per hundredweight. This consists of the class I differential of $2.376 that is applicable at the township pricing points in that zone, a 30-cent farm-to-plant hauling cost, a pool transportation credit to the handler of 15 cents, and the maximum hauling deduction negotiated with the producer of 15 cents. By comparison, the differential cost for class I milk obtained directly from farms by an Order 1 plant in Springfield or Hartford would be $2.794 and $2.812, respectively, under the order changes adopted herein. To compete in either of these cities, an Albany handler would incur the additional costs of moving packaged milk from Albany to the respective areas. Albany is 82 miles from Springfield and 102 miles from Hartford. A Purdue University study of 1976 packaged milk transportation costs that was placed in the record indicates that the average fixed hauling cost was 10.03 cents per hundredweight and the average variable cost was 0.319 cent per mile. The application of this formula to the distances between Albany and Springfield and Albany and Hartford yields a transportation cost of 36.2 cents (0.319 cent×82+10.03 cents) and 42.6 cents (0.319 cent×102+10.03 cents), respectively. When added to the average differential cost at Albany of $2.376, these transportation rates yield a class I cost at Springfield of $2.738 and at Hartford of $2.802.

One handler stated in his exceptions that the 10.03-cents fixed transportation cost for moving packaged milk should not be used in the above computation. He contended that any movements of packaged milk from Albany to the Springfield/Hartford area would most likely be directly to retail outlets, as opposed to being moved to a plant or distribution depot from where the cost of serving customers would be the same as for an Order 1 plant. Accordingly, the handler contends that the Order 1 class I differential should be reduced an additional 10 cents.

The above transportation rate is based on plant-to-plant and plant-to-distribution depot hauling costs with an average volume per shipment of 30,074 pounds and an average utilization of truck capacity of 88 percent. It is questionable whether such high average volume per shipment and such high utilization of truck capacity could be sustained on a direct-delivery basis to retail customers. If not, it is likely that costs per hundredweight could be higher than in the Purdue study.

It should be pointed out that the above cost comparison is based on a farm-to-plant hauling cost of 30 cents per hundredweight for the Albany based handler. Should such farm-to-plant hauling exceed 30 cents, the Order 2 effective cost of milk should be increased accordingly. This could well be the case since in their posthearing briefs, to arrive at an effective cost of class I milk to an Albany based handler, two New York based cooperatives estimated farm-to-plant hauling costs of 40 cents. Moreover, competition from the Order 1 blended price to producers could force bottlers in the Albany area to pay New York producers more than the Order 2 uniform price. As previously stated, the Order 1 blended price exceeds the Order 2 uniform price by some 50 cents per hundredweight.

One witness claimed that Order 2 Albany area handlers were not paying over-order prices for milk. However, it is noted that their supplies were not approved for class I use in Massachusetts or Connecticut. Springfield and Hartford handlers cannot bottle milk that has not been approved by their respective State's health authority. Consequently, they have not been competing with Albany handlers for this production. Also, Albany handlers cannot supply the fluid milk markets in Massachusetts or Connecticut unless all their milk supply is approved by the respective health authority. However, if the New York producers gain this health approval, they will have a substantial price incentive to obtain a pooling outlet under Order 1. Consequently, it can be expected in this case that Order 2 handlers located in the Order 1 supply area would have to pay significantly more than the Order 2 minimum uniform price to these producers or incur additional transportation costs in procuring an alternative supply from beyond the normal Order 1 supply area in New York State.

The resolution of the complex pricing issues involved in this proceeding cannot be contingent upon the maintenance of the current level of returns to Order 1 producers. Any action to make Order 1 milk more competitive with Order 2 milk necessarily requires some reduction in returns. The proponent cooperatives fully realize that their proposals would have this effect. Although some producers testified at the hearing that the maintenance of the present level of returns should be an overriding consideration, such testimony was presented on behalf of a relatively small segment of the market's producers.

An additional point that an opponent raised at the hearing was that the class I price should not be reduced at a time when the cost of hauling alternative milk supplies from the Minnesota-Wisconsin area is increasing. This position was supported by two New York based cooperatives and a group of Vermont dairy farmers in their exceptions to the recommended decision. They also contended that since Danbury, Conn., is farther than New York City from Eau Claire, Wis., milk supplies should not cost less in Danbury than in New York City. The producer groups did not demonstrate, however, that the class I price under the proposed order changes would not be reasonably coordinated with prices in the Midwest. Their concern in this regard is not persuasive, since there are fully adequate supplies of milk produced in the Order 1 and Order 2 milksheds for these markets.

In its exception, one cooperative association claimed that the recommended decision was based on speculation about what would occur if the health regulations imposed on out-of-area supplies by New England State authorities were relaxed. They also contended that order amendments should not be based on speculative potential for disorderly marketing conditions.

The Department agrees with the exceptor that order amendements should not be based on speculation. However, the herein proposed amendments to Order 1 are based on existing economic factors rather than speculation.

At the hearing and in their exception to the recommended decision, an Order 2 cooperative federation contended that the Order 1 and Order 2 marketing areas and their overlapping milk supply areas have become so closely entwined that no change in the Order 1 class I price level should be made on the basis of a hearing where only the Order 1 class I price can be considered. They also contended that adequate consideration of possible needed changes in the Order 1 class I price can only be made by reviewing the intermarket relationship between Order 1 and Order 2 in the same hearing.

The adoption of changes for Order 1 need not be contingent upon the holding of a joint hearing for Order 2 as well. In any amendment proceeding for a market, the effect of proposed order changes on neighboring markets must be taken into consideration by the Secretary to minimize any disruptive impact on such markets. However, this does not require that there be joint hearings, nor can it be concluded from the hearing record or exceptions that a joint Order 1-Order 2 hearing should be held before amending Order 1.

The amendments provided herein would result in an average decrease of about 7 cents per hundredweight in returns to Order 1 producers. This is significantly less than 1 percent of the prevailing pay price to producers. The slightly lower returns should not jeopardize the maintenance of adequate supplies of pure and wholesome milk for the New England market.

4. *Conforming changes.* In the assignment provisions of the order, the terms "zone nearest to Boston" and "most distant zone from Boston" are used to specify that certain skim milk and butterfat assignments to classes should be made in sequence according to the location of the plants from which the milk was received. Since the amendments adopted herein provide for the use of Boston and Providence as basing points, the above-cited terms are changed to "lowest numbered zone" and "highest numbered zone" to conform with the intent of the present provisions of the order.

The assignment provisions of the order provide that at pool distributing plants that have received bulk fluid milk from pool plants located outside the nearby plant zone, prior assignment of a certain amount of receipts from producers and cooperative association bulk tank handlers be made to class II. Such assignment, commonly referred to as the "set-aside", reflects the fact that there is a certain amount of unavoidable class II use at pool distributing plants. This "set-aside" is for the purpose of assigning milk receipts from other pool plants to class I so that a transportation allowance would be effected on transfers of milk from pool plants to pool distributing plans located in higher priced zones. (Such assignment is to be made in sequence beginning with the lowest numbered zone.)

There are three pool manufacturing plants located in the present nearby plant zone. Skim milk is frequently transferred from these plants to pool distributing plants for use in fluid milk product disposition. To carry out the intent of the multiple zone price structure adopted herein in place of the nearby plant zone, transfers of bulk fluid milk products for class I use should be encouraged between plants in the territory that has been in the nearby plant zone. Otherwise, milk from more distant sources would need to be moved for class I use at pool distributing plants. To aid in encouraging class I use of any available reserve milk at plants in the present nearby plant zone, the present term "pool plants located outside the nearby plant zone" as contained in the assignment provisions should be changed to "other pool plants".

The "Plant location adjustments" section of the order now provides for the use of "Mileage Guide No. 10, and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Arlington, Virginia". Mileage Guide No. 11 has been issued, and a proposal was made that the new Mileage Guide No. 11 be used in place of Mileage Guide No. 10. The adopted order language so provides, since the new Mileage Guide represents a revision of Mileage Guide No. 10.

A proprietary handler proposed that a conforming change be made in the "Payments to producers" section of the order. This section states that a handler may elect to pay producers at the price applicable at the zone location of the plant from which his milk is diverted if it is diverted to a plant in a lower-priced zone. Under this option the handler can quote his producers a single pay price that is at least the minimum order price. Proponent handler would like to be able to quote his producers a single price when he diverts their milk to plants in either lower or higher price zones. Such handler operates two distributing plants under the order that have been in the same pricing zone but which would be placed in separate price zones under the provisions adopted herein. This handler diverts his producer milk supplies between his plants but prefers to be able to quote such producers a single plant price and a single hauling rate so that all his producers in a given procurement area receive the same net price irrespective of the plant to which the milk was actually delivered. Moreover, the handler states that such payrolling practice facilitates more simplified computer payrolling operations in his accounting department.

Under the proposals to provide several zones within the present "nearby plant" zone, this handler would desire to pay producers on the basis of one price and one hauling rate when their milk is diverted to either a higher or lower price zone. This practice can be accommodated under the order as long as the resulting net payment to each producer is not less than that otherwise required on the basis of the milk being priced at the location of the plant where physically received. For example, a handler may procure milk from a producer on the basis of the blended price and hauling rate to his plant in zone 7 but divert milk to a plant in a higher-priced zone and pay the additional hauling cost on the milk diverted to the higher-priced zone. Such producer would receive the same net price as if he were to incur a higher hauling charge on the milk diverted (in the amount of the difference in the plant location adjustments for the two plants) and be paid the blended price at the plant to which the milk was diverted.

It is concluded that a handler should be accommodated in procuring milk from a producer on the basis of a single pay price and a single hauling rate deduction, as long as the net payment to the producer is not less than that otherwise required on the basis of pricing at the plant where the milk is physically received.

Ruling on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the New England marketing are which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

June 1978 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the New England marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area. (An approved final impact analysis is available from the Agricultural Marketing Service.

Signed at Washington, D.C., on September 27, 1978.

Jerry C. Hill,
Deputy Assistant Secretary.

Order[1] Amending the Order, Regulating the Handling of Milk in the New England Marketing Area

findings and determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendmens thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New England marketing area.

The hearing was held prusuant 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 (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the New England marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Actihg Administrator, on July 14, 1978 and published in the Federal Register on July 20, 1978 (43 FR 31146), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. Section 1001.43(c) is revised to read as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 1001.43 Assignment of receipts to classes in general.

* * * * *

(c) If receipts from more than one plant are to be assigned under a paragraph in § 100.45 or § 100.47, the receipts shall be assigned in sequence according to the zone locations of the plants, beginning with the plant in the lowest numbered zone for assignments to class I milk and beginning with the plant in the highest numbered zone for assignments to class II milk.

§ 1001.46 [Amended]

2. In § 1001.46(c), the words "zone nearest to Boston" are changed to read "lowest numbered zone".

§ 1001.47 [Amended]

3. In § 100.47(a), the words "pool plants located outside the nearby plant zone" are changed to read "other pool plants".

§ 1001.50 [Amended]

4. In § 100.50(a), the number "$2.58" is changed to "$2.42".

5. Section 100.52 is revised to read as follows:

§ 1001.52 Plant location adjustments.

The class I and blended prices computed under §§ 100.50 and 100.61 shall be subject to plant location adjustments based upon the zone locations of plants. The zone location of any plant and the location adjustments applicable to each zone location shall be determined as specified in this section.

(a) Each plant that is located in the State of Rhode Island, the Massachusetts counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth or Suffolk, or between Boston and Massachusetts highway route number 128 shall be in zone 1.

(b) Each plant that is located in the Connecticut counties of Fairfield, Hartford, Litchfield, Middlesex (only the townships of Cromwell, Durham, Haddam, Middlefield, Middletown, or Portland), New Haven, or Tolland (only the townships of Ellington or Somers) shall be in zone 7.

(c) Each plant that is located in the Massachusetts counties of Hampden (except the townships of Brimfield, Holland, Monson, Palmer, or Wales) or Hampshire (except the township of Ware) shall be in zone 8.

(d) The zone location of each plant in the States of Connecticut or Massachusetts (except Berkshire County) that is outside the areas specified in paragraphs (a), (b), or (c) of this section shall be based upon its highway mileage distance to the nearer of Boston, Mass., or Providence, R. I. The distance for each plant shall be the mileage between the applicable basing point and the named point nearest to the plant, measured to the greatest extent possible over roads designated as principal roads, on the road maps specified in paragraph (e) of this section.

(e) The zone location of each plant that is outside the areas specified in paragraphs (a) through (d) of this section shall be based upon its highway mileage distance to Boston, Mass., as determined by use of Mileage Guide No. 11, and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Arlington, Va. The mileages used shall be those shown between designated key points in the mileage charts, and between named points on the appropriate State road maps, as published in the mileage guide. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located. The distance for each plant shall be the mileage between Boston and the named point nearest to the plant, as shown in the mileage charts. If that named point is not listed in the mileage charts, the distance for the plant shall be the lowest mileage distance between Boston and that named point, computed as follows:

(1) Determine from the charts the mileage between Boston and each of the three key points nearest to the named point which are nearer to Boston than the named point; and

(2) For each of these key points, add to the result in paragraph (e)(1) of this section the mileage between the key point and the named point, measured to the greatest extent possible over roads designated as principal roads.

(f) Notwithstanding the provisions of paragraph (e) of this section, for any named point located in Maine, New Hampshire, Vermont, New York, or Berkshire County, Mass., determine the highway mileage distance between Boston and the named point by use of the appropriate State maps contained in Mileage Guide No. 7, issued by Household Goods Carriers' Bureau, Agent, Arlington, Va. Such distance shall be the lowest highway mileage between Boston and the named point on the map, over roads designated thereon as paved, all-weather roads. In the event that the named point is not located on a through, paved, all-weather road, such other roads shall be used to reach a through, paved, all-weather road as will result in the lowest highway mileage to Boston, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through, paved, all-weather road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the state in which the road is located. The mileage so determined, or the mileage determined under paragraph (e) of this section, whichever is less, shall be considered to be the lowest highway mileage distance between Boston and the named point.

(g) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

LOCATION ADJUSTMENTS FOR DETERMINATION OF ZONE PRICE

Distance to basing point (miles)	Plant location zone	Price adjustments [1]
1 to 10	1	+50.0
11 to 20	2	+48.2
21 to 30	3	+46.4
31 to 40	4	+44.6
41 to 50	5	+42.8
51 to 60	6	+41.0
61 to 70	7	+39.2
71 to 80	8	+37.4
81 to 90	9	+35.6
91 to 100	10	+33.8
101 to 110	11	+32.0
111 to 120	12	+30.2
121 to 130	13	+28.4
131 to 140	14	+26.6
141 to 150	15	+10.8
151 to 160	16	+9.0
161 to 170	17	+7.2
171 to 180	18	+5.4
181 to 190	19	+3.6
191 to 200	20	+1.8
201 to 210	21	+0
211 to 220	22	−1.5
221 to 230	23	−3.0
231 to 240	24	−4.5
241 to 250	25	−6.0
251 to 260	26	−7.5
261 to 270	27	−9.0
271 to 280	28	−10.5
281 to 290	29	−12.0
291 to 300	30	−13.5
301 to 310	31	−15.0
311 to 320	32	−16.5
321 to 330	33	−18.0
331 to 340	34	−19.5
341 to 350	35	−21.0
351 to 360	36	−22.5
361 to 370	37	−24.0
371 to 380	38	−25.5
381 to 390	39	−27.0
391 to 400	40	−28.5
401 and over	41 and over	[2]

[1] Class I and blended price adjustments (cents per hundredweight).

[2] Class I and blended price location adjustments applicable to plants located in subsequent zones shall be obtained by extending the table at the rate of 1.5 cents for each additional 10 miles except that in no event shall the class I or blended price at any zone be less than the class II price for the month.

§ 1001.53 [Amended]

6. In § 1001.53(g), the words "zone nearest to Boston" are changed to read "lowest numbered zone".

§ 1001.73 [Amended]

7. In § 1001.73(d), the words "to a plant at which a lower blended price would apply under this order" are deleted.

[FR Doc. 78-27788 Filed 9-29-78; 8:45 am]

Federal Register

MONDAY, OCTOBER 2, 1978
PART IV

DEPARTMENT OF ENERGY

■

ENERGY EXTENSION SERVICE

Establishment of the Comprehensive Energy Extension Service Program

[3128-01]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 465—ENERGY EXTENSION SERVICE

Establishment of the Comprehensive Energy Extension Service Program

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: With this notice of final rulemaking, the Department of Energy establishes the comprehensive Energy Extension Service program. A major part of this program includes providing financial assistance for Energy Extension Service programs to all States, including the District of Columbia and six United States Territories. The regulation contains requirements for the preparation, submission and review of State plans and annual applications. If a State plan and annual application meet the requirements of this part, the State will receive available grant funds allocated on a formula basis. This notice of final rulemaking adds a new part 465 to title 10, chapter II, Code of Federal Regulations.

DATES: Effective Date: This regulation shall go into effect November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

1. Introduction

With the issuance of this final rule, the Department of Energy (DOE) amends subchapter D, chapter II of title 10, Code of Federal Regulations, to establish part 465. This final rule establishes procedures for the implementation of the comprehensive Energy Extension Service ("EES") program, as required by the National Energy Extension Service Act of 1977 ("Act") title V of Pub. L. 95-39, 91 Stat. 191 et seq., 42 U.S.C. 7001 et seq.

The notice of proposed rulemaking was published on June 5, 1978 (43 FR 108, June 5, 1978). Comments on the proposed regulation were invited from interested persons by August 4, 1978, and a national public hearing was held on July 19, 1978. In response to the notice, 8 persons presented testimony at the public hearing, and 44 written comments were received by DOE. This final regulation contains revisions to the proposed regulation which reflect DOE's consideration of the comments as well as other information available to DOE.

Most comments addressed specific sections of the proposed rulemaking, and are discussed below. However, a number of comments were nonspecific. Thirteen comments indicated general approval of the proposed regulation, while two suggested that the comprehensive EES program should not be implemented at this time. The Act requires DOE to conduct this program at this time.

Some comments raised general issues not related to specific sections of this rulemaking and are discussed below. Several comments were outside the scope of this regulation, and are not considered in today's rulemaking.

2. Role of the Regional Representatives

As DOE indicated in the preamble to the proposed regulation, this final rulemaking delegates substantial functions to the ten DOE Regional Representatives. To summarize, the Regional Representatives will have primary responsibility for administering the comprehensive EES program as it affects the States. Annual State applications for financial assistance will be submitted to the appropriate Regional Representative, who will have review and approval authority. The States will submit their quarterly reports to the Regional Representatives, who shall be responsible for tracking the progress of the State programs and providing the DOE contact point for State technical assistance requests. The Regional Representative will also conduct the administrative review procedures which are provided.

The EES Director at the DOE headquarters office has overall responsibility for the development and implementation of the comprehensive EES program. For the special circumstances indicated in § 465.10, the Director will be responsible for preparing a State plan.

DOE received five comments which supported a decentralization of DOE functions, and two comments which opposed it. One comment pointed out the importance of clearly defining the responsibilities of the Regional Representative, with the Regional Representative having full authority to make necessary decisions. DOE agrees with this comment, and has amended the proposed regulation to achieve this goal.

3. Evaluation of the Comprehensive EES Program

DOE received nine comments regarding the evaluation it will undertake of the impact of EES on its target audiences. Four comments urged DOE not to emphasize evaluation activities at the expense of limiting the programmatic achievements of EES. On the contrary, one comment urged DOE to reduce program funds if necessary to permit more thorough evaluation. DOE intends to conduct a systematic yet not overly time-consuming or expensive evaluation activity. DOE intends to keep the States informed of its evaluation activities, including informing the States in advance of target audience surveys and fully agrees with the comment made to this effect.

DOE agrees with one comment, which was made at the public hearing, that the evaluation results should be used to make mid-course corrections in the comprehensive EES program.

In section III of the preamble to the proposed regulation, DOE explained that a State would select two State programs in the State plan for the national evaluation to be conducted by DOE. Two comments advocated that when the State plan provides for an energy audit program, such program should be required to be selected for DOE evaluation. Although systematic evaluation could contribute substantially toward increasing the state-of-the-art of this type of service, DOE will accord the States broader latitude to select other State programs for evaluation. This latitude is appropriate since (1) it is expected tht a substantial number of States will of their own volition select energy audit programs to be evaluated, and (2) there is a need for systematic evaluation results of a number of different service types, including energy hotlines and workshops.

One comment urged DOE to leave the primary responsibility for the national evaluation to the States, with DOE providing procedural guidelines. DOE considered this option seriously

in planning for the nationwide program evaluation, but decided not to adopt it for reasons of cost-effectiveness and the need to insure uniform procedures and analysis methods. As provided in § 465.8(c)(6), States may at their discretion undertake independent evaluation activities to supplement those of DOE's national evaluation. In response to a comment's query on this point, the States may use EES grant funds to pay for an independent evaluation. DOE requires, however, that any funds used to support an independent State evaluation not exceed 10 percent of the State's allocation of EES financial assistance. A new § 465.12(c) has been added to require this 10 percent limitation.

4. § 465.1 PURPOSE AND SCOPE

DOE received two comments on proposed § 465.1. One was concerned with duplication of EES activities with other energy outreach activities of the States. DOE has included a number of provisions throughout the regulation directed to encouraging supplementary rather than duplicative EES services, and believes that this intent was adequately described in proposed § 465.1(b), which is retained. The second comment requested that the term "small energy users" be included specifically in § 465.1(a). DOE has concluded that the proposed language is sufficient to make clear that the comprehensive EES program is directed primarily toward small energy users.

5. § 465.2 DEFINITIONS

Nine comments were received concerning the proposed definition of small business. Eight of the comments stated that the definition provided in the proposed regulation was too broad, and not consistent with the comprehensive EES program's emphasis on small energy users. DOE has consulted with the National EES Advisory Board on this point at a public meeting held on September 7-8, 1978, for which notice was given in the FEDERAL REGISTER. After discussion, the Advisory Board pointed out that reducing the proposed ceiling on gross annual receipts of a small business could rule out small businesses that sell expensive products, such as automobile dealerships. The Advisory Board also indicated that significantly lowering the proposed limitation on the number of employees would exclude independently owned small businesses that are personnel-intensive, such as a hotel. The consensus of the Advisory Board was that the number of employees should be reduced to 400, and the gross annual receipts maintained at the proposed level. DOE agrees and has made this change to the definition.

DOE also agrees with the Advisory Board's counsel that, while the definition should provide maximum State flexibility, the States should concentrate on providing services to those small businesses who are not able to provide these services for themselves.

The ninth comment questioned whether food processing industries and forestry businesses could be included in the definition of small business, although not specifically referenced. In order to provide maximum flexibility to meet local needs, the definition places no restriction on the types of small businesses that can be included as EES target audiences, as long as the size of the business does not exceed the limitations of the definition.

Two comments questioned the definition of small energy users, maintaining that State and local governments, and educational and health facilities should be dropped. The definition is a term of art and has been revised to include only those entities specifically identified by the Act. For this reason, educational and health organizations are no longer included. This definition, however, does not restrict the States' broad discretion to identify appropriate target audiences, including schools and hospitals.

Two comments suggested revisions to the proposed definition of energy conservation. DOE has retained the definition, which is provided in the Act.

DOE has modified the proposed definition of energy audit to simplify the definition and to indicate that the purpose of an energy audit is to identify conservation techniques and technologies.

One comment recommended substitution of the proposed definition of energy audit by the definition provided in the "Energy Audit Procedures" regulation (10 CFR 450.3, which was developed to carry out section 432(d), 42 U.S.C. 6325(e)(2), of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq.). The comment further recommended requiring the use of class A, B, and C information audits, as provided in subpart B of these procedures. For the purposes of EES, DOE has concluded that the States, if they provide energy audits, should have the flexibility to select the audit procedures that best suit the particular needs of the target audience addressed. States may use the Class A, B, and C audit procedures if they choose. In the implementation of the comprehensive EES program, DOE intends to monitor closely the State's experiences with audits to small energy users, and may adjust the requirements of the comprehensive EES program in this area to reflect the experience gained by DOE.

DOE received three comments related to the proposed definition of grantee. In one case, the comment suggested that DOE provide financial assistance directly to the State-designated program manager, rather than maintaining the requirement that the grantee be the State or a State entity. Two other comments advocated direct, or a passthrough of, grant funds to the State's Cooperative Extension Service.

DOE has revised the proposed definition of grantee to clarify the requirement of the Act that the grant of financial assistance be made to the State. No grant will be made to any entity not part of the State. However, the States are free to arrange with other organizations to implement a State plan, as long as the grantee remains responsible and accountable to DOE.

What constitutes a "barrier to energy conservation" was a concern expressed by one comment regarding the proposed definition. The comment indicated that barriers should not include low fuel prices. DOE has retained the proposed definition because DOE concluded that the definition should include those factors that target audiences identify as standing in the way of their adoption of conservation techniques and technologies. DOE does not intend to limit what target audiences can identify as a barrier. Items so identified in the EES pilot program have included lending practices, regulator restrictions, and a variety of financial and cost considerations.

Since the DOE Regional Representatives will play a major role in the implementation of the comprehensive EES program, DOE has added a definition of Regional Representative. For clarity, technical corrections were made in the proposed definitions of Act, community action agency, conservation techniques and technologies, EES office, Governor, SECP, special State project, State, State program, and technical support.

6. § 465.3 COMPREHENSIVE EES PROGRAM

DOE received five comments regarding the technical assistance to be provided to the States by DOE. One comment suggested that the EES technical assistance staff in DOE be increased as the nationwide program gets underway. Another comment stressed the need for quick response to specific technical questions asked by the States, and suggested that DOE perform an indepth study of the technical assistance needs of the States. A suggestion was made regarding the creation of regional energy institutes to respond to State needs. One comment stressed the need for DOE tech-

nical assistance during the State program startup phase. Another comment queried the exact type of technical assistance to be provided by DOE, in order that State plans will not duplicate it. One comment raised the issue of insuring that personnel used by the States are properly trained. No comment recommended revision of the proposed § 465.3(c)(5), so it has been retained. However, DOE would like to respond at this time to the comments received, although DOE expects that the State Program Planning Manual to be provided to the States will describe how DOE will make technical assistance available.

DOE's technical assistance under the comprehensive EES program has two primary objectives. First, DOE will help the States build their capacity to use available technical resources. DOE intends to carry out activities for the exchange of information among the States participating in the comprehensive EES program. A new § 465.3(c)(3) has been added to indicate this DOE responsibility. DOE also expects to provide the States with a compendium of available Federal and State technical resources, including persons who may be contacted and the materials or services available.

Second, DOE will endeavor to provide technical assistance which States cannot provide or obtain for themselves in a cost-effective fashion. Because DOE expects the demand for technical assistance to exceed the resources available, DOE will give priority to technical assistance most necessary for the cost-effective accomplishment of the objectives stated in § 465.1. DOE will try to accommodate these priorities to those which the States perceive as most necessary for the development and implementation of State plans.

DOE agrees with the comment regarding the need for an indepth analysis of State technical assistance needs. Accordingly, a study of these needs has been initiated, jointly sponsored by the EES and State Energy Conservation Plan (SECP) offices. Until the study is completed, it is premature to comment on the need for regional technical assistance organization.

One comment suggested that the regulations should contain a better description of the role of the comprehensive EES program. Accordingly, the second sentence of proposed § 465.3(b) has been revised to reflect the emphasis of the comprehensive EES program on increasing the capability of small energy users to make informed energy decisions.

DOE received one comment which would have the comprehensive EES program deal only with opportunities for "cost-effective" energy conservation. Although DOE agrees in principle with the comment, no change has been made to the regulation since cost-effectiveness must remain a decision of the individual small energy user. It is not possible to identify for all target audiences what could constitute a cost-effective energy conservation opportunity and what would not be cost-effective. DOE expects the States to design State programs that are sensitive to the needs of their target audiences and which present, for the individual's decision, the likely costs and benefits of the conservation techniques and technologies addressed.

Another comment maintained that it is a mistake to characterize the need for increased energy conservation only in terms of small energy users. DOE agrees completely. However, the comprehensive EES program is intended to implement a program directed at a particular segment of the energy consuming public, namely small energy users.

A technical correction is made to proposed § 465.3(d)(2). DOE received five comments which underscored the need to minimize potential EES conflict with related activities in the private sector. Through the process described in § 465.3(d), the EES Director will seek to avoid the provision of services by the States which duplicate existing services available from the private sector.

DOE has made a technical change for purposes of clarity in proposed § 465.3(c)(1). Appropriate reference to the role of the Regional Representative has been made in § 465.3(c)(4).

7. § 465.5 National Advisory Board

DOE received five comments suggesting changes to the composition of membership of the Advisory Board. No change has been made to proposed § 465.5(a), since the membership categories are specified by the Act. DOE does believe, however, that several of the comments are helpful, and will be guided by them in implementation of the regulation. DOE has selected one member representative of the interests of utility companies, and has sought geographic balance by assuring that at least one member resides in each of the 10 Federal regions.

DOE has made a change in proposed § 465.5(c) to reflect the role of the Regional Representative in implementing the comprehensive EES program, and has made technical changes in subparagraphs (d) and (e) of proposed § 465.5.

8. § 465.6 Financial Assistance

DOE received four comments suggesting changes to the proposed formula for calculating State allocations of financial assistance provided under the comprehensive EES program. Since the formula is prescribed by the Act, no change has been made.

Three comments addressed the financial assistance that the Director may reserve for special State projects. One comment suggested that the limitation of 10 percent of appropriated funds is too low, and will have the effect of pushing States toward "safe" projects that will have little relevance in the decade to come. Another comment urged DOE to fund special State projects only if the annual appropriation for the comprehensive EES program exceeds $25 million. A final comment appeared to disagree with DOE's decision not to fund special State projects in the first year of the Comprehensive EES program.

DOE presently is testing the usefulness of special State projects in the pilot program, and will not fund these projects in the first year of the nationwide program since the results will not be available in this time period. For the present, DOE will retain the proposed 10-percent limitation, since it appears reasonable in light of balancing the State's need for continuity in the regular annual formula grant funding with that allocated to the pursuit of innovation.

DOE received three requests for clarification of the annual funding cycle to be used in providing financial assistance to the States. As indicated in the preamble to the proposed regulation, DOE will provide financial assistance to the States on a calendar year rather than a Federal fiscal year basis, and proposed § 465.6(a) has been revised to clarify this point. One comment questioned the relationship between this funding cycle and that of SECP. The comprehensive EES program's funding cycle is intended to approximate the SECP funding cycles. The State Program Planning Manual is expected to contain an explanation of the EES annual funding cycle.

DOE has made changes in proposed § 465.6(a) and proposed § 465.6(c) to delegate the responsibility to the Regional Representative for providing financial assistance to the States.

9. § 465.7 Annual State Applications

DOE received six comments regarding proposed § 465.7(c)(5), which requires States to include in the annual State application for financial assistance a written summary and chronology of the procedures used to provide opportunity to comment on the State plan prior to or during its development. One comment suggested that any written comments be appended to the annual application, while another advocated that the regulation require the Governor to appoint an advisory group to prepare the State plan. This advisory group would include a minimum of 33 percent elected officials of

general purpose government. Another comment urged that land-grant universities be required to take part in the development of the State plan. Another comment suggested that States be required to provide professional engineers and contractors with opportunity to comment.

DOE has reviewed these comments carefully and is satisfied that the language of the proposed regulation is adequately broad to insure opportunity for public comment on the State plan. In order to accord a State optimal flexibility to develop and implement a State plan responsive to local needs, DOE will not require States to follow a prescribed procedure for developing the State plan nor will it specify who must prepare the State plan. However, DOE will hold the States responsible for demonstrating that the State plan was developed in an open manner, that interested parties including the private sector are provided with opportunity for comment, and that these comments were considered fully in the development of the State plan.

Two comments questioned the desirability of proposed § 465.7(c)(4). One of these, expressed at the public hearing, held that the requirement that EES financial assistance not supplant State or local funds unduly penalizes States who responded early to energy problems by developing their own programs. DOE will retain proposed § 465.7(c)(4), as it is required by the Act.

DOE received one query concerning the 180-day period for submitting the first annual State application. Specifically, does the 180 days include the time necessary for DOE review and approval of the annual State application? Although DOE encourages States to submit the first annual State application early to facilitate prompt funding, the Act provides the first annual State application is not required to be submitted before the end of the 180-day period.

Proposed § 465.7(a) has been revised to provide that the Regional Representative shall invite the Governor to submit the first annual State application.

DOE has amended proposed § 465.7(b) to require submission of an original and 2 copies rather than 10 copies of the annual State application. In addition, proposed § 465.7(d) has been revised so that the Governor need only request an extension of time for submitting an application 15 days before the expiration date, instead of 30. Changes have been made in proposed § 465.7(b) and proposed § 465.7(d) to indicate that annual State applications and State requests for extensions, respectively, should be submitted to the Regional Representative.

10. § 465.8 Submission and Contents of State Plans

DOE received two comments related to the level of detail required in the State plans. One comment supported the level of detail required, suggesting that it is a positive way of controlling potential EES duplication with other related efforts. The other comment stated that the proposed State plan requirements are overly detailed, in light of the EES principle of State flexibility, the expected funding level, and the fact that energy outreach programs are well along in some States. DOE has maintained the level of detail that was contained in the proposed regulation. This level of detail is not intended to limit the programmatic flexibility of the States, but rather to insure that State plans are carefully and logically thought out and include all the elements necessary for implementation. Through their State plans, the States should demonstrate that their planned EES activities are relevant to the State's particular circumstances and the needs of small energy users.

Two comments questioned the usefulness of preparing a 3-year State plan as required in proposed § 465.8(c), believing this period is too long. DOE has decided to retain the 3-year period since it represents a reasonable planning period and reduces a State's administrative burden. This is particularly appropriate because, as provided in § 465.8(b), a State may modify or update its State plan for the intervening 2 years.

DOE received five comments concerning the EES objectives to be identified in response to proposed § 465.8(c)(1). One comment stressed that DOE should require a balancing of short- and long-term objectives, while another asked if the increased use of coal by small energy users could be considered as an EES objective. Three comments addressed the terms in which objectives should be expressed.

The balancing of short- and long-term objectives will be at the discretion of the State, with the State responsible for indicating the rationale for its selection of objectives. The increased use of coal by small energy users may be an acceptable EES objective if the State can demonstrate to DOE that such an objective meets the definition of energy conservation in the regulation. DOE cannot answer this question definitively out of the context of a specific State plan, except to say that a State program emphasizing the use of coal by small energy users is not prohibited by the regulation. DOE will permit the State to choose whether or not to express EES objectives in terms of expected Btu energy savings.

DOE received five comments regarding proposed § 465.8(c)(1)(iv), which requires optimum use of existing organizations to assist in the implementation of the State plan. One comment urged DOE to be more forceful in calling for linkages with existing programs, while another asked for guidelines for establishing these linkages. A third comment asked that community colleges be referenced explicitly. Another comment urged that DOE not require the States to use colleges and universities as service delivery mechanisms.

DOE believes that the criterion of "optimum use" of existing organizations adequately covers the concern of the first comment. DOE is fully aware that community colleges, as well as other organizations, can be useful delivery mechanisms for EES services, and appropriate references to these will be made in the State Program Planning Manual. It also will contain suggestions for implementing linkages with existing organizations.

DOE will not require the use of any particular type of organization to deliver EES services. This choice is left to the State. DOE also agrees with a comment made by the National EES Advisory Board at the public meeting held on September 7-8, 1978, that a State is not required to select the organizations specified in its 1977 proposal for the EES pilot program.

One comment, in reference to proposed § 465.8(c)(1) (v) and (iv), asked whether States must include provision for energy audits and information dissemination to small business if these services already are provided through other sources. EES may not provide duplicative services. However, these two services are required by the Act. If a State does not choose to provide these services as part of a State program, the State plan should provide an explanation concerning how these services will continue to be provided in the State.

One comment queried whether a State could contract for energy audit services to implement its State plan. The regulation does not restrict a State's ability to contract for the delivery of services to be provided under State programs, as long as the State plan identifies the organization providing the services, as required by § 465.8(c)(2)(iv).

Three comments emphasized the need for face-to-face delivery of services for encouraging increased use of conservation techniques and technologies. State programs should emphasize the use of services which provide personalized information and technical assistance, tailored to the needs of

the particular target audience addressed.

With regard to proposed § 465.8(c)(4)(ii), one comment urged DOE to delete the phrase "within the State," to indicate that some barriers to energy conservation may not be able to be resolved by organizations within that jurisdiction. DOE regarded this comment as very well taken but is retaining the phrase, not as a limitation, but to indicate the State's primary area of responsibility. As in the EES pilot program, DOE intends to work with the States to communicate barriers to energy conservation that need to be considered at the regional or national levels. By so doing, DOE can draw together information on interstate barriers to energy conservation.

DOE also agrees with another comment, which pointed out the relatively long time periods necessary to resolve many barriers to energy conservation. Experience to date in the EES pilot program confirms this conclusion. As part of DOE's management system for the comprehensive EES program, DOE expects to establish a monitoring system regarding the barriers to energy conservation that have been identified.

DOE received three comments concerning the establishment of technical support institutes (TSI), allowed in proposed § 465.8(c)(7). One comment claimed that the establishment of a TSI would be wasteful, and that States should use existing organizations to provide technical support. Another comment argued the reverse, and requested the substitution of less restrictive language since in some cases new organizations can function more effectively. A third comment believed that a TSI should be allowed to be established as part of an unit of general purpose government.

Establishment of a TSI is authorized by the Act, which indicates that, if established, a TSI shall be located at one or more colleges or universities designated by the Governor. DOE will retain the requirement in proposed § 465.8(c)(7) for a detailed justification for the establishment of a TSI, since one of the fundamental principles of the comprehensive EES program is to make optimum use of existing organizations and to avoid duplication.

DOE has deleted proposed § 465.8(c)(2)(iv), which called for the estimated impact of each service to be provided under a State program on its target audience, and has renumbered subsequent subsections accordingly.

DOE has concluded that the EES objectives set according to § 465.8(c)(1) are sufficient indicators of what a State expects to accomplish in its State plan.

DOE also has added a new § 465.8(c)(8)(i), renumbering the proposed § 465.8(c)(8) as § 465.8(c)(8)(ii), and making some technical changes therein. In § 465.8(c)(8)(i), DOE requires the State plan to describe the procedures the grantee will use to achieve timely implementation of the State plan.

DOE has rearranged the subsections under proposed § 465.8(c)(1) in order to achieve a more logical order for preparation of the State plan. Proposed § 465.8(c)(2)(iii) has been renumbered as § 465.8(c)(2)(ii)(D). Proposed § 465.8(c)(6) has been renumbered as § 465.8(c)(3), with proposed § 465.8 (c)(3), (c)(4), and (c)(5) renumbered accordingly. Technical corrections for clarity have been made to proposed § 465.8(c)(1), proposed § 465.8(c)(2)(i), proposed § 465.8(c)(2)(ii) (B) and (C), proposed § 465.8(c)(2)(vi), and proposed § 465.8(c)(7).

11. § 465.9 Approval of Annual State Applications and State Plans

One comment requested that DOE include its criteria for reviewing State plans in the regulation. State plans will be reviewed in accordance with the requirements of § 465.8.

Three comments urged DOE to identify the time period it will use to review an annual State application. Because the problems which can arise in the review of an annual State application may be unique and are in part unforseeable, a mandated review period cannot be identified. However, DOE will provide a timely review of the annual State application and make every effort to be sensitive to time constraints affecting a State plan. In response to a query on this point, DOE does not anticipate prorating the financial assistance available to a State in cases where DOE requests the State to make revisions in the annual State application which are necessary to meet the requirements of the regulation.

One comment urged DOE to permit funding of any acceptable portions of a State plan, prior to approval of the entire annual State application for financial assistance. The Act does not permit this.

Changes have been made to proposed § 465.9 (a) and (b) to reflect the role of the Regional Representative.

12. § 465.10 Development and Implementation of a State Plan by the Director

DOE received one comment which indicated confusion regarding whether States are required to participate in the comprehensive EES program. DOE would like to clarify that such participation is voluntary. State plans developed by the Director according to § 465.10 will be transmitted to the Governor. If within the subsequent 90-day period, the Governor notifies the Secretary in writing of his or her objection, the State plan will not be implemented. Language has been added to proposed § 465.10(d) to clarify this point.

Another comment questioned the value of a State plan developed by the Director. DOE will maintain proposed § 465.10, since this procedure is mandated by the Act.

One comment suggested that DOE revise proposed § 465.10(b) to specify that the Director's notice to the Governor prior to developing a State plan be in written form. DOE regards this comment as well taken, and has so amended proposed § 465.10(b). DOE has amended proposed § 465.10(a)(2) to reflect the responsibility of the Regional Representative in disapproving an annual State application.

13. § 465.11 Administrative Review

DOE received two comments regarding the composition of the review panel as specified in proposed § 465.11(e). One comment suggested that both the Federal representatives should not be DOE employees, and the other comment urged inclusion of a person representative of EES user groups. In response, DOE has amended proposed § 465.11(e)(2) to read "one person representative of DOE", and has amended proposed § 465.11(e)(3) to read "one person representative of the EES target audiences in the State affected."

DOE received one comment which suggested that administrative review procedures should be available to any party in a State excluded from particiption in EES. DOE believes this to be an inappropriate method to assure public participation in the State plan. The States are required in § 465.7(b)(5) to provide opportunity for comment on the State plan prior to or during its development, and to describe how the comments received affected the contents of the State plan. In this way, DOE may review an annual State application to ascertain the adequacy of the State's public comment procedure. The comment also urged DOE to include provisions for judicial review in the regulation. Such provisions are outside the scope of this rulemaking.

DOE has amended each paragraph of the proposed section to reflect the role of the Regional Representative in the administrative review process.

A technical correction has been made to proposed § 465.11(c) (1) and (2), by inserting the word "denial", between "intended" and "termination." Proposed § 465.11(g) has been amended to indicate that the Regional Representative shall submit the review panel's report and his or her recommendations to the Director as well as

to the Secretary. Additional technical corrections were made to proposed § 465.11 (i) and (j).

14. § 465.12 PROHIBITED EXPENDITURES

DOE received six comments regarding proposed § 465.12(a)(3). Several of these questioned the meaning of the prohibition against demonstration of conservation techniques and technologies not commercially available. Although proposed § 465.12(a)(3) has not been changed, DOE would like to take the opportunity in this preamble to clearify the intent of the provision.

The focus of the comprehensive EES program is on connecting small energy users with conservation techniques and technologies that are currently available to them. Research, development and demonstration activites aimed at creating or testing new conservation techniques and technologies are outside this focus and prohibited by § 465.12(a)(3).

DOE is aware, however, that a particular demonstration of conservation techniques or technologies that are available to target audiences can be an effective EES service. For this reason, DOE will permit such pratical demonstrations as long as the item demonstrated can be demonstrated can be obtained commercially by target audience. Likewise, in the case of demonstrating "homemade" devices, the materials necessary for constructing the device should be available commercially. The rationale is that State programs and services should not encourage the adoption of conservation techniques and technologies that cannot be obtained by a target audience. If necessary, States may modify an existing building or structure in order to provide a practical demonstration. As stated in § 465.12(a)(1), the States may not, however, use EES grant funds to construct a new building, or repair an existing one.

In response to one comment, DOE has amended proposed § 465.12(a)(1) to delete the prohibition agaist the purchase of materials. DOE also has added a new § 465.12(c) to reflect the 10 percent limitation on expenditures for a States's independent evaluation activities. This new section is discussed in section 3 of this preamble.

15. § 465.13 RECORDKEEPING

One comment suggested that State recordkeeping requirements under the comprehensive EES program be similar to those required by SECP. Another questioned why DOE is requiring access to records regarding funds not supplied under the comprehensive EES program.

DOE's intent is to conform EES administrative procedures to those of SECP to the fullest extent possible, consistent with the differing legislative authorites for the programs. For the comprehensive EES program, the Act authorizes DOE to require records of the source and amount of any funds not supplied by the Secretary.

DOE has made five technical corrections to proposed § 465.13, by substituting "Secretary" for "Director."

16. § 465.14 REPORTS

Two comments expressed confusion regarding the purpose of the guarterly program performance reports, believing that DOE would require quarterly evaluations of the impact of State programs on their target audiences. DOE would like to clarify that such evaluations will not be required in the quarterly program performance reports. Instead, to facilitate DOE's evaluation of the comprehensive EES program, States will submit, as part of the quarterly performance report, summaries of activity data related to two State programs selected by the State for the purposes of DOE's evaluation. No impact analysis will be required of the State.

Another comment queried DOE regarding the format of the State quarterly performance report. DOE's proposed reporting forms are now under review and will be sent to the States upon approval.

In response to another comment's concern that DOE use reporting procedures for the comprehensive EES program that are similar to those of SECP, DOE anticipates making use of the Grants Management Summary Report which is being use by a number of States for reporting under the SECP. One comment advocated inclusion of the State's EEs program performance report as a section of the State's SECP report. DOE will retain a separate EES report due to the differing authorities for the programs.

DOE received one comment that after the first year, State program performance reports should be required annually rather than quarterly. DOE believes that presently such a decision is premature.

DOE has amended proposed § 465.14 to indicate that State reports will be submitted to the Regional Representative and has made two additional technical corrections.

17. § 465.15 ADMINISTRATION OF FINANCIAL ASSISTANCE

DOE has made a number of technical corrections to proposed § 465.15. Proposed § 465.15(d) has been deleted since it is not relevant to the administration of financial assistance under the comprehensive EES program. Other proposed subsections have been reordered for reasons of clarity.

18. FINAL REGULATION

The proposed as well as final regulation is in accordance with Executive Order 12044, and found to be a significant rulemaking for regulatory analysis, but not major, so that no analysis of its economic impacts is required.

In accordance with DOE's obligations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., an evaluation of the potential environmental impacts of the proposed and final regulation has been prepared by DOE. Based on the Environmental Assessment (DOE/EA-0042) of the comprehensive EES program, DOE has determined that this regulation will not constitute a major Federal action having a significant effect on the quality of the human environment. Accordingly, an environmental impact statement will not be prepared. However, DOE has an obligation to review programs proposed for funding under this regulation and determine whether a site-specific environmental review is required.

(The National Energy Extension Service Act, enacted as title V of the Energy Research and Development Administration Authorization Act of 1977, title V of Pub. L. 95-39 Stat. 191 et seq., 42 U.S.C. 7001 et seq.; Department of ENergy Organization Act, Pub. L. 95-91 Stat. 965 et seq., 42 U.S.C. 7101 et seq.; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 92 Stat. 3 et seq., 41 U.S.C. 501 et seq.; E.O. 12009, 42 FR 46267; E.O. 12044, 43 FR 12660.)

In consideration of the foregoing, subchapter D, chapter II of Title 10, Code of Federal Regulations is amended by establishing part 465 as set forth below, effective November 1, 1978.

Issued in Washington D.C., September 28, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

Suchapter D, chapter II of Title 10, Code of Federal Regulations is amended by establishing part 465 as follows:

Sec.

AUTHORITY: National Energy Extension Service Act, enacted as title V of the Energy Research and Development Administration Authorization Act of 1977, title V of Pub. L. 95-39, 91 Stat. 191 et seq., 42 U.S.C. 7001 et seq.; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 965 et seq., 42 U.S.C. 7101 et seq.; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 92 Stat. 3 et seq., 41 U.S.C. 501 et seq.; E.O. 12009, 42 FR 46267; E.O. 12044 43 FR 12660.

§ 465.1 Purpose and scope.

This part contains the regulation adopted by DOE to establish a comprehensive Energy Extension Service program which shall—

(a) Establish a positive energy outreach program directed toward small businesses and individual energy users and the organizations that influence their energy consumption;

(b) Stimulate, provide for and supplement programs for the conduct of evaluation, planning and other technical assistance of energy conservation efforts, including energy outreach activities of States; and

(c) Provide financial and technical assistance to the States for State plans which contribute to the implementation of the comprehensive Energy Extension Service program.

§ 465.2 Definitions.

As used in this part—

"Act" means the National Energy Extension Service Act, title V of Pub. L. 95-39, 42 U.S.C. 7001 et seq.

"Barriers to energy conservation" means problems or obstacles identified by small energy users which prevent or hinder them from adopting conservation techniques and technologies.

"Building" means any structure which includes provisions for a heating, cooling or hot water system, or which is used as a residential dwelling unit.

"Community action agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88-452, 42 U.S.C. 2701 et seq., which is authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

"Conservation techniques and technologies" means actions likely to result in energy conservation.

"Director" means the Director of the EES office of DOE.

"DOE" means the Department of Energy.

"Energy audit" means a procedure to measure the consumption or cost of energy in order to identify conservation techniques and technologies in a building or industrial process.

"EES" means Energy Extension Service.

"EES office" means the national office of DOE established to develop and carry out the comprehensive EES program in accordance with the provisions of this part.

"Energy conservation" means energy conservation, efficient energy use or the utilization of renewable energy resources.

"Governor" means the chief executive officer of a State and the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act upon his or her behalf.

"Grantee" means a State or entity of the State named in the notice of grant award as the recipient of financial assistance provided under this part.

"Regional Representative" means the Regional Representative of the Secretary.

"SECP" means the State energy conservation plans developed and implemented pursuant to 10 CFR 420.

"Secretary" means the Secretary of the Department of Energy.

"Service" means technical assistance, instruction, information dissemination, energy audit or a practical demonstration concerning one or more conservation techniques and technologies.

"Small business" means an independently owned concern which together with its affiliates is not dominant in its field and either does not have average annual receipts for the last 3 years of more than $12 million or does not have more than 400 employees.

"Small energy users" means residential consumers, individuals and groups of individuals, small businesses including agricultural and commercial establishments, and units of State and local governments.

"Special State project" means a unique or innovative activity which is likely to bring about energy conservation in furtherance of the objectives of the Act, and which is not part of a State plan.

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

"State program" means a set of related services provided to a target audience which is used to implement a portion of a State plan.

"Target audience" means the persons intended to receive services provided under a State program.

"Technical assistance" means assistance, other than direct financial assistance, including instruction, expert advice, information dissemination and practical demonstrations.

"Technical support" means activities provided by a State, such as specialized analyses, preparation of materials, training or other activities, which are necessary to implement a State plan effectively.

§ 465.3 Comprehensive Energy Extension Service program.

(a) DOE has established the EES office, administered by a Director, to develop and carry out the comprehensive EES program established by this part.

(b) The comprehensive EES program shall identify, develop and demonstrate in a practical manner, opportunities for energy conservation. This program shall be developed and implemented with particular regard for increasing the capability of small energy users to make informed energy decisions.

(c) The Director shall implement the comprehensive EES program by—

(1) Carrying out activities, through technical assistance where appropriate, for the identification, development and practical demonstration of opportunities for energy conservation;

(2) Collecting information and undertaking actions to eliminate barriers to energy conservation identified by small energy users;

(3) Carrying out activities that shall encourage the sharing of information, experience and materials among the States regarding the comprehensive EES program;

(4) Providing financial assistance through the Regional Representative for the implementation of a State plan; and

(5) Providing technical assistance for the development, implementation or modification of a State plan.

(d) The Director shall take such steps as he or she may determine to be necessary to minimize conflict between existing services in the private sector that are similar to the services provided under the comprehensive EES program. For this purpose, the Director shall at least once a year—

(1) Consult with the National Advisory Board, referred to in § 465.5; and

(2) After publishing a notice of inquiry and public meeting in the FEDERAL REGISTER, obtain written and oral comments from the public.

§ 465.4 Comprehensive Program and Plan for Federal Energy Education, Extension and Information Activities. [Reserved.]

§ 465.5 National Advisory Board.

(a) The Secretary shall appoint a National Advisory Board which shall consist of not less than 15 nor more than 20 members. The members shall include persons representative of the interests of State, county, and local

governments, State universities, community colleges, community action agencies, energy users, small businesses and agriculture.

(b) The Secretary shall designate one member of the Board to serve as Chairman and shall provide the Board with the services and facilities, as may be necessary to carry out its functions.

(c) The Board shall carry on a continuing review of the operation of the comprehensive EES program established by § 465.3 and the State plans approved by the Regional Representative according to § 465.9, for the purpose of evaluating their effectiveness in achieving the objectives of the Act and determining how their operation might be improved in order to further these objectives.

(d) The Board shall report annually to the Congress, the Secretary, and the Director on the status of the comprehensive EES program, including any recommendations the Board may have for administrative or legislative changes needed to improve operation of the comprehensive EES program.

(e) The Secretary shall reimburse Board members for the full amount of any expenses necessarily incurred by them in the performance of their duties as such.

§ 465.6 Financial assistance.

(a) The Regional Representative shall provide financial assistance, on a calendar year basis, from funds available for any fiscal year to each State having an approved annual application according to § 465.9.

(b) Financial assistance shall be allocated among the States from funds available for any fiscal year based on the following formula—

(1) One-half shall be divided equally among all States; and

(2) One-half shall be divided on the basis of the State's population as reported by the Department of Commerce, Bureau of Census, in the most recent decennial census.

(c) If a State's allocation of financial assistance is not obligated by the Regional Representative during the fiscal year, the allocation shall be reallocated among the States for the next calendar year according to paragraph (b) of this section.

(d) Notwithstanding the provisions of paragraph (b) of this section, the Director may reserve from the funds appropriated for any fiscal year an amount to provide financial assistance to States for special State projects. This amount shall be determined by the Director, but in no event shall exceed 10 percent of the appropriated funds.

§ 465.7 Annual State applications.

(a) The Regional Representative shall send a copy of the regulation to the Governor of each State and invite him or her to submit the first annual State application.

(b) To be eligible for financial assistance under this part, a State shall submit an original and two copies to the Regional Representative of an annual State application executed by the Governor. The first annual State application shall be submitted not later than 180 days from the date of issuance of this regulation. Subsequent annual State applications shall be submitted on or before September 30 of the following years.

(c) An annual State application shall contain—

(1) The name and address of the grantee;

(2) The State plan or modifications of it, as required by § 465.8 (a) and (b) respectively;

(3) A budget and listing of milestones for the activities to be carried out in each of the State programs contained in the State plan by calendar quarters for the year in which financial assistance will be provided;

A description of policies and procedures employed by the State which assure that financial assistance provided under this part does not supplant the expenditure of State or local funds for the same purposes, but rather supplements Federal, State, or local funds, and increases the expenditure of the State or local funds to the maximum extent practicable;

(5) A written summary and chronology of the procedures which were used to provide organizations and individuals with opportunity to comment on the State plan prior to or during its development. The opportunity to comment shall be provided to representatives of energy users and producers, State, county, and local officials, State universities, and community colleges, cooperatives extension services, community action agencies and other public, private, or nonprofit organizations which are involved in active energy outreach activities. The written summary shall include—

(i) The name of the organizations afforded an opportunity to comment; and

(ii) How the comments received affected the contents of the State plan.

(6) A description of anticipated environmental impacts of any services which include the modification of buildings or structures to provide a practical demonstration of conservation techniques and technologies.

(d) The Governor may request an extention of the annual submission date by submitting a written request to the Regional Representative not less than 15 days prior to the date referred to in paragraph (b) of this section. The extension shall only be granted if, in the Regional Representative's judgment, acceptable and substantial justification is shown and the extension would further the objectives of the Act.

§ 465.8 Submission and contents of State plans.

(a) A State shall submit a State plan with—

(1) The first annual State application; and

(2) The annual State application submitted every 3 years thereafter.

(b) A State shall submit, with the annual State application, modifications to the State plan, if appropriate, for the years not referred to in paragraph (a) of this section.

(c) A State plan shall be developed for a 3-year period and contain—

(1) A description of the objectives to be achieved for the three year period by implementation of the State plan, which shall include—

(i) Why the objectives were selected, with particular reference to potential energy savings, increased use of renewable resources and the types and numbers of people affected;

(ii) How the State programs included in the State plan, and the emphasis and funding given to each, together represent a strategy to achieve these objectives;

(iii) How implementation of the State plan shall supplement and be coordinated with other energy conservation programs being carried out in the State with Federal funds or under other Federal laws, with particular reference to university programs providing extension services and the State's SECP; and

(iv) How existing organizations, including State, local, university, or other organizations, will be used to the optimum extent to assist in the implementation of the State plan;

(v) How the State plan provides for information dissemination to small businesses and addresses organizations which influence the energy consumption of small energy users;

(vi) How the State plan makes energy audits available to small energy users, within personnel and funding limitations;

(2) A description for each State program in the State plan, which shall include—

(i) The target audience, why it was selected and the estimated number of persons which the State program expects to reach;

(ii) The services to be provided, including—

(A) How the services will meet the needs of the target audience;

(B) The conservation techniques and technologies to be used in each service;

(C) The type and estimated number of any energy audits if any are included; and

(D) The geographic areas in which the services shall be delivered and why these areas were selected;

(iii) Any technical support which is necessary to provide the services, including the organization that will provide the technical support and why the organization was selected; and

(iv) The organization which shall implement the State program and any other organizations which shall provide a service to the target audience, why the selection was made and the approximate number of any new personnel to be employed to implement the State program;

(3) A description of the organization which shall administer the overall development and implementation of the State plan, which shall include—

(i) Why the administering organization was selected;

(ii) The provisions made for coordination between the administering organization and any other organizations assisting in the implementation of the State plan; and

(iii) The relationship between the administering organization and the grantee if the two are not the same;

(4) A description of the methods and procedures which shall be used to—

(i) Identify barriers to energy conservation from responses which shall be obtained from target audiences;

(ii) Communicate information concerning the barriers to energy conservation to organizations within the State that have the capability or authority to remove or influence the barriers; and

(iii) Periodically report the results of such communication to the target audiences identified in subparagraph (c)(4)(i) of this section;

(5) A description of the administrative procedures to be used in the implementation of the State plan which shall include—

(i) The procedures to be used to respond to suggestions and inquiries from the public regarding energy conservation;

(ii) The procedures to be used to publicize and disseminate up-to-date and easily understood information on the services available to small energy users under the State plan and under other Federal programs and activities of the State regarding conservation techniques and technologies; and

(iii) The system to be used to review, for technical accuracy, any publication or other material which the State shall prepare or use in a State program;

(6) A description of the purpose, methods and procedures of the independent evaluation activities, if any, that the State shall undertake regarding the State programs or services;

(7) A description of any additional technical support not described in subparagraph (c)(2)(iii) of this section which is required to facilitate implementation of the State plan. If existing organizations are not available to provide this additional technical support or the technical support identified in subparagraph (c)(2)(iii), the State may propose to establish a technical support institute, at one or more colleges or universities designated by the Governor. The purpose of the technical support institute shall be to assist in the implementation of the State plan by providing analyses and technical support which is required for effective implementation of the State plan. If such an institute is proposed, the State shall provide a detailed justification which shall describe—

(i) Why the institute is needed;

(ii) How the institute specifically relates to the implementation of the State plan; and

(iii) The purpose, location, size, and specific activities of the institute; and

(8)(i) A description of the procedures that the grantee will use to achieve timely implementation of the State plan; and

(ii) An assurance that the grantee will maintain or require other participating entities within the State to maintain, and make available upon request to the Regional Representative, such records as the Secretary may require, with respect to the use and expenditures of financial assistance provided to the grantee, or to entities within the State, under this part.

§ 465.9 Approval of annual State applications and State plans.

(a) The Regional Representative shall review each timely State annual application and provide financial assistance if he or she determines that—

(1) The State plan meets the objectives of the Act;

(2) The annual State application and the State plan meet the requirements of § 465.7 and § 465.8, respectively; and

(3) Implementation of the State plan by the State conforms to the requirements of this part.

(b) If the annual State application is not approved according to paragraph (a) of this section, the Regional Representative shall return it to the State together with a written statement describing why the annual State application fails to meet the requirements of this part. The State shall have a reasonable time period, as determined by the Regional Representative, to amend its annual State application and submit it for reconsideration according to paragraph (a) of this section.

§ 465.10 Development and implementation of a State plan by the Director.

(a) The Director shall develop a State plan which meets the requirements of § 465.8, if—

(1) A State does not submit an annual State application in accordance with § 465.7; or

(2) The Regional Representative finally disapproves an annual State application according to § 465.11.

(b) Prior to developing a State plan under this section, the Director shall provide written notice and an opportunity for comment to the Governor.

(c) A State plan developed by the Director shall be transmitted to the Governor of the State and shall not be implemented for 90 days after the date of transmittal. Notwithstanding any provisions of this section to the contrary, no State plan developed by the Director according to paragraph (a) of this section shall be implemented if the Governor, within the 90-day period, notifies the Secretary in writing of his or her objection to the implementation of the State plan.

(d) In implementing a State plan developed according to this section to which the Governor has not objected during the 90-day period referred to in paragraph (c) of this section, the Director shall make maximum use of regional, State, or local organizations which deliver services which are appropriate for purposes of this part. The Director shall coordinate his or her activities in implementing the State plan with all other regional, State, or local organizations which deliver services which are related to, but not directly involved in, the implementation of the State plan.

(e) A State plan developed by the Director for a State whose financial assistance has been terminated according to § 465.11, shall provide for the continuation of all activities under the State plan which meet the requirements of this part.

§ 465.11 Administrative review.

(a) If the Regional Representative intends to deny an annual State application resubmitted by the Governor according to § 465.9(b) or refuses to accept an annual State application resubmitted by the Governor after the time period referred to in § 465.9(b) has expired, the Regional Representative shall give notice to the Governor.

(b) If the Regional Representative determines that implementation of a State plan approved according to § 465.9 fails to meet the requirements of this part, the Secretary shall give notice to the Governor of his or her intent to terminate or suspend financial assistance to the grantee.

(c) The notice required by paragraphs (a) or (b) of this section shall be issued in writing by registered mail

with return receipt requested and include—

(1) A statement of the reasons for the intended denial, termination or suspension of financial assistance including an explanation of whether any amendments or other actions would result in compliance with this part;

(2) The date, place and time of a public hearing to be held by a review panel concerning the intended denial, termination or suspension of financial assistance. The hearing shall be held within 15 working days after the date of receipt by the Governor of the notice; and

(3) The manner in which views may be presented.

(d) The Governor may submit written views with supporting data to the Regional Representative on or prior to the date of the public hearing and shall be offered an opportunity to make an oral presentation at the public hearing.

(e) No person who is a member of the EES office shall be a member of the review panel. The review panel shall be appointed by the Regional Representative and shall consist of—

(1) One person generally representative of State interests other than a person who represents the interests of the State whose application is being considered;

(2) One person representative of DOE; and

(3) One person representative of the EES target audiences in the State affected.

(f) The review panel shall consider all relevant views and data submitted on or prior to the date of the public hearing. The review panel shall submit a written report containing its findings and recommendations to the Regional Representative within 10 working days after the date of the public hearing.

(g) The Regional Representative shall submit the report, together with his or her recommendations, to the Director and to the Secretary within 5 working days after receipt of the report.

(h) The Secretary shall issue a final determination, accompanied by a statement of the reasons for the actions taken, within 10 working days after receipt of the submission from the Regional Representative.

(i) Upon issuance of the notice referred to in paragraphs (a) or (b) of this section, the Secretary may suspend financial assistance to the grantee pending a final determination. If the Secretary makes a final determination adverse to the grantee, the Regional Representative may terminate continued financial assistance to the grantee.

(j) If financial assistance to a grantee has been terminated, the Regional Representative may continue to provide financial assistance to persons other than the grantee to implement any acceptable provision of the State plan for the remainder of the calendar year.

§ 465.12 Prohibited expenditures.

(a) No financial assistance provided to a State under this part shall be used to—

(1) Construct or repair a building or structure;

(2) Purchase land, a building or structure or any interest therein; or

(3) Conduct, or purchase equipment to conduct, research and development or demonstration of conservation techniques and technologies not commercially available.

(b) No more than 20 percent of the financial assistance awarded to a State under this part shall be used to purchase equipment, office supplies or library materials.

(c) No more than 10 percent of the financial assistance provided to a State under this part shall be used to conduct the independent evaluation activities authorized in § 465.8(c)(6).

§ 465.13 Recordkeeping.

Each State or other entity within a State receiving financial assistance under this part shall make and retain records required by the Secretary, including records which fully disclose the amount and disposition of financial assistance received; the cost of administration; the total cost of all activities for which assistance is given or used; the source and amount of any funds not supplied by the Secretary; and any data and information which the Secretary determies are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. The Secretary, or any of his or her duly authorized representatives, shall have access, until three years after the completion of the activities involved, to any books, documents, records or receipts which the Secretary determines are related or pertinent, either directly or indirectly, to any financial assistance provided under this part.

§ 465.14 Reports.

Each State receiving financial assistance under this part shall submit to the Regional Representative a quarterly program performance report and a quarterly financial statement. The program performance report shall contain such information as the Director may prescribe in order to monitor effectively the implementation of the State plan. The reports shall be submitted to the Regional Representative within 30 days following the end of each calendar quarter.

§ 465.15 Administration of financial assistance.

Grants provided under this part shall comply with the requirements of—

(a) Office of Management and Budget Circular A-102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(b) Office of Management and Budget Circular A-95, entiled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects;"

(c) Federal Management Circular 73-2 (34 CFR 255), entitled "Audit on Federal Operations and Programs by Executive Branch Agencies;"

(d) Federal Management Circular 74-4 (34 CFR 255), entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(e) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title IIII of the Intergovernmental Coordination Act of 1968;"

(f) Treasury Circular 1082 Revised, entitled "Notification to States of Grant-in-Aid Information;"

(g) Treasury Circular 1075, entitled "Treasury Fiscal Requriements Manual"; and

(h) Other procedures which DOE or the Director may from time to time prescribe for the administration of financial assistance provided under this part.

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