

WEDNESDAY, OCTOBER 4, 1978



highlights

HOW TO USE THE FEDERAL REGISTER

TAMPA, FLORIDA, WORKSHOPS

October 23, 1978

See inside cover for details.

SUNSHINE ACT MEETINGS 45942

AID TO FAMILIES WITH DEPENDENT CHILDREN

HEW/SSA proposes regulations on methods for budgeting income to determine recipient's financial eligibility and amount of assistance; comments by 12-4-78 45888
HEW/SRS withdraws proposal regarding calculating benefits. 45887

NATIONAL ENERGY TRANSPORTATION STUDY

DOE and DOT announce public hearings on 10-30, 11-3, and 11-6-78 (Part IV of this issue) 45974

FEDERAL-AID HIGHWAY PROJECTS

DOT/FHA revises procedures for approval of traffic noise level prediction methods; effective 10-9-78 45838

FISHING INDUSTRY

Commerce/NOAA provides compensation for domestic fishermen for damages from foreign vessels; effective 10-4-78 45869

FEDERAL RESERVE BANKS

FRS adjusts discount rates; effective 9-22-78 45821

FOREIGN-TRADE ZONES

Treasury/Customs proposes to include processing costs and profit realized in dutiable value of merchandise; comments by 12-4-78 45885

TELEPHONE COMPANIES

FCC proposes to amend reporting requirements for detailed traffic statistics; comments by 10-30-78; responses by 12-1-78 45892

TV BROADCAST STATIONS

FCC issues a proposal on network representation in national spot sales; comments by 11-20-78 and responses by 12-11-78 45895

CONTINUED INSIDE

TAMPA, FLORIDA, WORKSHOP

HOW TO USE THE FEDERAL REGISTER

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

WHO: The Office of the Federal Register in cooperation with the University of South Florida Library and Department of Library, Media, and Information Studies, the University of Tampa Library, Hillsborough Community College Library and the Tampa Public Library.

WHAT: Free public workshop (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.

4. Important elements of a typical Federal Register document.

5. An introduction to the finding aids of the FR/CFR system.

WHEN: October 23, 1978, at 2:00 p.m.

WHERE: University of South Florida Tampa Campus, 4202 Fowler Avenue, College of Education Building, Room 302.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Call 813-974-2100, Ext. 301 or 813-974-2557.

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Photo copies of documents appearing in the Federal Register.	523-5240
Corrections	523-5237
Public Inspection Desk.....	523-5215
Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)..	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents.....	523-5235
Index.....	523-5235

PUBLIC LAWS:

Public Law dates and numbers.....	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large.....	523-5266
	523-5282
Index.....	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

RADIO AND TV BROADCAST STATIONS

FCC restructures industry regulations; effective 11-1-78	45842
FCC considers proposal regarding fairness doctrine and personal attack rule; comments by 12-15-78; reply comments by 1-16-79	45899

RAILROAD/HIGHWAY GRADE CROSSING WARNING DEVICES

DOT/FRA terminates rulemaking proceeding	45903
--	-------

RAILROAD SAFETY STANDARDS

DOT/FRA reschedules hearings for 11-15 and 11-16-78 and 1-17 and 1-18-79	45905
--	-------

ATLANTIC GROUND FISH FISHERY

Commerce/NOAA approves emergency amendments to the Fishery Management Plan; effective 10-1-78; comments by 11-14-78	45872
---	-------

KEMP'S RIDLEY AND LOGGERHEAD SEA TURTLES

Commerce/NOAA proposes designation of critical habitat; comments by 12-4-78	45905
---	-------

BUDGET RESCISSION

OMB announces proposed rescission (Part III of this issue) ...	45970
--	-------

NASA WIND TUNNELS

NASA prescribes policy for industry use; effective 10-4-78	45823
---	-------

PEACEFUL USES OF ATOMIC ENERGY

DOE announces proposed subsequent arrangement between U.S. and Japan and between U.S. and European Atomic Energy Community	45918
--	-------

COMMODITIES

CFTC amends cash market position reporting requirements; effective 11-3-78	45825
--	-------

POTATO RESEARCH AND PROMOTION PLAN

USDA/AMS issues proposal on designated seed potato handlers; comments by 10-19-78	45884
---	-------

AUTOMOTIVE AND MOTORCYCLE REPAIR MANUALS FROM UNITED KINGDOM

Treasury terminates antidumping investigation; effective 10-4-78	45932
--	-------

TREASURY BONDS

Treasury announces 8%% per annum interest rate for Public Debt Series No. 23-78.....	45933
--	-------

PRIVACY ACT

Systems of records; annual publication (Part II of this issue):	
CIA	45956
International Boundary and Water Commission, U.S. and Mexico—U.S. Section.....	45960
SBA	45969
State	45957

HIGHLIGHTS—Continued

MEETINGS—

Commerce/NOAA: Marine Fisheries Advisory Committee, 10-26 and 10-27-78	45912
Regional Fishery Management Council Chairmen, 10-24-78	45910
DOD/AF: Air University Board of Visitors, Air Force Institute of Technology Subcommittee, 11-21-78	45912
USAF Scientific Advisory Board, 10-26 and 10-27-78	45913
HEW/HDSO: Model Adoption Legislation and Procedures Advisory Panel, 10-16 through 10-19-78	45920
SSA: Advisory Council on Social Security, 10-16-78	45920
NACOA, 10-19 and 10-20-78	45925
National Commission on Employment and Unemployment Statistics, 10-27-78	45925

State: Ocean Affairs Advisory Committee, Antarctic Section, 11-8-78	45931
USDA/FS: State and Private Forestry Advisory Committee, 11-7 through 11-9-78	45910

CANCELLED MEETINGS—

USDA/SEA: National Agricultural Research and Extension Users Advisory Board, 10-10 and 10-11-78	45910
--	-------

SEPARATE PARTS OF THIS ISSUE

Part II, CIA, State, International Boundary and Water Commis- sion—U.S. Section, and SBA (4 documents)	45956, 45957, 45960, 45969
Part III, OMB	45974
Part IV, DOE and DOT	45970

contents

AGRICULTURAL MARKETING SERVICE

Proposed Rules

Milk marketing orders:

- Greater Kansas City and Nebraska-Western Iowa 45881
- Nebraska-Western Iowa 45881

Potato research and promotion plan:

- Handlers, assessment responsibilities; inquiry 45884

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Forest Service; Science and Education Administration; Soil and Conservation Service.

AIR FORCE DEPARTMENT

Notices

Meetings:

- Air University Board of Visitors 45912
- Scientific Advisory Board 45913

CENTRAL INTELLIGENCE AGENCY

Notices

- Privacy Act; systems of records; annual publication 45956

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:

- Florida-Mexico City investigation 45910

COMMERCE DEPARTMENT

See National Oceanic and Atmospheric Administration.

COMMODITY FUTURES TRADING COMMISSION

Rules

Reports:

- Cash market positions; reporting requirements 45825

CUSTOMS SERVICE

Proposed Rules

Foreign-trade zones:

- Processing costs, nonprivileged merchandise; appraisal exclusion; advance notice 45885

Notices

- Administrative decisions, unpublished; biweekly lists; availability on microfiche 45931

DEFENSE DEPARTMENT

See Air Force Department.

EMPLOYMENT AND UNEMPLOYMENT STATISTICS, NATIONAL COMMISSION

Notices

- Meetings 45925

ENERGY DEPARTMENT

See also Federal Energy Regulatory Commission

Notices

- Cooperation between U.S. and Japan and Europe; subsequent arrangements 45918
- Energy transportation study, National; hearings 45974

ENVIRONMENTAL PROTECTION AGENCY

Notices

Pesticides; tolerances, registration, etc.:

- Oxadiazon; correction 45919
- Talon Rodenticide Pellets, etc 45918

Water pollution control:

- Safe drinking water; underground injection control program; State list; correction 45919

FEDERAL COMMUNICATIONS COMMISSION

Rules

- Reregulation of television and radio broadcasting 45842

Proposed Rules

- Maritime services, land and shipboard stations: Mississippi River System; bridge-to-bridge communications frequencies 45901

- Personal attacks; amendments and applicability of Fairness Doctrine 45899

Telephone companies:

- Traffic statistics, detailed reporting 45892

Television broadcast stations:

- Network representation of TV stations in national spot sales; exemptions 45895

FEDERAL DEPOSIT INSURANCE CORPORATION

Notices

International banking:

- Puerto Rico; bank branches located in U.S.; FDIC coverage extension 45919

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:

- Bountiful, Utah, City of, et al 45913
- Columbia Gas Transmission Corp. (2 documents) 45914
- Michigan Wisconsin Pipe Line Co 45914
- Mueller, Joseph P 45914
- Natural Gas Pipeline Co. of America 45915
- Perryton, Tex., City of, et al. 45913
- Seminole Electric Cooperative, Inc., et al. 45915
- Sinclair Oil Corp 45916
- Southwest Gas Corp 45916
- Tennessee Gas Pipeline Co. 45917
- Transcontinental Gas Pipe Line Co. (2 documents) 45918
- Union Light, Heat & Power Co., et al 45917
- United Gas Pipe Line Co 45918

FEDERAL HIGHWAY ADMINISTRATION

Rules

- Right-of-way and environment: Highway traffic and construction noise abatement procedures; level prediction methods 45838

FEDERAL MARITIME COMMISSION

Notices

- Agreements filed, etc. 45919

FEDERAL RAILROAD ADMINISTRATION

Proposed Rules

- Highway grade crossing warning devices; maintenance, inspection, and testing standards; withdrawn 45903

Practice rules:

- Safety regulatory program; inquiry, hearing; rescheduling 45905

Notices

- Petitions for exemptions, etc.: Seaboard Coast Line Railroad 45931

FEDERAL RESERVE SYSTEM

Rules

- Credit extensions by Federal Reserve Banks: Discount rate changes 45821
- Securities credit, credit by brokers and dealers, credit by banks, etc.: OTC margin stock list 45821

CONTENTS

Notices	
Applications, etc.:	
West Georgia Financial Corp.	45920
FISH AND WILDLIFE SERVICE	
Rules	
Hunting:	
Lacreek National Wildlife	
Refuge, S. Dak.	45869
Notices	
Endangered and threatened spe-	
cies permits; applications (7	
documents)	45922, 45923
FOREST SERVICE	
Notices	
Meetings:	
State and Private Forestry	
Advisory Committee	45910
GENERAL SERVICES ADMINISTRATION	
Rules	
Property management, Federal:	
ADP teleprocessing services	
program; extension of expi-	
ration date	45800
HEALTH, EDUCATION, AND WELFARE	
DEPARTMENT	
See Human Development Serv-	
ices Office; Social Security Ad-	
ministration.	
HUMAN DEVELOPMENT SERVICES OFFICE	
Notices	
Meetings:	
Model Adoption Legislation	
and Procedures Advisory	
Panel	45920
INTERIOR DEPARTMENT	
See also Fish and Wildlife Serv-	
ice; Land Management Bu-	
reau; National Park Service;	
Surface Mining Reclamation	
and Enforcement Office.	
Notices	
Environmental statements;	
availability, etc.:	
Tuledad-Home Camp areas,	
Calif. and Nev., livestock	
grazing	45923
Upper Gila-San Simon ES	
Area, Safford District, Ariz.,	
Livestock Grazing Manage-	
ment Program	45924
INTERNATIONAL BOUNDARY AND WATER	
COMMISSION, UNITED STATES AND	
MEXICO	
Notices	
Privacy Act; systems of records;	
annual publication	45960
INTERSTATE COMMERCE COMMISSION	
Rules	
Railroad car service orders:	
Freight cars, demurrage and	
free time	45866

Freight cars, movement	45863
Railroad car service orders; var-	
ious companies:	
Chesapeake & Ohio Railway	
Co.	45868
Chicago, Rock Island & Pacif-	
ic Railroad Co. (2 docu-	
ments)	45868
Lenawee County Railroad Co.,	
Inc.	45865
Notices	
Hearing assignments (3 docu-	
ments)	45933
Motor carriers:	
Temporary authority applica-	
tions (2 documents)	45934, 45938
Railroad car service orders:	
Freight car movement	45934
LABOR DEPARTMENT	
Notices	
Comprehensive Employment	
and Training Act; Migrant	
and other seasonally em-	
ployed farmworker programs;	
competition	45924
LAND MANAGEMENT BUREAU	
Notices	
Applications, etc.:	
Colorado (2 documents)	45921, 45922
Environmental statements;	
availability, etc.:	
Star Lake-Bisti Region, N.	
Mex.; coal resource develop-	
ment	45921
MANAGEMENT AND BUDGET OFFICE	
Notices	
Budget rescissions and defer-	
als	45970
Clearance of reports; list of re-	
quests	45930
NATIONAL AERONAUTICS AND SPACE	
ADMINISTRATION	
Rules	
Wind tunnels, NASA; develop-	
ment work for industry	45823
NATIONAL OCEANIC AND ATMOSPHERIC	
ADMINISTRATION	
Rules	
Financial aid to fisheries:	
Foreign vessel caused damage	
in U.S. Fishery Conserva-	
tion Zone; compensation	45869
Fishery conservation and man-	
agement:	
Atlantic groundfish	45872
Proposed Rules	
Fishery conservation and man-	
agement:	
Halibut fishery, off Alaska;	
hearings	45909
Marine mammals, fish, and rep-	
tiles; designated critical	
habitat:	
Sea turtles, Kemp's ridley and	
loggerhead	45905

Notices	
Marine mammal permit applica-	
tions, etc.:	
Quinlan Marine Attractions	45912
Rabb, George B.	45911
van den Oever, A.	45912
Meetings:	
Marine Fisheries Advisory	
Committee	45912
Regional Fishery Manage-	
ment Councils Chairmen	45910
NATIONAL PARK SERVICE	
Notices	
Boundary establishment, de-	
scriptions, etc.:	
Shiloh National Military	
Park	45923
NUCLEAR REGULATORY COMMISSION	
Notices	
Abnormal occurrence reports to	
Congress; thirteenth	45926
Applications, etc.:	
Arkansas Power & Light Co.	
(2 documents)	45927, 45928
Consumers Power Co.	45928
Illinois Power Co., et al.	45929
Northeast Nuclear Energy	
Co., et al.	45929
Toledo Edison Co.	45929
Meetings:	
Reactor Safeguards Advisory	
Committee	45926
OCEANS AND ATMOSPHERE, NATIONAL	
ADVISORY COMMITTEE	
Notices	
Meeting	45925
OHIO RIVER BASIN COMMISSION	
Notices	
Comprehensive Coordinated	
Joint Plans; availability of	
reports:	
Ohio River Basin	45930
POSTAL SERVICE	
Rules	
Postal Service Manual:	
Delivery service policy, city	45839
Domestic mail service, com-	
plaints, mail security, etc.;	
corrections	45838
SCIENCE AND EDUCATION	
ADMINISTRATION	
Notices	
Meetings:	
Agricultural Research and Ex-	
tension Users National Advi-	
sory Board; cancellation	45910
SMALL BUSINESS ADMINISTRATION	
Notices	
Privacy Act; systems of records;	
annual publication	45969

CONTENTS

SOCIAL SECURITY ADMINISTRATION

Proposed Rules

Financial and public assistance programs:
Prior month budgeting, monthly reporting and income averaging; withdrawn 45887

Financial assistance programs:
Aid to families with dependent children; budgeting income methods 45888

Notices

Meetings:
Social Security Advisory Council 45920

SOIL CONSERVATION SERVICE

Notices

Watershed planning assistance;

authorization to local organizations:

Utah et al 45910

STATE DEPARTMENT

Notices

Meetings:

Ocean Affairs Advisory Committee 45931

Privacy Act; systems of records; annual publication 45957

SURFACE MINING RECLAMATION AND ENFORCEMENT OFFICE

Proposed Rules

Environmental impact statements; permanent regulatory program 45886

TRANSPORTATION DEPARTMENT

See also Federal Highway Administration; Federal Railroad Administration.

Notices

Energy transportation study, National; hearings 45974

TREASURY DEPARTMENT

See also Customs Service.

Notices

Antidumping:

Automotive and - motorcycle repair manuals from United Kingdom 45932

Bonds, Treasury:

1993 series 45933

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.
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.

7 CFR		23 CFR		47 CFR—Continued	
PROPOSED RULES:		772.....	45838	PROPOSED RULES:	
1064.....	45881	30 CFR		42.....	45892
1065 (2 documents).....	45881	PROPOSED RULES:		43.....	45892
1207.....	45884	Ch. VII.....	45886	73 (2 documents).....	45895, 45899
12 CFR		39 CFR		83.....	45901
201.....	45821	111 (2 documents).....	45838, 45839	49 CFR	
207.....	45821	41 CFR		1033 (6 documents).....	45863,
220.....	45821	Ch. 101.....	45869		45865, 45866, 45868
221.....	45821	45 CFR		PROPOSED RULES:	
224.....	45822	PROPOSED RULES:		Ch. II (2 documents) .	45903, 45905
14 CFR		206.....	45887	50 CFR	
1210.....	45823	233 (2 documents).....	45887, 45888	33.....	45869
17 CFR		47 CFR		258.....	45869
15.....	45825	1.....	45842	651.....	45872
19.....	45825	73.....	45842	PROPOSED RULES:	
19 CFR				226.....	45905
PROPOSED RULES:				675.....	45909
146.....	45885				

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

1 CFR		18 CFR		40 CFR—Continued	
Ch. I.....	45339	154.....	45553	PROPOSED RULES—Continued	
3 CFR		PROPOSED RULES:		87.....	45411
EXECUTIVE ORDERS:		Ch. I.....	45595	180.....	45412
12085.....	45337	19 CFR		41 CFR	
MEMORANDUMS:		PROPOSED RULES:		8-12.....	45363
October 2, 1978.....	45547	146.....	45885	14-1.....	45584
5 CFR		20 CFR		14-55.....	45584
213.....	45549, 45550	404.....	45345	Ch. 101.....	45869
7 CFR		416.....	45554	PROPOSED RULES:	
2.....	45339	21 CFR		51-1.....	45413
29.....	45340	14.....	45555	45 CFR	
927.....	45341	146.....	45556	232.....	45596
966.....	45342	176.....	45556	233.....	45585
1488.....	45551	PROPOSED RULES:		302.....	45751
PROPOSED RULES:		74.....	45611	PROPOSED RULES:	
946.....	45375	81.....	45613	206.....	45887
1001.....	45520	101.....	45613	233.....	45887, 45888
1064.....	45881	201.....	45614	46 CFR	
1065.....	45881	207.....	45614	PROPOSED RULES:	
1207.....	45884	314.....	45614	25.....	45399
1701.....	45591	23 CFR		47 CFR	
10 CFR		772.....	45838	1.....	45842
465.....	45536	24 CFR		73.....	45842
PROPOSED RULES:		260.....	45557	83.....	45364
430.....	45375	1917.....	45558-45580	PROPOSED RULES:	
12 CFR		PROPOSED RULES:		42.....	45892
201.....	45821	1917.....	45383-45398	43.....	45892
207.....	45821	26 CFR		73.....	45620, 45895, 45899
220.....	45821	1.....	45582	83.....	45901
221.....	45821	29 CFR		49 CFR	
224.....	45822	1910.....	45762	106.....	45366
13 CFR		30 CFR		107.....	45366
PROPOSED RULES:		PROPOSED RULES:		571.....	45366
121.....	45591	Ch. VII.....	45886	1033.....	45586,
14 CFR		33 CFR		45587, 45863, 45865, 45866,	45868
39.....	45343	PROPOSED RULES:		1121.....	45588
71.....	45343, 45344	175.....	45399	PROPOSED RULES:	
75.....	45345	38 CFR		Ch. II.....	45903, 45905
1210.....	45823	3.....	45347	215.....	45414
PROPOSED RULES:		4.....	45348	218.....	45416
39.....	5375-45380	PROPOSED RULES:		50 CFR	
71.....	45381, 45382	21.....	45399	10.....	45370
291.....	45383	36.....	45400	17.....	45759
296.....	45383	39 CFR		18.....	45370
16 CFR		111.....	45838, 45839	20.....	45588
1505.....	45551	40 CFR		26.....	45374
PROPOSED RULES:		86.....	45583	33.....	45869
13.....	45593	180.....	45362, 45583	258.....	45869
17 CFR		PROPOSED RULES:		651.....	45872
15.....	45825	52.....	45401	PROPOSED RULES:	
19.....	45825	65.....	45402-45410	17.....	45512, 45513
				226.....	45905
				675.....	45909

FEDERAL REGISTER

FEDERAL REGISTER PAGES AND DATES—OCTOBER

Pages	Date
45337-45545	Oct. 2
45547-45819	3
45820-45975	4

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.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

Next Week's Deadlines for Comments on Proposed Rules

AGRICULTURE DEPARTMENT

- Agricultural Marketing Service—
 - Oranges and grapefruit grown in Texas; container requirements; comments by 10-13-78 43721; 9-27-78
- Agricultural Stabilization and Conservation Service—
 - 1979 Extra Long Staple Cotton Program; proposed marketing quota; allotment; comments by 10-10-78 35053; 8-8-78
- Agricultural Stabilization and Conservation Service/Commodity Credit Corporation—
 - 1979 feed grain program; proposed determinations; comments by 10-10-78 37458; 8-23-78
- Animal and Plant Health Inspection Service—
 - Proposed rule to permit horses, except horses from or that have transited countries where African horse sickness exists to enter the U.S. by the U.S. Customs Service; comments by 10-10-78 40037; 9-8-78
 - [Originally published at 43 FR 33926-33929 8-2 and 8-4-78]
- Farmers Home Administration—
 - Community domestic water and waste disposal systems; development grants; comments by 10-10-78 39746; 9-7-78
 - Development grants for community domestic water and waste disposal systems; comments by 10-11-78... 40199; 9-11-78
 - Economic emergency loans; comments by 10-10-78 35648, 35661; 8-11-78
- Food Safety and Quality Service—
 - Frozen broccoli; proposed U.S. standards for grades; comments by 10-10-78 35722; 8-11-78
- Rural Electrification Administration—
 - Rural Telephone Programs; comments by 10-10-78 40037; 9-8-78

CIVIL AERONAUTICS BOARD

- Free and reduced rate transportation; exemption for air carriers to provide to employees of international air carriers; comments by 10-10-78 39805; 9-7-78

CIVIL SERVICE COMMISSION

- Federal Employees Health Benefits Program; opportunities to register to enroll and

- change enrollment; open season; comments by 10-10-78 35046; 8-8-78
- Federal Employees Health Benefits Program; disposition of contingency reserves upon reorganization or merger of plans; comments by 10-10-78 35047; 8-8-78

COMMUNITY SERVICES ADMINISTRATION

- Nondiscrimination on basis of handicap; programs and activities receiving or benefiting from Federal financial assistance; comments by 10-13-78 36489; 8-17-78

DEFENSE DEPARTMENT

- Office of the Secretary—
 - Active duty and discharge determinations; civilian or contractual personnel; comments by 10-13-78 40884; 9-13-78

ENERGY DEPARTMENT

- Freedom of Information; comments by 10-12-78 40530; 9-12-78

ENVIRONMENTAL PROTECTION AGENCY

- California plan revision: Bay Area air pollution control district; comments by 10-10-78 40038; 9-8-78
- Montana; implementation plan; comments by 10-11-78 40245; 9-11-78
- New Jersey Implementation plan; comments by 10-10-78 40039; 9-8-78
- Pesticide tolerances; 2,6-Dichloro-4-Nitroaniline; comments by 10-11-78 40249; 9-11-78
- Polychlorinated biphenyls (PVC's); manufacturing, processing, distribution in commerce, and use bans; reply comment period extended to 10-10-78 43048; 9-22-78
- [Originally published at 43 FR 24802]
- San Diego County, air pollution control districts' rules and regulations in the State of California; comments by 10-10-78 40040; 9-8-78
- Santa Barbara and Ventura County air pollution control districts' rules and regulations in the State of California; comments by 10-10-78 40041; 9-8-78

FEDERAL COMMUNICATIONS COMMISSION

- FM broadcast station; table of assignments: Decatur, Ill.; comments filed by 10-9-78 37723; 8-24-78
- FM broadcast station; table of assignments: Lake Placid, Saranac Lake, and Tupper Lake, N.Y.; comments filed by 10-9-78 37722; 8-24-78
- Integration of rates and services for provision of communications by authorized common carriers between U.S. Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands; reply comments period extended to 10-10-78 34823; 8-7-78
- [Originally published at 43 FR 43746, June 1, 1978]
- Providing for establishment of a joint tactical information distribution system in the 960-1215 MHz aeronautical radionavigation band; comments by 10-12-78 35350; 8-9-78

- TV broadcast stations; table of assignments: Miami and West Palm Beach, Fla.; reply comments extended to 10-10-78 40251; 9-11-78

[Originally published at 43 FR 30841, 7-18-78]

FEDERAL RESERVE SYSTEM

- Truth-in lending; interim student credit transactions; comments by 10-11-78 40211; 9-11-78

FEDERAL TRADE COMMISSION

- Cellular plastics products; disclosure of combustion characteristics in marketing and certification; comments by 10-10-78 35341; 8-9-78
- Participation in Commission proceedings by former Commission members and employees; comments by 10-14-78 35947; 8-14-78

GENERAL SERVICES ADMINISTRATION

- Smoking in GSA-controlled buildings and facilities; comments by 10-11-78 40250; 9-11-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

- Food and Drug Administration—
 - Limulus amoebocyte lysate; proposed additional standards; comments by 10-10-78 35731; 8-11-78
 - Procainamide hydrochloride bioequivalence requirements; comments by 10-10-78 35056; 8-8-78
 - Tomato juice, tomato concentrates and catsup; proposed standards; comments extended to 10-10-78 30299; 7-14-78
 - [Originally published at 43 FR 19884, May 9, 1978]
- Health Care Financing Administration—
 - Conditions for coverage of suppliers of end stage renal disease (ESRD) services; comments by 10-10-78 35698; 8-11-78
 - Medical Assistance Programs; state residence requirements; comments by 10-10-78 35077; 8-8-78
 - Medicare program; prohibition against reassignment of claims by providers and suppliers; comments by 10-10-78 37469; 8-23-78
- Social Security Administration—
 - Coverage of employees of State and local governments; comments by 10-10-78 35344; 8-9-78

INTERIOR DEPARTMENT

- Fish and Wildlife Service—
 - Beetles; endangered or threatened status and critical habitat for 10 species; comments by 10-8-78 35636; 8-10-78
 - Endangered and threatened status and critical habitat for 3 Texas fishes; comments by 10-13-78 36117; 8-15-78

INTERSTATE COMMERCE COMMISSION

- Car service; petition for rulemaking proceeding; comments by 10-12-78 43744; 9-27-78

REMINDERS—Continued

JUSTICE DEPARTMENT

Drug Enforcement Administration—
Pentazocine; placement into Schedule IV;
comments by 10-13-78 40884;
9-13-78

LABOR DEPARTMENT

Mine Safety and Health Administration—
Metal and nonmetal mines and mills;
health and safety standards; comments
by 10-9-78 40766; 9-12-78
Pension and Welfare Benefit Programs—
Content, style, and format of the summary
annual report (SAR) required to be
furnished to participants and beneficiaries
of employee benefit plans under the Em-
ployee Retirement Income Security Act
of 1974 (ERISA); comments by
10-10-78 38032; 8-25-78

LIBRARY OF CONGRESS

Copyright Office—
Coin-operated phonorecord players; recor-
dation and certification; reply comments
by 10-11-78 37451; 8-23-78

MANAGEMENT AND BUDGET OFFICE

Federal Procurement Policy Office—
Availability of draft of Federal Acquisition
Regulation Project; comments by
10-6-78 34824; 8-7-78

NUCLEAR REGULATORY COMMISSION

Production and utilization facilities; emergen-
cy plans; comments by 10-10-78 37473;
8-23-78

POSTAL SERVICE

Bulk-rate third class presort requirement;
comments by 10-11-78 ... 39995; 9-8-78

TRANSPORTATION DEPARTMENT

Materials Transportation Bureau—
Transportation innovations recognized as
safe and effective; exemptions as rules
of general applicability; comments by
10-10-78 39835; 9-7-78

VETERANS ADMINISTRATION

Benefits; effective date of an apportionment
of a running award of compensation or
pension; comments by 10-11-78
40239; 9-11-78

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Licenses and Authorizations Committee,
Washington, D.C. (open) 10-12-78,
42774; 9-21-78

AGRICULTURE DEPARTMENT

Forest Service—
Pacific Crest National Scenic Trail Advo-
cacy Council, Northern California Sub-
group, Mount Shasta, Calif. (open),
10-14-78 42287; 9-20-78
Science and Education Administration—
Food and Agricultural Sciences Joint
Council, Washington, D.C. (open), 10-11
thru 10-13-78 42287; 9-20-78
National Agricultural Research and Exten-
sion Users Advisory Board, Washington,
D.C. (open), 10-10 and 10-11-78,
42287; 9-20-78

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Humanities Panel, Washington, D.C.
(closed), 10-10-78 40577; 9-12-78
Humanities Panel, Washington, D.C.
(closed), 10-13-78 40577; 9-12-78
Humanities Panel Advisory Committee,
Washington, D.C. (closed) 10-12, 10-13,
10-16, 10-19, 10-20, and
10-23-78 43590; 9-26-78
Visual Arts Advisory Panel, Philadelphia, Pa.
(open) 10-12-78 42049; 9-19-78

CIVIL RIGHTS COMMISSION

Advisory committees, various States—
Illinois; Chicago, Ill. (open)
10-16-78 43051; 9-22-78
Kansas City Advisory Committee, Topeka,
Kans. (open) 10-14-78 41420; 9-18-78
Minnesota Advisory Committee, St. Paul,
Minn. (open) 10-13-78 38068; 8-25-78
Missouri Advisory Committee (open) Kan-
sas City, Mo. 10-11-78 39406; 9-5-78
Ohio Advisory Committee, Columbus, Ohio
(open) 10-14-78 42775; 9-21-78

COMMERCE DEPARTMENT

Census Bureau—
Census Advisory Committee of the Ameri-
can Economic Association, Suitland, Md.
(open) 10-13-78 42776; 9-21-78
Industry and Trade Administration—
Management-Labor Textile Advisory Com-
mittee, Washington, D.C. (open),
10-12-78 43343; 9-25-78
National Fire Prevention and Control Admin-
istration—
Advisory Committee on Fire Training and
Education for the National Academy for
Fire Prevention and Control, Washing-
ton, D.C. (open) 10-11-78 43058;
9-22-78
National Oceanic and Atmospheric Adminis-
tration—
Gulf of Mexico Fishery Management Coun-
cil, South Atlantic Fishery Management
Council, Atlanta, Ga. (open)
10-10-78 43343; 9-25-78
Pacific Management Council, Scientific
and Statistical Committee, Los Angeles,
Calif. (open) 10-10 and
10-11-78 43343; 9-25-78
Pacific Fishery Management Council,
Groundfish/Sablefish Advisory Sub-
panel and Plan Development Panel, Los
Angeles, Calif. (open), 10-10 and
10-11-78 43343; 9-25-78
Pacific Fishery Management Council, Los
Angeles, Calif. (partially open) 10-11
through 10-13-78 39848; 9-7-78

DEFENSE DEPARTMENT

Air Force Department—
USAF Scientific Advisory Board, Washing-
ton, D.C. (closed) 10-11 and
10-12-78 43345; 9-25-78
Office of the Secretary—
Electron Devices Advisory Group (Working
Group D), New York, N.Y. (closed)
10-12-78 43761; 9-27-78

ENVIRONMENTAL PROTECTION AGENCY

Resource Conservation Committee, Wash-
ington, D.C. (open) 10-10-78 40313;
9-11-78

FEDERAL COMMUNICATIONS COMMISSION

Private Land Mobile Advisory Committee,
Washington, D.C. (open)
10-13-78 42305; 9-20-78

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Meeting, Washington, D.C. (open)
10-12-78 41437; 9-18-78

GENERAL SERVICES ADMINISTRATION

Architectural and Engineering Services Re-
gional Public Advisory Panel, Chicago, Ill.
(open) 10-12-78 43768; 9-27-78

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Print-
er, Alex., Va. (open) 10-10 and
10-11-78 38472; 8-28-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Ad-
ministration—
Research Scientist Development Review
Committee, Reston, Va. (partially open)
10-12-78 38624; 8-29-78
Alcohol Training Review Committee, Rock-
ville, Md. (partially open) 10-13-78,
38625; 8-29-78
Education Office—
Education of Disadvantaged Children Na-
tional Advisory Council, Washington,
D.C. (open) 10-13 and 10-14-78,
43388; 9-25-78
Federal Council on the Aging—
Long-term Care Committee, Washington,
D.C. (open) 10-13-78 42041; 9-19-78
Food and Drug Administration—
Abbreviated new drug applications; com-
ments by 10-11-78 39126; 9-1-78
Advisory committee, Silver Spring, Md.
(partially open) 10-12-78 43068;
9-22-78
National Institutes of Health—
Cancer Control Intervention Programs Re-
view Committee, Bethesda, Md. (partial-
ly open) 10-12 and 10-13-78 ... 42788;
9-21-78
Child Health and Human Development Na-
tional Advisory Council, Bethesda, Md.
(partially open) 10-13 and 10-14-78,
40923; 9-13-78
National Diabetes Advisory Board, Wash-
ington, D.C. (open) 10-12-78 43768;
9-27-78
President's Cancer Panel (open) Bethes-
da, Md. 10-10-78 39430; 9-5-78

INTERIOR DEPARTMENT

National Park Service—
National Park System Advisory Board:
Channel Islands National Monument
(open) 10-8-78 40321; 9-11-78
Yosemite National Park, Calif. (open)
10-9, 10-10, 10-12, and 10-13-78,
40321; 9-11-78
Office of the Secretary—
Outer Continental Shelf Advisory Board—
Mid-Atlantic Region, Wintergreen, Va.
(open) 10-13-78 44572; 9-28-78

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Behavioral and Neu-
ral Sciences, Subcommittee on Psychobi-

REMINDERS—Continued

ology, Washington, D.C. (closed) 10-12 and 10-13-78 41314; 9-15-78
Advisory Committee for Environmental Biology, Subcommittee on Ecological Sciences, Washington, D.C. (closed), 10-12 and 10-13-78 41314; 9-15-78
Advisory Committee for Social Sciences, Subcommittee on Sociology, Washington, D.C. (partially open), 10-12 and 10-13-78 41315; 9-15-78
Astronomy Advisory Committee, Tucson, Ariz. (open) 10-12 and 10-13-78 43397; 9-25-78

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment, Washington, D.C. (open) 10-14-78 41316; 9-15-78
Advisory Committee on Reactor Safeguards, Subcommittee on Waste Management, Washington, D.C. (open) 10-11 and 10-12-78 43591; 9-26-78
Advisory Committee on Reactor Safeguards, Waste Management, Washington, D.C. (partially open) 10-11 and 10-12-78 42825; 9-21-78
Commercial nuclear power plants; equipment requirements for security personnel training; King of Prussia, Pa. (open) 10-11-78 38370; 8-28-78—41187; 9-15-78

SECURITIES AND EXCHANGE COMMISSION

Region VIII Advisory Council, Fargo, N.D. (open) 10-12-78 43081; 9-22-78

SMALL BUSINESS ADMINISTRATION

Region V Advisory Council, Chicago, Ill. (open) 10-12-78 43592; 9-26-78
Region VIII Advisory Council, Casper, Wyo. (open) 10-10-78 37294; 8-22-78

STATE DEPARTMENT

Agency for International Development—
Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development, Rosslyn and Arlington, Va. (open) 10-10 and 10-11-78 42830; 9-21-78
Joint Research Committee of the Board for International Food and Agricultural Development, Arlington, Va. (open) 10-10 and 10-11-78 42830; 9-21-78
Office of the Secretary—
Shipping Coordinating Committee, Washington, D.C. (open) 10-12-78 43401; 9-25-78
Study Group 4 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT), Washington, D.C. (open) 10-11-78 42055; 9-19-78

TRANSPORTATION DEPARTMENT

Coast Guard—
Ship Structure Committee, New York, N.Y. (open) 10-12-78 40331; 9-11-78

VETERANS ADMINISTRATION

Advisory Committee on Structural Safety of Veterans Administration Facilities, Washington, D.C. (open) 10-13-78 38500; 8-28-78

Administrator's Education and Rehabilitation Advisory Committee, Washington, D.C. (open) 10-12-78 40332; 9-11-78

Next Week's Public Hearings

CIVIL AERONAUTICS BOARD

Omaha-Dallas/Fort Worth proceeding, Washington, D.C. 10-12-78 43529; 9-26-78

FEDERAL TRADE COMMISSION

Rules for using energy cost and consumption information in labeling and advertising of consumer appliances under the Energy Policy and Conservation Act; Washington, D.C., 10-21-78 41410; 9-18-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—
Health Education Assistance Loan Program; Interim regulations, Boston, Mass., Atlanta, Ga., 10-12-78 .. 34320; 8-3-78
Food and Drug Administration—
Food labeling, San Francisco, Calif., 10-12 and 10-13-78 25296; 6-9-78

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—
Alluvial Valley Floors Technical guidelines; policy and interpretation, Denver, Colo., 10-13-78 38035; 8-25-78

TRANSPORTATION DEPARTMENT

Coast Guard—
Notification of arrivals, departures, hazardous conditions, and certain dangerous cargoes, Washington, D.C., 10-12-78 43330; 9-25-78

List of Public Laws

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

[Last Listing: October 3, 1978]

H.R. 7814 Pub. L. 95-390
"Federal Employees Flexible and Compressed Work Schedules Act of 1978." (Sept. 29, 1978; 92 Stat. 755). Price: \$.60.
H.R. 12935 Pub. L. 95-391
"Legislative Branch Appropriation Act, 1979." (Sept. 30, 1978; 92 Stat. 763). Price: \$1.10
H.R. 12936 Pub. L. 95-392
"Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1979." (Sept. 30, 1978; 92 Stat. 791). Price: \$1.00.
H.R. 7819 Pub. L. 95-393
"Diplomatic Relations Act." (Sept. 30, 1978; 92 Stat. 808). Price: \$.50.

H.R. 12772 Pub. L. 95-394
To facilitate the exchange of certain lands in the State of Oregon, and for other purposes. (Sept. 30, 1978; 92 Stat. 811). Price: \$.50.
H.R. 12860 Pub. L. 95-395
"Rhode Island Indian Claims Settlement Act." (Sept. 30, 1978; 92 Stat. 813). Price: \$.60.
S. 1678 Pub. L. 95-396
"Federal Pesticide Act of 1978." (Sept. 30, 1978; 92 Stat. 819). Price: \$1.10.
H.R. 3702 Pub. L. 95-397
"Uniformed Services Survivors' Benefits Amendments of 1978." (Sept. 30, 1978; 92 Stat. 843). Price: \$.70
S. 3069 Pub. L. 95-398
To provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members. (Sept. 30, 1978; 92 Stat. 850). Price: \$.50.
S. 3271 Pub. L. 95-400
To modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes. (Sept. 30, 1978; 92 Stat. 851). Price: \$.70.
S. 3271 Pub. L. 95-400
To amend the pilot project warfare provisions of the Food Stamp Act of 1977. (Sept. 30, 1978; 92 Stat. 856). Price: \$.60.
H.R. 11401 Pub. L. 95-401
"National Aeronautics and Space Administration Authorization Act, 1979." (Sept. 30, 1978; 92 Stat. 857). Price: \$.70.
S. 3468 Pub. L. 95-402
To amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities. (Sept. 30, 1978; 92 Stat. 862). Price: \$.50.
S. 1896 Pub. L. 95-403
To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979. (Sept. 30, 1978; 92 Stat. 863). Price: \$.60.
S. 2701 Pub. L. 95-404
To amend the Water Resources Planning Act (79 Stat. 244, as amended). (Sept. 30, 1978; 92 Stat. 864). Price: \$.50.
S. 2391 Pub. L. 95-405
"Futures Trading Act of 1978." (Sept. 30, 1978; 92 Stat. 865). Price: \$.90.
S.J. Res. 165 Pub. L. 95-406
To provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes. (Sept. 30, 1978; 92 Stat. 879). Price: \$.60.
H.J. Res. 1140 Pub. L. 95-407
To amend section 8 of the Export-Import Bank Act of 1945. (Sept. 30, 1978; 92 Stat. 882). Price: \$.60.
S. 3375 Pub. L. 95-408
"Federal District Court Organization Act of 1978." (Oct. 2, 1978; 92 Stat. 883). Price: \$.60.

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the **FEDERAL REGISTER** during the previous week.

Rules Going Into Effect:

EPA—Amendments to interim grant regulations to implement the Resource Conservation and Recovery Act of 1976; effective 9-25-78 43424; 9-25-78
Municipal wastewater treatment works; construction grants; effective 10-1-78; comments by 11-30-78.

44022; 9-27-78

HEW—General administration—grant programs (public assistance and medical assistance); conditions for Federal financial participation in cost of automatic data processing; effective 12-28-78.

44851; 9-29-78

NIH—Educational equity research grants program; for final effective date call Richard Werksman, 202-254-7924.

43672; 9-26-78

PHS—Advanced nurse training programs grants; effective 9-25-78 43414;

9-25-78

USDA/FMHA—Grants to professional standards review organizations; designation of alternate PSRO's, effective 9-29-78.

44848; 9-29-78

Deadlines for Comments on Proposed Rules:

CSC—Nondiscrimination based on handicap, rules applicable to recipients of Federal grant funds; comments by 11-27-78 43465; 9-26-78

EPA—Amendments to interim grant regulations to implement the Resource Conser-

REMINDERS—Continued

vation and Recovery Act of 1974; comments by 11-24-78 43424; 9-25-78

Applications Deadlines:

HEW/HDSO—State Capacity Building Demonstration Program; applications availability; apply by 11-15-78 43564; 9-26-78

OE—Direct, Discretionary Grant Programs; closing dates for transmittal of applications for fiscal year 1979; correction 43769; 9-27-78

Meetings:

ACUS: Grants, Benefits and Contracts Committee, Washington, D.C. (open), 10-25-78 43745; 9-27-78

HEW/NIH—Allergy and Clinical Immunology Research Committee; review, discussion, and evaluation of individual grant applications, Bethesda, Md. (open), 10-30 and 10-31-78 44568; 9-28-78

Clinical Applications and Prevention Advisory Committee; review, discussion, and evaluation of individual contract renewal proposals, Bethesda, Md. (partially open), 11-6-78 44568; 9-28-78

Microbiology and Infectious Diseases Advisory Committee; review, discussion, and evaluation of individual grant applications and contract proposals, Bethesda, Md. (partially open), 10-30 and 10-31-78 44568; 9-28-78

Minority Access to Research Careers Review Committee; review, discussion, and evaluation of individual and institutional grant applications, Bethesda, Md. (partially open), 11-6 and 11-7-78. 44569; 9-28-78

Office of the Assistant Secretary for Health—Health Care Technology Study Section; review of health services research grant applications relating to the delivery, organization, and financing of

health services, Silver Spring, Md. (partially open), 11-2 and 11-3-78. 44570; 9-28-78

NFAH—Humanities Panel, Washington, D.C. (closed), 10-17-78 44944; 9-29-78
Humanities Panel; Washington, D.C. (closed), October meetings 43590; 9-26-78

Humanities Panel; Tulsa, Okla. (closed), 10-16-78 43591; 9-26-78
Media Arts Advisory Panel, Washington, D.C. (closed), 10-12 and 10-13-78.

43397; 9-25-78

Music Advisory Panel; review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, Washington, D.C. (partially open), 10-16 through 10-19-78 44574; 9-28-78

NSF—Astronomy Advisory Committee, Tucson, Ariz. (open), 10-12 and 10-13-78 43397; 9-25-78

International Decade of Ocean Exploration ad hoc Subcommittee, of the Ocean Sciences Advisory Committee, La Jolla, Calif. (closed), 10-16 and 10-17-78.

43397; 9-25-78

Molecular Biology Subcommittee, Group B, of the Physiology, Cellular, and Molecular Biology Advisory Committee, Washington, D.C. (closed), 10-16 and 10-17-78 43398; 9-25-78

Systematic Biology Subcommittee of the Environmental Biology Advisory Committee, Washington, D.C. (closed), 10-16 and 10-17-78. 43398; 9-25-78

Other Items of Interest:

HEW/OE—Grants to State educational agencies to meet the special educational needs of migratory children; availability of draft final regulations 43719; 9-27-78

rules and regulations

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

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

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

Pursuant to the authority of 5 U.S.C. Section 553 (b)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that economic and financial considerations require that these amendments must be adopted immediately and that delay would be contrary to the public interest.

EFFECTIVE DATE: The changes were effective on the date specified below (September 22, 1978).

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3257.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except ad-

vances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston.....	8	Sept. 22, 1978.
New York.....	8	Do.
Philadelphia.....	8	Do.
Cleveland.....	8	Do.
Richmond.....	8	Do.
Atlanta.....	8	Do.
Chicago.....	8	Do.
St. Louis.....	8	Do.
Minneapolis.....	8	Do.
Kansas City.....	8	Do.
Dallas.....	8	Do.
San Francisco.....	8	Do.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston.....	8½	Sept. 22, 1978.
New York.....	8½	Do.
Philadelphia.....	8½	Do.
Cleveland.....	8½	Do.
Richmond.....	8½	Do.
Atlanta.....	8½	Do.
Chicago.....	8½	Do.
St. Louis.....	8½	Do.
Minneapolis.....	8½	Do.
Kansas City.....	8½	Do.
Dallas.....	8½	Do.
San Francisco.....	8½	Do.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e) (2) of regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston.....	9	Sept. 22, 1978.
New York.....	9	Do.
Philadelphia.....	9	Do.
Cleveland.....	9	Do.
Richmond.....	9	Do.
Atlanta.....	9	Do.
Chicago.....	9	Do.
St. Louis.....	9	Do.
Minneapolis.....	9	Do.
Kansas City.....	9	Do.
Dallas.....	9	Do.
San Francisco.....	9	Do.

3. Section 301.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston.....	11	Sept. 22, 1978.
New York.....	11	Do.
Philadelphia.....	11	Do.
Cleveland.....	11	Do.
Richmond.....	11	Do.
Atlanta.....	11	Do.
Chicago.....	11	Do.
St. Louis.....	11	Do.
Minneapolis.....	11	Do.
Kansas City.....	11	Do.
Dallas.....	11	Do.
San Francisco.....	11	Do.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, September 25, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-27924 Filed 10-3-78; 8:45 am]

[6210-01]

[Regs. G, T, U and X]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

PART 220—CREDIT BY BROKERS AND DEALERS

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES CREDIT

List of OTC Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The list of OTC margin stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements under certain Federal Reserve regulations. The list is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published list and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's list of stocks traded over-the-counter on file at the Office of the Federal Register as of April 3, 1978. The list, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of regulation G, T, U, and X. Copies of the current list may be obtained from any Federal Reserve bank. A copy is also on file at the Office of the Federal Register.¹

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion on the list specified in 12 CFR 207.5(d) and (e), 220.8(h) and (i), and 221.4(d) and (e). No additional useful information would be gained by public participation. The requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this list as soon as possible.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78g and w) and in accordance with § 207.2(f)(2) of regulation G, § 220.2(e)(2) of regulation T, and § 221.3(d)(2) of regulation U, there is

set forth below additions to and deletions from the Board's list:

ADDITIONS TO LIST

Aceto Chemical Co., Inc., \$9.01 par common.
Aztec Manufacturing Co., \$1 par common.
Beneficial National Corp., \$9.25 par common.
Berkley, W. R. Corp., \$9.20 par common.
Billings Energy Corp., \$9.01 par common.
Bitco Corp., \$1 par common.
C L Assets, Inc., \$1 par cumulative preferred.
Captech Inc., \$1 par common.
Century 21 Real Estate Corp., \$9.01 par common.
Champion Products Inc., \$1 par common.
Chattam Drug & Chemical Co., No par common.
Comcast Corp., Class A, \$1 par common.
Comdisco, Inc., \$9.10 par common.
Covington Brothers, \$9.50 par common.
Domain Industries, Inc., \$1 par common.
Dougherty Brothers Co., \$9.25 par common.
Eastern Air Lines, Inc., Warrants (expire June 1, 1987)
Finnigan Corp., \$1 par common.
First Fidelity Investment Trust, No par shares of beneficial interest
First Illinois Corp., \$5 par common.
First National Bank of New Jersey, \$5 par common.
First Peoples Bank of New Jersey, \$6 par capital
Florida Coast Banks, Inc., \$1 par common.
Franklin State Bank, \$3.50 par common.
HMO International, \$9.10 par common.
Harper Group, The, No par common.
Heist, C. H. Corp., \$9.05 par common.
Hibernia Corp., \$10 par common.
Homestead Financial Corp., \$9.75 par common.
Impell Corp., \$9.02 par common.
Ivy Corp., \$9.10 par common.
Jamaica Water Properties, Inc., \$9.10 par common.
Jenoa Inc., No par common.
King International Corp., \$1 par common.
Leonard Silver International, Inc., \$9.01 par common.
Liberty National Bank and Trust Co., of Louisville, \$8.33 1/3 par common.
Lippincott, J. B. Co., No par common, \$1 stated value.
Liqui-Box Corp., No par common.
Longview Fibre Co., \$7.50 par common.
Med General, Inc., \$9.01 par common.
Mentor Corp., \$9.10 par common.
Midland Resources, Inc., \$9.50 par common.
Modular Computer Systems Inc., 8.5 percent convertible subordinated debentures.
Mountain Banks, Ltd., \$5 par common.
NFC Corp., 8 percent convertible subordinated debentures.
National Computer Systems, Inc., \$9.03 par common.
National Reserve Life Insurance Co., \$1 par common.
National Security Insurance Co., \$1 par common.
National Shoes, Inc., \$1 par common.
National State Bank, The (Elizabeth, N.J.) \$7 par common.
Ocean Oil & Gas Co., \$1 par common.
Old Kent Financial Corp., \$10 par common.
Old Stone Corp., \$1 par cumulative convertible preferred.
Optical Radiation Corp., \$9.50 par common.
Orion Research Inc., \$9.10 par common.
Pacesetter Building Systems, Inc., \$9.25 par common.

Pacesetter Financial Corp., \$10 par common.
Pacific Resources, Inc., No par common.
Park-Ohio Industries, Inc., \$1 par cumulative convertible preferred.
Piedmont Management Co., Inc., \$9.50 par common.
Porta Systems Corp., \$9.01 par common.
Precision Castparts Corp., No par common.
Rangaire Corp., \$9.10 par common.
Revell, Inc., \$1 par common.
Save-Way Industries, Inc., \$9.10 par common.
Security Bancorp., Inc., \$9.01 par common.
Southland Bancorp., \$2.50 par common.
Southwest Factories, Inc., \$9.40 par common.
T-Bar Inc., \$9.25 par common.
Timberland Industries, Inc., \$9.16 par common.
Union Trust Bancorp., \$5 par common.
United Carolina Bancshares Corp., \$4 par common.
University Real Estate Trust, No par shares of beneficial interest.
Valtec Corp., \$9.01 par common.
Vance, Sanders & Co., Inc., Nonvoting, \$9.50 par common.
Vanderbilt Energy Corp., \$9.10 par common.
Wabash International Corp., No par common.
Western States Life Insurance Co., \$1 par common.
Wiley, John & Sons Inc., \$1 par common.
Wisconsin Centrifugal, Inc., \$1 par common.
Zondervan Corp., The, \$1 par common.

DELETIONS FROM LIST

STOCKS REMOVED FOR FAILING CONTINUED LISTING REQUIREMENTS

Houston First Financial Group, Inc., \$1 par common.
Hy-Gain Electronics Corp., \$0.25 par common.
Mid Continent Systems, Inc., \$0.16 par common.
Pacific Far East Line, Inc., \$1 par common.
Provident Life Insurance Co., \$2.50 par common.
Rainier Companies, Inc., The, \$1 par common.
Southwest Petro-Chem, Inc., no par common.
Tejas Gas Corp., \$0.33 1/3 par common.

STOCKS REMOVED FOR REASONS SUCH AS LISTING ON NATIONAL SECURITIES EXCHANGES OR BEING INVOLVED IN AN ACQUISITION

American Biomedical Corp., no par common.
Banco Credito y Ahorro Ponceno, \$5 par common.
Biscayne Federal Savings & Loan Association, \$0.01 par common.
Browning, \$1 par common.
Chef Pierre, Inc., \$0.50 par common.
Coastal States Corp., \$1 par common.
Coca-Cola Bottling Co. of Los Angeles, no par common.
Colony Foods, Inc., \$0.10 par common.
Continental Conveyor & Equipment Co., \$1 par common.
Debron Corp., \$1 par common.
Downe Communications, Inc., \$1 par common.
ESL, Inc., \$0.50 par common.
E-Systems, Inc., warrants (expire August 15, 1978).
Emerson Radio Corp., \$0.10 par common.
Empire General Corp., \$1 par common.

¹Copy of current list as part of original document.

Extracorporeal Medical Specialties, Inc., no par common.
 First Greatwest Corp., \$4 par common.
 Graham Manufacturing Co., Inc., \$0.10 par common.
 Graphic Controls Corp., \$1 par common.
 Health Teena Corp., no par common.
 Industrial Fuels Corp., \$1 par common.
 Kenai Drilling, Ltd., \$0.01 par common.
 Keystone International, Inc., \$1 par common.
 Liteco Corp. of New York, \$5 par common.
 Mervyn's, \$1 par common.
 Mid-Continent Industries, Inc., \$1 par common.
 Moore, Samuel & Co., no par common.
 National By-Products, Inc., \$1 par common.
 Pacific Scientific Co., \$1 par common.
 Peachtree Doors, Inc., \$1 par common.
 Pratt, Henry Co., no par common.
 Presto Products, Inc., \$0.10 par common.
 Prime Computer, Inc., \$0.02½ par common.
 Rainbow Resources, Inc., \$0.10 par common.
 Ring Around Products, Inc., \$0.20 par common.
 Rolm Corp., \$0.17 par common.
 Seven-Up Co., The, \$1 par common.
 Silvercrest Industries, Inc., \$0.10 par common.
 Tab Products Co., no par common.
 Taco Bell, \$0.10 par common.
 Tannetics, Inc., \$1 par common.
 Texas International Airlines, Inc., \$0.01 par common.
 Thalheimer Bros., Inc., \$2.50 par common.
 Toro Co., The, \$1 par common.

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)), October 2, 1978.

THEODORE E. ALLISON,
 Secretary of the Board.

[FR Doc. 78-28014 Filed 9-29-78; 3:33 pm]

[7510-01]

Title 14—Aeronautics and Space

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1210—DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

Final Rules

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rules.

SUMMARY: NASA currently does not have a prescribed policy and procedure for industry to request the use of NASA wind tunnels. These rules define the classes of NASA wind tunnels and the classes of industry work, and provide information on scheduling, occupancy time charges and test data transmitted.

DATE: October 4, 1978

ADDRESS: Director, Space Technology Coordinating Office, Code RC, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Fred J. DeMeritte, telephone 202-755-8501.

SUPPLEMENTARY INFORMATION:

On May 19, 1978, NASA published proposed rules (43 FR 21691-21693) to revise its rules and procedures for industry use of NASA wind tunnels. Interested parties were given until June 19, 1978, to submit comments or suggestions. No such comments or suggestions were received. However, NASA made the following changes to clarify the regulations: (1) In § 1210(c), line 6, after "wind tunnel" the words "(and the new 80- by 120-foot test section)" were added; and (2) In § 1210.3(a), line 4, "laboratory" was changed to "wind tunnel." With these two exceptions, the proposed rules are hereby adopted without change and are set forth below.

ROBERT A. FROSCHE,
 Administrator.

1. 14 CFR Part 1210 is revised in its entirety to read as follows:

PART 1210—DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

Secs.

- 1210.1 Introduction.
- 1210.2 General classes of work.
- 1210.3 Priorities and schedules.
- 1210.4 Company projects.
- 1210.5 Government projects.
- 1210.6 Test preparation and conduct.

AUTHORITY: 50 U.S.C. 511-515, 42 U.S.C. 2473(c) (5) and (6).

§ 1210.1 Introduction.

(a) *Authority.* The regulations, as they apply to the Unitary Wind Tunnel Plan facilities, are promulgated under authority of the Unitary Wind Tunnel Plan Act of 1949, Pub. L. 85-568, and codified in 50 U.S.C. 511-515. This statute states that "The facilities authorized * * * shall be operated and staffed by the National Aeronautics and Space Administration but shall be available primarily to industry for testing experimental models in connection with the development of aircraft and missiles. Such tests shall be scheduled and conducted in accordance with industry's requirements, and allocation of laboratory time shall be made in accordance with the public interest, with proper emphasis upon the requirements of each military service and due consideration of civilian needs."

(b) *Unitary wind tunnel plan facilities.* The unitary wind tunnel plan facilities are the Ames Research Center 11- by 11-foot wind tunnel, 9- by 7-foot wind tunnel, and 8- by 7-foot wind tunnel; the Langley Research Center 4- by 4-foot high Mach number test section and the 4- by 4-foot low Mach number test section; and the Lewis Research Center 10- by 10-foot wind tunnel. These wind tunnels are operated by NASA for industry, NASA, the Department of Defense, and other Government agency projects.

(c) *National aeronautical facilities.* When completed, the national aeronautical facilities will be the national transonic facility at Langley Research Center and the modified 40- by 80-foot wind tunnel and the new 80- by 120-foot test section at Ames Research Center. The wind tunnels will be operated by NASA for industry, NASA, the Department of Defense, and other Government agency projects.

(d) *All other wind tunnels.* All other NASA wind tunnels will be used primarily for NASA research. However, all of these wind tunnels may be used for industry work when it is in the public interest either in joint programs with NASA or on a fee basis.

(e) *NASA policy.* All the projects to be performed in any of the NASA wind tunnels must be appropriate to the facility.

§ 1210.2 General classes of work.

Work for industry in the NASA facilities shall be divided into four project categories:

(a) *Company projects.* Includes work for industry on:

(1) Projects which are neither under contract nor supported by a letter of intent from a Government agency, and

(2) Company desired tests which are related to a project which is either under contract with or supported by a letter of intent from a Government agency, but are beyond the scope of the tests requested by the Government agency. A fee will be charged for these company projects.

(b) *Government projects.* Includes work for industry on projects which are either under contract with or supported by a letter of intent from a Government agency. The work must be requested by the Government agency. No fee will be charged for this type of work. (An exception is the national transonic facility for which a reimbursable policy is being developed.)

(c) *United States/foreign industry consortium projects.* This involves U.S. companies, which have formed a consortium or any other type of association with foreign companies, that desire tests on aerospace projects of joint or foreign interest. An application for work for such a consortium shall disclose the foreign interest in or

anticipated foreign benefit from tests to be conducted and shall first be reviewed by the Director, International Affairs Division for consistency with current U.S. foreign policy and for compatibility with section 102 of the National Aeronautics and Space Act of 1958, as amended, prior to a final decision being reached on the application. A fee will be charged for these consortium projects unless, in the review procedure above, it is determined that Government agency cooperative sponsorship warrants a nonfee arrangement.

(d) *Foreign company projects.* Foreign company requests for wind tunnel use that are not related to U.S. Government or U.S. industry interests or programs will generally not be granted and will in no event be granted prior to a review, as required in paragraph (c) of this section, by the Director, International Affairs Division.

§ 1210.3 Priorities and schedules.

(a) *Priorities.* Unitary wind tunnels shall be available primarily to industry for development work. However, allocations of wind tunnel time shall be in accordance with the public interests, with proper emphasis upon the requirements of the military services and due consideration of civilian needs. Research work shall have priority in all other NASA facilities. Priority conflicts may be referred to the Associate Administrator for Aeronautics and Space Technology for review and final determination.

(b) *Schedules.* Schedules showing the allocation of testing time for Government projects and for company projects for unitary wind tunnels and other major wind tunnels will be established by the appropriate Center each month for the ensuing 3-month period and submitted to NASA Headquarters, Attn.: Code RA, by the first day of each month.

§ 1210.4 Company projects.

(a) *Initiation of company projects.* Company projects will be initiated by a letter to the Center Director followed by a conference between company and NASA representatives at the Center having responsibility for the facility proposed for the project. The company representatives will be required to explain the technical need for the project and why the NASA facility is required, as well as to define the extent of the test program, model and equipment requirements, and schedule. The Center shall maintain a file of all company requests and their disposition. The company may be required to provide a safety analysis report (SAR) to augment the wind tunnel SAR by describing potential hazards that the company test pro-

gram, model and equipment may present to NASA facilities and personnel.

(b) *Scheduling of tests.* In scheduling time for company projects, the responsible NASA Center will take into account priorities as specified in § 1210.3 and all projects, including Government, company, and NASA research work relative to the national interest. Every reasonable attempt will be made to accommodate technically justifiable projects on as timely a basis as possible.

(c) *Fees for company projects.* The policy on charges for the use of NASA facilities is explained in NASA Management Instruction 9080.1A, dated November 21, 1975, titled, "Review, Approval and Imposition of User Charges." The fee imposed for a company project will cover all direct and indirect costs to NASA for the wind tunnel test.

(1) *Occupancy time charge.* (i) The occupancy time will be computed from the start of installation of the test article in the wind tunnel test section through the time on which the test article is removed from the test section and the test section restored to its original condition.

(ii) The occupancy time rate will be computed from the sum of the annual cost of the operating crew plus the estimated annual maintenance cost of the facility and will be determined in accordance with NASA Management Instruction 9080.1A.

(iii) The sum of the annual cost for the operating crew and the estimated annual maintenance cost divided by the number of operational weeks, depending on the facility, gives the weekly occupancy rate. This fee will be charged per basic week of 5 days, each day to be one-fifth week. The remaining weeks over the number of operational weeks for each year are the estimated maintenance reserve and holiday allowance; hence, no charge will be made for a holiday occurring during a test period.

(2) *Energy/fuel.* The charge for energy/fuel will be determined from the energy/fuel consumed during the tests and the actual cost to the NASA.

(3) *Data reduction.* The cost of data reduction and the data report will include labor, materials, computing machine rental, and appropriate indirect charges in accordance with NASA Management Instruction 9080.1A.

(4) *Cancellation of scheduled wind tunnel time.* Upon determination of a test schedule by the representatives of the company and of the NASA, it becomes the responsibility of the company to meet this schedule. A project may be canceled by the company without charge on 60 days' notice depending upon the readiness of succeeding projects. In the event subsequently scheduled work cannot be scheduled in

lieu of the company's work, when canceled with less than 60 days' notice, the company shall be required to pay the occupancy time charge for the scheduled test period or for the period the facility test section is idle due to the cancellation, whichever results in the smaller charge. Curtailment of a project underway before the end of the scheduled test period may be made by the company. In this event, the company shall be required to pay the occupancy charge for the time used plus the unused scheduled time or for the idle time of the test section, whichever is the smaller.

(5) *High power requirements.* Unavailability of adequate power or economic considerations may, on occasion, cause delay or cancellation of high-powered test runs. The company shall cooperate with the facility staff in the scheduling of low-powered runs during periods when large blocks of power are unavailable. However, should rescheduling of test runs to accommodate power shortages be impractical, occupancy time charge credits will be made for time lost arising from such shortages. The basis for these credits, which will also be made for delays due to breakdown or malfunction of Government-furnished equipment or instrumentation, or due to other reasons beyond the control of the company, will be determined by each Center. The test period allotted for the program may be extended to offset delays in lieu of refund.

(d) *Test data transmittal.* The basic data for company projects will be transmitted to the requesting company without detailed analysis but with the necessary description of methods and techniques employed to permit proper interpretation of the data.

(e) *Proprietary rights.* In order to protect the trade secrets of companies, NASA will generate one set of final results, which will become the property of the company and be promptly transmitted to the company. If, subsequently, there is need to review the results, it will be the responsibility of the company to provide the NASA Center with copies of the resulting data on loan. Upon completion of the review, the data will be returned to the company. Should the company desire to maintain its trade secret rights in the data during the loan period, it should mark the data with a notice stating that the data shall not be used or disclosed other than for review purposes without prior written permission of the company. NASA, in turn, will protect that data covered by the notice which is protected under the law as a trade secret.

(f) *Test preparation and conduct* (see § 1210.6).

§ 1210.5 Government projects.

(a) *Initiation of Government projects.* Government projects shall be initiated through a conference of representatives from the contracted company, the sponsoring Government agency, and the staff of the NASA Center having responsibility for the facility proposed for the project. The purpose of the conference will be to establish the technical basis for the project and why the NASA facility is required as well as to define the extent of the test program, model and instrumentation requirements, and schedule. Upon concurrence of the Center Director, the sponsoring Government agency will submit a letter of request to NASA Headquarters for approval as well as clearing the request through the projects allocation and priority group (see paragraph (b) of this section). A safety analysis report (SAR) may be required to augment the wind tunnel SAR by describing the potential hazards that the project test program, model, and equipment may present to NASA facilities and personnel.

(b) *Projects allocation and priority group.* For coordinating Government projects, there is a group established jointly by the Department of Defense and the NASA. It consists of one representative each from the Air Force, Army, Navy, and NASA, competent to determine military priorities in the use of the NASA and other Government-owned facilities. The group is known as the aircraft, missile and propulsion projects allocation and priority group.

(c) *Scheduling of tests.* Government projects will be scheduled with due consideration of the priorities established by the projects allocation and priority group.

(d) *Test data transmitted.* The basic data for Government projects, without detailed analysis but with the necessary description of methods and techniques employed to permit the proper interpretation of the data, will be transmitted to the company for whom the tests were made and the sponsoring Government agency. Further disclosure by NASA of the test results will be made only with the prior concurrence of the sponsoring Government agency.

§ 1210.6 Test preparation and conduct.

(a) *Programming by user.* The user will be given the greatest possible freedom within the objectives of the scheduled program to obtain the precise information it requires, to determine the sequence and number of test runs to be made, and to make modifications to the program arising from the results currently being obtained, subject to requirements of safety, energy conservation, practicability, and the total time assigned.

(b) *Instrumentation.* Each facility will provide basic instrumentation suitable for the test range of the respective facility and computing equipment for the reduction of test data. Information will be furnished for each facility on the permissible size of model, standard balances, safety margins to be used in the construction of models, model mounting details, and other pertinent factors. If the basic instrumentation furnished by the facility does not meet the test requirements, the company will provide suitable instrumentation which will generally be calibrated by the facility staff to insure accuracy of measurement. This instrumentation will be made available sufficiently in advance of the test date to accomplish the calibration. Serious delays arising from inaccuracies in user supplied instrumentation, if occurring during the scheduled test period, may result in reassignment of the position of the tests on the facility schedule. Detailed specifications and arrangements for special instrumentation will be established by mutual agreement. All model criteria required by the facility for safety consideration including the necessary drawings and stress analyses of the articles to be tested will be furnished at a time specified by the facility staff for their use in preparing for the test. The user will also be required to furnish all information necessary to prepare the data reduction software program at a date specified by the facility staff.

(c) *Test program.* All tests will be conducted under NASA supervision and by NASA personnel or by NASA support service contractor personnel unless approved otherwise by the facility manager. By agreement between the user (company representatives and the requesting agency) and the Center staff, changes in the test program may be made within the objectives of the scheduled program if time is available. When tests are not totally conducted by NASA personnel or by NASA support service contractor personnel, the NASA Field Installation Safety Officer shall verify that the company personnel are fully cognizant of facility safety problems and operations. A current SAR on the facility shall be available to the company personnel for review.

(d) *Handling test data.* The NASA staff will be responsible for obtaining all test data, its reduction to suitable coefficient form, and the accuracy of the final data, but the NASA will assume no responsibility for the interpretation of the data by others. Transmittal of the data will be made as rapidly as possible. For company projects, the data will be transmitted as directed by the company. The data for Government projects will be transmitted

simultaneously to the sponsoring Government agency and the contractor, unless otherwise directed by the sponsoring agency.

(e) *Shops and office space.* During the conduct of user testing, the NASA will make available machine tools in the facility shop and desk space to the user whose projects are under tests.

(f) *Company furnished personnel.* User personnel furnished for each project will be agreed upon between the user and facility staff prior to the test.

[FR Doc. 78-27945 Filed 10-3-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 15—REPORTS—GENERAL PROVISIONS

PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE POSITIONS PURSUANT TO § 1.3(z) OF THIS CHAPTER AND BY MERCHANTS, PROCESSORS, AND DEALERS IN COTTON

Cash Market Positions; Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending parts 15 and 19 of its regulations concerning the reporting of cash positions on series '04 reports. The major changes will:

1. Make the reporting requirements applicable to persons engaged in bona fide hedging transactions as defined in § 1.3(z) of the regulations and to merchants, processors and dealers in cotton. Reporting requirements for merchants, processors and dealers in cotton are to be retained to enable the Commission to continue to publish the weekly "Cotton On Call" reports.

2. Delete the requirements in § 19.01 to report unfixed price purchase and unfixed price sales commitments for grains.

3. Increase the allowed filing time for all commodities, except cotton.

These amendments will enable the Commission to carry out its surveillance activities with respect to persons now permitted to exceed the speculative limits in accordance with the recently expanded definition of bona fide hedging under § 1.3(z).

Section 15.02 has also been amended to reflect the current use of the forms 2601 and 2603 for reporting positions in the financial instrument futures.

EFFECTIVE DATE: November 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Wayne Olson, Director, Commodity Futures Trading Commission, Division of Market Surveillance and Analysis, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-3312.

SUPPLEMENTAL INFORMATION: On December 23, 1977, the Commission published a proposal to revise parts 15 (17 CFR Part 15 (1977)) and 19 (17 CFR Part 19 (1977)) of its regulations.¹ Comments were due on or before February 6, 1978. Only one comment letter was received. This letter did not address any of the term of the Commission's proposal, but dealt instead with suggestions for the scheduling of changes. The Commission has considered the comment and has determined to adopt the proposal with certain revisions. Set forth below is a synopsis of the major changes.

CHANGES TO PARTS 15 AND 19

Cash position information is required by parts 15 and 19 of the regulations from traders who hold reportable positions² in futures commodities with Federal speculative limits³ and who are merchandisers, processors, and dealers in such commodities. This information is used to check compliance with speculative limits by insuring that persons classifying their futures positions as hedging actually own or control offsetting cash positions. For all commodities with speculative limits, major changes have been made to parts 15 and 19 which affect who must file series '04 reports, the time of filing the report and the information which must be provided.

WHO MUST FILE

Changes were made to parts 15 and 19 which may require additional traders to file series '04 reports. Amend-

ments to §§ 15.01(d) and 19.00 require that all traders who own or control futures position in a commodity with Federal speculative limits (including cotton) any part of which constitutes bona fide hedging as defined in § 1.3(z) of the regulations, 17 CFR 1.37 (1977), and which exceeds the '04 reporting level must file such reports. Previously, only traders who were merchandisers, processors, or dealers and whose futures position equaled or exceeded the series '04 reporting levels were required to file. With the exception of cotton, language concerning merchandisers, processors, and dealers has been deleted from the regulations.⁴

Three groups of persons are primarily affected by this amendment: (1) Anticipatory hedgers of livestock and poultry feeds, (2) certain hedgers of crop production, and (3) cross hedgers. Prior to the adoption of amendments to the definition of bona fide hedging in § 1.3(z), the first two categories of traders were allowed to hold or control positions equal to or in excess of series '04 reporting levels, but were not obligated to file CFTC series '04 reports unless they were merchants, processors, or dealers.⁵ The third category, cross hedgers, has only been permitted to exceed speculative limits since the Commission adopted the revised definition of bona fide hedging.⁶

Some traders may no longer be required to file series '04 reports because the reference to grain sorghums has been deleted from § 19.01. The Commission does not believe that trading and position limits for grains imposed by § 150.1 apply to grain sorghums since they are not expressly included in the definition of grains (see § 150.1(e)).

TIME OF FILING REPORTS

With the exception of form 304 reports for cotton, § 19.10 has been amended to change the date by which

⁴ Reports from merchandisers, processors, and dealers concerning cotton are used in compiling the weekly CFTC "Cotton On Call" report. Because of the unique significance of call transactions in the marketing of cotton and their relationship to the futures market, the Commission has determined not to make changes in its series '04 reporting requirements for cotton that would result in any loss of information or affect the timeliness of issuing the "Cotton On Call" report.

⁵ See 42 FR 42748 (August 24, 1977).

⁶ The definition of bona fide hedging transactions and positions includes ***

(iii) Sales and purchases for future delivery described in paragraphs (z)(2)(i) and (z)(2)(ii) of this section may also be offset other than by the same quantity of the same cash commodity, provided that the fluctuations in value of the position for future delivery are substantially related to the fluctuations in value of the actual or anticipated cash positions ***.

17 CFR 1.3(z)(2)(iii) (1977), 42 FR 42751 (August 24, 1977).

the CFTC series '04 reports must be filed with the Commission.⁷ As amended, § 19.10 will provide that the due date for filing series '04 reports in a city where the Commission is located will be the third (rather than the first) business day following the period covered by the report. In cities where the Commission does not have an office, series '04 reports are to be mailed not later than the second (as opposed to the first) business day following the period covered by the report. The filing dates for the form 304 reports remain unchanged. For convenience, § 19.10 has also been revised to refer specifically to the number of the series '04 report required to be filed.

INFORMATION REQUIRED

Changes have been made to part 19 which affect the type of information that is filed. The amendments to part 19 contain special provisions for reporting cash positions that may be cross hedged. Under the amendments to § 19.00, cross hedged cash positions must be reported in two ways—in terms of the commodity used for hedging as well as in terms of the actual physical commodity being hedged. For example, a producer of grain sorghums hedging that commodity in corn futures must report the number of hundredweight (cwt.) of grain sorghum hedged and the equivalent quantity in terms of bushels of corn. By reporting the physical quantity hedged and the equivalent quantity of the commodity in which it is hedged, the Commission will be able to determine whether the size of the cross hedge is justified.

An amendment to § 19.01 deletes the requirement that traders in wheat, corn, oats, rye, barley, flaxseed, or soybeans report on the form 204 information concerning their unfixed price purchase and unfixed price sales commitments. Because of the limited purpose of the CFTC series '04 reports (i.e., monitoring compliance with the speculative limits) unfixed price information for cash commodities is not relevant.

MISCELLANEOUS CHANGES

Section 15.03 has been amended to clarify the language of the present regulation. The quantity fixed for the purpose of filing 304 reports for cotton under parts 17, 18, and 19 is 5,000 bales; this requirement is presently stated in § 15.03(a) only. As amended, § 15.03(a) pertains to reports filed under parts 17 and 18, and § 15.03(b) pertains to reports filed under part 19. The 5,000-bale quantity fixed for cotton reports will be listed in each paragraph. No substantive changes were made in this regulation.

⁷ See footnote 5 for the reason for not making this change applicable to cotton.

¹ See 42 FR 64364 (Dec. 23, 1977).

² Reporting levels for series '04 reports are given in § 15.03(b) of the regulations and generally are set at or near the speculative limit for each commodity.

³ Sec. 4a of the Commodity Exchange Act, 7 U.S.C. 6a (1976), authorizes the Commission to fix limits on the amount of trading and positions in commodity futures which may be held by any person, except that such limits may not apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms are defined by the Commission. Federal speculative limits have been established for the following commodities: Corn, wheat, oats, soybeans, cotton, potatoes, eggs, rye, barley, and flaxseed.

Section 15.00(b)(2) has been amended to conform to the changes made in § 15.03(b) and to make explicit that series '04 reports are required only if a trader's position is reportable on the last business day of the week. This change was omitted in the original proposal that appeared in the December 23, 1977, FEDERAL REGISTER; however, this change is not substantive.

With one exception in § 19.03, each of §§ 19.01(b), 19.02(b), 19.03(b), and 19.04(b) presently give identical instructions to traders on the use of standards and conversion factors and exceptions to reporting certain products and byproducts of the respective commodities on the series '04 reports. Since these instructions are common to each of §§ 19.01 through 19.04, it is more appropriate that they be contained in one section—revised § 19.00 (General Information). Accordingly §§ 19.01(b), 19.02(b), 19.03(b), and 19.04(b) have been deleted and new language has been added to § 19.00 which is applicable to all commodities which are the subject of part 19.

The exception in § 19.03 (which no longer will be permitted) allowed persons filing series '04 reports for eggs to exclude from their report certain eggs not in cold storage if it was the regular business practice of the person filing the report to exclude the same in determining his cash position for hedging.

This exclusion was appropriate when the only futures contract being traded in fresh shell eggs required delivery from cold storage warehouses.⁶ Due to changes in cash marketing practices for eggs, the cold storage egg contract has been changed to require in-plant delivery. This makes the exclusion in § 19.03 inconsistent with the purpose of part 19 (i.e., determining the hedgeable cash position of traders) and with the requirements for other commodities included in part 19.⁹

⁶The Chicago Mercantile Exchange revised its fresh shell egg contract so that, beginning with the April 1971 future, eggs were deliverable both in CME-approved warehouses and in-plant. Beginning with the March 1972 future, egg deliveries could be made in-plant only.

⁹This change was omitted in the Dec. 23, 1977, proposal, but must be made to insure that the intended purpose of pt. 19 is carried out.

Section 15.02 is being amended to reflect the current use of forms 2601 and 2603 by FCM's and large traders to report positions in the financial instruments futures.

In consideration of the foregoing, pursuant to its authority under §§ 4g(1), 4(i), and 8a(5) of the Act, 7 U.S.C. 6g(1), 6(i), and 12a(5) (1976), the Commission hereby amends parts 15 and 19 of the 17 CFR Chapter I as follows.

PART 15—REPORTS—GENERAL PROVISIONS

1. Section 15.00 is amended by revising paragraph (b)(2) as follows:

§ 15.00 Definitions.

(b) * * *

(2) For the purpose of reports required by part 19, any open contract position in any one future or all futures combined, either gross long or gross short, of any commodity on any one contract market which, at the close of the market on the last business day of the week, equals or exceeds the quantity fixed in § 15.03(b) for reporting purposes for the particular commodity.

2. Section 15.01(d) is amended to read as follows:

§ 15.01 Persons required to report.

(d) Persons holding or controlling positions for future delivery (any part of which constitutes bona fide hedging positions as defined in § 1.3(z)) in the commodities enumerated in § 15.03(b) that exceed the amounts set forth in that section and merchants, processors, and dealers of cotton holding or controlling positions for future delivery in cotton that equal or exceed the amount set forth in § 15.03(b), as specified in part 19 of this chapter.

3. Section 15.02 is amended by adding to the list of reporting forms currently included in § 15.02 the forms 2601 and 2603 as follows:

§ 15.02 Reporting forms.

Forms on which to report may be obtained from any office of the Commission. Reporting forms are identified by number as to the commodity and class of person reporting. The initial digit or digits of the form number identify the commodity or commodities, and the two final digits or series identify the class of person reporting. All reports shall be prepared in accordance with instructions supplied with the applicable form. Forms to be used for the filing of reports are as follows:

Commodity	Futures commission merchants and foreign brokers (series '01 forms)	Traders who hold or control reportable positions (series '03 forms)	All hedgers and merchants, processors and dealers in cotton (series '04 forms)
Grains (including soybeans).....	201	203	204
Cotton.....	301	303	304
Butter.....	401	403	None
Eggs.....	501	503	504
Potatoes.....	601	603	604
Wool.....	801	803	None
Edible oil.....	1001	1003	None
Meal.....	1101	1103	None
Cattle.....	1201	1203	None
Cattle products.....	1301	1303	None
Hogs.....	1401	1403	None
Hog products.....	1401	1403	None
Frozen concentrated orange juice.....	1601	1603	None
Poultry.....	1701	1703	None
Petroleum and petroleum products.....	1801	1803	None
Lumber and lumber products.....	2901	1903	None
Metals.....	2001	2003	None
Coffee and sugar.....	2101	2103	None
Cocoa and rubber.....	2201	2203	None
Foreign currency.....	2301	2303	None
Silver coins.....	2401	2403	None
Not otherwise specified.....	2501	2503	None
Financial instruments.....	2601	2603	None

4. Section 15.03 is amended to read as follows:

§ 15.03 Quantities fixed for reporting.

(a) The quantities fixed for the purpose of reports filed under parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat.....	500,000 bushels.
Corn.....	Do.
Soybeans.....	Do.
Oats.....	200,000 bushels.
Barley.....	Do.
Flaxseed.....	Do.
Rye.....	Do.
Soybean oil.....	50 contracts.
Soybean meal.....	Do.
Live cattle.....	Do.
Hogs.....	Do.
Sugar.....	Do.
Copper.....	Do.
Gold.....	Do.
Silver coins.....	Do.
Silver bullion.....	100 contracts.
Cotton.....	5,000 bales.
All other commodities.....	25 contracts.

(b) The quantities fixed for the purpose of reports filed under part 19 of this chapter are as follows:

Commodity	Quantity
Wheat.....	3,000,000
Corn.....	Do.
Soybeans.....	Do.
Oats.....	2,000,000 bushels
Barley.....	Do.
Flaxseed.....	Do.
Rye.....	500,000 bushels.
Cotton.....	5,000 contracts.
Potatoes.....	150 contracts.
Eggs.....	Do.

5. Part 19 is revised to read as follows:

PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE POSITIONS PURSUANT TO § 1.3(z) OF THIS CHAPTER AND BY MERCHANTS, PROCESSORS, AND DEALERS IN COTTON

Sec.

19.00 General provisions.

19.01 Cash reports pertaining to futures positions in wheat, corn, oats, rye, barley, flaxseed, and soybeans.

19.02 Cash reports pertaining to futures positions in cotton.

19.03 Cash reports pertaining to futures positions in eggs.

19.04 Cash reports pertaining to futures positions in potatoes.

19.05-19.09 [Reserved]

19.10 Time and place of filing reports.

AUTHORITY: Secs. 4g(1), 4(i) and 8a(5) of the Act, 7 U.S.C. 6g(1) and 12a(5) (1976).

§ 19.00 General provisions.

(a) *Who must file series '04 reports.* The following persons are required to file series '04 reports:

(1) All persons holding or controlling positions for future delivery that are reportable pursuant to § 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter, and

(2) Merchants, processors, and dealers of cotton holding or controlling positions for future delivery in cotton that are reportable pursuant to § 15.00(b)(2) of this chapter.

(b) *Information required.* Persons required to file series '04 reports shall show the information specified in:

Sec.

19.01 If the reportable futures position is in wheat, corn, oats, rye, barley, flaxseed, and soybeans.

19.02 If the reportable futures position is in cotton.

19.03 If the reportable futures position is in eggs.

19.04 If the reportable futures position is in potatoes.

The manner of reporting the information required in §§ 19.01 through 19.04 is subject to the following:

(1) *Excluding products or byproducts of the cash commodity hedged.* If the regular business practice of the reporting trader is to exclude certain products or byproducts in determining his cash positions for bona fide hedging (as defined in § 1.3(z) of this chapter), the same shall be excluded in the report. Such persons shall furnish to the Commission upon request detailed information concerning the kind and quantity of product or byproduct so excluded.

(2) *Cross hedges.* Cash positions that represent a commodity or products or byproducts of a commodity that is different from the commodity for future delivery in which such cash position is being hedged shall be shown both in terms of the commodity for future delivery and in terms of the cash commodity as provided for on the appropriate series '04 form.

(3) *Standards and conversion factors.* In computing their cash position, every person shall use such standards and conversion factors that are usual in the particular trade or that otherwise reflect the value-fluctuation-equivalents of the cash position in terms of the commodity for future delivery. Such person shall furnish to the Commission upon request detailed information concerning the basis for and derivation of such conversion factors.

§ 19.01 Cash reports pertaining to futures positions in wheat, corn, oats, rye, barley, flaxseed, and soybean.

Persons holding or controlling positions for future delivery in wheat, corn, oats, rye, barley, flaxseed, or soybeans that are reportable pursuant to § 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter shall file CFTC Form 204 reports showing the composition of the fixed price cash position of each commodity hedged in the above enumerated grain or soybean futures including:

(a) The quantity of stocks owned of such commodities and their products and byproducts.

(b) The quantity of fixed price purchase commitments open in such cash commodities and their products and byproducts.

(c) The quantity of fixed price sale commitments open in such cash commodities and their products and byproducts.

§ 19.02 Cash reports pertaining to futures positions in cotton.

Persons holding or controlling positions for future delivery in cotton which are reportable pursuant to § 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter and merchants, processors, and dealers in cotton holding or controlling positions for future delivery in cotton which are reportable pursuant to § 15.00(b)(2) of this chapter shall file CFTC Form 304 reports containing the following information:

(a) For each commodity hedged in cotton futures—the quantity of open fixed price spot positions (long and short) including:

(1) Unfilled open fixed price purchase commitments;

(2) Stocks on hand (owned and at fixed prices), and the quantity of the commodity in process of manufacture, and finished products; and

(3) Unfilled fixed price sale commitments of the commodity and of finished products.

(b) The quantity of call cotton bought or sold on which the price has not been fixed, together with the respective futures on which based. As used herein, call cotton refers to spot cotton bought or sold, or contracted for purchase or sale, at a price to be fixed later based upon a specified future.

(c) The quantity of certificated cotton owned.

§ 19.03 Cash reports pertaining to futures positions in eggs.

Persons holding or controlling positions for future delivery in eggs that are reportable pursuant to

§ 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter shall file CFTC Form 504 reports showing the composition of the fixed price cash position of each cash commodity hedged in egg futures including:

(a) The quantity of stocks owned of such commodities and their products and byproducts.

(b) The quantity of fixed price purchase commitments open in such cash commodities and their products and byproducts.

(c) The quantity of fixed price sale commitments open such cash commodities and their products and byproducts. Each report shall contain information with respect to (1) shell eggs (in cold storage and elsewhere), (2) frozen whole eggs, (3) frozen plain egg whites, (4) frozen plain egg yolks, and (5) egg products.

§ 19.04 Cash reports pertaining to futures positions in potatoes.

Persons holding or controlling positions for future delivery in potatoes which are reportable pursuant to § 15.00(b)(2) of this chapter and any part of which constitute bona fide hedging positions as defined in § 1.3(z) of this chapter shall file CFTC Form

604 reports containing the following information:

(a) The composition of the fixed price cash position of each commodity hedged in potato futures including:

(1) The quantity of stocks owned of such commodities and their products and byproducts and the quantity in process of manufacture.

(2) The quantity of fixed price purchase commitments open in such cash commodities, and

(3) The quantity of fixed price sale commitments open in such cash commodities and their products and byproducts, identified as to kind of product.

(b) The amount of potatoes being raised or expected to be raised by such persons in the ensuing 12 months, specifying the potato acreage in each State and country.

§§ 19.05-19.09 [Reserved]

§ 19.10 Time and place of filing reports.

If a person required to file CFTC series '04 reports has an office in a city in which the Commission has an office, each report shall be filed at such Commission office not later than the third business day; and, in the case of the CFTC Form 304 report required for cotton, not later than the first

business day following Friday of the week or other period covered by the report. If a person is not located in a city in which the Commission has an office, each report shall be transmitted by mail, postmarked not later than midnight of the second business day and, in the case of the CFTC Form 304 report required for cotton, not later than the first business day following the week or other period covered by the report, as follows:

(a) CFTC Form 204 reports with respect to transactions in wheat, corn, oats, rye, barley, flaxseed, and soybeans and CFTC Form 504 reports with respect to transactions in eggs should be sent to the Commission office in Chicago, Ill., unless otherwise specifically authorized by the Commission.

(b) CFTC Form 304 reports with respect to transactions in cotton and CFTC Form 604 reports with respect to transactions in potatoes should be sent to the Commission office in New York, N.Y., unless otherwise specifically authorized by the Commission.

Issued in Washington, D.C., by the Commission on September 27, 1978.

WILLIAM T. BAGLEY,
Chairman, *Commodity Futures*
Trading Commission.

COMMODITY FUTURES TRADING COMMISSION
WEEKLY STATEMENT OF CASH POSITIONS IN GRAIN

(See reverse side for instructions)

CFTC CODE NO.

Report as of close of business Friday (DATE)

_____, 19____

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY
Report all quantities in thousand bushels, i.e., 000 omitted. Show products and byproducts in terms of grain equivalent.
If you have no cash position, write "None" on the form and return it to CFTC.

COMMODITY USED FOR HEDGING	CASH COMMODITY HEDGED IN GRAIN FUTURES	LONG			SHORT
		STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL LONG (3)	TOTAL SALE COMMITMENTS (4)
WHEAT	Wheat				
	Wheat Products				
	Other*				
	TOTAL				
CORN	Corn				
	Corn Products				
	Other*				
	TOTAL				
OATS	Oats				
	Oat Products				
	Other*				
	TOTAL				
SOYBEANS (see reverse side)	Beans				
	Oil & Oil Products				
	Meal & Meal Products				
	Other*				
(OTHER FUTURES MARKET)	TOTAL				
	Grain (same as futures)				
	Products (of same futures)				
	Other*				

* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity future being used for hedging and use Part II to show the quantities in terms of the actual commodity.

PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF THE ACTUAL CASH COMMODITY

COMMODITY USED FOR HEDGING	CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	LONG		SHORT
			STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL SALE COMMITMENTS (3)

FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS

INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON FORM 204

(See Regulations Under The Commodity Exchange Act)

WHO SHOULD REPORT – Every person (individual, partnership, association, corporation or trust) who holds or controls open contracts in any one grain future on any contract market which are reportable pursuant to Regulation 15.00(b)(2), any part of which is classified as hedging.

WHEN TO REPORT – Weekly, as of the close of business Friday. (Note: If Friday is a holiday, report as of the last preceding business day.) Reports must be filed not later than the third business day following the date of the report or mailed not later than the second business day following the date of the report.

WHERE TO REPORT – The CFTC Central Region Headquarters, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606, unless otherwise specifically authorized by the Commission.

WHAT TO REPORT – For each commodity futures contract in which you hold a position as specified above, you must report the following:

Part I. Report the entire quantity of stocks owned and fixed-price purchases and sales of the cash commodity and its products and byproducts. When reporting soybeans, show the soybean equivalent of both soybean oil and soybean meal and their products.

If you are "cross hedging," use the space labeled "Other" for cash commodities and report your cash position for the commodity hedged. The quantities should be converted to the equivalent amounts of the commodity future being used for hedging (for example, if you are cross hedging cash milo in corn futures, show your milo cash position in terms of equivalent quantities of corn.)

Part II. If you are "cross hedging," report the entire quantity of stocks owned and fixed-price purchases and sales of the commodity you are cross hedging in terms of the actual commodity (for example, show your milo cash position in terms of actual quantities of milo). Specify the futures commodity in which you are hedging.

GENERAL PROVISIONS – Use standards and conversion factors usual and common to your business.

If it is your practice to exclude certain products or byproducts in determining your hedgeable cash positions, such products or byproducts should be excluded from the form CFTC-204 report.

If you own no stocks and have no fixed-price cash position, indicate by writing "None."

If inter-company or inter-office purchases and sales of cash grain are included in your fixed-price cash grain positions, they must be separately identified as such in a footnote at the bottom of the report, showing for each related company or office the quantities of grain or grain products involved.

COMMODITY FUTURES TRADING COMMISSION
WEEKLY STATEMENT OF CASH POSITIONS IN COTTON
(See reverse side for instructions)

CFTC CODE NO.

Report as of close of business on Friday (DATE)

, 19

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY
Report in hundreds of bales, i.e., 00 omitted. Convert products to cotton equivalent (500-lb. bales).
If you have no cash position, write "None" on the form and return it to the CFTC.

CASH COMMODITY HEDGED IN COTTON FUTURES	LONG			SHORT
	STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL LONG (3)	TOTAL SALE COMMITMENTS (4)
Cotton				
Cotton Products, including stocks in process of manufacture (specify)				
Other* (specify)				

* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity futures being used for hedging and use Part II to show the quantities in terms of the actual commodity.

PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF THE ACTUAL CASH COMMODITY

CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	LONG		SHORT
		STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL SALE COMMITMENTS (3)

PART III: UNFIXED-PRICE COTTON "ON CALL"

(Include under "Call Purchases" stocks on hand on which price has not yet been fixed)

MARKET	BASED ON DELIVERY MONTH		CALL PURCHASES	CALL SALES
	MONTH	YEAR		
New York Cotton Exchange	October			
	December			
	March			
	May			
	July			

PART IV: CERTIFICATED STOCKS (REPORT IN ACTUAL BALES)

Total number of bales of certificated stock which you own:

CFTC-304
(Rev. 9-78)

(Continued on reverse)

FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS

INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON FORM 304

(See Regulations Under The Commodity Exchange Act)

WHO SHOULD REPORT - Every person (individual, partnership, association, corporation or trust) who holds or controls open contracts in any one cotton future on any contract market which are reportable pursuant to Regulation 15.00(b)(2) and is (1) a merchant, processor or dealer or (2) a person who classifies any part of his cotton futures position as hedging.

WHEN TO REPORT - Weekly as of the close of business Friday. (If Friday is a holiday, report as of the last preceding business day.) Reports must be filed not later than the first business day following the date of the report.

WHERE TO REPORT - The CFTC Eastern Region Headquarters, One World Trade Center, Suite 4747, New York, New York 10048, unless otherwise specifically authorized by the Commission.

WHAT TO REPORT -

Part I. Show your fixed-price long and short spot positions in cotton and cotton products. On the long side, include your open fixed-price purchase commitments of raw cotton, stocks of raw cotton on hand, owned, paid for or at fixed prices, cotton in process of manufacture, finished products, and the total. On the short side, include your unfilled fixed-price sale commitments of raw cotton and your unfilled fixed-price sale commitments of finished products. Do not include in your purchase and sale commitments any contracts on which the price has not been fixed.

If you are "cross hedging" a commodity in cotton futures, report the entire quantity of stocks owned and fixed-price purchases and sales of the commodities you are cross hedging in the space labeled "Other." The quantities should be converted to the equivalent amounts of the commodity future being used for hedging. You must also complete Part II.

Part II. If you are "cross hedging" report the entire quantity of stocks owned and fixed-price purchases and sales of the commodity you are cross hedging in terms of the actual commodity.

Part III. Report the amount of unfixed-price cotton "on call." Under "call purchases," include stocks on hand which the price has not yet been fixed. Indicate the amount of your "on call" purchases and sales by the delivery month and year on which they are based.

Part IV. Report the total number of bales of certificated cotton which you own.

GENERAL PROVISIONS - Use standards and conversion factors usual and common to your business.

If it is your practice to exclude certain products or byproducts in determining your hedgeable cash positions, such products or byproducts should be excluded from the form CFTC-304 report.

If you own no stocks and have no fixed-price cash position, indicate by writing "None."

If inter-company or inter-office spot cotton purchases and sales of spot cotton are included in your fixed-price positions, they must be separately identified as such in a footnote at the bottom of the report, showing for each related company or office the quantities of cotton or cotton products involved.

COMMODITY FUTURES TRADING COMMISSION
WEEKLY STATEMENT OF CASH POSITIONS IN EGGS
(See reverse side for instructions)

CFTC CODE NO.

Report as of close of business on Friday (DATE):

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY
Report shell eggs in cases and all other eggs and egg products in equivalent quantities of shell eggs.
If you have no cash position, write "NONE" on the form and return it to the CFTC.

CASH COMMODITY HEDGED IN EGG FUTURES	LONG			SHORT
	STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL LONG (3)	TOTAL SALE COMMITMENTS (4)
Shell eggs in cold storage				
Shell eggs not in cold storage				
Frozen whole eggs				
Frozen plain egg whites				
Frozen plain egg yolks				
Egg products (identify):				
Other* (specify):				

* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity future being used for hedging and use Part II to show the quantities in terms of the actual commodity.

PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF THE ACTUAL CASH COMMODITY

CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	LONG		SHORT
		STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL SALE COMMITMENTS (3)

FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS

INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON FORM 504

(See Regulations Under The Commodity Exchange Act)

WHO SHOULD REPORT -- Every person (individual, partnership, association, corporation or trust) who holds or controls open contracts in any one egg future on any contract market which are reportable pursuant to Regulation 15.00(b)(2), any part of which is classified as hedging.

WHEN TO REPORT -- Weekly, as of the close of business Friday. (Note: If Friday is a holiday, report as of the last preceding business day.) Reports must be filed not later than the third business day following the date of the report or mailed not later than the second business day following the date of the report.

WHERE TO REPORT -- The CFTC Central Region Headquarters, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606, unless otherwise specifically authorized by the Commission.

WHAT TO REPORT --

Part I. Report the entire quantity of stocks owned and fixed-price purchases and sales of shell eggs, frozen eggs, and egg products.

If you are "cross hedging" use the space labeled "Other," to report the entire quantity of stocks owned and fixed-price purchases and sales of the commodities you are cross hedging. The quantities should be converted to the equivalent amounts of the commodity future being used for hedging. You must also complete Part II.

Part II. If you are "cross hedging" report the entire quantity of stocks owned and fixed-price purchases and sales of the commodity you are cross hedging in terms of the actual commodity.

GENERAL PROVISIONS -- Use standards and conversion factors usual and common to your business.

If it is your practice to exclude certain products or byproducts in determining your hedgeable cash positions, such products or byproducts should be excluded from the form CFTC-504 report.

If you own no stocks and have no fixed-price cash position, indicate by writing "None."

If inter-company or inter-office purchases and sales of cash eggs are included in your fixed-price cash egg positions, they must be separately identified as such in a footnote at the bottom of the report, showing for each related company or office the quantity of eggs or egg products involved.

COMMODITY FUTURES TRADING COMMISSION
WEEKLY STATEMENT OF CASH POSITIONS IN POTATOES
(See reverse side for instructions)

CFTC CODE NO.

Report as of close of business Friday (DATE):

, 19__

NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13, or 18 U.S.C. Sec. 1001.

PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY
Report potatoes in carlots of 50,000 pounds; report potato products in terms of fresh potato equivalent, i.e., in carlots of 50,000 pounds of fresh potatoes. If you have no cash position, write "None" on the form and return it to CFTC.

CASH COMMODITY HEDGED IN POTATO FUTURES	LONG			SHORT
	STOCKS OWNED (1)	PURCHASE COMMITMENTS (2)	TOTAL LONG (3)	TOTAL SALE COMMITMENTS (4)
Potatoes				
Potato Products, including stocks in process of manufacture (specify)				
Other* (specify)				

* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity future being used for hedging and use Part II to show the quantities in terms of the actual commodity.

PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF THE ACTUAL CASH COMMODITY

CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	STOCKS OWNED (1)	PURCHASED COMMITMENTS (2)	TOTAL SALE COMMITMENTS (3)

PART III: POTATO PRODUCTION - ACTUAL OR ANTICIPATED IN NEXT TWELVE MONTHS

Potato production (actual or anticipated) in next twelve months. Number of carlots _____

State(s) or country(ies) in which you are raising or expect to raise potatoes and estimated acreage.

STATE/COUNTRY	ACREAGE

FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS

INSTRUCTIONS FOR PREPARING AND FILING REPORTS ON FORM 604

(See Regulations Under The Commodity Exchange Act)

WHO SHOULD REPORT -- Every person (individual, partnership, association, corporation or trust) who holds or controls open contracts in any one potato future on any contract market which are reportable pursuant to Regulation 15.00(b)(2), any part of which is classified as hedging.

WHEN TO REPORT -- Weekly, as of the close of business Friday. (Note: If Friday is a holiday, report as of the last preceding business day.) Reports must be filed not later than the third business day following the date of the report or mailed not later than the second business day following the date of the report.

WHERE TO REPORT -- The CFTC Eastern Region Headquarters, One World Trade Center, Suite 4747, New York, New York 10048, unless otherwise specifically authorized by the Commission.

WHAT TO REPORT -- The makeup of your cash position in potatoes and potato products.

Part I. Show your cash position in potatoes. Report your inventory of potatoes owned, in storage and in transit (rail or truck); your open fixed-price purchase commitments and your unfilled fixed-price sale commitments in potatoes. Do not include in your purchase or sales commitments any contracts on which the price has not been fixed.

Show your cash position in potato products, identified as to the precise kind of potato product. The amount of stocks owned or in process of manufacture, and your open fixed-price purchase commitments and your unfilled fixed-price sales commitments of potato products, expressed in terms of fresh potato equivalent, i.e., in carlots of 50,000 lbs. of fresh potatoes.

If you are "cross hedging," use the space labeled "Other," and report the entire quantity of stocks owned and fixed-price purchases and sales of the commodities you are cross hedging. The quantities should be converted to the equivalent amounts of the commodity future being used for hedging. In addition, you must complete Part II.

Part II. If you are "cross hedging," report the entire quantity of stocks owned and fixed-price purchase and sales of the commodity you are cross hedging in terms of the actual commodity.

Part III. Report the entire quantity of potatoes which you are raising or expect to raise within the next 12 months on land which you own or lease. Show the state and/or country in which potatoes are being raised and the estimated acreage in potatoes.

GENERAL PROVISIONS -- Use standards and conversion factors usual and common to your business.

If it is your practice to exclude certain products or byproducts in determining your hedgeable cash positions, such products or byproducts should be excluded from the form CFTC-604 report.

If you own no stocks and have no fixed-price position, indicate by writing "None."

If inter-company or inter-office potato purchases and sales of cash potatoes are included in your fixed-price cash positions, they must be separately identified as such in a footnote at the bottom of the report, showing for each related company or office the quantities of potatoes or potato products involved.

[FR Doc. 78-27823 Filed 10-3-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 772—PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Traffic Noise Level Prediction
Methods—Amendment

AGENCY: Federal Highway Administration, DOT.

ACTION: Amendment to final rule.

SUMMARY: This amendment revises current procedures by which the Federal Highway Administration (FHWA) approves traffic noise level prediction methods for use on Federal-aid highway projects. Section 772.25 of title 23, Code of Federal Regulations, specifically approves two prediction methods and provides for submission of other methods or variations to FHWA's headquarters office for approval prior to use. This section is being revised to indicate that any method which is consistent with the FHWA Highway Traffic Noise Prediction Model and which uses noise emission levels obtained from approved FHWA procedures is approved for use.

EFFECTIVE DATE: October 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry Reagan, Environmental Quality Division, Office of Environmental Policy, 202-426-4836, or Mr. Stan Abramson, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 20590. Hours are from 7:45 a.m. to 4:15 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: It is anticipated that this revision will provide State highway agencies and FHWA field offices with the information needed and the proper degree of flexibility to arrive at acceptable traffic noise level prediction methods utilizing state-of-the-art methodology.

The revised requirements of § 772.25 are not retroactive. In addition, the two approved prediction methods currently listed in § 772.25 and all other methods approved pursuant to that section remain approved for use on Federal-aid projects until July 1, 1979. Any noise analysis performed after

that date must comply with the revised procedures.

The approved FHWA procedures for obtaining noise emission levels are being distributed directly to all State highway agencies and FHWA field offices and will be made available for inspection and copying at all FHWA offices in accordance with the provisions of 49 CFR Part 7, Appendix D.

Although the substantive provisions of paragraphs (d) and (e) of the old § 772.25 are not being revised, the paragraphs have been redesignated as (b) and (c) and are reprinted herein in the interest of clarity and for ease of reference.

Accordingly, 23 CFR Part 772 is amended as follows:

§ 772.13 [Amended]

1. In § 772.13(e)(3) the reference to "§ 772.25(e)" is changed to read "§ 772.25(c)";

2. Section 772.25 is revised to read as follows:

§ 772.25 Traffic noise level prediction methods.

(a) Any traffic noise prediction method is approved for use in any noise analysis required by this part if it meets the following two conditions:

(1) The methodology is consistent with the methodology in the FHWA Highway Traffic Noise Prediction Model (Report No. FHWA-RD-77-108);

(2) The prediction method uses noise emission levels obtained from one of the following:

(i) Federal-Aid Highway Program Manual, Volume 7, Chapter 7, Section 3, Attachment 1 (National Reference Energy Mean Emission Levels as a Function of Speed);

(ii) Report No. FHWA-OEP/HEV-78-1, Determination of Reference Energy Mean Emission Levels.⁴

(b) In predicting noise levels and assessing noise impacts the following traffic characteristics shall be used:

(1) *Automotive volume*.—The future volume (reduced for truck traffic) obtained from the lesser of the design hourly volume or the maximum volume which can be handled under traffic level of service C conditions. For automobiles, level of service C is considered to be the combination of speed and volume which creates the worst noise conditions. The average hourly volume for the highest 3 hours on an average day for the design year may be used for those highway sections where the design hourly volume or the level of service C condition is not anticipated to occur on a regular basis during the design year.

(2) *Speed*.—The operating speed which corresponds with the design

⁴These documents are available for inspection and copying in accordance with the provisions of 49 CFR Part 7, App. D.

year traffic volume selected in paragraph (b)(1) of this section and the truck traffic predicted from paragraph (b)(3) of this section. The operating speed must be consistent with the volume used.

(3) *Truck volume*.—The design hourly truck volume shall be used for those cases where either the design hourly volume or level of service C was used for the automobile volume. Where the average hourly volume for the highest 3 hours on an average day was used for automobile traffic, comparable truck volumes should be used.

(c) An alternative to paragraph (b) of this section, the highway agency may select traffic characteristics to correspond with the critical times of day and night which will create the most adverse traffic noise impacts upon the nearby activities and land uses. When such alternative traffic characteristics are used, a thorough discussion of such alternative characteristics shall be included in the noise study report.

(d) Traffic noise prediction methods approved pursuant to prior requirements of this part (41 FR 16936, Apr. 23, 1976) remain approved until July 1, 1979. Any noise analysis performed after July 1, 1979, must comply with the requirements of paragraph (a) of this section.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

(23 U.S.C. 109(i), 315; 49 CFR 1.48(b).)

Issued on: September 22, 1978.

JOHN S. HASSELL, Jr.,
Deputy Administrator.

[FR Doc. 78-27940 Filed 10-3-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Postal Service Manual—Correction of Errors and Omissions in Transmittal Letter 44

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this document is to correct publicly certain errors and omissions contained in a recent transmittal letter making changes to the Postal Service Manual. The Postal Service published on page 2 of the Postal Bulletin of September

14, 1978, the corrections to be made to the Postal Service Manual and advised subscribers to make the changes to their manuals pending receipt of the next transmittal letter. The present publication is intended to reach holders of the manual who may not be subscribers of the Postal Bulletin or who happened not to see the notice in it.

EFFECTIVE DATE: August 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, 202-245-4638.

SUPPLEMENTARY INFORMATION: Chapter I of the Postal Service Manual has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 111.1). This chapter was amended by the issuance of Post Office Services (Domestic) Transmittal Letter 44, issue 120, dated August 21, 1978, and the amended parts were published in full text in the FEDERAL REGISTER on Wednesday, September 13, 1978 (43 FR 40810). The present document refers to and corrects errors and omissions in the FEDERAL REGISTER document referenced above.

ROGER P. CRAIG,
Deputy General Counsel.

On page 40859, in the left hand column, add at the appropriate place new .435 and revise .44 to read as follows:

.435 For mailings of value of \$15 or less, or negotiable items or currency or bullion, the indemnity will be \$15.

.44 Exclusions. Indemnity will not be paid for:

a. Negotiable items (except as provided in 189.435).

b. Currency or bullion (except as provided in 189.435).

c. Consequential loss (except as provided in 189.422c).

d. Nonmailable items (as defined in PSM 123), or items packaged in a manner that they could not have reached their destination undamaged in the normal course of the mail.

e. Articles of sentimental value (except as provided in 189.435).

f. Acts of employees or agents of the sender or addressee.

g. Radioactive injury or electrical or magnetic injury or erasure of electrical recordings, except by lightning.

h. War, insurrection, or civil disturbance, or seizure by an agency of government.

[FR Doc. 78-27976 Filed 10-3-78; 8:45 am]

[7710-12]

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

City Delivery Service Policy

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: These regulations, which are a revision of proposed regulations published in the FEDERAL REGISTER on March 23, 1978, 43 FR 12044-12047, prescribe Postal Service policy for offering "city delivery" service to customers residing in family housing (other than apartment houses), to which city delivery service is not provided. They prescribe the rules under which postmasters and other local postal officials decide whether to offer such service and which kinds of city delivery service to offer, and the general rules which customers must comply with in order to be eligible for receiving city delivery service. The regulations do not depart from the proposal except in certain minor respects noted below.

EFFECTIVE DATE: November 3, 1978.

ADDRESS: Written questions about the regulations should be directed to Assistant General Counsel, Special Projects, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Charles R. Braun, 202-245-4620.

SUPPLEMENTARY INFORMATION: A discussion of the general basis and purpose of these regulations accompanied the proposal when it was published for comment in March, 43 FR 12044-12046. Eight letters of comment were received on the proposal, two from the same commenter. Seven comments opposed the adoption of the proposal on the ground that it generally did not provide for door delivery service in new single family housing in city delivery areas. Those comments urged the adoption of regulations which would instead require door delivery service in all city delivery areas. One comment opposed door delivery and supported curbside and cluster box delivery, on the ground that door delivery was a hazard to the carrier, resulting in injuries from "dog bites, slipping on ice and snow, falling down stairs, carrying heavy bags of mail, etc."

The principal substantive arguments against adoption of the proposal were as follows: (1) Door service would provide better security, convenience, and service than other forms of delivery service; (2) the proposal is unreasonably discriminatory against persons residing in new areas; (3) the proposal is unreasonably discriminatory against new homebuilders by placing them at a "competitive disadvantage to those who sell existing homes"; and, (4) the proposal is unreasonably discriminatory against those of the elderly who may be unable during inclement weather to pick up their mail.

The proposal insofar as it would restrict the offering of door service to new homes is intended to achieve substantial cost savings in postal operations. Door service is the most expensive form of delivery that can be provided, and is substantially more expensive than any other form of home delivery service.

There is no evidence that nondoor delivery in residential city delivery areas where such delivery is authorized results in a reduction of mail security. Regardless of the form of delivery, moreover, a customer will receive essentially the same mail deliveries in his mail receptacle or door slot on the same day. While door service may be convenient, a walk to a sidewalk, curbside, or central delivery point is not ordinarily a great inconvenience. Other postal customers, such as those receiving rural delivery service or apartment house delivery, may have to walk farther to receive their mail.

Two comments questioned whether it was appropriate to seek cost savings in postal operations, one arguing that, "The Federal Government is spending millions of dollars trying to figure out how to put people back to work * * *", and the other arguing that: "Any economies achieved (by the proposal) would soon be squandered by * * * postal management * * *" through other means. The postal laws, however, clearly require the postal system to be operated economically and efficiently. See, for example: 39 U.S.C. 101(a), 403 (a), (b), 1001(e)(4), 2010, 3621, 3661(a). The postal system is therefore not operated so as to "make work" or to end unemployment; reasonable efforts to operate the system efficiently, including the elimination of unnecessary work, must therefore be made.

It has, moreover, always been necessary to restrict door delivery service to those parts of the country where it could economically be provided. Customers of rural delivery service, for example, who are not affected by these regulations, have never been offered door delivery service. Residents of apartment houses similarly do not receive door service.

The argument that a general policy of not providing door service to new single family housing is illegally discriminatory against affected customers has already been rejected by the courts, e.g., *Parsons v. United States Postal Service*, 380 F. Supp. 815 (D. N.J. 1974); *Grover City v. United States Postal Service*, 391 F. Supp. 982 (C.D. Calif. 1975). These courts have reasoned that the policy against door service has a reasonable economic basis, and that the Postal Service is bound to consider economies in its operations in formulating policy.

The argument that nondoor service would be specially discriminatory against the elderly overlooks the fact that many elderly persons are able-bodied enough not only to pick up their mail but also to continue working regularly. In addition, the argument overlooks 155.222 of the proposal, carried forward without change in these final regulations, providing for cases of "extreme hardship" regardless of age.

There was, moreover, no evidence offered to indicate that the general policy of not offering door service in new housing areas (which has been in effect for several years) has had any practical effect on the sales of new houses. Commonsense and a perusal of newspaper advertisements for new and used homes for sale both tend to suggest that the differences between door, curb, sidewalk, and central delivery have no substantial effect on home buying decisions.

It was also argued that the proposed regulations could not be adopted by the Postal Service now because it was legally required first to submit them to the Postal Rate Commission under 39 U.S.C. 3661(b) for an advisory opinion. Section 3661(b), however, requires that such advisory opinions be sought before certain proposals to change the general nature of service are implemented: "When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, with a reasonable time prior to the effective date of such proposal, to the Postal Rate Commission requesting an advisory opinion on the change."

The commenter did not, however, specify what change or changes to which it believed section 3661 might apply. The general policy to which the commenter objected, or seeking to provide city delivery service in new areas in more cost effective ways than door delivery, is a longstanding one which antedates section 3661's effective date of July 1, 1971. Postal regulations adopted in 1968 provided, with certain exceptions, that, "All other establishments and extensions of city delivery service normally should be by motorized delivery to curbside boxes." Post Office Department Regional Instructions, City Delivery Service, No. 331-1, part IIA4 at p. 6, January 15, 1968. Under the 1968 instructions, the authority to offer door delivery in new city delivery areas was generally circumscribed and an offer of door delivery was generally not required. Id., part IIA at 6. Existing postal regulations already provide: "Delivery service normally should be by motorized carrier to neighborhood cluster boxes or to curbside boxes." U.S. Postal Serv-

ice, Regional Instructions, Delivery Service, No. 331-1, Amendment No. 5, part IA at p. 1, September 29, 1972. The limited discretion in these regulations to offer door service to certain new residential housing in city delivery areas has rarely been exercised since 1972, because of the general overriding policy in favor of effecting economies of postal operations wherever possible. A legal challenge under 39 U.S.C. 3661 to this aspect of present city delivery regulations—general non-provision of door delivery service to new city delivery residential areas—was unsuccessful last year. *Bradley v. United States Postal Service*, 554 F. 2d 186 (5th Cir. 1977).

The city delivery regulations, moreover, by generally encouraging nondoor delivery only in new city delivery points, affect only the small percentage of delivery points nationwide which become eligible for establishment or extension of city delivery each year. We estimate this percentage to be less than 3 percent of total nationwide delivery points (city, rural, or other). The immediate impact of changes in city delivery policies for service establishments and extensions is therefore to leave most delivery service in the country unaffected. Thus, even substantial changes in such nationwide city delivery policies would not "generally affect service" as contemplated by section 3661.

One of the commenters recommended that the extreme hardship exception (155.222) be stated in mandatory terms, thus—"Door delivery will be provided * * *—instead of, as proposed—"Door delivery will be considered * * *." Another commenter expressed concern that the exception might be too broad: "Hardships can be reduced to a minimum if a handicapped person would authorize a close neighbor to pick up the mail for him." In experience local postal officials have been able to exercise sound judgment in this area without mandatory regulations.

Present regulations are even more general than those just proposed: "Obviously, predetermined criteria cannot be prescribed to fit every circumstance. Therefore, good judgment should be exercised in rendering decisions where unusual conditions necessitate deviation from these criteria." Reg. Inst. No. 331-1, Amendment No. 5, September 29, 1972, part ID at page 2. The proposed hardship exception was stated permissively in order to permit local officials to continue to exercise sound judgment based on a consideration of all relevant factors, such as whether persons other than the disabled customer reside in the same place. The exception was therefore intended only to define when consideration should be given to providing door

delivery in cases of extreme hardship. No reasons were given for stating the exception in mandatory terms, and it is unclear whether such a revision of the regulations would lead to improved administration. Instead, it might lead to dealing with such matters on the basis of interpretation instead of judgment. The exception is therefore adopted as proposed.

In the same vein, the proposed mandatory language in proposed 155.21—" * * * city delivery service shall be offered * * *" is revised to be permissive—" * * * city delivery service will be considered * * *." Existing regulations are stated permissively: "Consideration for establishing (city) delivery service will be given * * *." Postal Service Manual 155.1, incorporated by reference, 39 CFR 111.1 (1977). In instances where no home delivery service is provided, and the requirements for city delivery service have been fulfilled, local officials are expected to offer city delivery service. In other instances, however, such as when rural delivery service is already provided to the same community, an offer of conversion to city delivery is authorized but not required. Such conversions can be unnecessarily disruptive and cause controversy in the community, since they entail several changes in the way postal services are provided, and rural carrier jobs would be eliminated in favor of city carrier jobs. Thus, where a community receiving rural delivery service becomes sufficiently urban to be eligible for city delivery service, local postal officials should exercise sound discretion in deciding whether even to raise the question of conversion to city delivery service. A conforming change is made in 155.11.

Minor errors appearing in the proposal, such as the use of the word "report" in 155.12 where the context clearly requires the word "part," have been corrected. Also, minor changes are made in style and form.

In view of the foregoing considerations, the Postal Service adopts the following revisions of the Postal Service Manual:

PART 155—CITY DELIVERY

1. Sections 155.1 and 155.2 are revised to read as follows:

155.1 Requirements for delivery service.

11 *Establishments.* In this part "establishment" refers to the initiation of city delivery service in a community which currently does not receive it. In establishing city delivery service, a combination of delivery methods should be considered to provide adequate service to all residential and business sections of a community. All establishments of delivery service must have final approval of the Regional Postmaster General or his designee.

Establishment of delivery service will be considered when the following essential requirements are met:

a. Within the area to be served there is a population of 2,500 or more or 750 possible deliveries. (The postal population may vary greatly from the general census population because of different boundary interpretations and designations.)

b. Fifty percent of the building lots in the area to be served are improved with houses or business places. Where a house or building and its yard or ground cover more than one lot, all lots so covered are considered to be improved.

c. The streets are paved or otherwise improved to permit the travel of post office vehicles at all times without damage or delay.

d. Streets are named and house numbers are assigned by the appropriate municipal authorities in a manner that precludes duplicative mailing addresses.

e. The street signs are in place and the house numbers are displayed.

f. The rights-of-way, turnouts, and areas adjacent to the roads and streets are sufficiently improved so that the installation and servicing of boxes will not be hazardous to the public or postal employees.

g. Satisfactory walks exist for the carrier where required.

h. Approved mail receptacles or door slots are installed at designated locations.

12. *Extensions.* In this part the word "extension" refers to the initiation of city delivery service in any areas which are not included in the boundaries of present delivery service, but which are part of a community for which city delivery service has already been established. The delivery service requirements for extensions are the same as those listed in 155.11 for establishments, except that paragraph (a) does not apply to extensions.

13. *Existing establishments and extensions not affected.* Nothing in this part shall be interpreted to require any changes in any city delivery service which was initiated under prior city delivery regulations.

155.2 Delivery policy-establishments and extensions.

21. *Criteria.*

211. *General.* Establishment or extension of city delivery service will be considered for those areas that meet the criteria in 155.11 and 155.12. Normally, this will be by motorized carrier to curbside boxes or to central delivery points or receptacles, supplemented as given below.

212. *Business areas.* The type and design of buildings will govern the method of delivery service to be implemented. The delivery options are:

a. Central delivery service for business office buildings which may include: (1) Call windows; (2) lockboxes; or (3) mechanical conveyors.

NOTE.—This is available only for high rise, multiple-tenant buildings, and only if certain conditions are met. For details consult your postmaster.

b. Single points, receptacles, or door slots provided by business management.

213. *Residential housing other than apartment houses or mobile or trailer homes.*

a. *General.* For all residential areas, except apartment houses and mobile or trailer homes, the delivery options are either curbside, sidewalk or central delivery, under the regulations given below.

b. *Curbside delivery.* Delivery may be provided to boxes located at the curb so they

can be safely and conveniently served by the carrier from his vehicle.

c. *Sidewalk delivery.* (1) If the sidewalk abuts the curb or if other unusual conditions exist (e.g., excessive street parking) which make it difficult or impractical to install or serve boxes at the curbside, these customers may be permitted to install all of their boxes at the edge of the sidewalk nearest the residence, where they can all be served by the carrier from the sidewalk.

(2) If the average lot frontage is 75 feet or less, the boxes are not required to be grouped together, but if the average lot frontage is more than 75 feet, the boxes must be installed in groups of at least two.

(3) If the average lot frontage is 50 feet or less, customers may locate their mailboxes at the edge of the sidewalk nearest the residence rather than at the curb, regardless of whether the sidewalk abuts the curb or other unusual conditions exist. All the boxes must be located so that the carrier can serve them from the sidewalk.

d. *Central delivery.* Central delivery may be provided at one or more central points within a residential housing development, community, or area. The requirements for such delivery are:

(1) The local postal managers must approve the mailbox sites and equipment;

(2) There must be a minimum of two mailboxes erected at one site (there is no maximum limit); and

(3) The customers will not be required to travel an unreasonable distance to obtain their mail.

214. *Apartment houses.* See 155.6 for delivery options.

215. *Mobile or trailer homes.* The delivery options for mobile or trailer home developments depend upon whether the development is permanent or transient.

a. Permanent developments consist of managed mobile home parks or residential mobile home subdivisions where: The lots are permanently assigned, the streets are maintained for public use, and the conditions are similar to those of a normal residential subdivision. For permanent developments, the delivery options are either curbside, sidewalk, or central delivery, under the regulations given below.

(1) *Curbside delivery.* Delivery service may be provided to boxes which are located at the curb so that they can be safely and conveniently served by the carrier from the vehicle.

(2) *Sidewalk delivery.* (a) If the sidewalk abuts the curb or other unusual conditions exist (e.g., excessive street parking) which make it difficult or impractical to install or serve boxes at the curbside, these customers may install all of their boxes at the edge of the sidewalk nearest the residence where they can all be served by the carrier from the sidewalk.

b. In such conditions, if the average lot frontage is 75 feet or less, the sidewalk boxes are not required to be grouped together, but if the average lot frontage is more than 75 feet, the sidewalk boxes must be installed in groups of at least two.

c. If the average lot frontage is 50 feet or less, the customers may be permitted to locate all of their mailboxes at the edge of sidewalk, nearest the residence rather than at the curb, regardless of whether the sidewalk abuts the curb or other unusual conditions exist. All of the boxes must be located so the carriers can serve them from the sidewalk.

(3) *Central delivery.* (a) Delivery service may be provided to a single point or receptacle designated by the management of the development for the receipt of mail for distribution by its employees.

(b) Delivery service may be provided to one or more central points for the direct receipt of mail by postal customers within the area.

(c) The requirements for such central delivery are:

(i) The local postal manager must approve the mailbox sites and equipment;

(ii) There must be a minimum of two mailboxes erected at one site (there is no maximum limit); and

(iii) The customers are not required to travel an unreasonable distance to obtain their mail.

c. Transient developments are recreational vehicle parks and trailer courts where the lots are temporarily rented and the occupants are generally transient. Such developments are considered transient, even though some families may live in them for an extended period of time. For these developments, the only option is delivery to a single point or receptacle designated by the trailer park management and approved by local postal managers for the receipt of mail for distribution by the trailer park's employees.

NOTE.—This method is one of the service options for permanent developments.

22. *Exceptions.*

221. *Fill-in.* New homes built within a block of existing homes will receive the same type of service as the older ones. When new housing replaces more than one block in a city delivery area, delivery methods will comply with extension procedures.

222. *Hardship cases.* Door delivery will be considered for an individual customer where service through central, curbside, sidewalk, lockbox, or general delivery would place an extreme hardship on the customer.

223. *Local ordinances.* If a customer chooses not to erect a curbside box because of a local, city, county, or State ordinance prohibiting the installation of mailboxes at the curb, the delivery options in establishments and extensions are:

a. Central delivery service may be provided at one or more central points in a residential housing development, community or area, if:

(1) The local postal managers approve the mailbox sites and equipment;

(2) There is a minimum of two mailboxes erected at each mailbox site (there is no maximum limit); and

(3) The customers are not required to travel an unreasonable distance to obtain their mail; or

b. Lockbox or general delivery service may be provided at the nearest postal facility where carrier delivery emanates.

155.41 [Amended]

2. The following sentence is added at the end of 155.41:

Purchase, installation, maintenance, and replacement of delivery box equipment are not the responsibility of the U.S. Postal Service.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be

published in the FEDERAL REGISTER as provided in 39 CFR 111.3. (39 U.S.C. 101, 401(2), 403, 404(a)(1), 410(a).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-28034 Filed 10-3-78; 8:45 am]

[6820-25]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Temp. Reg. E-47, Supp. 4]

APPENDIX—TEMPORARY REGULATIONS

Teleprocessing Services Program

AGENCY: Automated Data and Telecommunications Service, General Service Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to April 30, 1979, the expiration date of FPMR temporary regulation E-47 regarding teleprocessing services program (TSP).

DATES: Effective date: October 1, 1978. Expiration date: April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

L. Periman, 202-566-0834, Policy and Evaluation Division.

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

In 41 CFR chapter 101, this temporary regulation is listed in the appendix at the end of subchapter E.

Dated: September 26, 1978.

JAY SOLOMON,
Administrator of General Services.

FEDERAL PROPERTY MANAGEMENT REGULATIONS
TEMPORARY REGULATION E-47 SUPPLEMENT 4

TO: Heads of Federal agencies.

SUBJECT: Teleprocessing Service Program (TSP).

1. *Purpose.* This supplement extends the expiration date of FPMR temporary regulation E-47.

2. *Effective date.* This regulation is effective October 1, 1978.

3. *Expiration date.* This supplement expires on April 30, 1979.

4. *Explanation of changes.* GSA issued FPMR temporary regulation E-47 on August 3, 1976, and extended its expiration date to September 30, 1977, through supplement 1 to E-47. Paragraph 9 of temporary regulation E-47 established interim procedures for acquiring teleprocessing services pending the determination that the TSP would be the mandatory means by which Federal agencies would acquire teleprocessing services. Supplement 2 to E-47 set

August 1, 1977, as the effective date for mandatory use of the TSP, thereby eliminating any need for the interim procedures established under paragraph 9. Effective August 1, 1977, paragraph 9 was canceled and appropriately remains canceled with the issuance of this directive. Supplement 3 to E-47 extended the mandatory procedures of the TSP to September 30, 1978. This supplement 4 revises the expiration date in paragraph 3 of FPMR temporary regulation E-47 to April 30, 1979, and cancels supplement 3.

[FR Doc. 78-28080 filed 10-3-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER 1—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-681]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: As a result of its continuing study of the reregulation of broadcasting, the Commission continues the restructuring of part 73 of its rules into a more concise and orderly form by transferring to subpart H of part 73 all rules, the subject matter of which is common to AM, FM, and TV broadcasting stations but are at present repeated in each of the subparts for those services. Revisions are made in the rules where needed. Rules which are unique to a particular broadcasting service will remain in their respective subparts.

EFFECTIVE DATE: November 1, 1978.

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

FOR FURTHER INFORMATION CONTACT:

John Reiser, Steve Crane, Philip Cross, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 22, 1978.

Released: October 16, 1978.

By the Commission: Commissioners Lee and Fogarty absent.

Order. In the matter of reregulation of radio and TV broadcasting.

1. In this order, the Commission continues the reorganization and restructuring

of its rule book for the AM, FM, and TV broadcast services.

2. With the adoption on July 12, 1978, of the reregulation order, FCC 78-502, 43 FR 32778, the Commission began its restructuring of parts 73 and 74 of volume III of the rules. Upon completion of the project, all rules in part 73 with subject matter common to AM, FM, and TV, will have been transferred to subpart H, which will bring about simplified access and better understanding of the regulations.

3. Implementation of the project continues in this order. Where appropriate, rule clarifications have been made for the reasons shown in the text. The alphabetical index will reflect each transfer and redesignation of section numbers, thus insuring the user of our rules a continuing, instant and easy-to-follow guide to FCC regulations in part 73. Also, the order continues the cross-referencing of the new section numbers under the old rule section headnotes in subparts A, B, C, and E. Much case law, many documents and policy statements reference these old section numbers and, for the present, we will retain them with the direction to "See § 73. New Subpart H number." When the restructuring is finished, a complete listing of the transfers will be made a part of the rules for such number of years as this type of record is needed.

4. The following sets forth in detail the changes made in this order:

(a) The rules regarding the hours for inspections of stations by FCC personnel, and the logs and records that the licensee must make available for such inspections are now found in §§ 73.97 (AM), 73.263 (FM), 73.563 (NCE-FM), and 73.665 (TV). Rules for availability of logs and records for inspections and investigations are further stated in § 1.6 (in subpt. A of pt. 1) which contains (FCC) "General Rules of Practice and Procedure," in § 1.613 (in subpt. D of pt. 1) which contains rules pertaining to (FCC) "Broadcast Application and Proceedings," and in §§ 73.116 (for AM), 73.286 (FM), 73.586 (NCE-FM), and 73.674 (TV). Via this order, these requirements are restated into two new rules: § 73.1225, "Station inspections by FCC," and § 73.1226, "Availability to FCC of station logs and records," and placed in subpart H, of part 73. Sections 1.6 and 1.613 will remain in part 1, and the eight separate broadcast rules will be deleted from subpart A, B, C, and E. The rules pertaining to public inspection of station's program logs are revised and designated new

¹Certain changes relax present requirements. No substantive changes are made which impose additional burdens or remove provisions relied upon by licensees or the public.

§ 73.1850 in subpart H, and positioned to follow the log rules. (See paragraph (h) of this order.) Rewriting is done for clarification purposes in these revisions.

(b) The rules regarding the posting of station and operator licenses are presently found in § 73.92 (AM stations), § 73.264 (FM stations), § 73.564 (NCE-FM stations), and § 73.660 (TV stations). These separate sections are deleted from their respective subparts, and the rule, which is applied exactly the same for all broadcast stations, is relocated in subpart H as § 73.1230, and retitled "Posting of operator and station licenses."

(c) Our rules prescribe certain procedures and make certain allowances for stations broadcasting emergency information to listeners/viewers in their areas when conditions exist which imperil life and property. These rules are titled "Operation during emergency" and are numbered §§ 73.98, 73.298, 73.597, and 73.675 in the separate subparts of part 73.

The rule title is herein changed to "Broadcasting emergency information." The present title, "Operation during emergency" has led many to conclude these rules pertained to station equipment emergencies which result in reduced broadcast service, caused by such "emergencies" as downed towers, equipment fires, power outages, and so forth.

Clarification revisions are made in the rule's text for ease of understanding and use with EBS activation directions. Relocated in subpart H as applicable to all broadcast services, it will be designated as § 73.1250, "Broadcasting emergency information."

(d) Extension meter regulations are in §§ 73.70 (AM stations), 73.276 (FM), 73.574 (NCE-FM), and 73.678 (TV). They are combined in this order into a single rule appropriate to all services, revised as needed for clarification, placed in subpart H and renumbered § 73.1550.

(e) References to international broadcast agreements which the United States has signed with other countries are presently found in part 73 in:

- § 73.15 NARBA and the United States/Mexican agreement (for AM);
- § 73.204 International agreements and other restrictions on use of channels (for FM);
- § 73.504 Noncommercial educational channel assignments under the United States-Mexico FM broadcast agreement (for NCE-FM); and
- § 73.608 International agreements (for TV).

The text of the AM and TV rules are fairly specific to the rule subject: international agreements. The FM and NCE-FM rules include, in addition, restrictions on use of channels in the FM subpart and, in the NCE-FM sub-

part, a table of allotment of NCE-FM channels in the area within 199 miles of the United States-Mexican border. Since these tables and restrictions are unique to these two services, they will remain there.

The new rule, placed in subpart H, has been streamlined and, for parties interested in the agreements, directions are given for reviewing them at the FCC in Washington, D.C., or procuring copies from our copy contractor. The rule is designated § 73.1650, International agreements.

The sections retained in the FM and NCE-FM subparts will be redesignated:

- § 73.220 Restrictions on use of channels; and
- § 73.504 Channel assignments under the United States-Mexico FM broadcast agreement.

(f) The umbrella term, "time of station operation," covers numerous rule sections which are spread throughout the subparts for the separate services. Some of the specific regulations are buried within a rule section, the title of which fails to reveal their location within that section.

Via this order, we redefine and rearrange these rules into 11 sections, with their titles clearly and solely related to the subject matter therein. The general term, "Operating Hours," will be used as an undersigned headnote for this group of rules.

The rules are relocated in subpart H with designations of section numbers and titles as follows:

OPERATING HOURS

- | | |
|---------|-------------------------------|
| Sec. | |
| 73.1700 | Broadcast day. |
| 73.1705 | Time of operation. |
| 73.1710 | Unlimited time. |
| 73.1715 | Share time. |
| 73.1720 | Daytime. |
| 73.1725 | Limited time. |
| 73.1730 | Specified hours. |
| 73.1735 | Presunrise service authority. |
| 73.1740 | Minimum operating schedule. |
| 73.1745 | Unauthorized operation. |
| 73.1750 | Discontinuance of operation. |

(g) The present TV rule for "Time of operation" (§ 73.651)—see paragraph immediately above—contains, in addition to that subject, directions for the functional operation of TV aural and visual transmitters (§ 73.651(c)). These "functional" directions are left in the TV subpart, edited for timeliness, placed in new § 73.653 and titled "Operation of TV aural and visual transmitters."

(h) The requirements relating to the various types of logs which a licensee must maintain are to be found in 24 different sections in the AM, FM, NCE-FM, and TV Subparts.

These 24 sections are herein rewritten and consolidated into 6 new sections, and placed in subpart H. The new section designations are:

- | | |
|---------|--|
| Sec. | |
| 73.1800 | General requirements relating to logs. |
| 73.1810 | Program logs. |
| 73.1820 | Operating logs. |
| 73.1830 | Maintenance logs. |
| 73.1840 | Retention of logs. |
| 73.1850 | Public inspection of program logs. |

As part of these revisions, we have excised from the rules §§ 73.116, 73.286, 73.586, and 73.674, "Availability of logs and records." These rules state which logs and records must be available for FCC inspection and also the terms of the availability of program logs for public inspection. The requirements pertaining to the logs and records to be made available to an FCC representative are relocated in the new section entitled "Station inspections by FCC" (new § 73.1225) and "Availability to the FCC of station logs and records." (New § 73.1226. See paragraph (a) of this order.) The terms of the program logs' availability for inspection by the public are then set forth in a new rule, § 73.1850 in subpart H, and titled "Public inspection of program logs" (as listed above).

A sensible relaxation pertaining to the automatic logging portion of the operating log rule is also made herein: Heretofore, the rule provided that an alarm circuit must operate continuously or the devices which recorded the parameters must read each parameter once during each 10-minute period. This is relaxed to once each 30-minute period.

Additionally, the rules on log corrections are moved into the general requirements section and plainly stated; clarification is added regarding computation of commercial time for religious and political programs; the texts of the automatic program and operating log regulations are embellished to clarify employee certifications and procedures in the event of equipment malfunction; and rewrites of the log rule texts and reformatting of paragraphs and subparagraphs are done as needed for easier comprehension.

(i) With this order, we add to the rules a separate section, and a new separate listing in the alphabetical index for "Fairness Doctrine." Heretofore, references to this important area of Commission policy were merely footnoted in the rule pertaining to personal attacks and political editorials. The new rule simply states that the Fairness Doctrine is in section 315(a) of the Communications Act, directs the rule user to the FCC public notice "Fairness Doctrine and the Public Interest Standards," 39 FR 26372, and includes information on obtaining copies of this document from the FCC.

The present rule section concerning personal attack and political editorials is herein divided into two separate rule sections (except NCE-FM, where edi-

torializing is not allowed). After appropriate test revisions, the three rules will be redesignated in subpart H as:

Sec.
73.1910 Fairness Doctrine.
73.1920 Personal attacks.
73.1930 Political editorials.

(j) The rules pertaining to broadcasts by candidates for public office were formerly contained in subparts A, B, C, and E of part 73. The rule numbers were §§ 73.120, 73.290, 73.590, and 73.657 for AM, FM, NCE-FM, and TV, respectively. These rules were combined into one rule and redesignated § 73.1940 in the report and order, "In the matter of * * * Broadcasts * * * By Candidates for Public Office," (BC Docket No. 78-103, adopted July 12, 1978; effective August 28, 1978).

In this order the rule is further clarified for broadcast licensees by additional paragraphs, which will reflect the requirements of sections 315 and 312 of the Communications Act. One further addition to the new rule directs the broadcasts attention to the new "Primer" in the public notice adopted by the Commission on July 20, 1978, entitled "The Law of Political Broadcasting and Cablecasting."

(k) The part 73 alphabetical index is revised to reflect the rule changes described herein. (Appendix B.)

5. We conclude that, for the reasons set forth above, adoption of these revisions will serve the public interest and inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions, and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. (b)(3)(B).

6. Therefore, it is ordered, That pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules and regulations are amended as set forth below, effective October 16, 1978.

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

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

1. Section 1.526 is amended to read as follows:

§ 1.526 Records to be maintained locally for public inspection by commercial applicants, permittees, and licensees.

(a) * * *

(4) Such records as are required to be kept by § 73.1940 of this chapter,

concerning broadcasts by candidates for public office.

(10) Although not part of the regular file for public inspection, program logs for television and radio stations will be available for public inspection under the circumstances set forth in § 73.1860 and discussed in the Public and Broadcasting Procedural Manual; Revised Edition.

2. Section 1.527 is amended to read as follows:

§ 1.527 Records to be maintained locally for public inspection by noncommercial educational applicants, permittees and licensees.

(a) * * *

(4) Such records as are required to be kept by § 73.1940 of this chapter, concerning broadcasts by candidates for public office.

(c) * * *

(3) Although not part of the regular file for public inspection, program logs for TV and radio stations will be available for public inspection under the circumstances set forth in § 73.1860 and discussed in the Public and Broadcasting Procedural Manual; Revised Edition.

(g) *Period of retention.* the records specified in paragraph (a)(4) of this section shall be retained for the period specified in § 73.1940 of this chapter. The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The records specified in paragraphs (a) (1), (2), (3), (5), (7), (b), and (c) of this section shall be retained as follows:

3. Section 73.6 is amended to read as follows:

§ 73.6 Daytime.

See § 73.1720.

4. Section 73.9 is amended to read as follows:

§ 73.9 Broadcast day.

See § 73.1700.

5. Section 73.15 is amended to read as follows:

§ 73.15 NARBA and the U.S./Mexican Agreement.

See § 73.1650.

6. Section 73.23 is amended to read as follows:

§ 73.23 Time of operation of the several classes of stations.

See § 73.1705.

7. Section 73.38 is amended to read as follows:

§ 73.38 Limited time operation.

See § 73.1725.

8. Section 73.70 is amended to read as follows:

§ 73.70 Extension meters.

See § 73.1550.

9. Section 73.71 is amended to read as follows:

§ 73.71 Minimum operating schedule.

See § 73.1740.

10. Section 73.73 is amended to read as follows:

§ 73.73 Specified hours.

See § 73.1730.

11. Section 73.74 is amended to read as follows:

§ 73.74 Sharing time.

See § 73.1715.

12. Section 73.76 is amended to read as follows:

§ 73.76 Sharing time; experimental period.

See § 73.1715.

13. Section 73.77 is amended to read as follows:

§ 73.77 Sharing time; departure from regular schedule.

See § 73.1715.

14. Section 73.78 is amended to read as follows:

§ 73.78 Sharing time stations; notification to Commission.

See § 73.1715.

15. Section 73.79 is amended to read as follows:

§ 73.79 License to specify sunrise and sunset hours.

See § 73.1720.

16. Section 73.80 is amended to read as follows:

§ 73.80 Secondary station; filing of operating schedule.

See § 73.1725.

17. Section 73.81 is amended to read as follows:

§ 73.81 Secondary station; failure to reach agreement.

See § 73.1725.

18. Section 73.82 is amended to read as follows:

§ 73.82 Departure from schedule; material violation.
See § 73.1725.

19. Section 73.87 is amended to read as follows:

§ 73.87 Times and modes of program transmission.
See § 73.1745.

20. Section 73.91 is amended to read as follows:

§ 73.91 Discontinuance of operation.
See § 73.1750.

21. Section 73.92 is amended to read as follows:

§ 73.92 Station and operator licenses; posting of.
See § 73.1230.

22. Section 73.97 is amended to read as follows:

§ 73.97 Station inspection.
See § 73.1225.

23. Section 73.98 is amended to read as follows:

§ 73.98 Operation during emergency.
See § 73.1250.

24. Section 73.99 is amended to read as follows:

§ 73.99 Presunrise service authority.
See § 73.1735.

25. Section 73.111 is amended to read as follows:

§ 73.111 General requirements relating to logs.
See § 73.1800.

26. Section 73.112 is amended to read as follows:

§ 73.112 Program logs.
See § 73.1810.

27. Section 73.113 is amended to read as follows:

§ 73.113 Operating logs.
See § 73.1820.

28. Section 73.114 is amended to read as follows:

§ 73.114 Maintenance logs.
See § 73.1830.

29. Section 73.115 is amended to read as follows:

§ 73.115 Retention of logs.
See § 73.1840.

30. Section 73.116 is amended to read as follows:

§ 73.116 Availability of logs and records.
See §§ 73.1225 and 73.1850.

31. Section 73.123 is amended to read as follows:

§ 73.123 Personal attacks; political editorials.
See §§ 73.1910, 73.1920, and 73.1930.

32. Section 73.204 is amended to read as follows:

§ 73.204 International agreements and other restrictions on use of channels.
See §§ 73.220 and 73.1650.

33. New § 73.220 is added to subpart B, part 73, to read as follows:

§ 73.220 Restrictions on use of channels.
(a) The frequency 89.1 MHz (channel 206) is reserved in the New York City metropolitan area for the use of the United Nations with the equivalent of an antenna height of 500 feet above average terrain and effective radiated power of 20 kilowatts, and the FCC will make no assignments which would cause objectionable interference with such use.
(b) In Alaska, the frequency band 88-100 MHz is allocated exclusively to Government radio services and the non-Government fixed service. The frequencies 87.9 through 99.9 MHz (channels 200 through 260) will not be assigned in Alaska for use by FM broadcast stations.
(c) In Hawaii, the frequency band 98-108 MHz is allocated for nonbroadcast use. The frequencies 98.1 through 107.9 MHz (channels 251 through 300) will not be assigned in Hawaii for use by FM broadcast stations.

34. Section 73.261 is amended to read as follows:

§ 73.261 Time of operation.
See §§ 73.1705 and 73.1740.

35. Section 73.263 is amended to read as follows:

§ 73.263 Station inspection.
See § 73.1225.

36. Section 73.264 is amended to read as follows:

§ 73.264 Station and operator licenses; posting of.
See § 73.1230.

37. Section 73.271 is amended to read as follows:

§ 73.271 Discontinuance of operation.
See § 73.1750.

38. Section 73.276 is amended to read as follows:

§ 73.276 Extension meters.
See § 73.1550.

39. Section 73.281 is amended to read as follows:

§ 73.281 General requirements relating to logs.
See § 73.1800.

40. Section 73.282 is amended to read as follows:

§ 73.282 Program logs.
See § 73.1810.

41. Section 73.283 is amended to read as follows:

§ 73.283 Operating logs.
See § 73.1820.

42. Section 73.284 is amended to read as follows:

§ 73.284 Maintenance logs.
See § 73.1830.

43. Section 73.285 is amended to read as follows:

§ 73.285 Retention of logs.
See § 73.1840.

44. Section 73.286 is amended to read as follows:

§ 73.286 Availability of logs and records.
See §§ 73.1225 and 73.1850.

45. Section 73.298 is amended to read as follows:

§ 73.298 Operation during emergency.
See § 73.1250.

46. Section 73.300 is amended to read as follows:

§ 73.300 Personal attacks; political editorials.
See §§ 73.1910, 73.1920, and 73.1930.

47. Section 73.504 headnote is amended to read as follows:

§ 73.504 Channel assignments under the U.S.A.-Mexico FM Broadcast Agreement.
* * * * *

48. Section 73.561 is amended to read as follows:

§ 73.561 Operating schedule; time sharing.
* * * * *

NOTE.—See §§ 73.1705, 73.1715, and 73.1740.

49. Section 73.563 is amended to read as follows:

§ 73.563 Station inspection.
See § 73.1225.

50. Section 73.564 is amended to read as follows:

§ 73.564 Station and operator licenses; posting of.
See § 73.1230.

51. Section 73.571 is amended to read as follows:

§ 73.571 Discontinuance of operation.
See § 73.1750.

52. Section 73.574 is amended to read as follows:

§ 73.574 Extension meters.
See § 73.1550.

53. Section 73.581 is amended to read as follows:

§ 73.581 General requirements relating to logs.
See § 73.1800.

54. Section 73.582 is amended to read as follows:

§ 73.582 Program logs.
See § 73.1810.

55. Section 73.583 is amended to read as follows:

§ 73.583 Operating logs.
See § 73.1820.

56. Section 73.584 is amended to read as follows:

§ 73.584 Maintenance logs.
See § 73.1830.

57. Section 73.585 is amended to read as follows:

§ 73.585 Retention of logs.
See § 73.1840.

58. Section 73.586 is amended to read as follows:

§ 73.586 Availability of logs and records.
See §§ 73.1225 and 73.1850.

59. Section 73.597 is amended to read as follows:

§ 73.597 Operation during emergency.
See § 73.1250.

60. Section 73.598 is amended to read as follows:

§ 73.598 Personal attacks.
See §§ 73.1910 and 73.1920.

61. Section 73.608 is amended to read as follows:

§ 73.608 International agreements.
See § 73.1650.

62. Section 73.623 is amended to read as follows:

§ 73.623 Applications for sharing of television channels.
See § 73.1715.

63. Section 73.651 is amended to read as follows:

§ 73.651 Time of operation.
See §§ 73.653, 73.1705, and 73.1740.

64. New § 73.653 is added to Subpart E, Part 73, to read as follows:

§ 73.653 Operation of TV aural and visual transmitters.

(a) The aural and visual transmitters of a TV station shall not be operated separately, or to present different or unrelated program material, except in the following cases:

(1) Emergency fills due to either visual or aural equipment failures leaving the licensee with only the audio or video programming to announce the equipment failures to the audience;

(2) For equipment tests or experimentation pursuant to § 73.1510 (Experimental authorizations) and § 73.1520 (Operation for tests and maintenance).

(b) During visual transmissions of a test pattern, still pictures or slides, the aural transmission shall consist of a single tone, or series of variable tones; a presentation of the upcoming program schedule; aural news broadcasts; or music. This type program material shall not exceed 15 minutes immediately prior to the start of the station's programming for the day or for a total period not to exceed more than one hour in any broadcast day.

65. Section 73.660 is amended to read as follows:

§ 73.660 Station and operator licenses; posting of.
See § 73.1230.

66. Section 73.665 is amended to read as follows:

§ 73.665 Station inspection.
See § 73.1225.

67. Section 73.667 is amended to read as follows:

§ 73.667 Discontinuance of operation.
See § 73.1750.

68. Section 73.669 is amended to read as follows:

§ 73.669 General requirements relating to logs.
See § 73.1800.

69. Section 73.670 is amended to read as follows:

§ 73.670 Program logs.
See § 73.1810.

70. Section 73.671 is amended to read as follows:

§ 73.671 Operating logs.
See § 73.1820.

71. Section 73.672 is amended to read as follows:

§ 73.672 Maintenance logs.
See § 73.1830.

72. Section 73.673 is amended to read as follows:

§ 73.673 Retention of logs.
See § 73.1840.

73. Section 73.674 is amended to read as follows:

§ 73.674 Availability of logs and records.
See §§ 73.1225 and 73.1850.

74. Section 73.675 is amended to read as follows:

§ 73.675 Operation during emergency.
See § 73.1250.

75. Section 73.678 is amended to read as follows:

§ 73.678 Extension meters.
See § 73.1550.

76. Section 73.679 is amended to read as follows:

§ 73.679 Personal attacks; political editorials.
See §§ 73.1910, 73.1920 and 73.1930.

77. New § 73.1225 is added to part 73, subpart H, to read as follows:

§ 73.1225 Station inspections by FCC.

(a) The licensee of a broadcast station shall make the station available for inspection by representatives of the FCC during the station's business hours, or at any time it is in operation.

(b) In the course of an inspection or investigation, an FCC representative may require special equipment tests, program tests or operation with nighttime or presunrise facilities during daytime hours pursuant to § 0.314, Part 1, of the FCC rules.

(c) The following logs and records shall be made available upon request by representatives of the FCC:

(1) For AM stations. (i) Program, operating and maintenance logs.

(ii) Equipment performance measurements required by § 73.47.

(iii) Copy of the most recent antenna resistance or commonpoint impedance measurements submitted to the Commission.

(iv) Copy of the most recent field strength measurements made to establish performance of directional antennas required by § 73.151.

(v) Copy of the partial and skeleton directional antenna proofs of performance as directed by § 73.154 and made pursuant to the following requirements:

(A) Section 73.67, Remote control operation.

(B) Section 73.68, Sampling systems for antenna monitors.

(C) Section 73.69, Antenna monitors.

(D) Section 73.93, Operator requirements.

(vi) Chief operator agreements and contracts with first-class operators employed part time for maintenance duties.

(2) For FM stations. (i) Program, operating and maintenance logs.

(ii) Equipment performance measurements required by §§ 73.254 and 73.554.

78. New § 73.1226 is added to part 73, subpart H, to read as follows:

§ 73.1226 Availability to FCC of station logs and records.

The following shall be made available to any authorized representative of the FCC upon request:

(a) Station records and logs shall be made available for inspection or duplication at the request of the FCC or its representative. Such logs or records may be removed from the licensee's possession by an FCC representative or, upon request, shall be mailed by the licensee to the FCC by either registered mail, return receipt requested, or certified mail, return receipt requested. The return receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. A receipt shall be furnished when the logs or records are removed from the licensee's possession by an FCC representative and this receipt shall be retained by the licensee as part of the station records until such records or logs are returned to the licensee. When the FCC has no further need for such records or logs, they shall be returned to the licensee. The provisions of this rule shall apply solely to those station logs and records which are required to be maintained by the provisions of this Chapter.

(b) Where records or logs are maintained as the official records of a recognized law enforcement agency and the removal of the records from the possession of the law enforcement agency will hinder its law enforcement activities, such records will not be removed pursuant to this section if the chief of the law enforcement agency promptly certifies in writing to the FCC that removal of the logs or records will hinder law enforcement activities of the agency, stating insofar as feasible the basis for his decision and the date when it can reasonably be expected that such records will be released to the FCC.

(c) The following contracts, agreements, or understandings, which need not be filed with the FCC (per § 1.613, Filing of contracts), shall be kept at the station and made available for inspection by any authorized representative of the FCC upon request: Contracts relating to the sale of broadcast time to "time brokers" for resale; sub-

channel leasing agreements for subsidiary communications authorization operation; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs, and special events) broadcast pursuant to the contract is not under control of the station; and contracts with the chief operators and other engineering personnel.

(iii) Chief operator agreements and contracts with first-class operators employed part-time for maintenance duties.

(3) For TV stations. (i) Program, operating and maintenance logs.

79. New § 73.1230 is added to subpart H, part 73, to read as follows:

§ 73.1230 Posting of station and operator licenses.

(a) The station license and any other instrument of station authorization shall be posted in a conspicuous place and in such a manner that all terms are visible at the place the licensee considers to be the principal control point of the transmitter. At all other control or ATS monitoring and alarm points a photocopy of the station license and other authorizations shall be posted.

(b) The operator license or form 759 (verification of operator license or permit) of each station operator employed full-time or part-time or via contract, shall be permanently posted and shall remain posted so long as the operator is employed by the licensee. The operator license shall be posted where the operator is on duty, either:

- (1) At the transmitter; or
- (2) At the extension meter location; or
- (3) At the remote control point, if the station is operated by remote control; or

(4) At the monitoring and alarm point, if the station is using an automatic transmission system.

(c) Posting of the operator licenses and the station license and any other instruments of authorization shall be done by affixing the licenses to the wall at the posting location, or by enclosing them in a binder or folder which is retained at the posting location so that the documents will be readily available and easily accessible.

80. New § 73.1250 is added to subpart H, part 73, to read as follows:

§ 73.1250 Broadcasting emergency information.

(a) Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to the following: Tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows,

widespread fires, discharge of toxic gasses, widespread power failures, industrial explosions, civil disorders and school closings and changes in school bus schedules resulting from such conditions.

(b) If requested by responsible public officials, a station may, at its discretion, and without further FCC authority, transmit emergency point-to-point messages for the purpose of requesting or dispatching aid and assisting in rescue operations.

(c) If the Emergency Broadcast System (EBS) is activated for a national level emergency while a local or State level emergency operation is in progress, the national level EBS operation shall take precedence. If, during the broadcasting of local or State emergency information, the attention signal described in § 73.906 is used, the broadcasts are considered as being carried out under a State level or local level EBS operational plan.

(d) Any emergency operation undertaken in accordance with this section may be terminated by the FCC if required in the public interest.

(e) Immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages under paragraph (b) of this section, or when daytime facilities were used during nighttime hours by an AM station in accordance with paragraph (f) of this section, a report in letter form shall be forwarded to the FCC in Washington, D.C., setting forth the nature of the emergency, the dates and hours of the broadcasting of emergency information, and a brief description of the material carried during the emergency. A certification of compliance with the noncommercialization provision of paragraph (f) of this section must accompany the report where daytime facilities are used during nighttime hours by an AM station, together with a detailed showing, under the provisions of that paragraph, that no other broadcast service existed or was adequate.

(f) AM stations may, without further FCC authority, use their full daytime facilities during nighttime hours to broadcast emergency information (examples listed in paragraph (a) of this section), when necessary to the safety of life and property, in dangerous conditions of a general nature and when adequate advance warning cannot be given with the facilities authorized. Because of skywave interference impact on other stations assigned to the same channel, such operation may be undertaken only if regular, unlimited-time service, is non-existent, inadequate from the standpoint of coverage, or not serving the public need. All operation under this paragraph must be conducted on a non-

commercial basis. Recorded music may be used to the extent necessary to provide program continuity.

(g) Broadcasting of emergency information shall be confined to the hours, frequencies, powers and modes of operation specified in the station license, except as otherwise provided for AM stations in paragraph (f) of this section.

(h) Any emergency information transmitted by a TV station in accordance with this section shall be transmitted both aurally and visually or only visually. TV stations may use any method of visual presentation which results in a legible message conveying the essential emergency information. Methods which may be used include, but are not necessarily limited to, slides, electronic captioning, manual methods (e.g., hand printing) or mechanical printing processes. However, when emergency operation is being conducted under a national, State or local level Emergency Broadcast System (EBS) plan, emergency information shall be transmitted both aurally and visually.

81. New § 73.1550 is added to subpart H, part 73, to read as follows:

§ 73.1550 Extension meters.

(a) A broadcast station may, without further authority from the FCC, install and use extension meters and monitoring devices provided:

(1) The transmitter is in the same building as the normal operating location of the station's licensed operator and is no more than one floor above or below the normal operating location.

(2) The path from the normal operating location to the transmitter is no longer than 100 feet and provides the operator with ready access to the transmitter.

(3) The required extension meters and monitoring devices are sufficiently close to the operator's normal operating location that deviations from normal indications of such instruments can be observed from that location.

(4) The transmitter is installed and protected so it is not accessible to unauthorized persons.

(5) Each extension meter or monitoring device required for the type of station, pursuant to paragraph (b) of this section, shall continuously sample the parameter for which it is installed and constantly indicate that parameter.

(6) Installation and operation of these meters shall be in accordance with the requirements prescribed for their corresponding regular meters and monitoring devices.

(7) Devices used for obtaining extension meter indications do not affect the accuracy of their corresponding regular meters.

(b) Extension metering and monitoring devices shall be installed as follows:

(1) *AM stations.* (i) Meters for indicating the DC input power of the last radio frequency power amplifier stage of the transmitter.

(ii) A meter for indicating non-directional antenna current or directional antenna common point current.

(iii) The modulation monitor or a percentage modulation meter and peak indicating device which provides continuous and accurate indications of the modulation levels.

(iv) For stations using directional antenna systems, either the antenna monitor or external meters meeting the specifications for accuracy and repeatability prescribed for the monitor itself.

(2) *FM stations operating with transmitter output power more than 10 watts.* (i) Meters for indicating the DC input power to the last radio frequency power amplifier stage of the transmitter.

(ii) A meter for indicating the relative transmission line voltage, current or power.

(iii) The modulation monitor or a percentage modulation meter and peak indicating device which provide continuous and accurate indications of total modulation levels.

(3) *FM stations operating with transmitter power of 10 watts or less.* (i) An indicator to show when the transmitter is in operation.

(ii) A percentage modulation indicator or a calibrated program level meter from which a satisfactory indication of the percentage of modulation can be determined.

(4) *TV stations.* (i) Meters for indicating the DC input power to the last radio frequency power amplifier stages for the aural and visual transmitters.

(ii) Meters for indicating the relative transmission line voltage, current or power for the aural and visual transmitters.

(iii) The aural modulation monitor or a percentage modulation meter and peak indicating device which provide continuous and accurate indications of modulation levels.

(iv) Visual monitoring equipment suitable for monitoring the visual signal so that it may be maintained in accordance with the FCC requirements.

(c) The extension meters required, pursuant to paragraph (b) of this section, must be calibrated against their corresponding regular meters as often as necessary to insure their accuracy, but in no event less than once each week, and

(1) The results of such calibrations shall be entered in the station's maintenance log.

(2) In no event shall an extension meter be calibrated against another remote or extension meter.

(3) Each extension meter shall be accurate to within 2 percent of the value read on its corresponding regular meter.

(4) For AM stations, such calibrations shall be made for each mode of operation.

(d) If a malfunction of any component of the extension metering or monitoring system causes inaccurate readings, the following procedures shall apply:

(1) *All stations.* If the malfunction affects the meters for indicating the DC input power to the last radio stage of the transmitter power amplifier, the indications must be read at the transmitter and entered in the operating log at the same intervals. If the malfunction affects the extended indications of the modulation monitor (aural) the licensee shall, pending repair or replacement, provide other suitable means for monitoring modulation at the extended meter location.

(2) *AM stations.* In addition to subparagraph (1) of this paragraph, if the malfunction affects the antenna or common point current indications, the regular antenna or common point ammeter may be read and the indications entered in the operating log once daily for each mode of operation pending the return to service of the extension antenna or common point ammeter. If the malfunction affects the extended indications of the directional antenna monitor, the pertinent entries required in the operating log must be read and logged at the specified intervals at the monitor location.

(3) *FM stations.* In addition to subparagraph (1) of this paragraph, if the malfunction affects the transmission line meter, the indications must be read at the transmitter and entered in the operating log at the same intervals.

(4) *TV stations.* In addition to subparagraph (1) of this paragraph, if the malfunction affects the transmission line meter(s), indications must be read at the transmitter and entered in the operating log at the same intervals. If the malfunction affects the indications of the visual monitoring equipment, the licensee shall, pending repair or replacement, provide other suitable means for monitoring the visual modulation at the extension meter location.

(e) When a malfunction in the extension metering or monitoring equipment is detected, an appropriate entry shall be made in the station's maintenance log showing the date of the observance and identifying the indicating device(s) affected. A dated entry shall also be made when repair or replacement is completed. If a malfunction

tioning component cannot be repaired or replaced within 60 days from the date faulty operation is detected, the Engineer in Charge of the radio district in which the station is located shall be notified and request made for such additional time as is needed to complete the necessary repairs or replacement.

82. New § 73.1650 is added to subpart H, part 73, as follows:

§ 73.1650 International broadcasting agreements.

(a) *AM broadcast station agreements.* (1) The U.S.A. is signatory to the North American Broadcasting Agreement (NAB) with the Bahama Islands and Jamaica, Canada, Cuba and the Dominican Republic.

(2) The U.S.A. and Mexico are signatories to a separate agreement (U.S./Mexican Agreement).

(3) The U.S.A. has separate, bilateral agreements with Canada, Mexico and the Bahama Islands pertaining to pre-sunrise authority.

(b) *FM broadcast stations agreements.* The U.S.A. is a signatory to separate, bilateral agreements concerning FM broadcast stations with the governments of Canada and Mexico.

(c) *TV broadcast station agreements.* The U.S.A. is signatory to separate, bilateral agreements concerning TV broadcast stations with the governments of Canada and Mexico.

(d) All AM, FM and TV broadcast stations agreements to which the U.S.A. is a signatory are available for inspection in the Office of the Chief, Broadcast Bureau of the FCC in Washington, D.C. Copies may be ordered from the FCC copy contractor. The contractor is:

Downtown Copy Center, 1114 21st Street NW., Washington, D.C. 20037.

83. A new undesignated headnote, **OPERATING HOURS**, is added to subpart H, immediately preceding § 73.1700, Broadcast Day.

OPERATING HOURS

84. New § 73.1700 is added to subpart H, part 73, to read as follows:

§ 73.1700 Broadcast day.

The term "broadcast day" means that period of time between the station's sign-on and its sign-off.

85. New § 73.1705 is added to subpart H, part 73, to read as follows:

§ 73.1705 Time of operation.

(a) Commercial and noncommercial educational TV and commercial FM stations will be licensed for unlimited time operation. Application may be made for voluntary share-time operation.

(b) Noncommercial educational FM stations will be licensed for unlimited

and share time operation according to the provisions of § 73.561.

(c) AM stations will be licensed for unlimited time, limited time, daytime, share time or specified hours.

86. New § 73.1710 is added to subpart H, part 73, to read as follows:

§ 73.1710 Unlimited time.

Operation is permitted 24 hours a day.

87. New § 73.1715 is added to subpart H, part 73, to read as follows:

§ 73.1715 Share time.

Operation is permitted by two or more broadcast stations using the same channel in accordance with a division of hours mutually agreed upon and considered part of their licenses.

(a) If the licenses of stations authorized to share time do not specify hours of operation, the licensee shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and each licensee shall file it in triplicate original with each application to the FCC in Washington, D.C. for renewal of license. If and when such written agreements are properly filed in conformity with this section, the file mark of the FCC will be affixed thereto, one copy will be retained by the FCC, one copy forwarded to the engineer in charge of the radio district in which the station is located, and one copy returned to the licensee to be posted with the station license and considered as a part thereof. If the license specifies a proportionate time division, the agreement shall maintain this proportion. If no proportionate time division is specified in the license, the licensees shall agree upon a division of time. Such division of time shall not include simultaneous operation of the stations unless specifically authorized by the terms of the license.

(b) If the licensees of stations authorized to share time are unable to agree on a division of time, the FCC in Washington, D.C. shall be so notified by a statement filed with the applications for renewal of licenses. Upon receipt of such statement, the FCC will designate the applications for a hearing and, pending such hearing, the operating schedule previously adhered to shall remain in full force and effect.

(c) A departure from the regular schedule in a time-sharing agreement will be permitted only in cases where an agreement to that effect is put in writing, is signed by the licensees of the stations affected thereby and filed in triplicate by each licensee with the FCC in Washington, D.C. prior to the time of the time of the proposed change. If time is of the essence, the actual departure in operating schedule

may precede the actual filing of written agreement, provided appropriate notice is sent to the FCC.

(d) If the license of an AM station authorized to share time does not specify the hours of operation, the station may be operated for the transmission of regular programs during the experimental period provided an agreement thereto is reached with the other stations with which the broadcast day is shared: *And further provided*, Such operation is not in conflict with § 73.72 (Operating during the experimental period). Time-sharing agreements for operation during the experimental period need not be submitted to the FCC.

(e) Noncommercial educational FM stations are authorized for share time operation according to the provisions of § 73.561.

88. New § 73.1720 is added to subpart H, part 73, to read as follows:

§ 73.1720 Daytime.

Operation is permitted during the hours between average monthly local sunrise and average monthly local sunset.

(a) The controlling times for each month of the year are stated in the station's instrument of authorization. Uniform sunrise and sunset times are specified for all of the days of each month, based upon the actual times of sunrise and sunset for the fifteenth day of the month adjusted to the nearest quarter hour. Sunrise and sunset times are derived by using the standardized procedure and the tables in the 1946 American Nautical Almanac issued by the United States Naval Observatory.

89. New § 73.1725 is added to subpart H, part 73, to read as follows:

§ 73.1725 Limited time.

(a) Operation is applicable only to class II (secondary) AM stations on a clear channel with facilities authorized before November 30, 1959. Operation of the secondary station is permitted during daytime and until local sunset if located west of the dominant station on the channel, or until local sunset at the dominant station if located east of that station. Operation is also permitted during nighttime hours not used by the dominant station or stations on the channel.

(b) No authorization will be granted for:

- (1) A new limited time station;
- (2) A limited time station operating on a changed frequency;
- (3) A limited time station with a new transmitter site materially closer to the 0.1 mV/m contour of a co-channel U.S. class I station; or
- (4) Modification of the operating facilities of a limited time station result-

ing in increased radiation toward any point on the 0.1mV/m contour of a co-channel U.S. class I station during the hours after local sunset in which the limited time station is permitted to operate by reason of location east of the class I station.

(c) The licensee of a secondary station which is authorized to operate limited time and which may resume operation at the time the dominant station (or stations) on the same channel ceases operation shall, with each application for renewal of license, file in triplicate a copy of its regular operating schedule. It shall bear a signed notation by the licensee of the dominant station of its objection or lack of objection thereto. Upon approval of such operating schedule, the FCC will affix its file mark and return one copy to the licensee authorized to operate limited time. This shall be posted with the station license and considered as a part thereof. Departure from said operating schedule will be permitted only pursuant to § 73.1715 (Share time).

(d) If the licensee of a secondary station authorized to operate limited time and a dominant station on a channel are unable to agree upon a definite time for resumption of operation by the station authorized limited time, the FCC in Washington, D.C. shall be so notified by the licensee of the station authorized limited time. After receipt of such notice, the FCC will designate for hearing the applications of both stations for renewal of license and, pending the hearing, the schedule previously adhered to shall remain in full force and effect.

90. New § 73.1730 is added to subpart H, part 73, to read as follows:

§ 73.1730 Specified hours.

(a) Specified hours stations must operate in accordance with the exact hours specified in their license. However, such stations, operating on local channels, unless sharing time with other stations, may operate at hours beyond those specified in their licenses to carry special events programming. When such programs are carried during nighttime hours, the station's authorized nighttime facilities must be used.

(b) Other exceptions to the adherence to the schedule of specified hours of operation are provided in § 73.72 (Operating during the experimental period), § 73.1250 (Broadcasting emergency information) and § 73.1740 (Minimum operating schedule).

91. New § 73.1735 is added to subpart H, part 73, to read as follows:

§ 73.1737 Presunrise service authority (PSA).

Licensees of certain classes of AM stations are eligible to request presunrise service authority (see § 73.99).

92. New § 73.1740 is added to subpart H, part 73, to read as follows:

§ 73.1740 Minimum operating schedule.

(a) All commercial broadcast stations are required to operate not less than the following minimum hours:

(1) *AM and FM stations.* Two-thirds of the total hours they are authorized to operate between 6 a.m. and 6 p.m. local time and two-thirds of the total hours they are authorized to operate between 6 p.m. and midnight, local time, each day of the week except Sunday.

(i) Daytime AM stations need comply only with the minimum requirements for operation between 6 a.m. and 6 p.m., local time.

(2) *TV stations.* (i) During the first 36 months of operation, not less than 2 hours daily in any 5 broadcast days per calendar week and not less than a total of:

(A) 12 hours per week during the first 18 months.

(B) 16 hours per week during the 19th through 24th months.

(C) 20 hours per week during the 25th through 30th months.

(D) 24 hours per week during the 31st through 36th months.

(ii) After 36 months of operation, not less than 2 hours in each day of the week and not less than a total of 28 hours per calendar week.

(iii) Visual transmissions of test patterns, slides, or still pictures accompanied by unrelated aural transmissions may not be counted in computing program service (see § 73.653).

(3) "Operation" includes the period during which the station is operated pursuant to temporary authorization or program tests, as well as during the license period.

(4) In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within

the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.

(b) Noncommercial educational AM and TV stations are not required to operate on a regular schedule and no minimum hours of operation are specified; but the hours of actual operation during a license period shall be taken into consideration in the renewal of noncommercial educational AM and TV broadcast licenses. Noncommercial educational FM stations are subject to the operating schedule requirements according to the provisions of § 73.561.

93. New § 73.1745 is added to subpart H, part 73, to read as follows:

§ 73.1745 Unauthorized operation.

(a) No broadcast station shall operate at times, or with modes or power, other than those specified and made a part of the license, unless otherwise provided in this part.

(b) Any unauthorized departure from an operating schedule which is required to be filed with the FCC in Washington, D.C., will be considered as a violation of a material term of the license.

94. New § 73.1750 is added to subpart H, part 73, to read as follows:

§ 73.1750 Discontinuance of operation.

The licensee of each station shall notify the FCC in Washington, D.C., and the Engineer in Charge of the radio district where such station is located of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the Washington, D.C., office of the FCC for cancellation.

95. New § 73.1800 is added to subpart H, part 73, to read as follows:

§ 73.1800 General requirements relating to logs.

(a) The licensee of each station shall maintain program, operating and maintenance logs as set forth in §§ 73.1810, 73.1820, and 73.1830. Each log shall be kept by the station employee or employees (or contract operator) competent to do so, having actual knowledge of the facts required. The person keeping the log must make entries that accurately reflect the operation of the station. In the case of program and operating logs, the employee shall sign the appropriate log when starting duty and again when going off duty and setting forth the time of each. In the case of maintenance logs, the employee shall sign the log upon completion of the required maintenance and inspection en-

tries. When the employee keeping a program or operating log signs it upon going off duty or completing maintenance log entries, that person attests to the fact that the log, with any corrections or additions made before it was signed, is an accurate representation of what transpired.

(b) The logs shall be kept in an orderly and legible manner, in suitable form and in such detail that the data required for the particular class of station concerned are readily available. Key letters or abbreviations may be used if proper meaning or explanation is contained elsewhere in the log. Each sheet shall be numbered and dated. Time entries shall be made in local time and shall be indicated as advanced (e.g., e.d.t.) or non-advanced time (e.g., e.s.t.).

(c) Any necessary corrections of a manually kept log after it has been signed in accordance with paragraph (a) of this section shall be made only by striking out the erroneous portion and making a corrective explanation on the log or attachment to it. For program logs, such corrections shall be dated and signed by the person who kept the log or the program director, or the station manager or an officer of the licensee. For operating and maintenance logs, such corrections shall be dated and signed by the person who kept the log or the station technical supervisor, the station manager, or an officer of the licensee.

(d) No automatically kept log shall be altered in any way after entries have been recorded. When automatic logging processes fail or malfunction, the log must be kept manually for that period and in accordance with the requirements of this section.

(e) No log, or portion thereof, shall be erased, obliterated or willfully destroyed during the period in which it is required to be retained. (Section 73.1840, Retention of logs.)

(f) Entries shall be made in the logs as required by §§ 73.1810, 73.1820 and 73.1830. Additional information such as that needed for administrative or operational purposes may be entered on the logs. Such additional information, so entered, shall not be subject to the restrictions and limitations in the FCC's rules on the making of corrections and changes in logs and may be physically removed, without otherwise altering the log in any way, before making the log a part of an application or available for public inspection.

(g) The operating log and the maintenance log may be kept individually on the same sheet in one common log, at the option of the licensee.

(h) Application forms for licenses and other authorizations require that certain operating and program data be supplied. These application forms should be kept in mind in connection

with maintenance of station program and operating records.

96. New § 73.1810 is added to subpart H, part 73, to read as follows:

§ 73.1810 Program logs.

COMMERCIAL STATIONS

(a) Commercial stations shall keep a program log in accordance with the provisions of § 73.1800 for each broadcast day which, in this context, means from the station's sign-on to its sign-off.

(b) Entries. The following entries shall be made in the program log:

(1) For each program. (i) An entry identifying the program by name or title.

(ii) entries which indicate the time each program begins and ends. If programs are broadcast during which separately identifiable program units of a different type or source are presented, and if the licensee wishes to count such units separately, the beginning and ending time for the longer program need be entered only once. The program units which the licensee wishes to count separately shall then be entered underneath the entry for the longer program, with the beginning and ending time of each such unit.

(iii) An entry classifying each program as to type, using the definitions given in paragraph (d)(1) of this section.

(iv) An entry classifying each program as to source, using the definitions set forth in paragraph (d)(2) of this section. (For network programs, also give name or initials of the network, e.g., ABC, CBS, NBC, Mutual.)

(v) An entry for each program presenting a political candidate, showing the name and political affiliation of such candidate.

(2) For commercial matter. (i) An entry identifying: The sponsor(s) of the program, the person(s) who paid for the announcement or the person(s) who furnished materials or services. The entry shall constitute a representation that identification was announced on the air as required by section 317 of the Communications Act and § 73.1212 of the FCC's rules. See paragraph (d)(3) of this section for the definition of commercial matter.

(ii) An entry or entries showing the total duration of commercial matter in each hourly time segment (beginning on the hour) or the duration of each commercial message (commercial continuity in sponsored programs, or commercial announcements) in each hour. See paragraph (d)(3)(iii) of this section concerning computation of commercial time.

(3) For public service announcements. An entry showing that a public service announcement (PSA) has been

broadcast together with the name of the organization or interest on whose behalf it is made. See paragraph (d)(4) of this section for definition of a public service announcement.

(4) For other announcements. (i) An entry of the time that each required station identification announcement is made (pursuant to § 73.1201).

(ii) An entry for each announcement presenting a political candidate, showing the name and political affiliation of such candidate.

(iii) An entry for each announcement made pursuant to the local notice requirements of §§ 1.580 (pre-grant), 1.594 (designation for hearing) and 73.1202 (licensee obligations), showing the time it was broadcast.

(iv) An entry for each announcement made pursuant to § 73.1203 concerning the broadcast of taped, filmed or recorded material.

(5) For Emergency Broadcast System Operations. An entry for tests of the EBS procedures pursuant to the requirements of subpart G of this part and the appropriate station EBS checklist, unless such entries are consistently made in the station operating log.

(c) National network programming. A station broadcasting the programs of a national network which will supply it with all information as to such programs for the composite week need not log such data but shall record in its log the time when it joined the network, the name of each network program broadcast, the time it leaves the network, and any non-network matter broadcast which is required to be logged. The information supplied by the network for the composite week which the station will use in its renewal application, shall be retained with the program logs and associated with the log pages to which it relates.

(d) Definitions.—(1) Program type. The definitions of the first eight types of programs (i) through (viii), below, are intended not to overlap each other and will normally include all the various programs broadcast. Definitions (ix) through (xi) are subcategories and the programs classified thereunder will also be classified under one of the appropriate first eight types. There may also be further duplication within types (ix) through (xi) (e.g., a program presenting a candidate for public office, prepared by an educational institution, would be classified as public affairs (PA), political (POL) and educational institution (ED)).

(i) Agricultural programs (A) include market reports, farming or other information specifically addressed, or primarily of interest to the agricultural population.

(ii) Entertainment programs (E) include all programs intended primarily

as entertainment, such as music, drama, variety, comedy, quiz, etc.

(iii) *News programs (N)* include reports dealing with current local, national, and international events, including weather and stock market reports; and commentary, analysis and sports news when an integral part of a news program.

(iv) *Public affairs programs (PA)* are programs dealing with local, State, regional, national, or international issues or problems, including, but not limited to, talks, commentaries, discussions, speeches, editorials, political programs, documentaries, mini-documentaries, panels, roundtables, vignettes, and extended coverage (whether live or recorded) of public events or proceedings, such as local council meetings, congressional hearings and the like.

(v) *Religious programs (R)* include sermons or devotionals; religious news; and music, drama and other types of programs designed primarily for religious purposes.

(vi) *Instructional programs (I)* are primarily intended to instruct. They further the appreciation or understanding of such subjects as literature, music, fine arts, history, geography, the natural and social sciences, hobbies and occupations and vocations.

(vii) *Sports programs (S)* include play-by-play and pre-game or post-game related activities and separate programs of sports instruction, news or information (e.g., fishing opportunities, golfing instruction, etc.).

(viii) *Other programs (O)* include all programs not falling within definitions (i) through (vii).

(ix) *Editorials (EDIT)* include programs presented for the purpose of stating opinions of the licensee.

(x) *Political programs (POL)* include those which present candidates for political office or which give expressions (other than in station editorials) to views on such candidates or on issues subject to public ballot.

(xi) *Educational Institution programs (ED)* include those prepared by, in behalf of, or in cooperation with, educational institutions, educational organizations, libraries, museums, PTA's, or similar organizations. Sport programs shall not be included.

(2) *Program source.*—(i) *A local program (L)* is any program originated or produced by the station or for the production of which the station is primarily responsible, employing live talent more than 50 percent of the time. Such a program, taped, recorded or filmed for later broadcast, shall be classified as local. A local program fed to a network shall be classified by the originating station as local. Programs primarily featuring records, tapes, syndicated or feature film or other nonlocally recorded programs, shall be clas-

sified as recorded (REC) even though a station announcer appears in connection with such material. However, identifiable units of such programs which are live and separately logged as such may be classified as local. For example, if during the course of a program featuring records or films, a non-network 2-minute news report is given and logged as a news program, the report may be classified as local.

(ii) *A network program (NET)* is any program furnished to the station by a network (national, regional or special). Delayed broadcasts of programs originated by networks are classified as network.

(iii) *A recorded program (REC)* is any program not otherwise defined in this paragraph including, without limitation, those using recordings, tapes or films.

(3) *Commercial matter (CM)* includes commercial continuity (network and nonnetwork) and commercial announcements (network and non-network) as follows: (Distinction between continuity and announcements is made only for definition purposes. There is no need to distinguish the two types of commercial matter when logging.)

(i) *Commercial continuity (CC)* is the advertising message of a program sponsor.

(ii) *A commercial announcement (CA)* is any other advertising message for which a charge is made, or other consideration is received. Included are bonus spots, trade-out spots, promotional announcements of a future program where consideration is received for such an announcement or where such announcement identifies the sponsor of a future program beyond mention of the sponsor's name as an integral part of the title of the program, and promotional announcements broadcast by any AM, FM or TV station for another commonly owned or controlled station serving the same community.

(iii) *Computation of commercial time:* Duration of commercial matter shall be as close an approximation to the time consumed as possible. The amount of commercial time scheduled will usually be sufficient. It is not necessary, for example, to correct an entry of a 1-minute commercial to accommodate varying reading speeds even though the actual time consumed might be a few seconds more or less than the scheduled time. However, it is incumbent upon the licensee to ensure that the entry represents as close an approximation of the time actually consumed as possible. For certain sponsored programs, it is difficult to measure the exact length of what would be considered as commercial matter, e.g., some sponsored religious and political programs. For such pro-

grams, the licensee is not required to compute the amount of commercial matter, but merely to log and announce the program as sponsored. This exception does not apply to any program advertising commercial products or services, not to any commercial announcements.

(4) *Public service announcement (PSA)* in one for which no charge is made and which promotes programs, activities or services of Federal, State or local governments (e.g., recruiting, sales of U.S. Savings Bonds, etc.) or the programs, activities or services of nonprofit organizations (e.g. UGF, Red Cross, Blood Donations, etc.) or any other announcements regarded as serving community interests.

NONCOMMERCIAL EDUCATIONAL STATIONS

(e) A program log for stations licensed or operating as noncommercial educational stations shall be kept in accordance with the provisions of §73.1810 for each broadcast day, which, in this context means from the station's sign-on to its sign-off.

(f) *Entries:* The following entries shall be made in the program log:

(1) *For each program.* (i) An entry identifying the program by name or title.

(ii) Entries which indicate the time each program begins and ends. If programs are broadcast during which separately identifiable program units of a different type or source are presented, and if the licensee wishes to count such units separately, the beginning and ending time for the longer program need be entered only once. The program units which the licensee wishes to count separately shall then be entered underneath the entry for the longer program with the beginning and ending time of each such unit.

(iii) An entry classifying each program as to source using the definitions set forth in paragraph (h)(1) of this section. (For network programs, also give name or initials or network, e.g., PBS, NPR, etc.)

(iv) An entry classifying each program as to type, using the definitions set forth in paragraph (h)(2) of this section.

(v) An entry for each program presenting a political candidate, showing the name and political affiliation of such candidates.

(2) *For donor announcements.* An entry giving the name(s) of any donor(s) or person(s) furnishing money, service or other valuable consideration, in accordance with the provisions of §§ 73.503, 73.621, including Notes, and § 73.1212, respectively; and the entry shall constitute a representation that identification was announced on the air in accordance with

the provisions of those sections and section 317 of the Communications Act. As an alternative to giving the name, an entry of the word "Donor(s)" may be made, provided that the log shall clearly indicate that the name of the donor(s) or person(s) is retained in the station's public file. Such information for a given series of programs need be entered in the public file only once: *Provided*, The information is identical for each program in the series. The information shall be retained in the public file for a period of two years. Program logs submitted to the FCC must include a list of the names of donors indicated thereon.

(3) *For public service announcements.* An entry showing that a public service announcement (PSA) has been broadcast, together with the name of the organization or interest on whose behalf it is made. See paragraph (h)(3) of this section for definition of a public service announcement.

(4) *For other announcements.* (i) An entry of the time that each required station identification announcement is made pursuant to § 73.1201.

(ii) An entry for each announcement presenting a political candidate showing the name and political affiliation of such candidate.

(iii) An entry for each announcement made pursuant to the local notice requirements of § 1.580 (pregrant) and § 1.594 (designation of hearing), showing the time it was broadcast.

(iv) An entry for each announcement made pursuant to § 73.1208 concerning the broadcast of taped, filmed or recorded material.

(5) *For emergency broadcast system operations.* An entry for each test of the EBS procedures pursuant to the requirements of subpart G of this part and the appropriate station EBS checklist, unless such entries are consistently made in the station operating log.

(g) *Network programming.* A station broadcasting the programs of a network (see "network program," paragraph (h)(1)(iii) of this section) which will supply it with all information as to such programs necessary for the "full week of operation" (FCC form 342) need not log such data but shall record in its log the name of each network program broadcast, the time the program was broadcast (beginning and ending) and any non-network matter broadcast which is required to be logged. The information supplied by the network for the "full week" which the station will use in its renewal application shall be retained with the program logs and associated with the log pages to which it relates.

(h) *Definitions.*—(1) *Program source.*—(i) A local program (L) is any

program originated or produced by the station or for the production of which the station is primarily responsible, employing live talent more than 50 percent of the time. Such a program, taped, filmed or recorded for later broadcast, shall be classified as local. A local program fed to the network shall be classified by the originating station as local.

(ii) A record program (REC) (radio only) is any program not falling within the definition of "local" above, which utilizes records, transcriptions or taped music, with or without commentary by a local announcer or other station personnel.

(iii) A network program (NET) is any program furnished to the station by a network (national, regional or special). Delayed broadcasts of programs originated by networks are classified as network.

(iv) Other programs (OTHER) are any programs not defined above, including, without limitation, syndicated and feature films, and taped or transcribed programs.

(2) *Program type.*—(i) *Instructional* (I) include all programs designed to be utilized by any level of educational institution in the regular instructional program of the institution. In-school, in-service for teachers and college credit courses are examples of instructional programs.

(ii) *General educational* (GEN) is an educational program for which no formal credit is given.

(iii) *Performing arts* (A) is a program in which the performing aspect predominates such as drama or concert, opera or dance.

(iv) *News* (NS) programs include reports dealing with current local, national and international events, including weather and stock market reports; and commentary, analysis or sports news when an integral part of a news program.

(v) *Public affairs* (PA) includes programs dealing with local, state, regional, national or international issues or problems, including, but not limited to, talks, commentaries, discussions, speeches, political programs, documentaries, mini-documentaries, panels, roundtables, vignettes and extended coverage (whether live or recorded) of public events or proceedings such as local council meetings, congressional hearings, and the like.

(vi) *Light entertainment* (LE) includes programs consisting of popular music or other light entertainment.

(vii) *Other* (O) includes all programs not falling within the definitions of Instructional, General Education, Performing Arts, News, Public Affairs or Light Entertainment. Sports programs should be reported as "Other."

(3) *Public service announcement* (PSA) is one which promotes pro-

grams, activities, or services of Federal, State or local governments (e.g., recruiting, sales of U.S. Savings Bonds, etc.) or the programs, activities or services of nonprofit organizations (e.g., UGF, Red Cross, Blood Donations, etc.), or any other announcement regarded as serving community interest. See, however, §§ 73.503(d) and 73.621(e) with respect to the preclusion of announcements promoting the sale of a product or service.

ALL STATIONS, COMMERCIAL AND NONCOMMERCIAL

(i) *Manually kept logs.* Entries on a manually kept log may be made either at the time of or prior to broadcast. The employee responsible for keeping the log shall sign the log when starting duty and when going off duty and enter the time of each. If entries are preprinted prior to broadcast and any deviation therefrom occurs in what was actually broadcast, an appropriate correction must be made on the log. When the employee keeping the log signs the log upon going off duty, that person attests to the fact that the log, with any corrections or additions made before he signed off, is an accurate representation of what was actually broadcast.

(j) *Automatically kept logs.* (1) Entries on an automatically kept program log may be made by automatic logging instruments with sequential language printouts corresponding to manually kept log entries.

(2) An employee on duty shall be responsible for the automatic logging process and the keeping of the log. In the event of failure or malfunctioning of the automatic logging process, the person responsible for the log shall make the required entries in the log manually.

(3) The employee responsible shall sign the log, or a separate page to be affixed to the log, when starting duty and when going off duty and enter the time of each. The signature when going off duty constitutes a certification that, as to the automatic printout part of the log, the employee checked the automatic logging equipment periodically throughout the tour and that to the best of his knowledge and belief, at no time during his tour did it fail or malfunction, unless otherwise noted above the signature; and that, as to any part of the log which was kept manually with any corrections or additions made thereon before signing off duty, it was an accurate representation of what was actually broadcast.

(k) *Automatic maintenance of logging data.* (1) An employee on duty shall be responsible for any automatic maintenance of data and the keeping of the log. In the event of failure or malfunctioning of the said automatic process, the employee responsible for the log

shall make the required entries in the log manually at that time.

(2) The employee responsible shall sign, on a separate page to be affixed to the logging data, when starting duty and when going off duty and enter the time of each. The signature, when going off duty, constitutes a certification that the employee periodically checked the automatic maintenance of data equipment throughout the tour and to the best of his knowledge and belief it did not fail or malfunction, unless otherwise noted above the signature. The signature further certifies that any part of the log which was kept manually is an accurate representation of what was actually broadcast.

(3) The licensee shall extract any required information from automatically maintained program logging data for days specified by the FCC or its duly authorized representative and submit it in written form, together with the underlying recording, tape or other means employed, within such time as the FCC may specify.

(1) *Information required.* The licensee, whether employing manual logging, automatic logging or automatic maintenance of logging data, or any combination thereof, must be able to accurately furnish the FCC with all information required to be logged.

97. New § 73.1820. is added to subpart H, part 73, to read as follows:

§ 73.1820 Operating logs.

(a) Entries shall be made in the operating log either manually by a properly licensed operator in actual charge of the transmitting apparatus, or by automatic devices meeting the requirements of paragraph (b) of this section. Indications of operating parameters shall be logged prior to any adjustment of the equipment. Where adjustments are made to restore parameters to their proper operating values, the corrected indications shall be logged and accompanied, if any parameter deviation was beyond a prescribed tolerance, by a notation describing the nature of the corrective action. Indications of all parameters whose values are affected by modulation of the carrier shall be read without modulation. The actual time of observation shall be included in each log entry. The following information must be entered.

(1) *All stations:* (i) Entries of the time the station begins to supply power to the antenna and the time it ceases to do so.

(ii) Entries required by § 17.49(a), (b) and (c) of this chapter concerning the time the tower lights are turned on and off each day if manually controlled, the time the daily check of proper operation of the tower lights was made if an automatic alarm system is not used, and any observed

failure of the lighting system. See § 17.47(a) for daily tower lighting observation or automatic alarm system requirements.

(iii) Any entries not specifically required in this section, but required by the instrument of authorization or elsewhere in this part.

(iv) An entry of each test of the emergency broadcast system procedures pursuant to the requirements of subpart G of this part and the appropriate station EBS checklist, unless such entries are consistently made in the station program log.

(2) *AM stations.* (i) An entry at the beginning of operations and at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment and an indication of any corrections to restore parameters to normal operating values):

(A) Operating constants for determining the DC input power to the last radio frequency power amplifier stage of the transmitter (plate voltage and current or other parameters appropriate for the type of amplifier used).

(B) Antenna current for nondirectional operation or common point current for directional operation.

(ii) The additional entries required by § 73.51(c)(2) when power is being determined by the indirect method.

(iii) For stations with directional antennas, the following additional indications shall be read and entered in the operating log at the time of commencement of operation in each mode and thereafter, at successive intervals not exceeding three hours in duration:

(A) Antenna monitor phase or phase deviation indications.

(B) Antenna monitor sample currents, current ratios, or ratio deviation indications.

(3) *FM stations.* (i) For each station licensed for transmitter output power greater than 10 watts, an entry, at the beginning of operation and at intervals not exceeding 3 hours, of the following (actual reading observed prior to making any adjustments to the equipment and an indication of any corrections made to restore parameters to normal operating values):

(A) Operating constants for determining the DC input power to the last radio frequency power amplifier stage of the transmitter (plate voltage and current or other parameters appropriate for the type of amplifier used).

(B) RF transmission line meter readings when the transmitter operating power is determined by the direct method.

(4) *TV stations.* (i) An entry at the beginning of operation and at intervals not exceeding 3 hours, of the following (actual readings observed prior to making any adjustments to the equipment and an indication of any

corrections to restore parameters to normal operating values):

(A) Operating constants for determining the DC input power to the last radio frequency power amplifier stage of the aural transmitter (plate voltage and current or other parameters appropriate for the type of amplifier used) if power of the aural transmitter is being determined by the indirect method.

(B) RF transmission line meter readings for visual transmitter, and also for the aural transmitter when the aural transmitter operating power is determined by the direct method.

(C) For remote control operation, the results of observations of vertical interval test signal (VIT) transmissions (see § 73.676(f)).

(b) Automatic devices accurately calibrated and with appropriate time, date and circuit functions may be utilized to record the entries in the operating log provided:

(1) The recording devices do not affect the operation of circuits or accuracy of indicating instruments of the equipment being recorded;

(2) The recording devices have an accuracy equivalent to the accuracy of the indicating instruments;

(3) The calibration is checked against the original indicators at least once each calendar week and the results noted in the maintenance log;

(4) Provision is made to actuate automatically an aural alarm circuit located near the operator on duty if any of the automatic log readings are not within the tolerances or other requirements specified in the rules or station license;

(5) The alarm circuit operates continuously or the devices which record each parameter in sequence must read each parameter at least once during each 30-minute period;

(6) The automatic logging equipment is located at the remote-control point if the transmitter is remotely controlled, or at the transmitter location if the transmitter is manually controlled;

(7) The automatic logging equipment is located in the near vicinity of the operator on duty and is inspected periodically during the broadcast day. In the event of failure of malfunctioning of the automatic equipment, the employee responsible for the log shall make the required entries in the log manually at that time.

(8) The indicating equipment conforms to the requirements of § 73.1215 (Indicating instruments—specifications) except that the scales need not exceed 2 inches in length. Arbitrary scales may not be used.

(c) In preparing the operating log, original data may be recorded in rough form and later transcribed into the log.

(d) If required by AM or FM station operator requirements, each completed operating log shall bear a signed notation by the station's designated chief operator of the results of the review of that log, and show the date and time of such review.

98. New § 73.1830 is added to subpart H, part 73, to read as follows:

§ 73.1830 Maintenance logs.

(a) The licensee of each broadcast station shall keep a maintenance log. Entries in the log shall be made by the holder of a radiotelephone first-class license (or the holder of a radiotelephone second-class license for noncommercial educational FM stations authorized to operate with a transmitter output power of 1 kilowatt or less), and shall reflect the results of maintenance procedures or of observations performed. The following information shall be entered.

(1) *All stations.* (i) An entry of the time and result of auxiliary transmitter test(s).

(ii) An entry of the calibration check of automatic logging devices when used under the provisions of § 73.1820 (Operating logs).

(iii) An entry of all carrier frequency measurements, including the date performed and description of method used as required by § 73.1540 (Carrier frequency measurements).

(iv) An entry of the results of calibration of extension meters used against their corresponding regular meters as required by § 73.1550 (Extension meters).

(v) An entry of the results of calibration of indicating instruments at each remote control point against the corresponding instruments at the transmitter site, as required by the rules for use of remote control (AM, § 73.67; FM, § 73.275; NCE-FM, § 73.573; and TV, § 73.676).

(vi) The entries required by § 17.49(d) of this chapter concerning quarterly inspections of the condition of tower lights and associated control equipment and entries when towers are cleaned or repainted as required by § 17.50 of this chapter.

(vii) An entry to describe fully any experimental operation pursuant to § 73.1510 (Experimental operation) and § 73.1520 (Operation for tests and maintenance).

(viii) An entry of the date and time of removal from and restoration to service of any of the following equipment in the event it becomes defective:

- (A) Modulation monitor (aural).
- (B) Any transmission system meter, the reading of which is required to be entered into the station operating or maintenance log.
- (C) Devices for monitoring or generating the EBS Attention Signal.

(2) *AM stations.* In addition to the entries specified in subparagraph (a)(1) of this section:

(i) An entry of the calibration check of remote reading antenna and common point ammeters against their corresponding regular meters when used under the provisions of § 73.57, including the actual readings of the meters prior to and after calibration.

(ii) For stations using directional antennas, an entry of the calibration of the antenna monitor using procedures specified by the monitor manufacturer's instructions.

(iii) For stations using directional antennas, an entry of the result of field strength measurements made at the specified monitoring points if such measurements are required either by the terms of the station license or § 73.93(e)(4) (Operator requirements).

(iv) For stations using directional antennas, an entry of the following observations (made without modulation if readings are affected by modulation) for each directional radiation pattern. Observations must be made at least three days of each calendar week, not less than 44 hours, nor more than 76 hours, apart.

(A) Common point current.
(B) Base currents, their ratios, and the deviations of those ratios, in percent, from values specified in the station authorization.

(C) Antenna monitor sample currents or current ratios and computed deviations of current ratios, in percent, from values specified in the station authorization.

(D) Antenna monitor phase indications and the deviations of those indications, in degrees, from values specified in the station authorization.

NOTE.—Direct control stations having a radiotelephone first-class operator on duty for all periods of directional antenna operation and having a station authorization permitting antenna base current readings at less frequent intervals than specified in this subparagraph, may make entries pursuant to the schedule specified in that authorization.

(v) Entries specified in § 73.68 (Sampling systems for antenna monitors) or § 73.69 (Antenna monitors), for stations using directional antennas, when the antenna sampling system or the antenna monitor is out of service.

(vi) A signed statement by the inspecting operator upon completion of the inspection required by § 73.93 showing that the inspection has been made. The statement shall include details of tests, adjustments and repairs which were accomplished in order to insure operation in accordance with the provisions of the technical operating standards for AM stations and the station authorization. If repairs could not be completed, include details of the items of equipment concerned, the manner and degree in which they are

defective, and the reasons complete repairs could not be made.

(3) *FM stations.* In addition to the entries specified in paragraph (a)(1) of this section:

(i) For stations using the direct method of power determination, an entry for each six month period of the results of calibration of the transmission line meter used for determining operating power as specified for FM stations in § 73.267, or for NCE-FM stations, in § 73.567 (Operating power, determination and maintenance of).

(ii) For stations transmitting stereophonic programs, an entry each calendar month of measurements of the stereophonic pilot carrier frequency, including the date performed and description of the procedure used as specified for FM stations in § 73.397 or for NCE-FM stations in § 73.596.

(iii) For stations using SCA, an entry, once each calendar month, of the measurements of each subcarrier frequency, including the date performed and description of the procedure used as required by § 73.295 for FM stations or § 73.595 for NCE-FM stations (Operation under subsidiary communications authorizations).

(iv) A signed statement by the inspecting operator upon completion of the inspections specified in Operator requirements for FM stations in § 73.265 or for NCE-FM stations in § 73.565, showing that the inspection has been made. The statement shall include details of tests, adjustments and repairs which were accomplished in order to insure operation in accordance with the provisions of the technical operating standards for FM stations and the station authorization. If repairs could not be completed, include details of the items of equipment concerned, the manner and degree in which they are defective, and the reasons complete repairs could not be made.

(4) *TV stations.* In addition to the entries specified in paragraph (a)(1) of this section:

(i) An entry of the date and time of removal from and restoration to service of the visual modulation monitoring equipment.

(ii) An entry of the results of calibration of the transmission line meters used for determining the operating power as specified in § 73.689 (Operating power, determination and maintenance of).

(b) As entries of these maintenance procedures are made, the operator shall sign and date them. In preparing the maintenance log, original data may be recorded in rough form and later transcribed into the log.

99. New § 73.1840 is added to subpart H, part 73, to read as follows:

§ 73.1840 Retention of logs.

Logs of all stations shall be retained by the licensee for a period of 2 years. However, logs involving communications incident to a disaster or which include communications incident to or involved in an investigation by the FCC and about which the licensee has been notified, shall be retained by the licensee until specifically authorized in writing by the FCC to destroy them. Logs incident to or involved in any claim or complaint of which the licensee has notice shall be retained by the licensee until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

100. New § 73.1850 is added to Part 73, Subpart H, to read as follows:

§ 73.1850 Public inspection of program logs.

(a) The station program logs shall be made available for public inspection and reproduction at a location convenient and accessible to the residents of the community to which the station is licensed. All such requests for inspection shall be subject to the procedural requirements in paragraph (b) of this section. Where good cause exists, the licensee may refuse to permit such inspection. (See paragraph 64, the Public and Broadcasting Procedural Manual.) The licensee shall remain responsible for the safekeeping of the logs when permitting inspections.

(b) The following procedural requirements apply to requests for inspection:

(1) Parties wishing to inspect shall make a prior appointment with the licensee and at that time identify themselves by name and address; identify the organization they represent, if any; and state the general purpose of the examination.

(2) Inspection of the logs shall take place at the station or at any other convenient and accessible location specified by the licensee. At its option the licensee may make an exact copy available in lieu of the original program logs.

(3) Copies of logs shall be available provided the inspecting party pays the reasonable cost of reproduction.

(4) An inspecting party shall have a reasonable time to examine the program logs. If examination is requested beyond a reasonable time, the licensee may condition such further inspection upon the inspecting party's willingness to either duplicate such logs at the examiner's expense, or reimburse the licensee for whatever reasonable expense is incurred if supervision is deemed necessary.

(5) No log need be made available for public inspection until 45 days have

elapsed from the day covered by the log in question.

(6) In cases where the logging system used does not provide for a written program log, the licensee shall retain, subject to the above provisions, either copies of the station's pre-logs (operating schedules), which have been updated and certified correct, or recordation produced by an automatic maintenance of logging data device (i.e., tapes or encoded printouts). See § 73.1810 (Program logs).

101. New § 73.1910 is added to Subpart H, Part 73, to read as follows:

§ 73.1910 Fairness Doctrine.

The Fairness Doctrine is contained in section 315(a) of the Communications Act of 1934, as amended, which provides that broadcasters have certain obligations to afford reasonable opportunity for the discussion of conflicting views on issues of public importance. See FCC public notice "Fairness Doctrine and the Public Interest Standards," 39 FR 26372. Copies may be obtained from the FCC upon request.

102. New § 73.1920 is added to Subpart H, Part 73, to read as follows:

§ 73.1920 Personal attacks.

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than one week after the attack, transmit to the persons or group attacked:

(1) Notification of the date, time and identification of the broadcast;

(2) A script or tape (or an accurate summary if a script or tape is not available) of the attack; and

(3) An offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable:

(1) To attacks on foreign groups or foreign public figures;

(2) To personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign on other such candidates, their authorized spokesmen or persons associated with the candidates in the campaign; and

(3) To bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event, including commentary or analysis contained in the foregoing programs.

(c) The provisions of paragraph (a) of this section shall be applicable to editorials of the licensee, except in the case of noncommercial educational

stations since they are precluded from editorializing (section 399(a), Communications Act).

103. New § 73.1930 is added to subpart H, part 73, to read as follows:

§ 73.1930 Political editorials.

(a) Where a licensee, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the licensee shall, within 24 hours after the editorial, transmit to, respectively, (i) the other qualified candidate or candidates for the same office or (ii) the candidate opposed in the editorial, (A) notification of the date and the time of the editorial, (B) a script or tape of the editorial and (C) an offer of a reasonable opportunity for the candidate or a spokesman of the candidate to respond over the licensee's facilities. Where such editorials are broadcast within 72 hours prior to the day of the election, the licensee shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

(b) Inasmuch as noncommercial educational stations may not engage in editorializing nor may support nor oppose any candidate for political office (section 399(a), Communications Act), the provisions of paragraph (a) of this section, do not apply to such stations.

104. Section 73.1940 is amended by adding new paragraphs (g) and (h) to read as follows:

§ 73.1940 Broadcasts for candidates for public office.

(g) *General requirements.* (1) Except as otherwise indicated in paragraph (g)(2) of this section, no station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other candidates for that office to use such facilities. Such licensee shall have no power of censorship over the material broadcast by any such candidate. Appearance by a legally qualified candidate on any (i) bona fide newscast, (ii) bona fide interview, (iii) bona fide documentary (if the appearance of the candidate is incidental to the presentation of the subject covered by the news documentary), or (iv) on-the-spot coverage of bona fide news events (including, but not limited to political conventions and activities incidental thereto) shall not be deemed to be use of a broadcasting station. (Section 315(a) of the Communications Act.)

(2) Section 312(a)(7) of the Communications Act provides that the Commission may revoke any station license or construction permit for willful or repeated failure to allow reasonable access to, or to permit purchase of, reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

(h) *Political broadcasting primer.* A detailed study of these rules regarding broadcasts by candidates for Federal and non-Federal public office is available in the FCC public notice of July 20, 1978, "The Law of Political Broadcasting and Cablecasting." Copies may be obtained from the FCC upon request.

APPENDIX B

1. Part 73 is amended with the following revised "Alphabetical Index of Rules Titles—Part 73." This index contains all rule revisions adopted in Reregulation Order FCC 78-681, mimeo: 4013.

ALPHABETICAL INDEX OF RULES TITLES— PART 73

SUBPART A—AM BROADCAST STATIONS

Acceptability of broadcast transmitters for licensing	73.48
Agreements, International broadcasting	73.1650
Alarm and monitoring points, Automatic transmission system	73.146
Allocation, Engineering standards of	73.182
Allocation, Field intensity measurements in; establishment of effective field at one mile	73.186
AM broadcast band (definition)	73.2
Alternate main transmitters	73.64
AM broadcast channel (definition)	73.3
AM broadcast station (definition)	73.1
(AM technical standards), Introduction	73.181
Ameters, antenna and common point, Remote reading	73.57
Antenna, directional, Field intensity measurements to establish performance of	73.151
Antenna heights, Minimum, or field intensity requirements	73.189
Antenna input power; how determined	73.51
Antenna input power; maintenance of	73.52
Antenna monitors, Requirements for type approval of	73.53
Antenna monitors	73.69
Antenna monitors, Sampling system for	73.68
Antenna resistance and reactance; how determined	73.54
Antenna structure, marking and lighting	73.1213
Antenna systems	73.45
Antenna system and equipment, Changes in	73.43
Antenna systems, Directional	73.150
Antenna systems; showing required	73.33
Applications for broadcast facilities, showing required	73.37
Approval of modulation monitors, Requirements for	73.50
Areas, Service (definition)	73.11
Assignment of Class II-A stations	73.22
Assignment of stations to channels	73.28
Attacks, Personal	73.1920
Audio recordings, Retention of	73.127
Authority, Presunrise service	73.1735
Authority to move main studio	73.31
Authorization, Special field test	73.36
Authorizations, Experimental	73.1510
Authorizations, Remote control	73.66
Automatic transmission system facilities	73.142
Automatic transmission system monitoring and alarm points	73.146
Automatic transmission systems, Fail-safe transmitter control for	73.144

ALPHABETICAL INDEX OF RULES TITLES— PART 73—Continued

Automatic transmission systems (ATS), Use of	73.140
Auxiliary transmitters	73.63
Auxiliary transmitters, Use of modulation monitors at	73.89
Availability to FCC of station logs and records	73.1226
Billing practices, Fraudulent	73.1205
Blanketing interference	73.88
Broadcasting agreements, International	73.1650
Broadcast band, AM (definition)	73.2
Broadcast channel, AM (definition)	73.3
Broadcast day (definition)	73.1700
Broadcast facilities; showing required	73.24
Broadcast facilities, showing required for applications	73.37
Broadcast of lottery information	73.1211
Broadcast of taped, filmed or recorded material	73.1208
Broadcast of telephone conversation	73.1206
Broadcast station, AM (definition)	73.1
Broadcast transmitters, Acceptability for licensing	73.48
Broadcasting emergency information	73.1250
Broadcasts by candidates for public office	73.1940
Candidates for public office, Broadcast by	73.1940
Carrier frequency measurements	73.1540
Carrier power; Maximum rated, how determined	73.42
Carrier power; Maximum rated, tolerances	73.41
Changes in equipment and antenna system	73.43
Channel, AM broadcast (definition)	73.3
Channels and stations, Classes of AM broadcast	73.21
Channels, Assignment of stations to	73.28
Charts, Engineering	73.190
Charts, Groundwave field intensity	73.184
Class II-A stations, Assignment of	73.22
Class IV stations, Local channels	73.27
Class IV stations on regional channels	73.29
Classes of AM broadcast channels and stations	73.21
Classes I and II stations, Clear channels; Classes III-A and III-B stations, Regional channels	73.25
Clear channels; Classes I and II stations	73.26
Common point, and antenna ameters, Remote reading	73.57
Computation of interfering signal	73.185
Construction, design, and safety of life requirements, Transmitter	73.40
Control, transmitter, Fail-safe, for automatic transmission systems	73.144
Critical hours (definition)	73.13
Cross reference to rules in other Parts	73.1010
Day, Broadcast (definition)	73.1700
Daytime (definition)	73.1720
Daytime radiation, Limitation on	73.187
Definitions, Technical	73.14
Design, construction and safety of life requirement, Transmitter	73.40
Directional antennas, Field strength measurements to establish performance of	73.151
Directional antenna data, Modification of	73.152
Directional antenna systems	73.150
Discontinuance of operation	73.1750
Doctrine, Fairness	73.1910
Dominant station (definition)	73.4
EBS (Emergency Broadcast System)	(¹)
Editorials, political	73.1930
Effective field at one mile, Field intensity measurements for establishment of	73.186
Emergency Broadcast System (EBS)	(¹)
Emergency information, Broadcasting	73.1250
Employment opportunities, Equal	73.125
Engineering charts	73.190
Engineering standards of allocation	73.182
Equal employment opportunities	73.125
Equipment and antenna system, Change in	73.43
Equipment performance measurements	73.47
Equipment tests	73.1610
Exclusivity, Territorial (Network)	73.132

ALPHABETICAL INDEX OF RULES TITLES— PART 73—Continued

Experimental authorizations	73.1510
Experimental period (definition)	73.10
Experimental period, Operating during the	73.72
Extension meters	73.1550
Facilities, Automatic transmission system	73.142
Facilities, Broadcast; showing required	73.24
Fail-safe transmitter control for automatic transmission systems	73.144
Fairness Doctrine	73.1910
FCC, Station inspections by	73.1225
Field intensity charts, Groundwave	73.184
Field intensity measurements in allocations; establishment of effective field at one mile	73.186
Field intensity measurements in support of applications or evidence at hearing	73.153
Field intensity measurements; partial and skeleton proofs of performance	73.154
Field intensity requirements or, Minimum antenna heights	73.189
Field strength measurements to establish performance of directional antennas	73.151
Field test authorization, Special	73.36
File, Political	73.1940
Filed, taped, or recorded material, Broadcast of	73.1208
Fraudulent billing practices	73.1205
Frequency measurement, Carrier	73.1540
Frequency tolerance	73.59
General requirements relating to logs	73.1800
Groundwave field intensity charts	73.184
Groundwave signals	73.183
Hours, Critical	73.13
Hours, Specified	73.1730
Identification, Sponsorship; list retention; related requirements	73.1212
Identification, Station	73.1201
Indicating instruments (requirements for)	73.58
Indicating instruments—specifications	73.1215
Information, Broadcasting emergency	73.1250
Input power, Antenna; how determined	73.51
Input power, Antenna; Maintenance of	73.52
Inspection of program logs, Public	73.1850
Inspections, Station, by FCC	73.1225
Instruments, Indicating (requirements for)	73.58
Instruments, Indicating—specifications	73.1215
Interference, Blanketing	73.88
Interference to Astronomy, Research and Receiving installations, Notifications concerning	73.1030
Interfering signal, Computations of	73.185
International broadcasting agreements	73.1650
Introduction (AM technical standards)	73.181
License period, Station	73.1020
Licensee-conducted contests	73.1216
Licensee obligations, Public notice of	73.1202
Licenses, station and operator, Posting of	73.1250
Licensing, Acceptability of broadcast transmitter for	73.48
Lighting and marking, Antenna structure	73.1213
Limitation on daytime radiation	73.187
Limited time	73.1725
List retention; Sponsorship identification, related requirements	73.1212
Local channel; Class IV stations	73.27
Location of transmitter	73.188
Logs and records, Availability to FCC	73.1226
Logs, Maintenance	73.1830
Logs, Operating	73.1820
Logs, Program	73.1810
Logs, General requirements relating to	73.1800
Logs, program, Public inspection of	73.1850
Logs, Retention of	73.1840
Lottery information, Broadcast of	73.1211
Marking and Lighting, Antenna structure	73.1213
Main studio, Authority to move	73.31
Main transmitters, Alternate	73.64
Maintenance and tests, Operation for	73.1520
Maintenance logs	73.1830
Maintenance of antenna input power	73.52

ALPHABETICAL INDEX OF RULES TITLES—
PART 73—Continued

Maximum rated carrier power, how determined.....	73.42
Maximum rated carrier power, tolerances.....	73.41
Measurements, Equipment performance.....	73.47
Measurements, Field intensity, for establishment of effective field at one mile.....	73.186
Measurements, Carrier frequency.....	73.1540
Measurements, Field intensity in support of applications of evidence at hearings.....	73.153
Measurements: Field intensity, skeleton and partial proofs of performance.....	73.154
Measurements, Field strength, to establish performance of directional antennas.....	73.151
Meters, Extension.....	73.1550
Minimum antenna heights or field intensity requirements.....	73.189
Minimum operating schedule.....	73.1740
Modes and times of program transmission.....	73.87
Modification of directional antenna data.....	73.152
Modulation.....	73.55
Modulation monitors.....	73.56
Modulation monitors, Requirements for type approval of.....	73.50
Modulation monitors, Use of at auxiliary transmitters.....	73.89
Monitoring and alarm points, Automatic transmission system.....	73.146
Monitors, Antenna.....	73.69
Monitors, antenna, Requirements for type approval of.....	73.53
Monitors, antenna, Sampling system for.....	73.68
Monitors, Modulation.....	73.60
Monitors, modulation, Requirements for type approval of.....	73.50
Monitors, modulation, Use of at auxiliary transmitters.....	73.89
Move main studio, Authority to.....	73.31
Multiple ownership.....	73.35
(Network), Territorial exclusivity.....	73.132
Nighttime (definition).....	73.7
Notice, Public, of licensee obligations.....	73.1202
Notifications concerning interference to Radio Astronomy, Research and Receiving installations.....	73.1030
Operating during the experimental period.....	73.72
Operating logs.....	73.1820
Operation, Discontinuance of.....	73.1750
Operation for tests and maintenance.....	73.1520
Operation, Time of.....	73.1705
Operation, Remote Control.....	73.67
Operation, Unauthorized.....	73.1745
Operating schedule, Minimum.....	73.1740
(Operation), Specified hours.....	73.73
Operator and station licenses, Posting of.....	73.1250
Operator requirements.....	73.93
Origination, program, and Station location.....	73.30
Ownership, Multiple.....	73.35
Partial and skeleton proofs of performance, Field intensity measurements.....	73.154
Performance measurements, Equipment.....	73.47
Performance of directional antennas, Field strength measurements to establish.....	73.151
Personal attacks.....	73.1920
Political editorials.....	73.1930
Political file.....	73.1940
Portable test stations.....	73.1530
Posting of station and operator licenses.....	73.1250
Power, Antenna input, how determined.....	73.51
Power, Antenna input, maintenance of.....	73.52
Presunrise service authority.....	73.1735
Program logs.....	73.1810
Program logs, Public inspection of.....	73.1850
Program origination, Station location.....	73.30
Program tests.....	73.1620
Program transmission, Times and modes of.....	73.87
Proofs of performance, partial and skeleton, Field intensity measurements.....	73.154
Public inspection of program logs.....	73.1850
Public office, Broadcasts by candidates for.....	73.1940

ALPHABETICAL INDEX OF RULES TITLES—
PART 73—Continued

Radiation, daytime, Limitation on.....	73.187
Rebroadcast.....	73.1207
Recorded, taped or filmed material: Broadcast of.....	73.1208
Recordings, audio, Retention of.....	73.127
Records and logs, Availability to FCC.....	73.1226
Reference, Cross, to rules in other Parts.....	73.1010
References to time (local).....	73.83
Regional channels; Classes III-A and III-B stations.....	73.26
Regional channels, Class IV stations on.....	73.29
Remote control authorizations.....	73.66
Remote control operation.....	73.67
Remote reading antenna and common point ammeters.....	73.57
Requirements for type approval of modulation monitors.....	73.50
Requirements for type approval of antenna monitors.....	73.53
Requirements, relating to logs, General.....	73.1800
Requirements, Operator.....	73.93
Reservation of time upon sale of a station, Special rules relating to contracts providing for.....	73.139
Retention of audio recordings.....	73.127
Retention of logs.....	73.1840
(Rules common to all broadcast stations), Scope.....	73.1001
Rules in other Parts, Cross reference to.....	73.1010
Safety of life, design, construction requirements, Transmitter.....	73.40
Sale of station, Special rules relating to contracts providing for reservation of time.....	73.139
Sampling systems for antenna monitors.....	73.68
Schedule, Minimum operating.....	73.1740
Scope (rules common to all broadcast stations).....	73.1001
Secondary station (definition).....	73.5
Service areas (definition).....	73.11
Share time.....	73.1715
Showing required; Applications for broadcast facilities.....	73.37
Showing required; Antenna system.....	73.33
Signal, Interfering, Computation of.....	73.185
Signal, Groundwave.....	73.183
Skeleton and partial proofs of performance, Field intensity measurements.....	73.154
Special field test authorization.....	73.36
Special rules relating to contracts providing for reservation of time upon sale of a station.....	73.139
Specifications—Indicating instruments.....	73.1215
Specified hours.....	73.1730
Sponsorship identification; list retention; related requirements.....	73.1212
Standards of allocation, Engineering.....	73.182
Station and operator licenses, Posting of.....	73.1230
Station, Dominant (definition).....	73.4
Station identification.....	73.1201
Station inspections by FCC.....	73.1225
Station license period.....	73.1020
Station location and program origination.....	73.30
Stations and channels, standard broadcast, Classes of.....	73.21
Stations, Assignment of, to channels.....	73.28
Studio, main, Authority to move.....	73.31
Sunrise and sunset (definition).....	73.8
Taped, filmed, or recorded material: Broadcast of.....	73.1208
Technical definitions.....	73.14
(Technical Standards, AM broadcast), Introduction.....	73.181
Telephone conversations, Broadcast of.....	73.1206
Territorial exclusivity (Network).....	73.132
Test authorization, Special field.....	73.36
Test Stations, Portable.....	73.1530
Tests and maintenance, Operation for.....	73.1520
Tests, Equipment.....	73.1610
Tests, Program.....	73.1620
Time, Limited.....	73.1725
Time of operation.....	73.1705
Time, Reference to (local).....	73.83
Time, Share.....	73.1715
Time, Special rules providing for reservation of, upon sale of a station.....	73.139
Time, Unlimited.....	73.1710

ALPHABETICAL INDEX OF RULES TITLES—
PART 73—Continued

Times and modes of program transmission.....	73.87
Tolerance, Frequency.....	73.59
Tolerances, Maximum rated carrier power.....	73.41
Transmission, program, Times and modes of.....	73.87
Transmission system, Automatic, monitoring and alarm points.....	73.146
Transmission system facilities, Automatic.....	73.142
Transmission systems, automatic, Fail-safe transmitter control for.....	73.144
Transmission systems, automatic (ATS), Use of.....	73.140
Transmitter (standards of engineering practice).....	73.46
Transmitter control, Fail-safe, for automatic transmission system.....	73.144
Transmitter, design, construction, and safety of life requirements.....	73.40
Transmitter, Location of.....	73.188
Transmitters, Alternate main.....	73.64
Transmitters, Auxiliary.....	73.63
Transmitters, auxiliary, Use of modulation monitor at.....	73.89
Type approval of antenna monitors, Requirements for.....	73.53
Type approval of modulation monitors, Requirements for.....	73.50
Unauthorized operation.....	73.1745
Unlimited time.....	73.1710
Use of automatic transmission systems (ATS).....	73.140
Use of modulation monitors at auxiliary transmitters.....	73.89

SUBPART B—COMMERCIAL FM BROADCAST STATIONS

Acceptability of broadcast transmitters for licensing.....	73.250
Adjacent channel and co-channel stations, Minimum mileage, separation between.....	73.207
Administrative changes in authorizations.....	73.212
Agreements, International broadcasting.....	73.1650
Alarm and monitoring points, Automatic transmission system.....	73.346
Alternate main transmitters.....	73.256
AM and FM programming, Duplication of.....	73.242
Antenna height and Power, requirements.....	73.211
Antenna site, Use of common.....	73.239
Antenna structure, marking and lighting.....	73.1213
Antenna system and equipment, Changes in.....	73.257
Antenna systems.....	73.316
Antennas, Emergency.....	73.273
Assignments, Table of.....	73.202
Attacks, Personal.....	73.1920
Authorizations, Remote control.....	73.274
Authorizations, Special field test.....	73.278
Authorizations, Administrative changes in.....	73.212
Authorizations, Experimental.....	73.1510
Authorizations, Subsidiary Communications (SCA).....	73.293
Authorizations, subsidiary Communications, Operation under.....	73.295
Automatic transmission system facilities.....	73.342
Automatic transmission system monitoring and alarm points.....	73.346
Automatic transmission systems, Fail-safe transmitter control for.....	73.344
Automatic transmission systems (ATS), Use of.....	73.340
Auxiliary transmitters.....	73.255
Auxiliary transmitters, Use of modulation monitors at.....	73.330
Auxiliary transmitters (Performance characteristics).....	73.321
Availability of channels.....	73.203
Availability to FCC of station logs and records.....	73.1226
Billing practices, Fraudulent.....	73.1205
Broadcast day (definition).....	73.1700
Broadcast of lottery information.....	73.1211
Broadcast of taped, filmed, or recorded material.....	73.1208

SUBPART B—COMMERCIAL FM BROADCAST STATIONS—Continued

Broadcast of telephone conversations.....	73.1206
Broadcast transmitters, Acceptability for licensing.....	73.250
Broadcasting agreements, International.....	73.1650
Broadcasting emergency information.....	73.1250
Broadcasting, Stereophonic.....	73.297
Broadcasts by candidates for public office.....	73.1940
Candidates for public office, Broadcasts by.....	73.1940
Carrier frequency measurements.....	73.1540
Changes in authorizations, Administrative.....	73.212
Changes in equipment and antenna system.....	73.257
Channels, Availability of.....	73.203
Channels, Classes of commercial, and stations operating thereon.....	73.206
Channels, FM broadcast, Numerical designation of.....	73.201
Channels, Restrictions on use of.....	73.220
Charts, Engineering.....	73.333
Classes of commercial channels, and stations operating thereon.....	73.206
Co-channel and adjacent channel stations, Minimum separation.....	73.207
Common antenna site, Use of.....	73.239
Computations, Reference points and distance.....	73.208
Contests, Licensee-conducted.....	73.1216
Contours, Field strength.....	73.311
Contracts for reservation of time upon sale of a station, Special rules relating to.....	73.241
Control, transmitter, Fail-safe, for automatic transmission systems.....	73.344
Coverage, Prediction of.....	73.313
Cross reference to rules in other Parts.....	73.1010
Day, Broadcast (definition).....	73.1700
Definitions (technical).....	73.310
Determination and maintenance of operating power.....	73.267
Discontinuance of operation.....	73.1750
Distance and Reference points, computations of.....	73.208
Doctrine, Fairness.....	73.1910
Dual-language broadcasting in Puerto Rico, TV/FM.....	73.1210
Duplication of AM and FM programming.....	73.242
EBS (Emergency Broadcasting System).....	(¹)
Editorials, political.....	73.1930
Emergency antennas.....	73.273
Emergency information, Broadcasting.....	73.1250
Emergency Broadcast System (EBS).....	(¹)
Employment opportunities, Equal.....	73.301
Engineering charts.....	73.333
Engineering standards, Subsidiary communications multiplex operations.....	73.319
Equal employment opportunities.....	73.301
Equipment and antenna system, Changes in.....	73.257
Equipment performance measurements.....	73.254
Equipment tests.....	73.1610
Equipment, Transmitters associated.....	73.317
Exclusivity, Territorial (Network).....	73.232
Experimental authorizations.....	73.1510
Extension meters.....	73.1550
Facilities, Automatic transmission system.....	73.342
Fail-safe transmitter control for automatic transmission systems.....	73.344
Fairness Doctrine.....	73.1910
FCC, Station inspections by.....	73.1225
Field test authorization, Special.....	73.278
Field strength contours.....	73.311
Field strength measurements.....	73.314
File, Political.....	73.1940
Filmed, taped, or recorded material; Broadcast of.....	73.1208
FM and AM programming, Duplication of.....	73.242
FM broadcast channels, Numerical designation of.....	73.201
FM/TV dual-language broadcasting in Puerto Rico.....	73.1210
Fraudulent billing practices.....	73.1205
Frequency measurements, Carrier.....	73.1540
Frequency tolerance.....	73.289

SUBPART B—COMMERCIAL FM BROADCAST STATIONS—Continued

General requirements relating to logs.....	73.1810
Identification, Sponsorship; list retention; related requirements.....	73.1212
Identification, Station.....	73.1201
Indicating instruments (requirements for).....	73.258
Indicating instruments—specifications.....	73.1215
Information, Broadcasting emergency.....	73.1250
Inspection of program logs, Public.....	73.1850
Inspections, Station, by FCC.....	73.1225
Instruments, Indicating (requirements for).....	73.258
Instruments, Indicating—specifications.....	73.1215
Interference, Protection from.....	73.209
Interference to Astronomy, Research and Receiving installations, Notifications concerning.....	73.1030
International broadcasting agreements.....	73.1650
License period, Station.....	73.1020
Licensee-conducted contests.....	73.1216
Licensee obligations, Public notice of.....	73.1202
Licenses, station and operator, Posting of.....	73.1230
Licensing, Acceptability of broadcast transmitters for.....	73.250
Lighting and marking, Antenna structure.....	73.1213
List retention; Sponsorship identification; related requirements.....	73.1212
Location, Station, main studio, and program origination.....	73.210
Location, Transmitter.....	73.315
Logs and records, Availability to FCC.....	73.1226
Logs, Maintenance.....	73.1830
Logs, Operating.....	73.1820
Logs, Program.....	73.1810
Logs, General requirements relating to.....	73.1800
Logs, program, Public inspection of.....	73.1850
Logs, Retention of.....	73.1840
Lottery information, Broadcast of.....	73.1211
Main studio location, Station location and program origination.....	73.210
Main transmitters, Alternate.....	73.256
Maintenance and determination, Operating power.....	73.267
Maintenance and tests, Operation for.....	73.1520
Maintenance logs.....	73.1830
Main transmitters, Alternate.....	73.256
Marking and lighting, Antenna structure.....	73.1213
Measurements, Carrier frequency.....	73.1540
Measurements, Equipment performance.....	73.254
Measurements, Field strength.....	73.314
Meters, Extension.....	73.1550
Minimum mileage separations between co-channel and adjacent channel stations on commercial channels.....	73.207
Minimum operating schedule.....	73.1740
Minimum separation, Stations at spacings below.....	73.213
Modulation.....	73.288
Modulation monitors.....	73.253
Modulation monitors, Requirements for type approval.....	73.332
Modulation monitors, Use of at auxiliary transmitters.....	73.330
Monitoring and alarm points, Automatic transmission system.....	73.346
Monitors, Modulation.....	73.253
Monitors, modulation, Requirements for type approval.....	73.332
Monitors, modulation, Use of at auxiliary transmitters.....	73.330
Multiple ownership.....	73.240
Multiplex operations, Subsidiary communications, engineering standards.....	73.319
Nature of the SCA (Subsidiary Communications Authorizations).....	73.294
(Network), Territorial exclusivity.....	73.232
Notice, Public, of licensee obligations.....	73.1202
Notifications concerning interference to Radio Astronomy, Research and Receiving installations.....	73.1030
Numerical designation of FM broadcast channels.....	73.201
Operating logs.....	73.1820
Operating power; determination and maintenance of.....	73.267
Operating schedule, Minimum.....	73.1740

SUBPART B—COMMERCIAL FM BROADCAST STATIONS—Continued

Operation, Discontinuance of.....	73.1750
Operation for tests and maintenance.....	73.1520
Operation, Remote control.....	73.275
Operation, Time of.....	73.1705
Operation, Unauthorized.....	73.1745
Operation Under Subsidiary Communications Authority (SCA).....	73.295
Operator and station licenses, Posting of.....	73.1230
Operator requirements.....	73.265
Origination, program, Station location, and main studio location.....	73.210
Ownership, Multiple.....	73.240
Performance measurements, Equipment.....	73.254
Permissible transmissions.....	73.277
Personal attacks.....	73.1920
Political editorials.....	73.1930
Political file.....	73.1940
Portable test stations.....	73.1530
Posting of station and operator licenses.....	73.1225
Power and antenna height requirements.....	73.211
Power, Operating, determination and maintenance of.....	73.267
Prediction of coverage.....	73.313
Program logs.....	73.1810
Program logs, Public inspection of.....	73.1850
Program origination, Station location, main studio location.....	73.210
Program Tests.....	73.1620
Programming, Duplication of AM and FM.....	73.242
Protection from interference.....	73.209
Public inspection of program logs.....	73.1850
Public notice of licensee obligations.....	73.1202
Public office, Broadcast by candidates for.....	73.1940
Puerto Rico TV/FM, dual-language broadcasting in.....	73.1210
Rebroadcast.....	73.1207
Recorded, taped, filmed material; Broadcast of.....	73.1208
Records and logs, Availability to FCC.....	73.1226
Reference, Cross, to rules in other Parts.....	73.1010
Reference points and distance computations.....	73.208
Remote control authorizations.....	73.274
Remote control operation.....	73.275
Required transmitter performance.....	73.254
Requirements for type approval of modulations monitors.....	73.332
Requirements, Operator.....	73.265
Requirements, Power and antenna height.....	73.211
Requirements relating to logs, General.....	73.1800
Reservation of time upon sale of a station, Special rules relating to contracts providing for.....	73.241
Restrictions on use of channels.....	73.220
Retention of logs.....	73.1840
(Rules common to all broadcast stations) Scope.....	73.1001
Rules in other Parts, Cross reference.....	73.1010
Sale of a station, Special rules relating to contracts providing for reservation of time upon.....	73.241
SCA, Nature of the (Subsidiary Communications Authorizations).....	73.294
Schedule, Minimum operating.....	73.1740
Scope (of rules common to all broadcast stations).....	73.1001
Separations, Minimum mileage, between co-channel and adjacent channel stations.....	73.207
Separations, Stations at spacings below minimum.....	73.213
Share time.....	73.1715
Site, common antenna, Use of.....	73.239
Spacings, Stations below the minimum separations.....	73.213
Special field test authorization.....	73.278
Special rules relating to contracts providing for reservation of time upon sale of a station.....	73.241
Specifications—Indicating instruments.....	73.1215
Sponsorship identification; list retention; related requirements.....	73.1212
Standards, engineering; Subsidiary communications multiplex operations.....	73.319
Standards, Stereophonic transmission.....	73.322
Station and operator licenses, Posting of.....	73.1230
Station identification.....	73.1201

SUBPART B—COMMERCIAL FM BROADCAST STATIONS—Continued

Station inspections by FCC.....	73.1225
Station license period.....	73.1020
Station location, main studio location, and program origination.....	73.210
Stations at spacings below the minimum separations.....	73.213
Stereophonic broadcasting.....	73.297
Stereophonic transmission standards.....	73.322
Studio location, main, Station location, and program origination.....	73.210
Subsidiary Communications Authorizations (SCA).....	73.293
Subsidiary Communications Authorizations, Nature of.....	73.294
Subsidiary Communications Authorizations, Operation Under.....	73.295
Subsidiary communications multiplex operations: engineering standards.....	73.319
Table of assignments.....	73.202
Taped, filmed or recorded material: Broadcast of.....	73.1208
Technical definitions.....	73.310
Telephone conversations, Broadcast of.....	73.1206
Territorial exclusivity (Network).....	73.232
Test stations, Portable.....	73.1530
Tests and maintenance, Operation for.....	73.1520
Tests, Equipment.....	73.1610
Tests, Program.....	73.1620
Time of operation.....	73.1705
Time, Share.....	73.1715
Time, Special rules providing for reservation of, upon sale of a station.....	73.241
Time, Unlimited.....	73.1710
Tolerance, Frequency.....	73.269
Topographic data.....	73.312
Transmission standards, Stereophonic.....	73.322
Transmission system, Automatic, monitoring and alarm points.....	73.346
Transmission system facilities, Automatic.....	73.342
Transmission system, automatic, Fail-safe transmitter control for.....	73.344
Transmission systems, automatic (ATS), Use of.....	73.340
Transmissions, Permissible.....	73.277
Transmitter control, Fail-safe, for automatic transmission systems.....	73.344
Transmitter location.....	73.315
Transmitters, Alternate main.....	73.256
Transmitters, and associated equipment.....	73.317
Transmitters, Auxiliary.....	73.255
Transmitters, Auxiliary (Performance characteristics).....	73.321
Transmitters, auxiliary, Use of modulation monitors at.....	73.330
Transmitters, broadcast, Acceptability for licensing.....	73.250
Transmitters, Required performance.....	73.254
TV/FM dual-language broadcasting in Puerto Rico.....	73.1210
Type approval, modulation monitors, Requirements for.....	73.332
Unauthorized operation.....	73.1745
Unlimited Time.....	73.1710
Use of automatic transmission systems (ATS).....	73.340
Use of channels, Restrictions on.....	73.220
Use of modulation monitors at auxiliary transmitters.....	73.330
Zones.....	73.205

SUBPART C—NONCOMMERCIAL EDUCATION FM BROADCAST STATIONS

Acceptability of broadcast transmitters for licensing.....	73.550
Adjacent-channel and co-channel stations, minimum distance, separation between.....	73.507
Agreement, United States-Mexico FM broadcast, Channel assignments under.....	73.504
Agreements, International broadcasting, Alarm and monitoring points, Automatic transmission system.....	73.546
Alternate main transmitters.....	73.556
Announcements, Donor.....	73.503
Antenna height and Power, requirements.....	73.511
Antenna structure, marking and lighting.....	73.1213

SUBPART C—NONCOMMERCIAL EDUCATION FM BROADCAST STATIONS—Continued

Antenna system and equipment, changes in.....	73.557
Antenna systems.....	73.510
Assignment, Channels available for.....	73.501
Assignments, Channel, under the United States-Mexico FM Broadcast Agreement.....	73.504
Attacks, Personal.....	73.1920
Audio recordings, Retention of.....	73.591
Authorizations, Experimental.....	73.1510
Authorizations, Remote control.....	73.572
Authorizations, Subsidiary Communications (SCA).....	73.593
Authorizations, Subsidiary Communications, Operation Under.....	73.595
Automatic transmission system facilities.....	73.542
Automatic transmission system monitoring and alarm points.....	73.546
Automatic transmission systems, Fail-safe transmitter control for.....	73.544
Automatic transmission systems (ATS), Use of.....	73.540
Auxiliary transmitters.....	73.555
Availability to FCC of station logs and records.....	73.1226
Broadcast day (definition).....	73.1700
Broadcast of lottery information.....	73.1211
Broadcast of taped, filmed, or recorded material.....	73.1208
Broadcast of telephone conversations.....	73.1206
Broadcast transmitters, Acceptability for licensing.....	73.550
Broadcasting agreements, International.....	73.1650
Broadcasting emergency information.....	73.1250
Broadcasting, Stereophonic.....	73.596
Broadcasts by candidates for public office.....	73.1940
Candidates for public office, Broadcasts by.....	73.1940
Carrier frequency measurements.....	73.1540
Changes in equipment and antenna system.....	73.557
Channel assignments under the United States-Mexico FM Broadcast Agreement.....	73.504
Channels available for assignment.....	73.501
Channels, Classes of educational, and stations operating thereon.....	73.506
Channels, unreserved, Noncommercial educational broadcast stations, operating on.....	73.513
Classes of educational channels, and stations operating thereon.....	73.506
Co-channel and adjacent-channel stations, Minimum distance separations.....	73.507
Contests, Licensee-conducted.....	73.1216
Control, transmitter, Fail-safe, for automatic transmission systems.....	73.544
Cross reference to rules in other Parts.....	73.1010
Day, Broadcast (definition).....	73.1700
Determination and maintenance of, Operating power.....	73.567
Discontinuance of operation.....	73.1750
Distance separations, Minimum, between co-channel and adjacent-channel stations.....	73.507
Doctrine, Fairness.....	73.1910
Donor announcements.....	73.503
Dual language broadcasting in Puerto Rico, TV/FM.....	73.1210
EBS (Emergency Broadcast System).....	(1)
Educational, Noncommercial FM stations on unreserved channels.....	73.513
Emergency Broadcast System (EBS).....	(1)
Emergency information, Broadcasting.....	73.1250
Employment opportunities, Equal.....	73.599
Engineering, Standards of good practice.....	73.508
Equal employment opportunities.....	73.599
Equipment and antenna system, Changes in.....	73.557
Equipment tests.....	73.1610
Experimental authorizations.....	73.1510
Extension meters.....	73.1550
Facilities, Automatic transmission system.....	73.542
Fail-safe transmitter control for automatic transmission systems.....	73.544
Fairness doctrine.....	73.1910
FCC, Station inspections by.....	73.1225
File, Political.....	73.1940

SUBPART C—NONCOMMERCIAL EDUCATION FM BROADCAST STATIONS—Continued

Filmed, taped, or recorded material, Broadcast of.....	73.1208
FM/TV dual language broadcasting in Puerto Rico.....	73.1210
Frequency measurements, Carrier.....	73.1540
Frequency tolerance.....	73.569
General requirements relating to logs.....	73.1800
Good engineering practice, Standards of.....	73.508
Identification, Sponsorship; list retention; related requirements.....	73.1212
Identification, Station.....	73.1201
Indicating instruments (requirements for).....	73.558
Indicating instruments—specifications.....	73.1215
Information Broadcasting emergency.....	73.1250
Inspection of program logs, Public.....	73.1850
Inspections, Station, by FCC.....	73.1225
Instruments, Indicating (requirements for).....	73.558
Instruments, Indicating—specifications.....	73.1215
Interference, Protection from.....	73.509
Interference to Astronomy, Research and Receiving installations, Notifications concerning.....	73.1030
International broadcasting agreements.....	73.1650
License period, Station.....	73.1020
Licensee-conducted contests.....	73.1216
Licensee obligations, Public notice of.....	73.1206
Licenses, station and operator, Posting of.....	73.1230
Licensing Acceptability of broadcast transmitters for.....	73.550
Licensing, requirements and service.....	73.503
Lighting and marking, Antenna structure.....	73.1213
List retention; Sponsorship identification; related requirements.....	73.1212
Logs and records, Availability to FCC.....	73.1226
Logs, Maintenance.....	73.1830
Logs, Operating.....	73.1820
Logs, Program.....	73.1810
Logs, General requirements relating to.....	73.1800
Logs, program, Public inspection of.....	73.1850
Logs, Retention of.....	73.1840
Lottery information, Broadcast of.....	73.1211
Main transmitters, Alternate.....	73.556
Maintenance and determination of, Operating power.....	73.567
Maintenance and tests, Operation for.....	73.1520
Maintenance logs.....	73.1830
Marking and lighting, Antenna structure.....	73.1213
Measurements, Carrier frequency.....	73.1540
Meters, Extension.....	73.1550
Mexico-U.S. FM Broadcast Agreement, Channel assignments under.....	73.504
Minimum distance separations between co-channel and adjacent-channel stations.....	73.507
Minimum operating schedule.....	73.1470
Modulation.....	73.568
Modulation monitors.....	73.553
Monitoring and alarm points, Automatic transmission system.....	73.546
Monitors, Modulation.....	73.553
Nature of the SCA (Subsidiary Communications Authorizations).....	73.594
Noncommercial educational FM stations operating on unreserved channels.....	73.513
Noncommercial educational channel assignments under the United States-Mexico FM Broadcast Agreement.....	73.504
Notice, Public, of licensee obligations.....	73.1202
Notifications concerning interference to Radio Astronomy, Research and Receiving installations.....	73.1030
Operating logs.....	73.1820
Operating on unreserved channels, Noncommercial educational broadcast stations.....	73.513
Operating power; determination and maintenance of.....	73.567
Operating schedule; Minimum.....	73.1740
Operating schedule; time sharing.....	73.561
Operation, Discontinuance of.....	73.1750
Operation for tests and maintenance.....	73.1520
Operation, Remote control.....	73.573
Operation, Time of.....	73.1705

SUBPART C—NONCOMMERCIAL EDUCATION FM
BROADCAST STATIONS—Continued

Operation, Unauthorized.....	73.1745
Operation Under Subsidiary Commu- nications Authorizations (SCA).....	73.595
Operator and station licenses, Posting of	73.1230
Operator requirements.....	73.565
Performance of transmitter.....	73.554
Personal attacks.....	73.1920
Plans, State-wide.....	73.502
Political file.....	73.1940
Portable test stations.....	73.1530
Posting of station and operator licenses.....	73.1230
Power and antenna height requirements.....	73.511
Power, Operating; determination and maintenance of.....	73.567
Program logs.....	73.1810
Program logs, Public inspection of.....	73.1850
Program tests.....	73.1620
Protection from interference.....	73.509
Public inspection of program logs.....	73.1850
Public office, Broadcasts by candidates for.....	73.1940
Puerto Rico, TV/FM dual language broadcasting in.....	73.1210
Rebroadcast.....	73.1207
Recorded, taped, filmed material; Broad- cast of.....	73.1208
Recordings, audio, Retention of.....	73.591
Records and logs, Availability to FCC.....	73.1226
Reference, Cross, to rules in other Parts.....	73.1010
Remote control authorizations.....	73.572
Remote control operation.....	73.573
Requirements, Operator.....	73.565
Requirements, Power and antenna height.....	73.511
Requirements relating to logs, General.....	73.1800
Retention of audio recordings.....	73.591
Retention of logs.....	73.1840
(Rules common to all broadcast sta- tions) Scope.....	73.1001
Rules in other Parts, Cross reference to.....	73.1010
SCA, Nature of (Subsidiary Commu- nications Authorizations).....	73.594
Scope (of rules common to all broadcast stations).....	73.1001
Schedule, Minimum operating.....	73.1740
Schedule; Operating, time sharing.....	73.561
Service and licensing requirement.....	73.503
Share time.....	73.1715
Sharing time, operating schedule.....	73.561
Specifications-Indicating instruments.....	73.1215
Sponsorship identification; list reten- tion, related requirements.....	73.1212
Standards of good engineering practice.....	73.508
State-wide plans.....	73.502
Station and operator licenses, Posting of	73.1230
Station identification.....	73.1201
Station inspections by FCC.....	73.1225
Station license period.....	73.1020
Stations, Noncommercial educational FM, operating on unreserved channels.....	73.513
Stereophonic broadcasting.....	73.596
Subcarriers, Multiplex, Use of.....	73.595
Subsidiary Communications Authoriza- tions (SCA).....	73.593
Subsidiary Communications Authoriza- tions, Nature of.....	73.594
Subsidiary Communications Authoriza- tions, Operation under.....	73.595
Taped, filmed, or recorded material; Broadcast of.....	73.1208
Telephone conversations, Broadcast of.....	73.1206
Test stations, Portable.....	73.1530
Tests and maintenance, Operation for.....	73.1520
Tests, Equipment.....	73.1610
Tests, Program.....	73.1620
Time of operation.....	73.1705
Times, Share.....	73.1715
Time sharing, Operating schedule.....	73.561
Time, Unlimited.....	73.1710
Tolerance, Frequency.....	73.569
Transmission system, Automatic, moni- toring and alarm points.....	73.546
Transmission system facilities, Automat- ic.....	73.542
Transmission systems, automatic, Fail- safe transmitter control for.....	73.544
Transmission systems, automatic (ATS), Use of.....	73.540

SUBPART C—NONCOMMERCIAL EDUCATION FM
BROADCAST STATIONS—Continued

Transmitter control, Fail-safe, for auto- matic transmission systems.....	73.544
Transmitter performance.....	73.554
Transmitters, Alternate main.....	73.556
Transmitters, Auxiliary.....	73.555
Transmitters, broadcast, Acceptability for licensing of.....	73.550
TV/FM dual language broadcasting in Puerto Rico.....	73.1210
Unauthorized operation.....	73.1745
United States-Mexico FM Broadcast Agreement, Channel assignments under.....	73.504
Unlimited time.....	73.1710
Unreserved channels, Noncommercial educational broadcast stations operat- ing on.....	73.513
Use of automatic transmission systems (ATS).....	73.540
Zones.....	73.505

SUBPART E—TV BROADCAST STATIONS

Acceptability of broadcast transmitters for licensing.....	73.640
Administrative changes in authoriza- tions.....	73.615
Affiliation agreements and network pro- gram practices; territorial exclusivity in non-network program arrangements.....	73.658
Agreements, International broadcasting.....	73.1650
Alternate main transmitters.....	73.637
Antenna height and power, require- ments.....	73.614
Antenna site, Use of Common.....	73.635
Antenna structure, marking and lighting Antenna system and equipment.....	73.1213
Changes in.....	73.639
Antenna system, Transmitter location.....	73.685
Assignments, Table of.....	73.606
Attacks, Personal.....	73.1920
Audio recordings, Retention of.....	73.622
Aural and visual TV transmitters, Oper- ation of.....	73.653
Aural modulation monitors, Require- ments for type approval of.....	73.694
Authorization, Remote control.....	73.677
Authorization, Special field test.....	73.627
Authorizations, Administrative changes in.....	73.615
Authorization, Experimental.....	73.1510
Auxiliary transmitters.....	73.1670
Availability of channels.....	73.607
Availability to FCC of station logs and records.....	73.1226
Billing practices, Fraudulent.....	73.1205
Broadcast day (definition).....	73.1700
Broadcast of lottery information.....	73.1211
Broadcast of taped, filmed, or recorded material.....	73.1208
Broadcast of telephone conversations.....	73.1206
Broadcast transmitters, Acceptability for licensing.....	73.640
Broadcasting agreements, International.....	73.1650
Broadcasting emergency information.....	73.1250
Broadcasts by candidates for public office.....	73.1940
Candidates for public office, Broadcasts by.....	73.1940
Carrier frequency measurements.....	73.1540
Changes in authorizations, Administra- tive.....	73.615
Changes in equipment and antenna system.....	73.639
Changes, Transmission standards and.....	73.682
Channels, Availability of.....	73.607
Channels, television, Numerical designa- tion of.....	73.603
Charts, Engineering.....	73.699
Common antenna site, Use of.....	73.635
Contests, Licensee-conducted.....	73.1216
Contours, Field intensity.....	73.683
Contracts providing for reservation of time upon sale of a station, Special rules relating to.....	73.659
Coverage, Prediction of.....	73.684
Cross reference to rules in other Parts.....	73.1010
Day, Broadcast (definition).....	73.1700

SUBPART E—TV BROADCAST STATIONS—
Continued

Definitions (Subscription TV oper- ations).....	73.641
Definitions (TV technical standards).....	73.681
Discontinuance of operation.....	73.1750
Distance computations, Reference points.....	73.611
Doctrine, Fairness.....	73.1910
Dual-language broadcasting in Puerto Rico, TV/FM.....	73.1210
EBS (Emergency Broadcast System).....	73.1930
Editorials, political.....	73.621
Educational stations, Noncommercial.....	73.621
Emergency Broadcast System (EBS).....	73.1250
Emergency information, Broadcasting.....	73.680
Employment, Equal opportunities.....	73.680
Engineering charts.....	73.699
Equal employment opportunities.....	73.680
Equipment and antenna system, Changes in.....	73.639
Equipment and technical system per- formance requirements (Subscription TV).....	73.644
Equipment tests.....	73.1610
Equipment, Transmitter and associated.....	73.687
Exclusivity, territorial, in non-network program arrangements; Affiliation agreements and network program practices.....	73.658
Experimental authorizations.....	73.1510
Extension meters.....	73.1550
Fairness Doctrine.....	73.1910
FCC, Station inspections by.....	73.1225
Field intensity contours.....	73.683
Field strength measurements.....	73.686
Field test authorization, Special.....	73.627
File, Political.....	73.1940
Filed, taped, or recorded material; Broadcast of.....	73.1208
FM/TV, dual-language broadcasting in Puerto Rico.....	73.1210
Fraudulent billing practices.....	73.1205
Frequency measurements, Carrier.....	73.1540
Frequency tolerance.....	73.668
General operating requirements (Sub- scription TV).....	73.643
General requirements for type approval of modulation monitors.....	73.692
General requirements relating to logs.....	73.1800
Identification, Sponsorship; list reten- tion; related requirements.....	73.1212
Identification, Station.....	73.1201
Indicating instruments (requirements for).....	73.688
Indicating instruments—specifications.....	73.1215
Information, Broadcasting emergency.....	73.1250
Inspection of program logs, Public.....	73.1850
Inspections, Station, By FCC.....	73.1225
Instruments, Indicating (requirements for).....	73.688
Instruments, Indicating—specifications.....	73.1215
Interference, Protection from.....	73.612
Interference to Astronomy, Research and Receiving installations, Notifications concerning.....	73.1030
International broadcasting agreements.....	73.1650
License period, Station.....	73.1020
Licensee-conducted contests.....	73.1216
License obligations, Public notice of.....	73.1202
Licenses, station and operator, Posting of.....	73.1230
Licensing, Acceptability of broadcast transmitters for.....	73.640
Licensing policies (Subscription TV).....	73.642
Lighting and marking, Antenna struc- ture.....	73.1213
List retention; Sponsorship identifica- tion; related requirements.....	73.1212
Logs and records, Availability to FCC.....	73.1226
Logs, Maintenance.....	73.1830
Logs, Operating.....	73.1820
Logs, Program.....	73.1810
Logs, General requirements relating to.....	73.1800
Logs, Program, Public inspection of.....	73.1850
Logs, Retention of.....	73.1840
Location, Main studio.....	73.613
Location, Transmitter and antenna system.....	73.685
Lottery information, Broadcast of.....	73.1211

RULES AND REGULATIONS

SUBPART E—TV BROADCAST STATIONS—
Continued

Main studio location.....	73.613
Main transmitters, Alternate.....	73.637
Maintenance and tests, Operation for.....	73.1520
Maintenance logs.....	73.1830
Marking and lighting, Antenna structure.....	73.1213
Measurements, Field strength.....	73.686
Measurements, Carrier frequency.....	73.1540
Meters, Extension.....	73.1550
Minimum operating schedule.....	73.1740
Modulation monitors.....	73.691
Modulation monitors, aural, Requirements for type approval of.....	73.694
Modulation monitors, General requirement for type approval of.....	73.692
Monitors, aural modulation, Requirements for type approval of.....	73.694
Monitors, Modulation.....	73.691
Monitors, Modulation, General requirements for type approval of.....	73.692
Multiple ownership.....	73.636
Network, Affiliation agreements and program practices; territorial exclusivity in non-network program arrangements.....	73.658
Noncommercial educational stations.....	73.621
Notice, Public, of licensee obligations.....	73.1202
Notifications concerning interference to Radio Astronomy, Research and Receiving installations.....	73.1030
Numerical designation of television channels.....	73.603
Operating logs.....	73.1820
Operating power.....	73.689
Operating requirements, General (Subscription TV operations).....	73.643
Operating schedule, Minimum.....	73.1740
Operation, Discontinuance of.....	73.1750
Operation for tests and maintenance.....	73.1520
Operation of TV aural and visual transmitters.....	73.653
Operation, Remote control.....	73.676
Operation, Time of.....	73.1705
Operation, Unauthorized.....	73.1745
Operator and station licenses, Posting of.....	73.1230
Operator requirements.....	73.661
Ownership, Multiple.....	73.636
Performance requirements, Equipment and technical system (Subscription TV).....	73.644
Personal attacks.....	73.1920
Points, Reference, and distance computations.....	73.611
Policies, Licensing.....	73.642
Political editorials.....	73.1930
Political file.....	73.1940
Portable test stations.....	73.1530
Posting of station and operator licenses, Power and antenna height requirements.....	73.614
Power, Operating.....	73.689
Prediction of coverage.....	73.684
Program logs.....	73.1810
Program logs, Public inspection of.....	73.1850
Program practices, network, and Affiliation agreements; territorial exclusivity in non-network program arrangements.....	73.658
Program tests.....	73.1620
Protection from interference.....	73.612
Public inspection of program logs.....	73.1850
Public notice of licensee obligations.....	73.1202
Public office, Broadcast by candidates for.....	73.1940
Puerto Rico, TV/FM dual-language broadcasting in.....	73.1210
Rebroadcast.....	73.1207
Recorded, taped, filmed material; Broadcast of.....	73.1208
Recordings, audio, Retention of.....	73.622
Records and logs, Availability to FCC.....	73.1226
Reference, Cross, to rules in other Parts.....	73.1010
Reference points and distance computations.....	73.611
Remote control authorization.....	73.677
Remote control operation.....	73.676
Requirements, Equipment and technical system performance.....	73.644

SUBPART E—TV BROADCAST STATIONS—
Continued

Requirements for type approval of aural modulation monitors.....	73.694
Requirements, General, for type approval of modulation monitors.....	73.692
Requirements, General operating.....	73.643
Requirements, Operator.....	73.661
Requirements, Power and antenna height.....	73.614
Requirements relating to logs, General.....	73.1800
Reservation of time upon sale of a station, Special rules relating to contracts providing for.....	73.659
Retention of audio recordings.....	73.622
Retention of logs.....	73.1840
(Rules common to all broadcast stations), Scope.....	73.1001
Rules in other Parts, Cross reference to.....	73.1010
Sale of a station, Special rules relating to contracts providing for reservation of time.....	73.659
Schedule, Minimum operating.....	73.1740
Scope (of rules common to all broadcast stations).....	73.1001
Scope of subpart.....	73.601
Separations (channel).....	73.610
Share time.....	73.1715
Site, common antenna, Use of.....	73.635
Special field test authorization.....	73.627
Special rules relating to contracts providing for reservation of time upon sale of a station.....	73.659
Specifications—Indicating instruments.....	73.1215
Sponsorship identification; list retention; related requirements.....	73.1212
Standards and changes, Transmission.....	73.682
Station and operator licenses, Posting of.....	73.1230
Station identification.....	73.1201
Station inspections by FCC.....	73.1225
Station license period.....	73.1020
Stations, Noncommercial educational.....	73.621
Studio, Main, location.....	73.613
Subpart, Scope of.....	73.601
(Subscription TV operations), Definitions.....	73.641
System, technical equipment performance requirements (Subscription TV operations).....	73.644
Table of assignments.....	73.606
Tables (Distance-degree conversions and separations).....	73.698
Taped, filmed, or recorded material, Broadcast of.....	73.1208
Technical system performance and equipment requirements (Subscription TV operations).....	73.644
(Technical standards), Definitions.....	73.681
Telephone conversations, Broadcast of.....	73.1206
Television channels, Numerical designation of.....	73.603
Territorial exclusivity in non-network program arrangements; Affiliation agreements and network program practices.....	73.658
Test authorization, Special field.....	73.627
Test stations, Portable.....	73.1530
Tests and Maintenance, Operation for.....	73.1520
Tests, Equipment.....	73.1610
Tests, Program.....	73.1620
Time of operation.....	73.1705
Time, Share.....	73.1715
Time, Special rules providing for reservation of, upon sale of a station.....	73.659
Time, Unlimited.....	73.1710
Tolerance, Frequency.....	73.668
Transmission standards and changes.....	73.682
Transmitter location and antenna system.....	73.685
Transmitters, Alternate main.....	73.637
Transmitters and associated equipment.....	73.687
Transmitters, Auxiliary.....	73.1670
Transmitters, broadcasting, Acceptability for licensing of.....	73.640
Transmitters, TV, aural and visual, Operation of.....	73.653
TV aural and visual transmitters, Operation of.....	73.653
TV/FM dual-language broadcasting in Puerto Rico.....	73.1210

SUBPART E—TV BROADCAST STATIONS—
Continued

Type approval of modulation monitors, General requirements.....	73.692
Type approval of aural modulation monitors, Requirements for.....	73.694
Unauthorized operation.....	73.1745
Unlimited time.....	73.1710
Use of common antenna site.....	73.635
Visual and aural TV transmitters, Operation of.....	73.653
Zones.....	73.609

SUBPART F—INTERNATIONAL BROADCAST
STATIONS

Alternate main transmitters.....	73.758
Antenna.....	73.753
Antenna structure, marking and lighting.....	73.768
Antenna systems and equipment, Changes in.....	73.759
Applications, Notification of filing.....	73.711
Areas of reception and geographical zones.....	73.703
Assignment and use of frequencies.....	73.702
Authorizations.....	73.732
Auxiliary transmitters.....	73.757
Availability to FCC of station logs and records.....	73.1226
Bandwidth and modulation.....	73.766
Commercial or sponsored programs; Service.....	73.788
Contests, Licensee-conducted.....	73.1216
Correction of logs.....	73.785
Cross reference to rules in other Parts.....	73.710
Changes in equipment and antenna system.....	73.759
Definitions (Technical).....	73.701
Determining and maintaining operating power.....	73.765
Discontinuance of operation.....	73.769
Equal employment opportunities.....	73.793
Employment opportunities, Equal.....	73.793
Equipment and antenna system, Changes in.....	73.759
Equipment tests.....	73.712
Filing of applications, Notification of.....	73.711
Form, Log.....	73.784
Frequencies, Assignment and use of.....	73.702
Frequency monitors.....	73.754
Frequency tolerance.....	73.767
Geographical zones and areas of reception.....	73.703
Identification, Sponsorship; list retention; related requirements.....	73.1212
Identification, Station.....	73.787
Inspection, Station.....	73.762
License period, Normal.....	73.733
License, Station, and seasonal schedules, posting of.....	73.763
Licensee-conducted contests.....	73.1216
Licensing requirements.....	73.731
Lighting and marking, Antenna structure.....	73.768
List retention; Sponsorship identification; related requirements.....	73.1212
Log form.....	73.784
Logs.....	73.781
Logs and records, Availability to FCC.....	73.1226
Logs, by whom kept.....	73.783
Logs, Correction of.....	73.785
Logs, Retention of.....	73.782
Logs, Rough.....	73.786
Maintaining and determining operating power.....	73.765
Marking and lighting, Antenna structure.....	73.768
Modulation and bandwidth.....	73.766
Modulation monitors.....	73.755
Monitors, Frequency.....	73.754
Monitors, Modulation.....	73.755
Normal license period.....	73.733
Notification of filing of applications.....	73.711
Operating power; how determined and maintained.....	73.765
Operation, Discontinuance of.....	73.769

SUBPART F—INTERNATIONAL BROADCAST STATIONS—Continued

Operation, Time of	73.761
Operator requirements	73.764
Posting of station license and seasonal schedules	73.763
Power, Operating, how determined and maintained	73.765
Power requirement	73.751
Programs, commercial or sponsored	73.788
Program tests	73.713
Rebroadcast	73.790
Reception, areas, of, and Geographical zones	73.703
Records and logs, Availability to FCC	73.1226
Reference, Cross, to rules in other Parts	73.710
Required transmitter performance	73.756
Requirements, Licensing	73.731
Requirements, Operator	73.764
Requirements, Power	73.751
Retention of logs	73.782
Rough logs	73.786
Rules in other parts, Cross reference to	73.710
(Rules common to all broadcast stations), Scope	73.1001
Scope (of rules common to all broadcast stations)	73.1001
Seasonal schedules and station license, posting of	73.763
Service, commercial or sponsored programs	73.788
Sponsorship identification; list retention; related requirements	73.1212
Station inspection	73.762
Station identification	73.787
Station license and seasonal schedules, posting of	73.763
Tests, Program	73.713
Tests, Equipment	73.712
Time of operation	73.761
Tolerance, Frequency	73.767
Transmitter, Required performance	73.756
Transmitters, Alternate main	73.758
Transmitters, Auxiliary	73.757
Use and Assignment of frequencies	73.702
Zones, Geographical, and areas of reception	73.703

SUBPART G—EMERGENCY BROADCAST SYSTEM (EBS)

Acceptability of EBS attention signal equipment	73.942
Action, Emergency, Notification, Dissemination of	73.931
Approved national level interconnecting systems and facilities of EBS, Closed circuit tests of	73.962
Area, Operational (Local)	73.920
Attention signal	73.906
Attention signal transmission and radio monitoring requirements	73.932
Authenticator word lists	73.910
Authorization, EBS (Emergency Broadcast System)	73.913
Attention signal equipment, EBS, Acceptability of	73.942
Basic EBS plan	73.911
Checklist, EBS	73.908
Closed circuit tests of approved national level interconnecting systems and facilities of the EBS	73.962
Common carrier, communications, Participation by	73.927
Common program control station (CPCS)	73.916
Communications common carriers, Participation by	73.927
Construction, Individual, of encoders and decoders	73.943
Day-to-day emergencies posing a threat to the safety of life and property; state level and operational (Local) area level EBS	73.935
Decoder devices	73.941
Decoders and encoders, Individual construction of	73.943
Devices, Decoder	73.941
Devices, Encoder	73.940

SUBPART G—EMERGENCY BROADCAST SYSTEM (EBS)—Continued

Dissemination of Emergency Action Notification	73.931
EBS (Emergency Broadcast System)	73.903
EBS attention signal equipment, Acceptability of	73.942
EBS authorization	73.913
EBS checklist	73.908
EBS operation during an operational (Local) area level emergency	73.937
EBS operation during a national level emergency	73.933
EBS operation during a state level emergency	73.936
EBS, Participation in the	73.926
EBS plan, Basic	73.911
EBS procedures, Tests of	73.961
EBS programming priorities	73.922
EBS, State operational plan	73.921
Emergencies, Day-to-day, posing a threat to the safety of life and property; state level and operational (Local) area level EBS	73.935
Emergency Action Notification (EAN)	73.905
Emergency Action Notification, Dissemination of	73.931
Emergency Action Termination	73.907
Emergency, operational (Local) area level, EBS operation during	73.937
Emergency, national level, EBS operation during	73.936
Encoders and decoders, Individual construction of	73.943
Encoder devices	73.940
Equipment, EBS attention signal, Acceptability of	73.942
Individual construction of encoders and decoders	73.943
Interconnecting systems and facilities of EBS, approved national level, Closed circuit test of	73.962
Licenses	73.904
Lists, Authenticator word	73.910
(Local), Operational area	73.920
(Local), Operational area level emergency, EBS operation during	73.937
(Local), Operational area level and state level EBS: Day-to-day emergencies posing a threat to the safety of life and property	73.935
Monitoring, Radio, and attention signal transmission requirements	73.932
National level emergency, EBS operation during	73.933
National level interconnecting systems and facilities of EBS, Closed circuit tests of	73.962
Network, State relay	73.919
NIAC order	73.912
Non-participating station (NON-EBS)	73.918
Notification, Emergency Action	73.905
Notification, Emergency Action, Dissemination of	73.931
Objectives of Subpart G	73.902
Operating procedures, Standard	73.909
Operation, EBS, During an operational (Local) area level emergency	73.937
Operation, EBS during a national level emergency	73.933
Operation, EBS, during a state level emergency	73.936
Operational (Local) area	73.920
Operational plan, State EBS	73.921
Order, NIAC	73.912
Originating primary relay station (ORIG PRI RELAY)	73.917
Participation by communications common carriers	73.927
Participation in EBS	73.926
Plan, EBS, Basic	73.911
Plan, State operational, EBS	73.921
Primary station (PRIMARY)	73.914
Primary relay station (PRI RELAY)	73.915
Primary relay station, Originating	73.917
Priorities, EBS programming	73.922
Procedures, EBS, Tests of	73.961
Procedures, Standard operating	73.909
Program, control station, Common (CPCS)	73.916

SUBPART G—EMERGENCY BROADCAST SYSTEM (EBS)—Continued

Programming priorities, EBS	73.922
Property, life, Day-to-day emergencies posing a threat to the safety of; state-level operational (Local) area level EAN	73.935
Radio monitoring and attention signal transmission requirements	73.932
Relay network, State	73.919
Relay station, Primary	73.915
Relay station, primary, Originating	73.917
Safety of life and property, Day-to-day emergencies posing a threat to; state level and operation (Local) area level EAN	73.935
Scope of Subpart G	73.901
Signal, Attention	73.906
Signal equipment, EBS, attention, Acceptability of	73.942
Standard operating procedures (SOP's)	73.909
State EBS operational plan	73.921
State level and operational (Local) area level EAN: Day-to-day emergencies posing a threat to the safety of life and property	73.935
State level emergency, EBS operation during	73.936
State relay network	73.919
Station, Common program control	73.916
Station, Non-participating	73.918
Station, Primary	73.914
Station, Primary relay	73.915
Station, Originating primary relay	73.917
Subpart—G, Objectives	73.902
Subpart—G, Scope of	73.901
Termination, Emergency Action	73.907
Tests of EBS procedures	73.961
Tests, Closed Circuit, of approved national level interconnecting systems and facilities of EBS	73.962
Transmission, attention signal, and radio monitoring, requirements	73.932
Word lists, Authenticator	73.912

* See subpart G.

[FR Doc. 78-27874 Filed 10-3-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Second Rev. S. O. No. 1332]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Second Revised Service Order No. 1332.

SUMMARY: There are severe shortages of freight cars throughout the country. Revised Service Order No. 1332 requires all railroads to place, remove, forward, weigh, clean, or repair cars within 60 hours in order to expedite the handling of freight cars and to increase their availability for reloading. Gondola cars, flatcars, and boxcars with mechanical designations LC and LU are removed from the order. The expiration date of the

order is extended until November 30, 1978.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: September 27, 1978.

There are acute shortages of freight cars throughout the country resulting in failures of carriers to furnish an adequate supply of freight cars to shippers located on their lines. These shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufactured products, and other commodities. The existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1332. Second Revised Service Order No. 1332.

(a) *Railroad operating regulations for freight car movement.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on page 1167-1169 under the headings: "Class 'X'—Box Car Type," "Class 'H'—Hopper Car Type," and those special type cars described under the heading "Class 'L'—Special Car Type" which bear mechanical designation "LO"—Covered Hopper Car.

(iii) *Exception.* Empty cars owned by the Alaska Railroad, while held in the State of Washington, pursuant to

instructions of the carowner, are exempt from the provisions of this order.

(iv) *Exception.* Empty cars of private ownership reported and awaiting instructions from the carowner, are exempt from the provisions of this order.

(v) *Exception.* To alleviate hardships or inequities, including, but not limited to those caused by extreme weather disruptions, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423, with a copy to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C. 20036.

(vi) *Exception.* Cars held less than 7 days because daily train or switching service required for movement from point where held is not scheduled, are exempt from the provisions of this order.

(vii) *Actual placement* means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(viii) *Holidays* shall be those listed in item 525 of Agent D. M. Rogers' Tariff 4-K, ICC H-74, General Car Demurrage Rules and Charges, supplements thereto, or successive issues thereof.

(ix) *Definitions.* System cars are cars bearing the registered reporting marks of the railroad holding the cars, including any railroad identified as a component part of a system of railroads as defined in the list of "Home Roads" published on page 1112 of the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof. Foreign cars are cars bearing the registered reporting marks of a railroad other than the one holding the cars neither of which is listed in the list of "Home Roads" as being a part of the same system. Private cars are cars bearing the registered reporting marks of a company or person other than a railroad.

(x) *Records required.* Carriers shall maintain a written record showing for each car the actual date and time of arrival, forwarding placement, notice, release, removal, designation for repairs, cleaning or weighing, and completion of repairs, cleaning, or weigh-

ing. It is not intended that carriers make and maintain duplicative records in order to comply with this section. Compliance can be made by augmenting existing records so that they contain all of the required information, but such records shall be maintained at the yard or station where such cars are held, or if held at a nonagency station, at the station responsible for such nonagency station.

(2) *Placing of cars.* (i) Loaded cars other than cars requiring notice of constructive placement, shall be placed within 60 hours, exclusive of Saturdays, Sundays, and holidays, following arrival at destination, or after arrival at the yard from which cars are dispatched for actual placement.

(ii) Empty foreign and private cars, other than cars requiring notice of constructive placement, which after placement will be subject to demurrage, storage, or detention rules applicable to cars for loading, shall be placed within 60 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

(iii) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(iv) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(v) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, and cars subject to storage rules applicable to assigned cars, shall be placed on hold, or inspection, tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage, detention or storage charges assessed in accordance with provisions of governing tariffs.

(3) *Removal of cars.* (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 60 hours, exclusive of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 60-hour period. Empty foreign or private cars

not ordered for loading at point where made empty must be forwarded or set aside to be cleaned, repaired, or weighed, if to be weighed at that point, within 60 hours following removal of empty cars. Empty system cars not required for loading may be held on carrier tracks at any point on the lines of the carowner, after completion of any light repairs, cleaning or weighing that may be required. (See pt. (5) of this section.)

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 60 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipper instructions covering the cars.

(iii) Cars subject to parts (i) and (ii) of this section, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirements of rules 14 and 27 of the Uniform Freight Classification, ICC 9, issued by G. F. Earl, supplements thereto, or reissues thereof.

Exception. Dunnage being returned to shipper under provisions of the applicable tariffs may be left in cars released as empty. *Provided,* That proper shipper instructions are received by the carrier prior to 5 p.m., of the first day which is not a Saturday, Sunday, or holiday, immediately following release of the car.

(4) *Forwarding of cars.* (i) Loaded cars and empty foreign or private cars shall be forwarded within 60 hours, except cars described in parts (ii) or (iii) of this section, or cars described in part (ii) of section (2).

(ii) *Exception.* Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) *Exception.* Cars held for repairs, weighing, or cleaning. (See sec. (5).)

(5) *Cars held for repairs, weighing, or cleaning.* (i) Cars of system, foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks within 60 hours after time carded for repairs or cleaning. Light repairs or cleaning shall be accomplished within 24 hours, exclusive of Sundays and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars held awaiting such material, repairs shall be completed

within 24 hours, exclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(iii) Cars which must be weighed shall be weighed and restenciled, if required, within 60 hours, exclusive of Sundays and holidays, after it becomes available for weighing at the point at which weighing is to be accomplished.

(iv) Cars which have been repaired, cleaned, or weighed shall become subject to sections 2, 3, or 4, as applicable, from the date such repairs, cleaning, or weighing have been accomplished.

(6) *Movement of freight cars.* (i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Backhauling cars for the purpose of increasing the time in transit is prohibited.

(iii) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(iv) The use by any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reassignment privilege) is hereby prohibited.

(7) *Force majeure defence protected.* Nothing in this order shall deny any carrier its defense of force majeure as construed by the courts.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 11:59 p.m., September 30, 1978.

(d) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line

Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission. Commissioners O'Neal, Christian, Brown, Stafford, Gresham, and Clapp.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28049 Filed 10-3-78; 8:45 am]

[7035-01]

[Amtd. No. 1 to service order No. 1324]

PART 1033—CAR SERVICE

Chicago, Rock Island & Pacific Railroad Co. Authorized to Operate Over Tracks of Burlington Northern Inc.

Decided: September 27, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order amendment No. 1 to service order No. 1324.

SUMMARY: The line of the Chicago, Rock Island & Pacific Railroad between Eldon, Iowa, and Keokuk, Iowa has become inoperable because of track conditions. An alternative route between Keokuk and other stations on the Chicago, Rock Island & Pacific exists by use of the tracks of the Burlington Northern between Keokuk and Burlington, Iowa. Service order No. 1324 authorizes the Chicago, Rock Island & Pacific to operate over these tracks of the Burlington Northern in order to provide continued railroad service to shippers served by the Chicago, Rock Island & Pacific at Keokuk. Service order No. 1324 is published in full in volume 43 of the FEDERAL REGISTER at page 19395. Amendment No. 1 extends the order until March 31, 1979.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

Upon further consideration of service order No. 1324 (43 FR 19395), and good cause appearing therefor:

It is ordered service order No. 1324 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1324 Service Order No. 1324.

(a) *Chicago, Rock Island & Pacific Railroad Co., authorized to operate over tracks of Burlington Northern Inc.* * * *

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28048 Filed 10-3-78; 8:45 am]

[7035-01]

[Amdt. No. 2 to Service Order No. 1321]

PART 1033—CAR SERVICE

**Lenawee County Railroad Co., Inc.,
Authorized To Operate Over
Tracks of Consolidated Rail Corp.**

Decided: September 28, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (amendment No. 2 to service order No. 1321).

SUMMARY: The Lenawee County Railroad operates two separate lines of railroad in the vicinity of Grosvonor, Mich. Service order No. 1321 authorizes the Lenawee County Railroad to operate over 3.6 miles of a line of the Consolidated Rail Corp. between Lenawee Junction, Mich., and Grosvonor, Mich., which permits their single locomotive to serve both line segments. The order is printed in full in the FEDERAL REGISTER volume 43 at page 16341. The amendment extends this order until December 15, 1978.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., December 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

Upon further consideration of service order No. 1321 (43 FR 16341 and 34150), and good cause appearing therefor:

It is ordered service order No. 1321 is amended by substituting the following paragraph (d) for paragraph (d) thereof:

§ 1033.1321 Service order No. 1321.

(a) *Lenawee County Railroad Co., Inc., authorized to operate over tracks of Consolidated Rail Corp.* * * *

(d) Expiration date. The provisions of this order shall expire at 11:59 p.m., December 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28048 Filed 10-3-78; 8:45 am]

[7035-01]

[Second Revised Service Order No. 1315]

PART 1033—CAR SERVICE

Demurrage and Free Time on Freight Cars

Decided: September 27, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order revised service order No. 1315.

SUMMARY: Second revised service order No. 1315 establishes minimum periods for the detention of cars by shippers and receivers free of demurrage and increases demurrage charges for cars held beyond the free time. Class G-Gondola cars are removed from the order, and the expiration time is extended 2 months.

DATES: Effective 6:59 a.m., October 1, 1978. Expires 6:59 a.m., December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:

An acute shortage of certain types of freight cars exists throughout the country. Certain carriers are unable to furnish adequate supplies of such freight cars to shippers located on their lines. These shortages of freight cars are impeding the movement of many commodities. Many freight cars are held by shippers for excessive periods awaiting loading, unloading, or disposition instructions immobilizing large numbers of freight cars needed by shippers for the transportation of other freight. Existing demurrage and detention rules, regulations, and practices of the railroads are ineffective to control such use of freight cars. It is, therefore, the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, we find that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1315 Demurrage and free time on freight cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Application:

(i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, ICC R.E.R. No. 408, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designa-

tions shown on pages 1167-1169 inclusive, under the following headings:

"Class 'X'—Box Car Type," except mechanical designation 'XLI' and 'XT' XXX

"Class 'H'—Hopper Car Type"

"Class 'L'—Special Car Type" mechanical designation 'LO', covered hopper, only.

(iii) This order shall apply to all detention of freight cars subject to freight car demurrage or detention rules which occurs on or after the effective date of this order and which may have been shipped, placed or constructively placed prior to that date.

(iv) *Exception:* This order shall apply to cars while such cars are subject to section 1900, Items 1900-1950, inclusive, or to Section 2000, Items 2000-2005, inclusive, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(v) *Exception:* This order shall not apply to cars held at or outside of ocean, Great Lakes, or river ports, for loading or unloading with freight requiring transfer between rail and water carriers.

(vi) *Exception:* This order shall not apply to freight cars of Mexican ownership while held by or for shippers at Mexican border crossings, viz:

Brownsville, Tex., Laredo, Tex., Eagle Pass, Tex., Presidio, Tex., El Paso, Tex., Douglas, Ariz., XXXX, Nogales, Ariz., Calexico, Calif.

(vii) *Exception:* This order shall not apply to cars subject to items 710, 720, 725, 730, 740, 750, 755, 760, or 765 of General Car Demurrage Tariff 4-K ICC H-74, issued by D. M. Rogers, supplements thereto or reissue thereof.

(viii) *Exception:* The provisions of section 1400, items 1400-1440, inclusive, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or similar provisions of other applicable demurrage, detention, or storage tariffs shall govern the adjustment, cancellation, or refund of demurrage assessed as a result of the causes described in such rules.

(ix) *Exception:* Exceptions to this order may be authorized to carriers by the Railroad Service Board. Requests for exceptions must be submitted in writing to Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423. Each such request must specifically identify the type of cars for which an exception is desired and must clearly state the reasons why such cars cannot be utilized in other services.

(x) The terms "loading," "unloading," "constructive placement," and

"forwarding directions" as defined in General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply to cars subject to this order.

(xi) The term "holidays" means holidays as listed in item 525 of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(2) *Free time:* (i) Not more than a total of 48 hours' free time, computed in accordance with the provisions of the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for the complete unloading of each car.

(ii) Not more than a total of 24 hours' free time, computed in accordance with the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for loading or for any purpose other than complete unloading.

(iii) If the maximum free time authorized in applicable tariffs is less than the periods described in paragraphs (i) or (ii) of this section, the free-time periods, if any, provided in such tariffs shall apply.

(3) *Demurrage, detention, or storage charges—Cars not subject to average demurrage basis:* (i) After the expiration of the free-time period described in part (2) of this order, or without free-time allowance when none is provided, demurrage charges shall be assessed at the following rates, until car is released:

\$10 per car per day, or fraction of a day, for each of the first two days.

\$20 per car per day, or fraction of a day, for each of the next two days.

\$30 per car per day, or fraction of a day, for each of the next two days.

\$50 per car per day, or fraction of a day, for each subsequent day.

(ii) Except as provided in item 1225, General Car Demurrage Tariff 4-K, ICC H-74, the applicable demurrage charges provided herein will accrue on all Saturdays, Sundays, and holidays subsequent to the free time, or without free time when none is provided, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins, provided such last day of free time begins to run at or before 7 a.m., or expires at or before 11:59 p.m., of the day immediately prior to the Saturday, Sunday, or holiday.

(iii) If the demurrage rates published in applicable tariffs is greater than the demurrage rates named in paragraph (i) of this section, the rates provided in such tariffs shall apply.

(4) *Cars subject to average demurrage basis:* (i) One credit will be allowed for each car released before the expiration of the first twenty-four (24) hours of free time. After the expira-

tion of the free time (or the adjusted free time if provided in applicable tariffs), one debit per car per day, or fraction of a day, will be charged for each of the first two days. In no case shall more than one credit be allowed on any one car, and in no case shall more than four credits be applied in cancellation of debits accruing on any one car. When a car has accrued two debits, a charge of \$20 per car per day, or fraction of a day, will be made for each of the next two days; \$30 per car per day, will be made for each of the next two days; and \$50 per car per day, or fraction of a day, will be made for all subsequent detention. In computing time under this rule, all Saturdays, Sundays, and holidays will be counted after the free time, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins.

(ii) Credits earned on cars held for loading shall not be used in offsetting debits accruing on cars held for unloading, nor shall credits earned on cars held for unloading be used in offsetting debits accruing on cars held for loading.

(iii) An average agreement may not include cars held for:

(a) Purposes other than loading and unloading.

(b) Loading or unloading in intraplant switching service.

(iv) Credits cannot be earned by private cars subject to section 700, item 765, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or subject to similar rules in other tariffs, but debits charged on such cars while under constructive placement may be offset by credits earned on other cars.

(v) At the end of the calendar month the total number of applicable credits will be deducted from the total number of debits at the ratio of two credits for one debit, and \$10 per debit will be charged for the remainder. (See note). If the total number of debits are offset by credits through deduction at the above ratio of two credits for one debit, no charge will be made for the detention of the cars except as otherwise provided herein for detention beyond the second debit day, and no payment will be made by the railroad on account of such excess of credits; nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

NOTE.—For the purpose of applying part (v) of this paragraph, when an odd number of credits is earned, one of such credits will be disregarded in the computation.

(vi) Credits earned on cars subject to this order shall not be used in offsetting debits accruing on cars not subject to this order; nor shall debits ac-

XXX "Class 'G'—Gondola Car Type" eliminated.

XXXX Naco, Arizona, eliminated. No longer used for interchanges with Mexican railroads.

cruing on cars subject to this order be offset by credits earned on cars not subject to this order.

(5) Existing tariff rules requiring the placement or release, as a unit, of all cars in a multiple-car shipment shall remain in effect.

(6) The demurrage, detention, or storage rates provided herein shall supersede all published storage charges expressed in cents per hundred-weight, per bushel, or other unit of measure, for all freight held in cars, in excess of the free-time periods provided in paragraph (2) herein.

(7) If the demurrage, detention, or storage rates authorized in the applicable tariffs are greater than those described herein, such higher rates shall apply.

(8) *Notices of arrival, constructive placement, etc.:* (i) Existing tariff provisions defining constructive placement and establishing the requirements for the placement, the giving of arrival or constructive placement notice of freight destined for unloading or transshipment, shall apply.

(ii) If no such rules with respect to arrival, or regarding constructive placement are published in the applicable tariffs, the rules published in General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, including rates, rules and free-time periods granted by authority of Part 1, Section 22 of the Interstate Commerce Act, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Notification of shipper required.* (1) Carriers shall send or deliver a written notice to shippers or consignees of the requirements of this order at or prior to the time of actual or constructive placement of cars for loading or unloading or at the time notice of arrival or of constructive placement is given. On cars held for instructions from the shipper or qualified owner of the freight, such notices must accompany or precede the arrival notice.

(2) If a notice described in paragraph (1) of this section has been given to a shipper or receiver at origin, destination, or hold point, no further notices of the requirements of this order need be given.

(3) Carriers are required to maintain a copy of all notices of the requirements of this order sent to shippers, receivers, or qualified owners of freight, at the station or point from which sent.

(4) Failure of a carrier to send and preserve copies of the notices required by paragraph (1) of this section shall not be deemed as nullifying the re-

quirements of sections (a) and (b) of this order.

(d) *Effective date.* This order shall become effective at 7 a.m., October 1, 1978.

(e) *Expiration date.* This order shall expire at 6:59 a.m., December 1, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

A copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28082 Filed 10-3-78; 8:45 am]

[7035-01]

[Service Order No. 1290, Amdt. No. 2]

PART 1033—CAR SERVICE

Chesapeake & Ohio Railway Co. Authorized To Operate Over Tracks of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order, amendment No. 2 to service order No. 1290.

SUMMARY: Service order No. 1290 authorizes the Chesapeake & Ohio Railway to operate over tracks of Consolidated Rail Corp. between Hallett, Ohio, and Walbridge, Ohio, to avoid congestion on the tracks of the Toledo Terminal Railroad Co., formerly used by the Chesapeake & Ohio to traverse this territory. Service order No. 1290 is published in full in volume 42 of the FEDERAL REGISTER at page 63890. Amendment No. 2 to service order No. 1290 extends this order for 6 months.

DATES: Effective 11:59 p.m., September 30, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Wash-

ington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: September 28, 1978.

Upon further consideration of service order No. 1290 (42 FR 63890 and 43 FR 14021), and good cause appearing therefor:

It is ordered, That §1033.1290 The Chesapeake & Ohio Railway Co. authorized to operate over tracks of Consolidated Rail Corp., service order No. 1290 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

EFFECTIVE DATE: This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28040 Filed 10-3-78; 8:45 am]

[7035-01]

[Service Order No. 1329, Amdt. No. 1]

PART 1033—CAR SERVICE

Chicago, Rock Island & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order, amendment No. 1 to service order No. 1329.

SUMMARY: Because of damage to a bridge on its line the Chicago & North Western Transportation Co. is unable to operate to or from Livermore, Iowa. Several shippers served by that line require continued rail service. Service order No. 1329 authorizes the Chicago,

Rock Island & Pacific Railroad to operate over tracks of the Chicago & North Western Transportation Co. in Livermore, in order to provide urgently needed railroad service to these shippers. Service order No. 1329 is published in full in volume 43 of the FEDERAL REGISTER at page 26581. Amendment No. 1 extends this order for 6 months.

DATES: Effective 12:01 a.m., September 30, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:
Decided: September 28, 1978.

Upon further consideration of service order No. 1329 (43 FR 26581), and good cause appearing therefor:

It is ordered, That §1033.1329 Chicago, Rock Island & Pacific Railroad Co. authorized to operate over tracks of Chicago & North Western transportation Co., service order No. 1329 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

EFFECTIVE DATE: This amendment shall become effective at 11:59 p.m., September 30, 1978.

(49 U.S.C. 1(10-17).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28041 Filed 10-3-78; 8:4 a.m.]

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 33—HUNTING

Opening of Wildlife Management Areas 10 and 11 to Public Pheasant Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge to public hunting of cock pheasants is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will supply additional recreational opportunities to the public.

DATES: October 21, 1978 through December 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak. 57551, or telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; hunting ring-necked pheasant; for individual wildlife refuge areas.

Public hunting of cock ringneck pheasant on the Lacreek National Wildlife Refuge, S. Dak., is permitted in those parts of wildlife management areas 10 and 11 (2,800 acres) delineated on maps available at designated parking areas, at Refuge Headquarters, Martin, S. Dak. 57551 and at the U.S. Fish and Wildlife Service, Area Office, Pierre, S. Dak. 57501, and not designated closed. Hunting shall be according to State and Federal regulations governing the hunting of cock pheasants subject to the following special conditions:

a. The hunting of other than cock pheasant is prohibited.

b. Designated hunting access and parking sites will be available. Entering and parking at other sites will be prohibited.

c. Hunting will be allowed only by special permit/report forms available at designated parking sites.

The provisions of this special regulation supplements the regulations which governs hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1978. The

public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. fish and Wildlife Service had 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.

ROLF H. KRAFT,
Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

[FR Doc. 78-27937 Filed 10-3-78; 8:45 a.m.]

[3510-22]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

Compensation for Damage Caused by Foreign Vessels in the Fishery Conservation Zone

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

ACTION: Final regulations.

SUMMARY: The National Marine Fisheries Service previously proposed, and is now adopting, regulations to govern section 10 ("Section 10") of the Fishermen's Protective Act of 1967, as amended (the "Act"). Section 10 provides a program to compensate domestic fishermen who have suffered vessel or gear damage, loss, or destruction as the result of foreign vessel operations in the U.S. Fishery Conservation Zone (and beyond, in appropriate instances).

EFFECTIVE DATE: Immediately October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Services Division, or Kathryn E. Hensley, Financial Assistance Specialist, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-634-7496.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 18, 1977, the Act was amended by adding a new section 10 (Pub. L. 95-194). Section 10 authorizes the establishment of a loan program for domestic fishermen whose fishing vessels or gear were damaged, lost, or

destroyed as the result of foreign vessel operations. The program will apply to incidents occurring in the geographical area defined in these regulations as the "fishermen's protective zone" (which consists of the fishery conservation zone ("FCZ") established by the Fishery Conservation and Management Act of 1976 and an area beyond the FCZ in appropriate instances).

The proposed regulations published May 11, 1978, set forth procedures and standards for the loan program authorized by section 10. Rules governing the Act currently appear at 50 CFR 258.1 through 258.9. 50 CFR will be amended to include regulations governing section 10 by adding a new heading "Subpart A" for the Act's existing regulations (§§ 258.1 through 258.9) and adding a new "Subpart B" for these rules implementing section 10.

Section 10 authorizes the Secretary of Commerce (the "Secretary") to make low-interest loans to eligible fishermen after making a determination that the eligibility and evidentiary criteria of section 10 relating to the lost, destroyed, or damaged property have been met. After making the loan, the Secretary is directed to investigate the circumstances of the incident resulting in the compensated loss, damage, or destruction and determine whether the loan will continue according to its original terms, be canceled, or be repaid over a shortened time period.

This rulemaking governs: (1) Eligibility for the program, (2) evidence to be submitted with loan applications, (3) procedures for making loans, (4) guidelines for determining the amount of the loan, (5) procedures and standards by which the Secretary will determine whether to modify or cancel loans, and (6) loan repayment and cancellation requirements.

One section governing the Government's disposition of rights assigned to it by loan recipients is being reserved for a proposal of rules to be made at a later time.

COMMENTS

Response to the proposal for comments on these rules questioned the need for three estimates of the purchase price of replacement gear. The requirement for those estimates was retained, since this will tend to assure the reasonability of estimates upon which the Secretary will determine loan amounts.

A 60-day time requirement was suggested for loan processing (approval/denial) and a 30-day time requirement for notification of preliminary determination of fault. This suggestion was not incorporated since time constraints could result in an incomplete

review of applications. All claims will be processed as promptly as circumstances permit. If a loan is approved, disbursement of the proceeds will not be held pending determination of fault, but will be accomplished as soon as possible.

Another comment objected to a proposed loan fee. The Act allows the Secretary to charge a fee to cover the costs of administering this program. The loan fee will be retained. The proposed fee will probably be insufficient to cover the administrative costs and, in any event, appears to be reasonable in view of the expected costs in processing loan applications and the substantial benefits to claimants from section 10 assistance.

Another comment requested that damages resulting from lost income during the period in which claimant did not have use of the damaged, lost, or destroyed gear be included for compensation. A thorough review of the statute and its legislative history does not substantiate inclusion of these damages and that previously reserved section has been eliminated.

Another comment, requested whether payment could be made directly to loan recipients instead of suppliers. Payment will ordinarily be made directly to suppliers, but may be made to loan recipients if circumstances warrant.

Dated: September 28, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

50 CFR Part 258 is amended as follows:

1. Add a new heading "Subpart A—Seizures of U.S. Commercial Fishing Vessels" for §§ 258.1 through 258.9.
2. Add a new subpart B as follows:

Subpart B—Compensation for Damage Caused by Foreign Vessels in the Fishermen's Protective Zone

- | | |
|--------|--|
| Sec. | |
| 258.20 | Purpose. |
| 258.21 | Definitions. |
| 258.22 | Eligibility. |
| 258.23 | Applications. |
| 258.24 | Approval of loan applications. |
| 258.25 | Terms and conditions of loans. |
| 258.26 | Determination of amount of loss, damage, or destruction. |
| 258.27 | Determination of fault. |
| 258.28 | Loan Repayment or cancellation. |
| 258.29 | Government collection. [Reserved] |

AUTHORITY: Sec. 10, 91 Stat. 1413 (22 U.S.C. 1980).

Subpart B—Compensation for Damage Caused by Foreign Vessels in the Fishermen's Protective Zone.

§ 258.20 Purpose.

This subpart provides rules and procedures for the granting, repayment, and cancellation of loans to owners and operators of U.S. commercial fishing vessels for the loss, damage, or destruction of their fishing vessels or gear caused by a vessel (or its crew or fishing gear) of a foreign nation operating in the Fishermen's Protective Zone.

§ 258.21 Definitions.

Unless the context otherwise requires, in this subpart:

(a) "Alternative claim" means any claim not made under this subpart which seeks compensation for the same loss, damage, or destruction of a fishing vessel or fishing gear as a claim under this subpart.

(b) "At fault" means negligence or willfulness, through action or inaction, causing the loss, damage, or destruction involved.

(c) "Fishermen's Protective Zone" means: (1) The area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured, (2) all areas in which U.S. Continental Shelf fishery resources are found, and (3) the area representing the migratory range of any species of anadromous fish of the United States; except that such area shall not extend within any foreign nation's territorial sea or fishery conservation zone (or the equivalent) to the extent that such sea or zone is recognized by the United States.

(d) "Foreign vessel" means a vessel of a foreign nation, its crew, or fishing gear.

(e) "Secretary" means the Secretary of Commerce or his or her designated representative.

(f) "Loan" means a loan under section 10 of the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1980).

§ 258.22 Eligibility.

(a) *Applicants.* An applicant must be the owner or operator of a vessel which is used primarily for the commercial catching, processing, or transporting of fish or shellfish and which is either documented under the laws of the United States in the fisheries trade or certified or registered under

the laws of any political subdivision of the United States.

(b) *Loss, damage, or destruction.* The applicant's vessel or its fishing gear must have been lost, damaged, or destroyed after July 1, 1976, as a result of the operation of a foreign vessel (or its crew or gear) in the Fishermen's Protective Zone. The total amount of such loss, damage, or destruction must exceed \$2,000, as determined by the Secretary under § 258.26.

(c) *Alternative claims.* Any applicant who has made an alternate claim shall not be eligible for a loan if the Secretary determines that the alternative claim is substantially resolved at the time of the application or at the time of the loan. An alternative claim shall be regarded as substantially resolved if, at the time of the application or loan, the alternative claim proceeding has resulted in compensation for the claimant (whether or not such compensation is less than the amount applied for under a loan application) or in a final denial of the claims.

(d) *Insurance.* An applicant's claim for such loss, damage, or destruction cannot be of such a nature as would ordinarily be covered under the collision clause, or other clauses, of a full hull and machinery policy of commercial insurance or under a full protection and indemnity of policy of commercial insurance.

§ 258.23 Applications.

(a) *Form.* Applications for loan shall be submitted to the Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, by the owner or operator of the vessel concerned. Each application must be in a form suitable to establish that the situation involved meets the eligibility criteria in § 258.22 and must include as attachments the affidavits and estimates referred to in this section.

(b) *Affidavit of vessel master.* Applications shall include an affidavit by the master of the applicant's vessel (or by different masters if more than one was involved during any material period) fully describing the circumstances before, during, and after the incident resulting in loss, damage, or destruction which states, among other things:

(1) Time, date, and locational coordinates (longitude and latitude) of the incident;

(2) Actions of the foreign vessel alleged to have caused the loss, damage, or destruction, before, during, and after the incident (if such actions were observed);

(3) Actions of the applicant's vessel or crew before, during, and after the incident, including a full description of circumstances involving deployment and retrieval of fishing gear (for example: time, date, locational coordi-

nates, and circumstances of the gear's retrieval, and all attempts at retrieval);

(4) Description of the size, type, flag, identifying number, color of house or hull, or other identifying characteristics, including a photograph, if available, of the foreign vessel alleged to have caused the loss, damage, or destruction (if such vessel was observed);

(5) A full statement of the reasons for belief that the loss, damage, or destruction was caused by a foreign vessel rather than by: wind, weather, sea, or other natural conditions; defective gear; defective deployment (for example, means of fixing gear); defective retrieval (for example, means to have been used for relocating gear); or a domestic vessel;

(6) Names and statements of any material witnesses;

(7) Nature and extent of loss, damage, or destruction, including, if possible, photographs of the damage, even if taken after return to port; and

(8) Description of the property which was lost, damaged, or destroyed, including type, size, material of construction, number of units, and remaining economically useful life at the time of the incident.

(c) *Affidavit of owner or operator.* Applications shall include an affidavit from the owner or operator of the vessel or gear for which a claim is being made stating the date, cost, and place of acquisition of the property which was lost, damaged, or destroyed, as well as its age and remaining economically useful life when acquired, and shall attach, if available, a copy of the original invoice or bill of sale of the property concerned.

(d) *Estimates.* Applications shall include three estimates from commercial sources, acceptable to the Secretary, setting forth the replacement cost of the property concerned as well as its repair cost, if repairable.

(e) *Evidence of foreign vessels in the area.* Applications shall include documentation from the U.S. Coast Guard or National Marine Fisheries Service indicating all foreign vessels known to have been in the vicinity of the incident at any time after deployment of the gear lost, damaged, or destroyed and before its retrieval or attempted retrieval.

(f) *Other evidence.* The Secretary may, in his or her discretion, require further affidavits, other evidence, or supplementary information.

(g) *Application fee.* Applications shall be accompanied by a fee in the form of a check or money order made payable to "National Marine Fisheries Service" in the amount of \$50. This fee shall not be refunded.

(h) *Time requirement.* After October 1, 1978, applications must be postmarked not later than 60 calendar

days after the date the claimed loss, damage, or destruction occurred.

(i) *Abandoned applications.* As soon as practicable after receipt of an incomplete or improperly executed application, the applicant shall be notified by the National Marine Fisheries Service of any deficiency in the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 calendar days following the date of notification, the application shall be considered abandoned.

§ 258.24 Approval of loan applications.

A loan may be made to the applicant, if the Secretary finds that:

(a) The eligibility requirements of § 258.22 are met;

(b) The application satisfies the requirements of § 258.23; and

(c) The Secretary reasonably determines that the claimed loss, damage, or destruction was caused, or could reasonably have been caused, by the operation of a foreign vessel in the Fishermen's Protective Zone.

§ 258.25 Terms and conditions of loans.

(a) *Loan amount.* The amount of a loan will equal the extent of the loss, damage, or destruction involved as determined under § 258.26.

(b) *Time period.* The terms of a loan shall not exceed the economically useful life of the vessel or gear acquired or repaired with the proceeds of the loan, and may, at the discretion of the Secretary, be for a shorter period of time.

(c) *Collateral.* Collateral for the loan shall be required at the discretion of the Secretary and may include a secured interest in the vessel or gear acquired or repaired with the proceeds of the loan. All loans will be evidenced by a promissory note payable to the Secretary from the owner of such vessel or gear.

(d) *Interest rate.* The interest rate for loans will be 3½ percentum per annum.

(e) *Loan fees.* A fee for granting the loan shall be charged and deducted from the proceeds of the loan. The amount of this fee shall be equal to the difference during the loan's first year between the loan's 3½ percent interest rate and the approximate cost of Government borrowings of about a 7-year maturity.

(f) *Payment.* The Secretary may require that the proceeds of a loan be escrowed and subsequently paid directly to the supplier of goods or services in connection with the replacement or repair of vessels or gear after the Secretary's receipt of all properly executed loan documents and upon presentation of proper invoices and authorizations to pay. Payment may be made to

loan recipients if circumstances warrant.

(g) *Assignment.* Loan recipients shall assign, or agree to assign, to the Secretary any rights they might have to recover moneys or damages from any person for the loss, damage, or destruction for which a loan is made.

(h) *Repayment or cancellation.* Loans shall be repaid or canceled in accordance with § 258.28.

(i) *Collection efforts.* Loan recipients shall agree to assist the Secretary's efforts under § 258.29.

(j) *Other terms and conditions.* Loans shall be subject to such other terms and conditions as the Secretary deems necessary and appropriate.

§ 258.26 Determination of amount of loss, damage, or destruction.

(a) *Value of property.* In the case of property which has been lost or destroyed, the Secretary shall determine the value of the loss or destruction by using the replacement cost of such property as if it had been the original acquisition cost of such property and by depreciating such replacement cost on a straight line basis over the economically useful life of such property. In the case of property which is capable of being repaired, the Secretary shall determine the value of damage in light of the estimates of repair submitted under § 258.23(d), but in no event shall damage determinations exceed the depreciated, present, replacement cost of the property concerned. Example: 100 lobster pots with a present replacement cost of \$100 each were totally lost. Each pot had an economically useful life of 36 months and was 18 months old, leaving a remaining economically useful life of 18 months. The value of loss would be calculated as follows:

(1) $100 \text{ pots} \times \$100 = \$10,000$ present replacement cost.

(2) $\$10,000 \div 36 \text{ months} = \277.78 depreciation per month.

(3) $\$277.78 \times 18 \text{ months remaining useful life} = \$5,000$ for depreciated, present, replacement cost.

If the casualty were confined to property which could be repaired, the value of the casualty would be the actual cost of repair up to, but not exceeding, the depreciated, present, replacement cost of \$5,000 as calculated above. If partial loss, damage, or destruction occurs, and the applicant is unable to determine which receipts of purchase pertain to the lost, damaged, or destroyed gear, the applicant must submit proof of purchase for all gear involved in the incident in order that an averaging method may be used to determine the depreciation. If the gear involved was purchased on several dates, the number of months between the first and last purchases will be divided in half and depreciation will

start from the midpoint. The following is an example: Purchase dates are January, March, and June. Date of loss is December. Computation will be made as follows:

(1) January to June = 6 months.

(2) $6 \text{ months} \div 2 = 3 \text{ months}$.

(3) Three months from the first date of purchase (January) is April.

(4) Depreciation will be computed from April to the date of the incident in December. The allowable depreciation in this example is 9 months.

§ 258.27 Determination of fault.

(a) *Investigation.* Following the granting of each loan, the Secretary shall investigate the circumstances of the incident resulting in the loss, damage, or destruction concerned in an attempt to ascertain the facts required for a determination of whether or not the loan recipient was at fault for the loss, damage, or destruction.

(b) *Factors to be considered.* In making a determination of fault, the Secretary shall take into account: (1) Evidence submitted with the application in accordance with § 258.23; (2) whether the loan recipient, prior to the incident involved, reported the location of the fishing gear to the U.S. Coast Guard for broadcasting to foreign vessels in accordance with 50 CFR 611.11 (failure to do so will create a presumption that the loan recipient was at fault); and (3) such other matters as the Secretary may deem appropriate.

(c) *Notification of preliminary determination.* Upon completing the investigation, the Secretary shall make a preliminary determination of whether it is possible to ascertain who was at fault for the incident and, if so, whether the loan recipient was at fault and notify the loan recipient of these determinations.

(d) *Review of record.* The loan recipient may examine the complete record upon which the determinations of the Secretary are made under this section.

(e) *Comments.* The loan recipient shall have 30 calendar days after the receipt of notification under paragraph (c) of this section to submit any comments, data, or other information concerning the preliminary determination of the Secretary. All timely comments, data, or other information shall be considered by the Secretary prior to making a final determination.

(f) *Final determination.* As soon as practicable after the termination of the period described in paragraph (e) of this section, the Secretary shall make a final determination of fault and shall notify the loan recipient of the determination.

§ 258.28 Loan repayment or cancellation.

Based upon the final determinations made under § 258.27 the Secretary shall:

(a) If it is determined that the loan recipient was not at fault, cancel repayment of the loan and refund any principal and interest payments made thereon;

(b) If it is determined that the loan recipient was at fault, require that the loan be repaid prior to its original term within a reasonable time as determined by the Secretary, taking into account its original duration and the percentage of fault attributable to the loan recipient; or

(c) If it cannot be determined whether or not the loan recipient was at fault, continue the loan according to its original terms.

§ 258.29 Government collection [Reserved].

[FR Doc. 78-23020 Filed 10-3-78; 8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC GROUND FISH REGULATIONS

Approval of Fishery Management Plan Amendments, Emergency Regulations, and Proposed Rulemaking

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Approval of amendments to the Fishery Management plan for the Atlantic groundfish fishery; emergency regulations and proposed rulemaking.

SUMMARY: Amendments to the Fishery Management plan for the Atlantic groundfish fishery (FMP), submitted by the New England Fishery Management Council (the Council), to regulate fishing during a fishing year beginning October 1, 1978, and ending on September 30, 1979, are approved. Regulations implementing these amendments are promulgated as emergency regulations under section 305(e) of the Fishery Conservation and Management Act, as amended (the Act). These amendments reinstate the optimum yields and quotas adopted by the Council in March 1978. The Council's earlier FMP amendment establishing separate haddock commercial quotas for the Gulf of Maine and for Georges Bank and south is approved. At the request of the Council, the Secretary is also promulgating emergency regula-

tions which amend the provisions in the FMP on incidental catches. The regulations implementing the FMP are also amended on an emergency basis to provide for closure of the fisheries in sufficient time to avoid an overrun of the quarterly quotas specified in the FMP. The regulations are completely revised to make them more effective and understandable.

EFFECTIVE DATE: The revised regulations take effect on October 1, 1978, and will remain in effect on an emergency basis until November 14, 1978. These emergency regulations are also being published as a proposed rule-making; public comments on the amendments and regulations are invited until November 14, 1978.

ADDRESS: Send comments to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235. Mark "Groundfish Comments" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

On March 31, 1978, emergency regulations were published in the *FEDERAL REGISTER* implementing the Fishery Management plan for the Atlantic groundfish fishery (cod, haddock, and yellowtail flounder). On April 24, allocations of quotas to vessel classes were instituted. On May 5, the Assistant Administrator for Fisheries, using the authority provided in the emergency regulations, adjusted the landing restrictions. On June 30, the emergency regulations became final; the revised landing restrictions were continued. Effective July 2, the landing restrictions were further amended. Further emergency amendments to the regulations were made on July 19. The April 24 regulations were made final on July 21. All emergency regulations in effect were extended on August 30 to October 14, 1978. All prior regulations are rescinded and replaced by the regulations promulgated today.

The Council has submitted to the Secretary an amendment to the FMP and requested that the quotas of the March 31, 1978, regulations be reinstated, and that a new fishing year begin on October 1, 1978, to run through September 30, 1979. The Council believes that managing the fishery on a fishing year, rather than a calendar year, basis will facilitate the best utilization of new scientific information, and will coincide better with actual fishing patterns.

In taking this action, the Council has not continued the increase in optimum yield for cod in the Gulf of Maine, contained in an amendment to the FMP proposed by the Secretary on July 19, 1978. This represented an increase in the quota for commercial fishermen of 33 1/2 percent. In starting a new fishing year beginning October 1, 1978, there will be impacts on stock sizes in each fishing area. With the exception of cod in the Gulf of Maine, these will be insignificant. The determination to discontinue the increase in the optimum yield for cod in the Gulf of Maine indicates the Council's judgment that the benefits of the increase would not be sufficient to justify such impacts on that stock.

One of the effects of the Council's amendment is to "open the season" for fishing groundfish 3 months earlier than would have occurred without the amendments. Experience in managing this fishery has indicated that the fishery is less predictable and harder to control than originally believed. The influx of new vessels into this fishery has affected the determination of optimum yield. Socioeconomic impacts of the management of this fishery have been more severe than anticipated.

The Council has embarked on the formulation of a comprehensive fishery management plan to replace the plan currently in effect. These interim amendments are designed to provide for a limited and more orderly fishery while this major revision is accomplished. Questions concerning the description of an appropriate fishery management unit as well as the whole range of conservation and management measures appropriate for this fishery, will be considered.

The Assistant Administrator has authority to revise catch limits under the FMP. These limits for haddock in all areas and for cod in Georges Bank and south remain at the levels which took effect May 7. These limits for cod in the Gulf of Maine and for yellowtail flounder are more restrictive than the May 7 limits, in order to spread fishing over the entire quarter.

The catch limitations for yellowtail flounder are applied differently from those for cod and haddock because of the different nature of the fishery. The yellowtail flounder fishery is characterized by two basic types of fishing: Short trips lasting 3 days or less; and longer trips lasting about 9 days. Catch limitations for the former type of fishing regulate catch per fishing week; for the latter type, catch per trip. The catch limitations for yellowtail flounder are the same, both east and west of 69° west longitude, and apply equally to all vessel classes. This is not intended to be a departure from the area and vessel class allocation

systems, but rather an adjustment of catch limitations as authorized by the FMP and regulations to these levels. Further adjustments may be made based on areas and/or vessel classes.

The plan amendments submitted by the Council on March 31, 1978, differentiated between the haddock stocks in the Gulf of Maine and those on Georges Bank and south. By oversight, this distinction was not incorporated into the FMP regulations. That action is now taken.

The regulations implementing the FMP have been revised and are published here both as emergency regulations effective October 1, 1978, and as proposed regulations for public comment prior to final implementation, pursuant to section 305(a) of the Act. These regulations do not incorporate any significant changes in the policy of management for this fishery. They are basically a restructuring and rewording of the current regulations. The above-discussed policy issues have been incorporated. Some of the other changes incorporated and the effects of the new regulations are discussed below.

A number of definitions have been added. "Discard" has been defined to allow the release of live fish before they have been taken onboard the vessel. "Fishing week" has been defined and is significant in terms of reporting requirements and catch limitations.

Reporting requirements have been revised to clarify the requirement that any vessel which catches groundfish within the fishery conservation zone (FCZ) during any voyage must report its total catch for that voyage, including species other than groundfish, and also including all fish taken within the territorial sea. The former regulations required this reporting, but were read by some as applying only to those groundfish which were caught within the FCZ.

These new regulations also require mandatory reporting by all vessels. The National Marine Fisheries Service is currently in the process of revising its logbook and dealer reporting forms. The Regional Director, Northeast Region, National Marine Fisheries Service, will implement this regulation gradually over the next few months, with full implementation anticipated in January 1979.

In order more clearly to state the norm of conduct required under these regulations, all of the prohibitions have been grouped together at § 651.7.

The revised procedures for closing a fishery are designed to implement more effectively the Council's intent that optimum yield shall not be exceeded. The new regulations contain a revised provision for incidental catches during a closure. The Secretary has

found that this action is necessary for conservation and management, and that the Council has failed to prepare an amendment accomplishing this action within a period of time which would be reasonable under the circumstances. During the period these regulations are in effect as emergency regulations, this provision will be treated as an FMP amendment. Before the regulations are adopted as final, this secretarial amendment will have to have been approved pursuant to section 304(c) of the Act.

The Council's amendments to the Atlantic Groundfish FMP are approved; the secretarial amendments discussed above are proposed. The secretarial amendment will be transmitted to the Council pursuant to section 304(c) of the Act. The resulting changes to be made in the FMP are as follows:

1. Table 54 is amended by deleting the number 10,500 under the column headed "Optimum Yield" for cod, 5Y, and substituting the number 8,500.

2. Section II.C.3(a) is amended by deleting the last paragraph and substituting the following:

The annual optimum yields for cod are specified as follows: Gulf of Maine—8,500 metric tons; Georges Bank/southern New England—26,000 metric tons.

3. Section II.C(b) is amended by deleting the words "in 1978."

4. Section II.C.4.(A)(1)(a) is amended by deletion and substituting the following:

(a) It is recommended that the annual catch of cod in the Gulf of Maine be limited to 6,000 metric tons (U.S. commercial) and 2,500 metric tons (U.S. charter boat and headboat).

5. Section II.C.4.(A)(1)(c) is amended by deletion and substituting the following:

(c) It is recommended that the cod quotas for the U.S. commercial fishery be allocated on a quarterly basis during the fishing year as follows:

(In metric tons)

Quarter	Gulf of Maine	Georges Bank ¹
Oct. 1 to Dec. 31.....	1,420	5,640
Jan. 1 to Mar. 31.....	1,400	4,600
Apr. 1 to June 30.....	1,760	6,130
July 1 to Sept. 30.....	1,420	5,630

¹Southern New England.

The catch of the fixed gear vessel class shall be allocated quarterly to reflect the historic record of landings.

6. Section II.C.4.A.(3)(b) is amended by deletion and substituting the following:

(b) It is recommended that the haddock quota of 14,900 metric tons for the U.S. commercial fishery be allocated on a quar-

terly basis during the fishing year as follows:

(In metric tons)

Quarter	Gulf of Maine	Georges Bank ¹
Oct. 1 to Dec. 31.....	728	1,902
Jan. 1 to Mar. 31.....	767	2,167
Apr. 1 to June 30.....	991	4,463
July 1 to Sept. 30.....	644	3,238

¹Southern New England.

The catch of the fixed gear vessel class shall be allocated quarterly to reflect the historic record of landings.

7. Section II.C.4.E.(4) is amended by deletion and substituting the following:

(4) Incidental catches during a closure. During a closure all affected vessels shall be permitted to fish, so long as catches of any species to which the closure applies do not exceed the following amounts:

(a) Cod and haddock:

Vessel Class and Trip Limit

0-60 gross registered tons—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

61-125 gross registered tons—1,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

126 gross registered tons or more—2,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

Fixed gear—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

(b) Yellowtail flounder:

Vessel Class and Trip Limit

All vessels—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

8. A new section II.C.4.(I) is added as follows:

(I) *Fishing year.* It is recommended that the fishing year, for purposes of this fishery management plan, shall be from October 1 to September 30 of the following calendar year.

NOTE.—An emergency continues to exist in this fishery, which justifies the use of section 305(e) procedures to implement the amendments.

NOTE.—This emergency makes it unnecessary, impractical and contrary to the public interest to withhold action to obtain further public comment. Public comment is invited, however, on these emergency regulations as proposed rulemaking.

NOTE.—A supplement to the environmental impact statement covering these amendments will be filed with the Environmental Protection Agency.

NOTE.—This action does not constitute a major proposal requiring preparation of an economic impact statement under E.O. 11821, as amended by E.O. 11949 and OMB Circular A-107.

Signed at Washington, D.C., this 28th day of September 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

Part 651 is revised to read as set forth below:

Subpart A—General

Sec.

- 651.1 Purpose and scope.
- 651.2 Definitions.
- 651.3 Relation to other laws. [Reserved]
- 651.4 Vessel permits.
- 651.5 Recordkeeping and reporting requirements.
- 651.6 Vessel identification.
- 651.7 Prohibitions.
- 651.8 Enforcement.
- 651.9 Penalties.

Subpart B—Management Measures

- 651.20 General limitations.
- 651.21 Closed areas.
- 651.22 Gear limitations.
- 651.23 Catch limitations.
- 651.24 Closures.

AUTHORITY: Sec. 305(e), Fishery Conservation and Management Act, as amended.

Subpart A—General

§ 651.1 Purpose and scope.

The regulations in this part govern fishing for groundfish by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority. These regulations implement the Atlantic groundfish fishery management plan developed by the New England Fishery Management Council.

§ 651.2 Definitions.

Some definitions in the Act have been repeated here to aid understanding of the regulations. In addition to the terms defined in the Act, the terms used in this part shall have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801-1882, as amended.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means: (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Comman-

dant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Catch, take, or harvest includes, but is not limited to, any activity which results in killing any fish, or bringing any live fish on board a vessel.

Discard means to release a fish into the wild. Releasing a live fish before it is brought on board a vessel shall not be considered a discard.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described above.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) Fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Fishing week means the weekly period running from 0001 hours Sunday through 2400 hours Saturday.

Fixed gear includes, but it not limited to, all gill nets, longlines, and line trawls.

Georges Bank and south means that area of the northwest Atlantic Ocean subject to the fishery jurisdiction of the United States, except the Gulf of Maine.

Groundfish means any cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), or yellowtail flounder (*Limanda ferruginea*).

Gulf of Maine means that portion of the northwest Atlantic Ocean north of 42°20' N. latitude, plus that area south of 42°20' N. latitude which is west of 70°00' W. longitude and which is bounded on the south by the northern shore of Cape Cod.

Land means to begin offloading fish, or to arrive in port with the intention of offloading fish.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means: (a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person in (a), (b), or (c).

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, or his designee.

Regulated species means any species for which fishing by a vessel of the United States is regulated pursuant to the Act.

Trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel begins to offload fish in port.

Vessel of the United States means: (a) Any vessel documented or numbered by the Coast Guard under U.S. law; or

(b) Any vessel, under 5 net tons, which is registered under the laws of any State.

§ 651.3 Relation to other laws. [Reserved]

§ 651.4 Vessel permits.

(a) *General.* Any vessel of the United States which is fishing for groundfish must have been issued a permit under this part.

(b) *Application.* (1) An application for a vessel permit for the groundfish fishery must be submitted and signed by the vessel owner on an appropriate form, which may be obtained from the Regional Director. The application must be submitted to the Regional Director, prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants shall provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) The name of the vessel;

(iii) The vessel's U.S. Coast Guard documentation number or State license number;

(iv) The home port, gross tonnage, and net tonnage of the vessel;

(v) The engine horsepower of the vessel;

(vi) The approximate fish-hold capacity of the vessel in pounds;

(vii) The type and quantity of fishing gear used by the vessel; and

(viii) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director shall issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 10 days following the date of notification, the application shall be considered abandoned.

(d) *Expiration.* A permit shall expire when the owner or name of the vessel changes.

(e) *Duration.* A permit shall continue in full force and effect until it expires or is revoked, suspended, or modified pursuant to 50 CFR Part 621.

(f) *Alteration.* Any permit which has been substantially altered, erased, or mutilated shall be invalid.

(g) *Replacement.* Replacement permits may be issued. An application for a replacement permit shall not be considered a new application.

(h) *Transfer.* Permits issued under this part are not transferable or assignable. A permit shall be valid only for the vessel for which it is issued.

(i) *Display.* Any permit issued under this part must be carried on board the fishing vessel at all times. The permit shall be displayed for inspection upon request of any Authorized Officer.

(j) *Revocation.* Subpart D of 50 CFR Part 621 shall govern the imposition of sanctions against a permit issued under this part. As specified in that subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Act or by this part; or if a civil penalty or criminal fine imposed under the Act and pertaining to such a vessel is not paid.

(k) *Fees.* No fee shall be required for any permit under this part.

(l) *Change in application information.* Any change in the information specified in paragraph (b) of this section shall be reported to the Regional Director within 15 days of any such change.

§ 651.5 Recordkeeping and reporting requirements.

(a) *Fishing vessel records.* (1) The operator of any fishing vessel conduct-

ing any fishing operation subject to this part shall:

(i) Maintain an accurate and complete fishing logbook on forms supplied by the Regional Director, according to the requirements of § 651.5(a)(2);

(ii) Make the fishing logbook available for inspection by an Authorized Officer, or any employee of the National Marine Fisheries Service designated by the Regional Director to make such inspection, at any time during or after a trip;

(iii) Keep each fishing logbook for 1 year after the date of the last entry in the logbook;

(iv) Submit fishing logbook reports, as specified in § 651.5(a)(2).

(2) The owner or operator of any fishing vessel conducting any fishing operation subject to this part shall submit a complete fishing logbook report to the Regional Director within 48 hours after the end of any fishing week or fishing trip, whichever is the longer time period. Fishing logbooks shall contain information on a daily basis for the entirety of any trip during which any regulated species are caught, and shall contain information for all fish which are caught.

(3) The Assistant Administrator may revoke, modify, or suspend the permit of a vessel whose owner or operator falsifies or fails to submit the records and reports prescribed by this section, in accordance with the provisions of 50 CFR Part 621.

(b) *Fish dealer or processor reports.* Any person who receives groundfish for a commercial purpose from a fishing vessel subject to this part shall:

(1) File a report with the Regional Director on forms supplied by him, within 48 hours of the end of any fishing week. Such report shall include information on all transfers, purchases or receipts of all fish made during that fishing week; and

(2) Permit an authorized officer, or any employee of the National Marine Fisheries Service designated by the Regional Director to make inspections, to inspect any records of transfers, purchases or receipts of groundfish.

§ 651.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this part over 25 feet in length shall display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from above. The official number is the documentation number issued by the Coast Guard or the certificate of number issued by a State or by the Coast Guard for undocumented vessels.

(b) *Numerals.* The official number shall be permanently affixed to each vessel subject to this part in contrast-

ing block arabic numerals at least 18 inches in height for vessels over 65 feet and at least 10 inches in height for all other vessels over 25 feet in length.

(c) *Vessel length and number.* The length of a vessel, for purposes of this section, shall be that length set forth by Coast Guard or State records.

(d) *Duties of operator.* The operator of each vessel subject to this part shall:

(1) Keep the identifying markings clearly legible and in good repair; and
(2) Insure that no part of the vessel, its rigging or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(e) *Nonpermanent markings.* Vessels carrying fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be permanently affixed. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for groundfish.

§ 651.7 Prohibitions.

It is unlawful for any person to:

(a) Fish for, take, catch or harvest any groundfish in an area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(b) Fish for, take, catch, harvest or land any groundfish during a closure under § 651.24, except to the extent allowed by that section;

(c) Fish for, take, catch, harvest or land any groundfish in excess of the fishing vessel's applicable catch limitation, if any, established by § 651.23;

(d) Fish for, catch, take, harvest or land any groundfish caught with nets having smaller than the minimum mesh size allowed by § 651.22 except as provided for under § 651.22(e);

(e) Discard, at sea, any groundfish;

(f) Use any vessel for taking, catching, harvesting or landing of any groundfish unless the vessel has a valid permit issued pursuant to this part, and the permit is on board the vessel;

(g) Fail to report to the Regional Director, within 15 days of any such change, any change in the information contained in a permit application for a vessel;

(h) Falsify or fail to make, keep, maintain, or submit any logbook, or other record or report required by this part;

(i) Refuse to permit an authorized officer, or any employer of the National Marine Fisheries Service designated by the Regional Director to make such inspections, to inspect any logbooks or records relating to the taking, catching, harvesting, landing, purchase or sale of any groundfish;

(j) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale or transfer of any groundfish;

(k) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, or export any groundfish taken in violation of the Act, this part, or any other regulation promulgated under the Act;

(l) Fail to affix and maintain permanent or nonpermanent markings as required by § 651.6;

(m) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this part, or any other regulation promulgated under the Act;

(n) Forcibly assault, resist, oppose, impede, intimidate or interfere with any authorized officer in the conduct of any inspection or search described in paragraph (m) of this section;

(o) Resist a lawful arrest for any act prohibited by this part;

(p) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(q) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this Act;

(r) Fail to comply with enforcement and boarding procedures specified in § 651.8;

(s) Violate any other provision of this part, the Act, or any other regulation promulgated pursuant thereto.

§ 651.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc.," which is the call to an unknown station, to which the signaled vessel must respond by il-

luminating the vessel identification required by § 651.6(a).

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way so as to permit the authorized officer and his/her party to come aboard;

(2) Provide a ladder for the authorized officer and his/her party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as are necessary to insure the safety of the authorized officer and his/her party and to facilitate the boarding.

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable Federal law.

Subpart B—Management Measures

§ 651.20 General limitations.

(a) *Fishing year.* The fishing year for groundfish begins on October 1 and ends on September 30.

(b) *Headboat and charter boat quotas.* Quotas limiting the amount of groundfish which may be taken during the fishing year by headboats and charter boats are: For cod in the Gulf of Maine, 2,500 metric tons; for haddock in all areas, 2,000 metric tons.

(c) *Other quotas.* Quarterly and annual quotas limiting the amount of groundfish which may be taken by commercial and recreational vessels subject to this part are set forth in appendix A to this part. The quotas for cod and haddock apply only to commercial fishing vessels. The quotas for yellowtail flounder apply to commercial and recreational fishing vessels.

(d) *Adjustment of quarterly quotas.* The Assistant Administrator may adjust the quarterly quotas set forth in appendix A in the following circumstances:

(1) If a quarterly quota is not reached, to add the surplus onto quotas in subsequent quarters;

(2) If a quarterly quota is exceeded, to deduct the overage from quotas in subsequent quarters.

§ 651.21 Closed areas.

(a) *General.* Except as allowed by paragraph (b) of this section during the months of March, April and May, no person may fish for, catch, take or harvest any groundfish within the following areas:

(1) An area known as closed area I bounded by straight lines connected

by the following coordinates in the order stated:

69°55' W., 42°10' N.; 69°10' W., 41°10' N.;
68°30' W., 41°35' N.; 68°45' W., 41°50' N.;
69°00' W., 41°50' N.;

(2) An area known as closed area II bounded by straight lines connected by the following coordinates in the order stated:

67°00' W., 42°20' N.; 67°00' W., 41°15' N.;
65°40' W., 41°15' N.; 65°40' W., 42°00' N.;
66°00' W., 42°40' N.;

(b) *Exceptions.* Paragraph (a) of this section shall not apply to:

(1) Vessels that fish in closed area I with hooks having a gape of not less than 1.18 inches;

(2) Vessels that fish in either closed area I or II or both using only the following fishing gear:

(i) Pot gear designed and used to take lobster; or

(ii) Dredges designed and used to take scallops.

(c) *Prohibition.* It shall be unlawful for any person fishing in closed areas I or II to attach any protective device to midwater fishing gear or to employ any modification to any gear that would, in effect, make it possible to fish for groundfish.

§ 651.22 Vessel class and gear limitations

(a) *Vessel classes.* The following vessel classes are established:

- (1) Mobile gear
 - (i) 0-60 gross registered tons.
 - (ii) 61-125 gross registered tons.
 - (iii) Over 125 gross registered tons.
- (2) Fixed gear.
- (3) Charter boats and headboats.
- (4) Recreational. All other vessels,

including but not limited to those using hand-held hook and line and jig lines, shall be treated as recreational vessels.

(b) *Trawl nets.* Except as provided in paragraph (e) of this section, the minimum mesh size for any trawl net used by a vessel subject to this part is 5½ inches in the cod end, and 4½ inches in the body of the net.

(c) *Gill nets.* Except as provided in paragraph (e) of this section, the minimum mesh size for any gill net used by a vessel subject to this part is 5½ inches.

(d) *Mesh measurements.* Mesh sizes are measured when wet after use by a wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 2.3 millimeters, inserted into the meshes under pressure or pull of 5 kilograms. The mesh size of the body of the net shall be the average of the measurements of any series of 20 consecutive meshes. The cod end shall be measured in the same manner at least 10 meshes from the lacing, beginning at the after end and running parallel to the long axis.

(e) *Exceptions.* The mesh size limitations contained in paragraphs (b) and (c) of this section do not apply to a vessel which can demonstrate that its catch of groundfish for the entire trip:

(1) Is less than each of the following amounts:

(i) The larger of 1,000 pounds or 10 percent of the total fish landed, by weight, for any groundfish species;

(ii) The amount allowed under any applicable catch limitation established under § 651.23;

(iii) During a closure, the amount allowed under incidental catch provisions contained in § 651.24(d); and

(2) Includes at least 2,000 pounds of fish other than groundfish caught on the same trip (this subparagraph (2) does not apply to vessels in the northern shrimp fishery).

§ 651.23 Catch limitations

(a) *General.* Appendix B to this part sets forth the catch limitations which govern fishing for groundfish.

(b) *Overruns.* A mobile-gear vessel may overrun its applicable trip limitation for cod and haddock, as set forth in appendix B to this part. The amount of any overrun will be deducted from the vessel's limitation for the following week. No overruns are allowed for fixed-gear vessels or for yellowtail flounder.

(c) *Fishing weeks.* For purposes of this section, a vessel which is at sea during more than 1 fishing week may count its fish against any fishing week during which fishing was conducted on that trip. However, a vessel whose logbook fails to indicate when fishing was conducted shall have its fish counted against the fishing week in which they were landed.

(d) *Cod and haddock.* The catch limitations in appendix B govern the amount of cod and haddock which may be caught, taken, harvested or landed during a fishing week.

(e) *Yellowtail flounder.* The catch limitations in appendix B govern the amount of yellowtail flounder which may be caught, taken, harvested or landed during a trip or during a fishing week, whichever time period is longer.

(f) *Adjustments.* (1) The Assistant Administrator shall, upon a finding that any vessel class in any area is likely to exceed its quarterly quota for any species, adjust the limitations and overrun allowances set forth in appendix B to this part for any or all such species and vessel classes, if he finds such adjustment necessary to achieve any of the following purposes:

(i) To spread fishing effort over the entire quarter;

(ii) To reduce the need for quarterly or annual closures;

(iii) To allow each of the vessel classes to harvest its historic percentage of the catch.

(2) In making the findings and adjustments referred to in subparagraph (1) of this paragraph, the Assistant Administrator shall consider:

- (i) Landings for the current or previous quarters;
- (ii) Projected harvests;
- (iii) Geographic and seasonal availability of fish;
- (iv) Traditional and anticipated fishing patterns;
- (v) Number of vessels of each class in the fishery;
- (vi) Capability of vessels to fish in other locations or for other species;
- (vii) Status of unregulated species in the trawl fishery; and
- (viii) Incidental catch of cod, haddock, and yellowtail flounder during fishing for unregulated species.

§ 651.24 Closures.

(a) *Projected catch.* The Regional Director shall monitor catches and landings of groundfish, and other data,

and shall, on or about the 1st and 16th day of each month, project a date when the allocation of any species of groundfish, by vessel class, less an anticipated amount of such species to be taken incidentally pursuant to paragraph (d) of this section, below, shall have been taken for each relevant area and quarterly or annual period.

(b) *Recommendation of closure.* As soon as possible after projecting a closure date pursuant to paragraph (a) of this section, if such closure date is within 30 days of the projection, the Regional Director shall recommend to the Assistant Administrator that the groundfish fishery be closed on that date for the relevant species, vessel class, area, and quarter or fishing year. The Regional Director may, based upon subsequent information, rescind or revise such recommendation at any time before the Assistant Administrator has taken action pursuant to paragraph (c) of this section.

(c) *Notice of closure.* The Assistant Administrator shall, by publication in the FEDERAL REGISTER, close the fishery for groundfish for the relevant

species, vessel class, and area, on the date recommended under paragraph (b) of this section or on such other date as the Assistant Administrator determines will prevent the quarterly or annual quota from being exceeded.

(d) *Incidental catch.* During any closure, any vessel in the following vessel classes to which the closure applies may catch, take, harvest or land no more than the following amounts of the species to which the closure applies:

(1) Cod and haddock:

- 0 to 60 GRT—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
- 61 to 125 GRT—1,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
- Over 125 GRT—2,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
- Fixed gear—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

(2) Yellowtail flounder:

- All vessels—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

APPENDIX A - QUARTERLY QUOTAS

	Oct. - Dec. 78	Jan. - Mar. 79	April - June 79	July - Sept. 79	Annual
COD - Gulf of Maine					
(Commercial)					
Mobile gear					
1-60 GRT	581	699	798	479	2557
61-125 GRT	342	277	262	266	1147
Over 125 GRT	180	171	55	55	461
Fixed gear	317	253	645	620	1835
Total	1420	1400	1760	1420	6000
COD - Georges Bank and South					
(Commercial)					
Mobile gear					
1-60 GRT	501	593	648	364	2106
61-125 GRT	1777	1567	2232	1361	6937
Over 125 GRT	2958	2129	2426	2365	9878
Fixed gear	404	311	824	1540	3079
Total	5640	4600	6130	5630	22000
HADDOCK - Gulf of Maine					
(Commercial)					
Mobile gear					
1-60 GRT	183	146	460	200	989
61-125 GRT	261	209	183	160	813
Over 125 GRT	178	202	83	86	549
Fixed gear	106	210	265	198	779
Total	728	767	991	644	3130
HADDOCK - Georges Bank and South					
(Commercial)					
Mobile gear					
1-60 GRT	86	40	150	157	433
61-125 GRT	650	662	1782	1023	4117
Over 125 GRT	1133	1393	2449	1720	6695
Fixed gear	33	72	82	338	525
Total	1902	2167	4463	3238	11770
YELLOWTAIL FLOUNDER -					
East of 69° W.					
(Commercial and Recreational)					
All classes	810	1500	640	1450	4400
YELLOWTAIL FLOUNDER -					
West of 69° West					
(Commercial and Recreational)					
All classes	960	1150	830	760	3700

RULES AND REGULATIONS

APPENDIX B - CATCH LIMITATIONS

COD (pounds/week)

Vessel Class	Gulf of Maine		Georges Bank and South	
	<u>limits</u>	<u>overruns</u>	<u>limits</u>	<u>overruns</u>
0-60 GRT	2,500	1,500	4,900	3,500
61-125 GRT	5,000	1,500	9,800	3,500
Over 125 GRT	7,000	1,500	14,000	3,500
Fixed gear	5,000	-0-	13,000	-0-

HADDOCK (pounds/week)

Vessel Class	Gulf of Maine		Georges Bank and South	
	<u>limits</u>	<u>overruns</u>	<u>limits</u>	<u>overruns</u>
0-60 GRT	3,500	2,500	3,500	2,500
61-125 GRT	7,000	2,500	7,000	2,500
Over 125 GRT	10,000	2,500	10,000	2,500
Fixed gear	8,000	-0-	8,000	-0-

YELLOWTAIL FLOUNDER*

Vessel Class	West of 69° West	East of 69° West
0-60 GRT		5,000
61-125 GRT		5,000
Over 125 GRT		5,000

*Pounds per week or trip, whichever time period is longer. A vessel may land no more than 5,000 pounds, even if it fished on both sides of the 69° W. line. No overruns are allowed.

[FR Doc. 27908 Filed 10-3-78; 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 Parts 1064 and 1065]

[Docket Nos. AO 23-A51 and AO-86-A38]

MILK IN THE GREATER KANSAS CITY AND NEBRASKA-WESTERN IOWA MARKETING AREAS

Hearing on Proposed Amendments to
Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider a cooperative association's proposal to amend the Greater Kansas City and Nebraska-Western Iowa milk marketing orders. The proposal would increase the funding rate for the advertising and promotion programs of each order and would tie the rate to the level of producers' pay prices. The rate under each order is now at a fixed level. The cooperative association contends that the requested change for each order is needed to keep the funding rate current with the inflationary trend in the economy.

DATE: October 23, 1978.

ADDRESS: Airport Ramada Inn, 2002 Locust East, Omaha, Nebr. 68110.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Airport Ramada Inn, 2002 Locust East, Omaha, Nebr., beginning at 1:30 p.m. on October 23, 1978, with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Greater Kansas City and Nebraska-Western Iowa marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of

marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 1

Amend the Greater Kansas City and Nebraska-Western Iowa orders by changing the funding rate for the advertising and promotion programs of each order from a 5 cent per hundred-weight assessment to a rate determined yearly by multiplying the average of each order's uniform price for the last quarter of the year by 0.75 percent and rounded to the nearest full cent. The resulting figure would be the funding rate beginning the following April and would continue for a 12 month period until the procedure was repeated. This proposal would require conforming changes in several sections of each order.

PROPOSED BY THE DAIRY DIVISION
AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 2

Make such changes as may be necessary to make the entire marketing agreements and orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and orders may be procured from the Market Administrator, U. Grant Grayson, P.O. Box 4606, Overland Park, Kans. 66204; or from the Hearing Clerk, Room 1077-South Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Greater Kansas City and Nebraska-Western Iowa marketing areas.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on: September 29, 1978.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-28045 Filed 10-3-78; 8:45 am]

[3410-02]

[7 CFR Part 1065]

[Docket No. AO-86-A39]

MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

Hearing on Proposed Amendments to
Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider industry proposals to amend certain provisions of the Nebraska-Western Iowa milk marketing order. The major proposals would modify the shipping requirements for pool supply plants, change the Class I price structure within the marketing area, modify location adjustment provisions and revise the diversion limitations on producer milk. Proponents contend that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

DATE: October 24, 1978.

ADDRESS: Airport Ramada Inn, 2002 Locust East, Omaha, Nebr. 68110.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public

hearing to be held at the Airport Ramada Inn, 2002 Locust East, Omaha, Nebr., beginning at 9:30 a.m., local time, October 24, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Nebraska-Western Iowa marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Proposals 13 and 15 redefine the territory included in the present pricing zones of the marketing area. Such proposals do not open for consideration at the hearing any changes in the presently defined marketing area.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 1

Amend the pool plant provisions of § 1065.7(b) to provide that a supply plant must ship 50 percent of its receipts of grade A milk from dairy farmers (including receipts of producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c) to a pool distributing plant(s) during each of the months of September through December and 30 percent of such receipts during each of the months of January through August. The percentages specified in this paragraph may be increased or decreased up to 20 percentage points by the market administrator if he finds such revision is necessary to obtain heeded milk shipments or to prevent uneconomical shipments. Before making such a finding the market administrator shall investigate the need for revision either on his own initiative or at the request of interested persons and, if his investigation shows that a revision might be appropriate, he shall issue a notice stating that revision is being considered and inviting data, views and arguments with respect to the proposed revision.

PROPOSED BY WELLS DAIRY, INC.

PROPOSAL NO. 2

Amend § 1065.7(b), *Pool plant*, to provide for a 60 percent minimum

shipping requirement for the pooling of a supply plant each month of the year, except that if the plant is a pool supply plant in each of the months of August through December, the shipping requirement for the succeeding months of January through July shall be a minimum of 40 percent.

PROPOSED BY ROBERTS DAIRY CO.

PROPOSAL NO. 3

Amend § 1065.7(b), *Pool plant*, to change the minimum 40 percent shipping requirement now required for the pooling of a supply plant to a minimum of 50 percent, to be applicable for each month of the year.

PROPOSED BY FAIRMONT FOODS CO.

PROPOSAL NO. 4

Amend § 1065.7(b), *Pool plant*, as follows:

Eliminate the present minimum pooling requirements for supply plants and provide that the market administrator announce on the 5th day of the month the shipping requirement for the following month, such shipping requirement to be about 90 percent of the projected Class I utilization.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 5

Amend § 1065.7(b), *Pool plant*, to provide that a cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1065.9(c).

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 6

Amend § 1065.7 by deleting the present provisions of paragraph (b) and substituting the following:

§ 1065.7 Pool plant.

* * *

(b) A supply plant:

(1) From which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section (excluding fluid milk products transferred from any such distributing plant to the supply plant or to any other plant operated by the operator of the supply plant) is not less than 40 percent of the Grade A milk received at such plant from dairy farmers (including receipts of producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c) (except receipts of milk diverted pursuant to § 1065.13) during such month. A supply plant that qualifies as a pool

plant in each of the immediately preceding months of September through December shall be a pool plant for the months of January through August unless the plant operator requests of the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

(i) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers.

(ii) A proprietary handler may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1065.13(d).

(2) Or, located within 100 miles of the nearest edge of the marketing area, by

(i) Giving notification to each Order 65 pool distributing plant, with copy to the market administrator, on or before the 20th day of the month, of the supply plant's schedule of its estimate of the pounds of milk, by days, for the ensuing month that such plant shall have available for delivery to Order 65 pool distributing plants;

(ii) Delivering to such distributing plants according to a schedule, providing for 24 hours advance notice, directed by the market administrator (except in case of deliveries not made by reason of Act-of-God, catastrophe, strike, labor dispute or similar unusual event), such deliveries for any day not to exceed 90 percent of the producer milk received by the supply plant on that day and the total of such deliveries for the month not to exceed the quantity obtained by applying the percentage of the Class I utilization of the Order 65 producer milk for the same month of the previous year to the receipts of producer milk at such supply plant during the current month.

PROPOSAL NO. 7

Amend § 1065.13 by deleting the present provisions and substituting the following:

§ 1065.13 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat contained in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler described in § 1065.9(c).

(b) Received by a handler described in § 1065.9(c) from producers in excess of the quantity delivered to pool plants; or

(c) Received from producers by a handler described in § 1065.9(b), subject to the conditions stated in paragraph (d) of this section.

(d) Diverted from the pool plant of a proprietary handler for the account of the handler operating such plant to another pool plant; or diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such plant or for the account of a handler described in § 1065.9(b), subject to the following conditions:

(1) A cooperative association handler described in § 1065.9(b) may divert to nonpool plants for its account the milk of any member producer if at least 2 days' production of such producer milk is received at a pool plant(s) during the month. The total quantity of milk so diverted to nonpool plants by the cooperative association handler shall not exceed, in each of the months of January, February, March, September, October and November, 30 percent, and in any other month 40 percent of the larger of:

(i) The total quantity of milk of member producers received at all pool plants during the current month; or

(ii) The average daily quantity of milk of member producers received at all pool plants during the immediately preceding month, multiplied by the number of days in the current month;

(2) A handler, other than a cooperative association, in his capacity as the operator of a pool plant, may divert to nonpool plants for his account the milk of any producer other than a member of a cooperative association, if at least 2 days' production of such producer milk is received at a pool plant(s) during the month. The total quantity of milk so diverted to nonpool plants by the handler shall not exceed, in each of the months of January, February, March, September, October, and November, 30 percent, and in any other month 40 percent, of the larger of:

(i) The total quantity of milk of producers received at his pool plant(s) during the current month exclusive of milk received from producers who are members of a cooperative association; or

(ii) The average daily quantity of milk of producers received at his pool plant(s) and diverted from such plant(s) during the immediately preceding month, exclusive of milk received from producers who are members of a cooperative association, multiplied by the number of days in the current month;

(3) In the event the quantity of milk diverted is in excess of the applicable quantity specified in paragraph (d)(1) and (2) of this section, the diverting handler may designate the dairy farmers whose milk will not be producer milk, otherwise the milk last diverted in lots of an entire day's production shall be excluded first in determining

which milk shall not be producer milk; and

(4) For the purpose of location adjustment pursuant to §§ 1065.52 and 1065.75, milk so diverted shall be priced at the location of the plant to which diverted.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 8

Amend § 1065.13(c)(1) and (2) may be increased or decreased up to 20 percentage points by the market administrator if he finds such revision is necessary to obtain needed milk shipments or to prevent uneconomical shipments. Before making such a finding the market administrator shall investigate the need for revision either on his own initiative or at the request of interested persons, and if his investigation shows that a revision might be appropriate, he shall issue a notice stating that revision is being considered and inviting data, views and arguments with respect to the proposed revision.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 9

Amend § 1065.13 by revising paragraph (c)(1) to read as follows:

§ 1065.13 Producer milk.

* * *

(c) * * *

(1) A cooperative association handler described in § 1065.9(b) may divert for its account the milk of any member producer if at least 1 day's production of such milk producer milk is received at a pool plant(s) during the month. The total quantity of milk so diverted by the cooperative handler shall not exceed, in each of the months of September through December, 40 percent, and in the months of January through August, 50 percent, of the total quantity of milk of producer members received at or diverted from all pool plants during the current month.

* * *

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 10

Revise § 1065.41(b)(2) by replacing the words "except that" with the words "and milk diverted to such plant from another pool plant, except that in either case".

PROPOSAL NO. 11

Amend § 1065.42 by revising paragraph (a) as follows:

§ 1065.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1065.9(c) to another handler's pool plant shall be classified as follows:

(1) Such transfers from a pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(i) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee plant or the diveree plant after the computations pursuant to § 1065.44(a)(12) and the corresponding step of § 1065.44(b);

(ii) If the transferor plant or diverter plant received during the month other source milk to be allocated pursuant to § 1065.44(a)(7) or the corresponding step of § 1065.44(b); the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(iii) If the transferor handler or diverter plant received during the month other source milk to be allocated pursuant to § 1065.44(a)(11) or (12) or the corresponding steps of § 1065.44(b) the skim milk or butterfat so transferred or diverted up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent that would be the case if the other source milk had been received at the transferee plant or diveree plant.

* * *
PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 12

Amend § 1065.45(d), *Market administrator's reports and announcements concerning classification*, to provide that the report to a cooperative that so requests the amount and class utilization of milk received by each handler shall also include shipments of supply plant milk.

PROPOSED BY ROBERTS DAIRY CO.

PROPOSAL NO. 13

a. Amend § 1065.2 (a) and (b), *Nebraska-Western Iowa marketing area*, to combine Zones 1 and 2 into a single zone for pricing purposes;

PROPOSED RULES

b. Amend § 1065.50(a) *Class 1 price*, to apply the \$1.60 price adjustment to the combined Zones 1 and 2 pricing area and change the Zone 3 pricing adjustment from \$1.75 to \$1.70.

PROPOSED BY WELLS DAIRY, INC.

PROPOSAL NO. 14

Amend § 1065.50(a) by changing the price adjustment applicable to Zone 2 from \$1.50 to \$1.40.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 15

In § 1065.2 (a) and (c) revise the defined areas of Zones 1 and 3 to include in Zone 1 the following Nebraska counties now included in Zone 3; Adams, Buffalo, Custer, Dawson, Franklin, Frontier, Furnas, Gosper, Greeley, Hall, Harlan, Howard, Kearney, Keith, Lincoln, Phelps, Red Willow, Sherman, Valley and Webster.

PROPOSED BY LAND O' LAKES, INC.

PROPOSAL NO. 16

Revise § 1065.52 (a), *Plant location adjustments for handlers*, by deleting the words "more than 100 miles".

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 17

Amend § 1065.73 by revising paragraph (b)(2) to read as follows:

§ 1065.73 Payments to producers and cooperative associations.

(b) ***

(2) Who had not discontinued shipping milk to such handler, a partial payment with respect to milk received from such producer during the first 15 days of the month an amount per hundredweight not to be less than the uniform price for the preceding month for milk of 3.5 percent butterfat, less proper deductions authorized by such producer.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 18

Amend §§ 1065.71, 1065.72, 1065.73, and 1065.85 to extend the due dates for handler payments as follows:

a. In § 1065.71(a), change "13th" to "15th";

b. In § 1065.72, change "14th" to "16th";

c. In § 1065.73(a), change "15th" to "17th"; and where it appears elsewhere in § 1065.73, change "14th" to the "16th"; and

d. In § 1065.85, change "14th" to "15th".

PROPOSAL NO. 19

Add the provisions of a new section to the order to read as follows:

§ 1065.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1065.71, 1065.76, 1065.77(a), 1065.85, and 1065.86, for which remittance has not been made (or, if mailed, postmarked) by the date specified for such payment, shall be increased three-fourths of 1 percent, and any remaining amount due shall be increased at a similar rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include unpaid charges previously made pursuant to this section; and for the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 20

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market administrator, U. Grant Grayson, P.O. Box 4606, Overland Park, Kansas 66204; or from the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Nebraska-Western Iowa marketing area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on: September 29, 1978.

JAMES E. SPRINGFIELD,
Acting deputy Administrator,
Marketing Program Operations.

(FR Doc. 78-28044 Filed 10-3-78; 8:45 am)

[3410-02]

[7 CFR Part 1207]

[Amdt. 8]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Amendment Regarding Designated Handler

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites comments on an amendment proposed by the Potato Board to clarify the responsibilities of seed potato handlers regarding assessments. Under the proposed amendment, the seed potato producer would be the handler required to pay assessments unless he can show that the first person who obtained potatoes from him disposed of them other than by planting.

DATE: Comments due by October 19, 1978.

ADDRESSES: Comments may be addressed 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 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: The Potato Board is the administrative agency established by the Potato Research and Promotion Plan (7 CFR Part 1207). The Plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The proposal is as follows:

In § 1207.512 revise paragraph (a)(8) by adding the following:

§ 1207.512 Designated handler

(8) ***

However, the seed producer will be the designated handler responsible for filing reports and making payments, unless he can show that the first person who obtained the potatoes from him disposed of them other than by planting. To show this the seed producer must submit to the Potato

Board the name and address of the first person who obtained the potatoes from him and an invoice of sale or settlement sheet on which it is indicated that such person will be the designated handler and therefore will be responsible for the payment of the assessments. Only by showing this is the seed producer no longer considered the designated handler and therefore not liable for the assessments.

Dated: September 29, 1978.

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

[PR Doc 78-28029 Filed 10-3-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 146]

FOREIGN-TRADE ZONES

Advance Notice of Proposed Rulemaking Relating to Processing Costs Incurred in Foreign Trade Zones

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Customs includes the cost of processing "nonprivileged" merchandise in a foreign trade zone, and profit realized, in the dutiable value of that merchandise when it enters the Customs territory of the United States. The present policy results in Customs assessing duty on the costs of American labor, overhead and facilities, and profit. This document requests the public to comment on the advisability of a change in appraisal practice so as to exclude the cost of processing and profit realized in a foreign trade zone when determining the dutiable value of articles produced entirely from nonprivileged merchandise (whether foreign or domestic), or from a combination of nonprivileged and privileged merchandise (whether foreign or domestic).

DATE: Comments must be received on or before December 4, 1978.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

R. Keith Thomas, Classification and Value Division, U.S. Customs Service,

1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-2938.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Foreign trade zones ("zone") are established under the Foreign Trade Zones Act (19 U.S.C. 81a-81u) and the general regulations and rules of procedure of the Foreign Trade Zones Board contained in 15 CFR Part 400. Part 146 of the Customs Regulations (19 CFR Part 146) governs the admission of merchandise into a zone; manipulation, manufacture, or exhibition of merchandise in a zone; exportation of merchandise from a zone; and transfer of merchandise from a zone into the Customs territory of the United States ("Customs territory").

Foreign or domestic merchandise may be admitted into a zone for, among other things, manipulation, manufacture, assembly, or other processing, or for storage or exhibition, provided these operations are not otherwise prohibited by law. Normal Customs entry procedures and payment of duty are not required for merchandise located in a zone unless and until the merchandise enters the Customs territory.

Upon approval of the required application filed with the District Director of Customs (19 CFR Part 146 Subpart C), foreign or domestic merchandise may attain "privileged" status. Privileged foreign merchandise is subject to appraisal and tariff classification according to its condition and quantity, and to the rates of duty and tax in force, on the date the application is filed with the district director, regardless of when the merchandise actually leaves the zone and enters the Customs territory. Privileged domestic merchandise may be returned to the Customs territory free of quota, duty or tax. A component of foreign privileged merchandise would be appraised and dutiable in its character and condition on the date the application is filed for privileged status. A component of domestic privileged merchandise would not be included in the dutiable value of the article.

Merchandise admitted to a zone which is not accorded "privileged" status or "zone-restricted" status (as set forth in § 146.25, Customs Regulations (19 CFR 146.25)) is "nonprivileged." Section 146.48(e) of the Customs Regulations (19 CFR 146.48(e)) sets forth the appraisal and tariff classification treatment of articles composed solely of nonprivileged merchandise (whether foreign or domestic) and articles composed both of privileged and nonprivileged merchandise (whether foreign or domestic). Under § 146.48(e), an article composed in whole or in part of nonprivileged

merchandise is subject to appraisal and tariff classification according to its character and condition at the time of its "constructive transfer" to the Customs territory. A "constructive transfer" means that the merchandise is considered to have been transferred to the Customs territory without physical removal from the zone, and takes place upon approval of the required application by the district director of Customs.

DISCUSSION

Section 146.48(e) of the Customs Regulations requires the dutiable value of nonprivileged merchandise to be determined under section 402 or 402a of the Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Labor and overhead costs incurred, and profit realized, in the zone are included in the dutiable value of articles composed entirely of, or derived entirely from, foreign or domestic nonprivileged merchandise, and articles composed in part of, or derived in part from, foreign or domestic nonprivileged merchandise and in part of or from foreign or domestic privileged merchandise.

Processing costs and profit attributable to nonprivileged merchandise or nonprivileged components are included in the dutiable value of the article when it subsequently enters the Customs territory. Since 1954 (Treasury Decision 53493(2)) when privileged and nonprivileged components (foreign or domestic) are combined in a zone to produce an article, the processing costs incurred have been distributed between the privileged and nonprivileged components according to their relative values.

For example, if nonprivileged merchandise valued at \$200 and privileged merchandise valued at \$100 are combined in a zone to manufacture an article, the total value of the components is \$300 and the relative value of the nonprivileged merchandise (\$200) would be twice the value of the privileged merchandise (\$100), or two third the value of all components (\$300). If processing costs and profit are \$150, the processing costs and profit allocable to be nonprivileged components would be two third of \$150, or \$100, and would be included in the dutiable value of the article. Therefore, the dutiable value of the article would equal the value of the nonprivileged component (\$200) plus the value of the processing cost allocable to the nonprivileged component (\$100), or a total of \$300. Neither the value of the privileged component (\$100) nor the value of the processing cost and profit allocable to the privileged component (\$50) is included in the dutiable value. Consequently, the effect of § 146.48(e) is to assess duty on the use of Ameri-

can labor and facilities, overhead expenses, and profits, thus increasing the cost of utilizing a zone.

COMMENTS

The Customs Service invites written comments (preferably in quadruplicate) from all interested parties on the advisability of changing its appraisal practice so as to exclude the cost of processing and profit when determining the dutiable value of articles produced entirely or in part from non-privileged components in foreign trade zones.

Commenters should address themselves to the economic consequences of such a change, as well as to legal and other relevant considerations. (For example, the following questions are relevant: Will a change in appraisal practice encourage foreign investment in the United States, encourage the use of U.S. labor, and encourage exporting from the United States? Will such a change adversely affect U.S. parts manufacturers? Will such a change disadvantage U.S. manufacturers of products which, when imported are dutiable at a lower rate than their constituent parts (e.g., automobiles)?

Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

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

AUTHORITY

This document is issued under authority of R.S. 251, as amended, (19 U.S.C. 66), and section 8, 48 Stat. 1000 (19 U.S.C. 81h).

R. E. CHASEN,
Commissioner of Customs.

Approved: September 27, 1978.

RICHARD J. DAVIS,
Assistant Secretary
of the Treasury.

(FR Doc. 78-27978 Filed 10-3-78; 8:45 am)

[4310-05]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and
Enforcement

[30 CFR Chapter VII]

(INT DES 78-42)

PERMANENT REGULATORY PROGRAM

Availability of the Draft Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement, (OSM), U.S. Department of the Interior.

ACTION: Notice of availability of draft programmatic Environmental Impact Statement (DES) analyzing the environmental consequences of the proposed permanent program regulations.

SUMMARY: The Office has prepared a DES in connection with its proposed rulemaking for permanent program regulations under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Copies of this DES are being made available today. Public hearings will be held to receive comments on this DES.

DATES: All comments on the DES must be received by 5 p.m. on November 17, 1978. Public hearings on the DES will occur between October 31, 1978 and November 2, 1978, in Washington, D.C., Denver, Colo., and Indianapolis, Ind.

ADDRESSES: Copies of the DES are available for inspection and copies may be obtained at the following OSM offices:

OSM Headquarters, Department of the Interior, Room 120, 1951 Constitution Ave. NW., Washington, D.C. 20240.

OSM Region I, First Floor—Thomas Hill Building, 950 Kanawha Boulevard, East Charleston, W. Va. 25301, 304-342-8125.

OSM Region II, 530 Gay Street SW., Suite 500, Knoxville, Tenn. 37902, 615-637-8060.

OSM Region III, Federal Building, U.S. Courthouse, 46 East Ohio Street, Indianapolis, Ind. 46205, 317-269-2609.

OSM Region IV, 601 East 12th Street, Room 1768, Kansas City, Mo., 64116, 816-374-5162.

OSM Region V, Room 270—Post Office Building, 1823 Stout Street, Denver, Colo. 80205, 303-837-5511.

Written comments on the DES must be mailed only to the following address: The Office of Surface Mining, U.S. Department of the Interior, P.O. Box 682, Benjamin Franklin Station, Washington, D.C. 20044. Comments may be hand-delivered only to OSM Headquarters, Room 120, at the address given above.

Public comments received on the draft Environmental Impact Statement will be on file and available for

inspection at the OSM Headquarters location given above.

FOR FURTHER INFORMATION CONTACT:

Frank Anderson, Chief, Branch of Environmental Analysis, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-5287.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act and section 702 of SMCRA, OSM has prepared a draft programmatic Environmental Impact Statement (DES).

OSM has considered the analysis in the DES in the development of the proposed rules published in the FEDERAL REGISTER on September 18, 1978.

The DES evaluates the adverse and beneficial environmental impacts of those regulations issued under section 501(b) of SMCRA. The three major components of the regulations issued under section 501(b) include:

(1) Regulations concerning environmental performance standards, and permit application and bonding requirements;

(2) Regulations covering the procedures for preparation and submission of State programs for the Secretary's approval and for the substantive review criteria used for approval; and

(3) Regulations governing the development and implementation of a Federal program for a State.

OSM encourages the public to comment on the content and organization of the DES. In particular, OSM solicits comments which point out errors, omissions, and alternatives not yet considered, as well as suggestions as to the titles and locations of recent technical literature or other sources which appear to have not been considered in preparation of the DES. Whenever possible, public comments should be supported by reference to statutes, regulations, legislative history, technical literature, or other source materials.

All comments from the public on the DES will be considered and responses to timely comments prepared for inclusion in the final Environmental Impact Statement expected to be available on or about December 15, 1978.

PUBLIC HEARINGS

Public hearings on the DES will occur between October 31, 1978, and November 2, 1978. The hearings will be located in Washington, D.C., Denver, Colo., and Indianapolis, Ind., at the following locations and on the dates noted:

WASHINGTON, D.C. HEARING

October 31, 1978, Main Auditorium, Department of Interior, 18th and C Streets NW., Washington, D.C.

INDIANAPOLIS, INDIANA HEARING

November 1, 1978, Indiana World War Memorial Auditorium, 431 North Meridian Street, Indianapolis, Ind.

DENVER, COLO. HEARING

November 2, 1978, Room 269, Post Office Building, 1823 Stout Street, Denver, Colo.

Those who desire to speak at any of the public hearings may be scheduled on the programs in advance by telephoning Frank Anderson in Washington, D.C., 202-343-5287. Individual testimony at these hearings will be limited to 15 minutes. The hearings will be transcribed. Filing of a written statement at the time of giving oral testimony will be helpful and will facilitate the job of the court reporter.

The public hearings will commence at 9 local time on the days identified above and will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of the scheduled speakers. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned on any given day unless they are present in the audience at the time all scheduled speakers have been heard.

WRITTEN COMMENTS

Written and oral comments should be as specific as possible. OSM will appreciate any and all comments on the draft programmatic statement, but those most helpful will be comments which include references to source material, including legislative history, technical data and research, and other material which provides a basis for any given recommendation.

An explanation of the rationale for each recommendation should also be given. The final Environmental Impact Statement will respond specifically to all reasonable and substantive comments.

The close of the public comment period on the draft Environmental Impact Statement will coincide with the close of the comment period on the proposed permanent program rulemaking. Therefore, the formal comment period on this draft Environmental Impact Statement will end on November 17, 1978. Comments must be received by 5 p.m. on that date, at the address specified above. Comments received after that time will not be responded to in the final Environmental Impact Statement. OSM cannot insure that comments on the draft Environmental Impact Statement received at or delivered to any other location than

specified above during the comment period will be responded to in the final Environmental Impact Statement. Dated: October 2, 1978.

HOPE M. BABCOCK,
Deputy Assistant Secretary,
Energy and Minerals.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary for
Policy, Budget and Administration.

[FR Doc. 78-28109 Filed 10-3-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Parts 206 and 233]

APPLICATION, DETERMINATION OF ELIGIBILITY
AND FURNISHING OF ASSISTANCE—PUBLIC
ASSISTANCE PROGRAMS

Prior Month Budgeting and Monthly Reporting

COVERAGE AND CONDITIONS OF ELIGIBILITY
IN FINANCIAL ASSISTANCE PROGRAMS

Income Averaging

AGENCY: Social Security Administration, HEW.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw notice of proposed rulemaking published in the FEDERAL REGISTER, August 19, 1975 (40 FR 36141), in which it was proposed to require States to utilize a prior month budgeting system and to average income received under contract in calculating AFDC benefits. The regulations also would have required individuals receiving AFDC to make monthly reports about their current income, resources and circumstances to the IV-A Agency.

The proposal is hereby withdrawn. The comments received from States administering the programs and the Department's further study of the proposed regulations revealed that there would be an increase in cost to States, undue hardship on the recipients, difficult administrative problems, and States would have no flexibility in their methods of administration.

FOR FURTHER INFORMATION
CONTACT:

Miss Carolyn Peiper, Social Security Administration, Office of Family Assistance, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0982.

EFFECTIVE DATE: This notice is effective October 4, 1978.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A notice of proposed rulemaking was published in the FEDERAL REGISTER on August 19, 1975 (40 FR 36141). One hundred comments were received from Governors and State agencies, city and county welfare agencies, legal aid groups, Congressmen, other agencies and organizations, and individuals.

Approximately one-third of the comments expressed some support for the proposal—the remainder were opposed. The proposed regulations would have required:

1. That the State plan specify a 30-day budget period and a corresponding payment month.

2. That eligibility and the amount of assistance be established on the basis of circumstances during a fixed budget period. However, this would not preclude a State from promptly terminating or adjusting the assistance payment when it has knowledge of changes in circumstances, other than income changes, subsequent to the budget period and prior to the payment month.

3. That for applicants, the budget period would be the 30-day period immediately prior to the date of application.

4. That the payment month would begin no later than 34 days after the end of the corresponding prior month budget period.

5. That an individual employed under a contract would have the income from such contract apportioned equally over the full period of the contract, even though the income from such contract is received in fewer months than are covered by the contract.

6. That recipients of AFDC must make timely and accurate monthly reports of their current income, resources, and circumstances on forms provided by the State agency.

The Department has reevaluated these provisions in part and has published today proposed regulations which immediately follow this document (FR Doc. 78-27795) and which would provide allowable budgeting methods which States may use to determine financial eligibility and the amount of an assistance payment.

Hence, the withdrawal of the August 19, 1975 notice is considered appropriate at this time.

RESPONDENTS REASONS FOR OPPOSING
THE PROPOSED REGULATIONS

The regulation would:

1. Violate section 402(a)(10) of the Social Security Act. This provision of the Act specifies that aid be furnished with reasonable promptness to all eligible individuals.

2. Conflict with the "available income" rule in 45 CFR 233.20.

3. Increase general assistance costs.
4. Have the effect of denying aid up to 30 days. Some States do not have an emergency assistance program; even in EA States, the program was not designated to fill the gap.
5. Cause administrative problems in having to figure the budget period for food stamps.
6. Restrict States' flexibility.
7. Result in harassment of recipients and would seem to be another administrative barrier created to prevent giving assistance to eligible individuals.

The proposed regulations are hereby withdrawn.

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

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid).)

Dated: June 2, 1978.

DON WORTMAN,
*Acting Commissioner
of Social Security.*

Approved: September 26, 1978.

HALE CHAMPION,
*Acting Secretary of Health,
Education and Welfare.*

[FR Doc. 78-27796 Filed 9-29-78; 8:45 am]

[4110-07]

Social Security Administration

[45 CFR Part 233]

AID TO FAMILIES WITH DEPENDENT CHILDREN

Need and Amount of Assistant; Methods for
Budgeting Income

AGENCY: Social Security Administration, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendments to the regulation provide that a State may opt for a prospective (estimated income) or retrospective (actual reported income) budgeting method to determine a recipient's financial eligibility for AFDC and the amount of the assistance payment. States choosing a retrospective method will be required to provide for: (1) supplemental payments in hardship situations if they are unable to disburse the monthly assistance payment with 25 days of the end of the budget month, and (2) monthly income reporting for recipients who have earned income. The method selected by each State will be identified in the State plan. The methods are discussed below.

The proposed amendments would affect recipients of AFDC and the adult assistance titles of the Social Security Act (I, X, XIV, and XVI (AABD)) administered in Guam, Puerto Rico, and the Virgin Islands.

DATE: Comment must be received by December 4, 1978.

ADDRESSES: Prior to final adoption of the proposed amendments to the regulation, consideration will be given to any data, views, or arguments which are submitted in writing 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 this notice 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:

Mrs. Constance Katz, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-0982.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The proposed amendments specify the budgeting methods which States are permitted to use in determining financial eligibility for and the amount of the assistance payments under titles I, IV-A, X, XIV, and XVI (AABD) of the Social Security Act. These proposed amendments implement sections 402(a)(5), 402(a)(7), and 402(a)(10) of the Social Security Act covering the title IV-A program (AFDC), and parallel provisions for the other titles. Section 402(a)(5) requires a State plan to "provide such methods of administration * * * as are found by the Secretary to be necessary for the proper and efficient operation of the plan." Section 402(a)(7) requires that a State plan must "provide that the State agency shall, in determining need, take into consideration any other income and resources" of any person claiming AFDC benefits. Section 402(a)(10) requires a State plan to provide that AFDC "shall * * * be furnished with reasonable promptness to all eligible individuals."

PROVISIONS OF THE PROPOSED AMENDMENTS

The proposed amendments require the States to select one of two budgeting methods and to identify that method in the State plan. The first method is a prospective (estimated income) budgeting method. Under this method, the AFDC assistance payment for a particular month is based on an estimate of income the assistance until will receive during that month. The prospective budgeting method has been the most widely used

method to measure income under title IV-A.

The second method is a retrospective (actual reported income) budgeting method. Under this method, States have two options. Under the first option the payment for the first 2 months will be based on the prospective budgeting method. Thereafter, the payment for a given month (the payment month) depends directly on the recipient's report of the actual income received in a previous month (the budget month). (For example, a State could examine income in May based upon a report of the recipient in early June, and use that income as the basis for the assistance payment that must be dispensed within 45 days of the end of May.) For purposes of this option, States must disburse the assistance payment within 45 days of the end of the budget month to recipients who have filed on time a completed monthly income report and to those who are not required to file such a report. States selecting this option must also provide supplemental payments within 3 working days upon the request of a recipient, when a significant reduction of income in a payment month results in hardship to the assistance unit.

The second option under retrospective budgeting requires that the payment for the first month is based on a prospective budgeting method. Thereafter, a recipient's assistance payment will be computed under a retrospective budgeting method, based on the recipient's report of actual income received in the budget month. Supplemental payments are not mandatory under this option. To select this option, the State must be able to disburse the assistance payment within 25 days of the end of the budget month to recipients who have filed on time a completed monthly income report and to those who are not required to file such a report.

Under both options of retrospective budgeting, States may limit the monthly reporting requirements to recipients with earned income.

As noted above, the proposed amendments specify the budgeting methods a State may use to measure income and compute the amount of AFDC assistance payments. This clarification is needed because the statute does not speak to the frequency with which income should be measured and reported or the proper correlation between an income measurement period and the date of the corresponding assistance payment. Similarly, regulations to date contain no periodic income reporting rules and no requirement that the amount of AFDC benefits be calculated by reference to income received during a particular interval.

The lack of clarification has resulted in substantial variation among the income reporting and budgeting methods adopted by the States. (See Congressional Research Service, U.S. Library of Congress, Administration of the AFDC program—A Report to the House Committee on Government Operations (1977).) The divergent approaches manifest the considerable independence retained by the States in their administration of the AFDC program. While the budgeting systems adopted by the States have generally been accepted by the Secretary, the absence of specific Federal guidelines has led to uncertainty as to the parameters of Federal law. The proposed amendments are designed to clear up this uncertainty.

The Department published an earlier notice of proposed rulemaking on August 19, 1975 (40 FR 36141), which would have required States to adopt a retrospective, "prior month budgeting system." This NPRM supersedes that notice. The withdrawal notice is published elsewhere in this issue of the *FEDERAL REGISTER*. The amendments proposed here have been drafted with the benefit of extensive comments on the earlier NPRM received from Governors, State agencies, city and county welfare agencies, legal aid groups, Congressmen, and other organizations and individuals. Provisions that respond to many of the concerns raised by those comments have been incorporated in these proposed amendments. In addition, recent research and demonstration projects conducted by the Department and further State experience with different budgeting methods have provided new evidence on the feasibility of the proposed retrospective budgeting method.

METHODS FOR BUDGETING INCOME

The following paragraphs provide details regarding the proposed amendments, indicate how these amendments respond to some of the concerns raised by the comments with respect to the 1975 notice of proposed rulemaking, and discuss the evidence considered in developing this proposed regulation.

I. PROSPECTIVE BUDGETING

Under this method, financial eligibility for and the amount of the AFDC assistance payment for a month is based on the best estimate of the income to be received by the applicant and recipient during that month. This method codifies into Federal regulations the most widely used method by which States have measured income under the AFDC program. Ideally, a prospective budgeting system would allow adjustments in AFDC assistance to be made immediately after a change in income has occurred or as soon as a

change is anticipated. As a practical matter, however, most States are not able to respond immediately to an AFDC recipient's change in income. Income changes may not be discovered for several months, and even if a change is reported promptly, States with prospective budgeting systems normally do not adjust assistance payments until the following month, or later. Thus States have historically been allowed a grace period of at least 60 days within to make adjustments in AFDC assistance payments after a change in income has come to the attention of the State. Moreover, a prospective budgeting system is necessarily imprecise because it is based on estimates of income rather than actual income. When a change in income occurs and an adjustment in the amount of the assistance payment is not made in a timely fashion, an underpayment or overpayment may result.

II. RETROSPECTIVE BUDGETING

The proposed retrospective budgeting method, which bases assistance payments on actual rather than estimate measures of income, has been recommended as a means by which program error rates can be reduced and changes in recipient's income can be more rapidly and more accurately addressed. Under this method, financial eligibility for and the amount of the assistance payment is based on actual income and resources of the AFDC assistance unit. The assistance unit is required to report on a monthly basis the income it has received in a "budget month." The amount of income and resources reported is then used to compute the amount of the assistance payment in the corresponding payment month. The payment thus computed is considered to be the correct payment for the payment month. States at their discretion may limit the monthly reporting requirement to AFDC assistance units with earned income.

As noted above, States may select one of two options under retrospective budgeting. Under the first retrospective budgeting option, income will be measured using the prospective budgeting method for the initial 2 months of eligibility. This is a departure from the 1975 NPRM, which mandated use of the 30-day period to application as the budget month. Many of the comments on the NPRM viewed the 30-day period as imposing a waiting period for assistance in violation of section 402(a)(10) of the Social Security Act, 42 U.S.C. 602(a)(10), as well as increasing the use of State funded general assistance programs. In response to these concerns, this retrospective budgeting method adopts the suggestions of several commentators

that income be measured prospectively for at least the first month of eligibility. For months subsequent to the initial 2 months, assistance payments are computed under a retrospective budgeting method in which States are required to disburse assistance payments within 45 days after the end of the budget month to recipients who file on time a completed monthly income report and to those who are required to file such a report.

This option also recognizes that the 45-day period between the budget month and the payment month may result in hardship to recipients who suffer a sudden and significant loss of income. To cushion this hardship, States adopting the first option under retrospective budgeting must provide, if requested by the beneficiary, supplemental payments in all instances where a significant reduction in income, which is not reflected in the corresponding budget month, results in a situation in which the recipient has insufficient funds to meet his or her needs at least for housing, utilities, or food under the State's standard of need. The supplemental payment is not considered to be part of the State standard of need as determined under section 233.20(a)(2) (i) and (v). The supplemental payment must equal at least the difference between 75 percent of the amount of a State's payments for a like family with no income and the total income and liquid resources available to the assistance unit during the payment month.

For the purpose of these supplemental payments, total income and liquid resources include the monthly assistance payment and any income or liquid resources received by or available to the unit. The State, at its option, may include any amounts disregarded in determining need and the amount of the assistance payment, unless that income or liquid resource is set aside for a specific purpose under section 233.20(a)(4)(ii).

The Department does not believe that it should require supplemental payments equal to the difference between the full amount of a State's payment for a like family with no income and the total income and liquid resources available to the assistance unit. Such an approach would be inconsistent with the concept of the supplemental payment as minimal assistance necessary for an assistance unit to maintain itself, if a drop in income occurs, until the budgeting method compensates for that drop. For similar reasons the Department believes that a State should be allowed to include sums disregarded in computing monthly entitlements when the State computes the amount of the supplemental payment; these sums are in fact available to the family in the

situation which gives rise to the supplemental payment. Yet, the Department feels obligated to establish some minimum supplemental payment so that assistance units which experience a loss of income that leads to hardship will have available some meaningful level of temporary aid. Setting the minimum at 75 percent of the payment standard, the Department feels, can yield a sufficient supplemental payment to tide a family over a hardship period caused by loss of income while, at the same time, reinforcing the concept that the supplemental payment should be used only where there is significant need. In addition, we believe the 75 percent minimum strikes a balance between the need to provide hardship aid in a retrospective system and significant fiscal pressures which exist both at the Federal level and in the States. The Department specifically solicits comment on the 75 percent minimum.

Under the second retrospective budgeting option, the assistance payment for the first month is computed using a prospective budgeting method. As in the first option, this responds to the comments on the 1975 NPRM regarding the determination of assistance in the month of application. Thereafter, assistance payments are computed under a retrospective system in which States are required to disburse assistance payments within 25 days of the end of the budget month to recipients who timely file a completed monthly income report and to those who need not file a report. By meeting this requirement, the potential hardship caused by a reduction of income will be mitigated. This requirement will insure that adjustments in the amount of the assistance payment will, in most cases, be effected at least as rapidly as similar adjustments under a prospective budgeting system and with greater accuracy.

Under the prospective budgeting method, if an adjustment to benefit levels is not made in the month that the change occurred, an underpayment or overpayment may result because the estimated income and resources do not match reality. Under a retrospective system, the assistance payment is correct in the payment month because it is based on actual income. Thus, States that disburse assistance payments within 25 days of the end of the budget month are not required to adopt a system of mandatory supplemental payments. However, States may elect to make supplemental payments under the proposed section 233.20(a)(2)(ix)(a)(2). Since such payments are at State option, the Department does not believe that it should require a minimum payment standard.

State experience with retrospective budgeting and monthly reporting systems. Retrospective budgeting systems are not new. Their feasibility is demonstrated by the fact that in recent years a number of States have adopted such systems. While these systems vary somewhat in the reporting requirements they place on recipients, and the speed with which the reports are processed and payment made, they have three principal features in common: (1) There is a mandatory reporting requirement for at least some portion of the caseload; (2) benefits for ongoing cases are based on actual income reported for a prior month; and (3) the system is supported by an automated data processing capability. The States' experience to date with monthly retrospective budgeting systems indicates: (a) Such systems are administratively feasible; (b) recipients can master the reporting requirements; (c) the systems are responsive to changes in recipients' circumstances; and (d) the systems can contribute to lower error rates by basing payments on actual rather than estimated income, by clarifying reporting requirements for recipients and by organizing the flow of information important to the administering agency.

The evidence on actual income budgeting systems derives from the experience of several States including California, Michigan, and Oregon; and from an HEW supported experimental pilot project in Denver and Boulder, Colo. In the latter project 10 percent of the Denver County AFDC caseload was randomly assigned to an automated monthly reporting system. A comparable number of AFDC cases were randomly assigned to control status with the existing Denver County AFDC system. This procedure permitted evaluators to develop statistically reliable measures of the impact on total grant payments, average grant sizes, turnovers, discontinuance, and other items of interest. At the same time, the entire AFDC caseload of Boulder County, Colo., was converted to a retrospective budgeting system with a monthly reporting requirement. This test enabled evaluators to assess the impact on administrative functioning, performance, and cost.

(a) *Administrative feasibility.* Several States have now amassed considerable experience in the administration of retrospective budgeting systems with monthly reporting requirements. California adopted the system in 1973, and has demonstrated that regular reporting is feasible in large urban areas, such as Los Angeles County, with dense and mobile caseloads. Michigan has successfully administered a retrospective budgeting system with a monthly reporting requirement statewide for recipients with earned

income and for all recipients in two counties. The State of Colorado has successfully administered a pilot monthly reporting project in two counties. Oregon has administered a retrospective budgeting system with a monthly reporting requirement for AFDC cases identified as regular earners.

Collectively, these State experiences demonstrate that monthly actual income reporting systems can be operated in a variety of settings, with regular income maintenance staff, and with varying degrees of data processing support. Administrators associated with these systems report an improved ability to track, process, and manage assistance cases. They are also of the opinion that these systems contribute to an improved ability to organize workload and staff, and identify areas where greater administrative effort is required.

(b) *The reporting requirement.* The breadth of State experience with mandatory reporting requirements in retrospective budgeting systems indicates that recipients can manage the requirements of periodic reporting. The Department is in the process of completing an indepth study of the nature of the reporting burden on recipients within the Colorado project. Preliminary results from this study indicate that on the basis of objective measures of burden (e.g., amount of time spent completing reports), the time and effort that recipients must devote to a monthly reporting requirement is comparable to the reporting burden imposed by prospective AFDC systems.

Moreover, administrative data from Denver County indicate that between 80 and 90 percent of all reports are filed within 5 days after close of the budget month. Approximately 50 percent of all reports are processed without further action by either recipients or caseworkers.

The Department recognizes that a periodic reporting requirement shifts somewhat the traditional allocation of responsibilities under the AFDC program by asking recipients to play a greater role in the regular provision of information to the administering agency. The Department believes, however, that such a shift can contribute to improved program administration without imposing an unwarranted burden on recipients. Moreover, permitting some State discretion in the imposition of reporting requirements will encourage the development of further refinements in reporting procedures that can reduce the burden on recipients.

(c) *Responsiveness.* Responsiveness is a measure of the extent to which the assistance payment is adjusted to reflect changes in recipient circum-

stance. Data drawn from the Colorado project indicate that retrospective budgeting with monthly reporting identifies 2½ times as many status and income changes that affect the assistance payment than the more commonly used prospective budgeting systems which only require a report upon a change in circumstances or at the time of a regularly scheduled redetermination. The assistance payments, therefore, change more rapidly as recipients' circumstances change.

The Colorado project also provides evidence that the retrospective budgeting system reduces total outlays for assistance payments by approximately 5 percent. This outcome results primarily from the rapid identification of terminating cases. There is no evidence that the system is terminating otherwise eligible cases. The department is concerned, of course, that this should not occur.

Data drawn from Boulder County also indicate that a monthly retrospective budgeting system with a monthly reporting requirement reduces the incidence of payment reconciliations, recoupments, and stopped checks. Such actions can be burdensome to administrators and recipients. Moreover, such adjustments are often unresponsive to recipient needs in that they take time to process and may become effective well after the change in income has occurred.

(d) *Error rates.* Quality control payment error rates in California declined from over 12 percent to less than 5 percent between 1973 and 1977 after the introduction of its retrospective budgeting system. About one-half of this reduction was attributable to lower client reporting error. Although California's administering agencies have instituted a number of management reforms that may have been responsible for the decline in agency errors, monthly reporting was the main initiative that affected the manner in which client information reaches the agency. Thus, a substantial portion of the reduction in client-related errors appears to be related to monthly reporting. The Department believes that States which adopt a retrospective budgeting method with its monthly reporting requirement will add further evidence on the impact of this method on error rates. The Department does not assume that a retrospective budgeting method is the only way to reduce eligibility and payment errors, merely that it is a promising approach to this desirable goal.

Based on the evidence to date, the Department believes that retrospective budgeting will contribute to the proper and efficient administration of title IV-A. Because assistance payments will be based on known circumstances rather than future estimates

of income, the accuracy and responsiveness of the system can be improved. At the same time, through the provision of supplementary payments, States will have the flexibility to assist recipients who suffer hardship due to a significant change in income.

The retrospective budgeting method with its monthly reporting requirement generates information on a regular basis which the administering agency must act upon, and thus requires a higher level of data processing capability than is needed in the prospective budgeting method. The Department is concerned that all States act to improve their data processing capability in a manner that is commensurate with their needs. A retrospective budgeting system places an obligation on States, however, to provide an adequate data processing support system as the agency must be able to respond to recipient generated changes within the next payment cycle. While the Department believes that all States should process recipient reported changes promptly and adjust future payments accordingly, States electing to use a retrospective budgeting method have a special duty to perform this task rapidly so that the information on which benefits are to be based is as current as possible.

Under the Colorado project, the administering agency is able to process income reports and pay most recipients (80 to 90 percent), 16 days after the close of the reporting period, although 23 days is allowed for this process. The Department recognizes that not all States currently have the capability to meet this standard. It is desirable, nevertheless, to propose a processing standard that will encourage States to respond rapidly to meet the needs of recipients who have fulfilled their obligation to report in a timely manner. Such a standard conforms with the traditional 60-day grace period within which States have been allowed to make adjustments to assistance payments after a change in income has been brought to their attention. A 25-day processing and payment standard will permit States to respond to new information and provide recipients whose income changes with adequate and timely assistance. A 25-day period is consistent with the data processing capability that is now available to administering agencies.

Despite the advantages that can result from retrospective budgeting, the Department does not believe that it is desirable to mandate such a system on all States at this time. A retrospective system may not make sense in all States. Many States do not possess the data processing capability to meet the timeliness requirements and information volume of a mandatory reporting system. Moreover, some

States are not convinced that the additional investment in data processing capability is cost efficient. Finally despite the growing body of experience with retrospective budgeting systems, a number of questions remain open concerning the frequency with which different recipients should report, the kind of information that should be elicited, and the range of policies that should be developed to deal with special cases and unusual circumstances. For these reasons, the Department believes that an optional approach to the adoption of retrospective budgeting system will: (1) Facilitate the proper degree of further refinement that is desirable, and (2) permit States to reach their own conclusions with respect to the feasibility and desirability of introducing this budgeting method. Such an approach is consistent with the grant-in-aid nature of the title IV-A program.

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid).)

Dated: June 28, 1978.

DON WORTMAN,
Acting Commissioner
of Social Security.

Approved: September 26, 1978.

HALE CHAMPION,
Acting Secretary of Health,
Education, and Welfare.

Part 233 of chapter II, title 45 of the Code of Federal Regulations is amended as follows:

In § 233.20, new paragraphs (a)(2)(ix), (a)(2)(x), and (b)(4) are added to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.* A State plan for OAA, AFDC, AB, APTD, or AABD must, as specified below: * * *

(2) *Standards of assistance.* * * *

(ix) Specify whether the amount of the assistance payment will be computed by determining income using prospective budgeting for all months or retrospective budgeting. States electing retrospective budgeting must provide that: (a)(1) Income will be determined under a prospective budgeting method for the first 2 months and under a retrospective budgeting method thereafter with provision for supplemental payments if requested by the recipient when a significant reduction in income results in hardship to the assistance unit. Under this option, the State agency must disburse the monthly assistance payment within 45 days of the end of the budget month to recipients who have filed on time a completed monthly income report and to those who are not required to file such a report. The plan must define the circumstances under which a sup-

plemental payment will be granted and include the method for computing the amount of that payment; or

(2) Income will be determined under a prospective budgeting method for the first month and under a retrospective budgeting method thereafter. Under this option States must disburse the monthly assistance payment within 25 days of the end of the budget month to recipients who have timely filed a completed income report and to those who are not required to file such a report. The State plan must provide whether supplemental payments shall be made.

(b) States electing retrospective budgeting must require recipients with earned income to report income on a monthly basis.

(x) For purposes of paragraph (a)(2)(ix):

(a) "Prospective budgeting" means that the monthly assistance payment is computed by estimating expected income for the payment month on the basis of the best information available. Such information may be obtained from knowledge of current or past circumstances which are reasonably expected to continue or from future circumstances which are reasonably expected to occur. For States using prospective budgeting for all months, payments would be based on this estimate until the 6-month redetermination (or a shorter period if a State requires more frequent redeterminations), or a report of change in income is received.

(b) "Retrospective budgeting" means that the amount of the monthly assistance payment is computed on the basis of actual income reported for a previous month.

(c) "Budget month" means a fiscal or calendar month established by the State agency. The income of the assistance unit during that period provides the basis for the amount of assistance for the corresponding payment month.

(d) "Payment month" means the fiscal or calendar month for which a particular assistance payment (or two successive payments, if the State pays on a semimonthly basis) is received by the assistance unit.

(e) "Supplemental payment" means a payment which is equal to the difference between at least 75 percent of the amount a State pays for a like family with no income and the total income and liquid resources available to the assistance unit during the payment month. For the purpose of these supplemental payments, total income and liquid resources include the monthly assistance payment and any income received by or available to the assistance unit. The State, at its option, may include any amounts disregarded in determining need and in determining the amount of the monthly assistance pay-

ment, unless that income or liquid resource is set aside for a specific purpose under § 233.20(a)(4)(ii). States that elect to make supplemental payments under option 233.20(a)(2)(ix)(a)(2) may compute that payment without regard to the 75-percent minimum but must specify the percentage in the plan. Supplemental payments meeting this definition are not considered to be part of the State standard of need as determined under § 233.20(a)(2) (i) and (v).

(f) "Hardship" exists if the recipient does not have income and liquid resources in an amount sufficient to meet his/her needs at a minimum for housing, utilities or food under the State's standard of need.

(b) Federal financial participation; general.***

(4) Federal financial participation is available in supplemental payments for purposes of retrospective budgeting when the amount of that payment, together with the monthly assistance payment and any income and liquid resources specified by the State under § 233.20(a)(2)(x)(e), do not exceed the amount a State pays for a like family with no income.

(Secs. 405, 406, 1102, of the Social Security Act, as amended; 49 Stat. 629, as amended, 47 Stat. 647; 42 U.S.C. 605, 606, and 1302; 91 Stat. 1354.)

[FR Doc. 78-27795 Filed 9-29-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR PARTS 42 and 43]

[ICC Docket No. 78-302; FCC 78-659]

TELEPHONE COMMON CARRIERS

Reporting of Detailed Traffic Statistics

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission institutes a rulemaking to amend its rules to require telephone companies which maintain records of detailed traffic data to submit magnetic tapes of such information. The proposed rules also require tariff rate information be submitted on magnetic tape. Detailed traffic information is now prepared and submitted on magnetic tape by certain carriers. The rulemaking proposes to finalize this submission format and extend it to the tariff rate submissions.

DATES: Comments to be filed on or before October 30, 1978, and responses no later than December 1, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Boyd L. Nelson, room 530, 202-623-7084.

Adopted: September 19, 1978.

Released: September 28, 1978.

By the Commission: Commissioner Quello absent.

In the matter of changes in parts 42 and 43 of the Commission's rules so as to provide for the reporting of detailed traffic statistics of telephone common carriers, CC Docket No. 78-302.

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

2. In connection with its regulatory responsibilities the Federal Communications Commission has been involved in traffic and demand studies for interstate message toll telephone service (MTS). To assist the Commission's efforts, A. T. & T., on behalf of the Bell System, has voluntarily submitted certain traffic data. These data presently arrive on magnetic computer tape. In the past, they have come in the form of punched cards, or computer print-out. The Commission will have continuing need for these data in the future, so it is essential that it receive them in standardized compatible format. It is the purpose of this rulemaking procedure to develop such a format, which will be responsive to the present and anticipated future needs of the Commission, yet be compatible with the data collection procedures used by the industry.

3. Since the early 1970's the American Telephone & Telegraph Co., as part of an industrywide project, has been developing a system for the automated exchange of toll billing information, and the collection of samples of toll calls which serve as the basis for various studies, many of which are of interest to this Commission. For example, the system in question, the centralized message data system (CMDS), provides the basic toll traffic statistics used in toll separations and division of revenue studies. Other data subfiles are produced by the CMDS for developing and applying the MTS and WATS demand models on which Bell has relied in rate cases before this Commission. Still other data files generated by CMDS are used to study the design and utilization of toll plant.

4. Since CMDS is an industrywide project, although implemented and managed by A.T. & T., it includes a very large fraction of non-Bell traffic. All traffic transiting Bell facilities,

and also traffic from non-Bell operating companies that have voluntarily chosen to have their data processed by A.T. & T. These data are of importance to the Commission in the study of demand for toll services and for developing accurate estimates of effects of proposed rate changes on carrier revenue requirements.

5. Accordingly, we propose to modify parts 42 and 43 of the rules to provide for the timely submission of these traffic data in the manner that will be most useful to the Commission as follows.

6. We propose that § 42.9 of the Commission's rules be modified by the insertion in item 103 of new sections (d) and (e), to read:

Item No.	Description of records	Period to be retained (years)
103.....	d. Computer format traffic and tariff reports to Commission. e. Computer format facilities reports to Commission.	20

7. We propose that a new § 43.32 be inserted to read:

§ 43.32 Traffic Reports of Telephone Common Carriers.

(a) Each telephone common carrier or company controlling or controlled by a common carrier that manages or operates on behalf of itself and other carriers a centralized message data system or which directs, supervises or causes to be performed the operation of such a system, wherein traffic data from telephone common carriers are collected, sorted, compiled, summarized or otherwise handled, shall file periodic reports of such data, in computer readable form, as specified by the Commission. Reports shall be due 60 days after the close of the reporting period specified by the Commission. Technical requirements, computer formats and codes will be specified by the Commission. Proposed formats are stated in appendix A below.

(b) Data to be reported include a sample of not more than 5 percent (1 in 20) of all international (including transiting), interstate and intrastate message telephone messages or messages made using wide area telecommunication service. The sample shall be drawn from all messages using the common switched network, and charged under any message toll or WATS tariff or which would have been so charged except that they are franked, official, or otherwise free of all charge. The instructions for taking the sample and the precise sample proportion, if less than 5 percent, will be specified by the Commission. Proposed instructions are stated in appendix A.

(c) If the precise sample proportion as specified by the Commission is less than 5 percent for any class of traffic, the Commission may at any time require the submission of a full 5 percent sample for the future, retroactive for any period in the preceding 60 months (60).

(d) The reporting company will maintain a copy of the traffic data report, in computer format, and will supply a copy on request to any of the telephone common carriers whose traffic it is reporting.

(e) The report as filed will be considered business sales statistics and customer lists, since large customers can be readily identified. As such, it will not be routinely available for public inspection under § 0.457 (c) and (d) of the Commission's rules. Publicly released summary data and results of studies based on the information contained in those reports will be so formatted as to prevent the identification of particular customers.

(f) Paper copies of the traffic data report (printed or typewritten) need not be maintained. Each monthly report in computer format shall contain all the information called for therein as prescribed by the Commission.

(g) Nothing in this section shall be construed as in any way modifying the requirements of any uniform system of accounts prescribed by the Commission, or of any other periodic or special reports.

(h) Reports filed under this section shall be preserved as provided in § 42.9, item 103d.

8. We propose that part 43 of the Commission's rules be modified by the addition of a new section, § 43.33.

§ 43.33 Special Rules, Computer Format Tariff Reports.

(a) All companies filing domestic or international traffic reports in computer format under § 43.32 shall file a semiannual report in computer readable form which will show all tariff rates which have been in effect in the previous 6 months for any of the reported traffic. The reports will be due on September 1 and March 1 for the immediately preceding periods of January 1 to June 30, and July 1 to December 31, respectively. The format of these reports will be as prescribed by the Commission. Proposed formats are stated in appendix B.

(b) The report called for will not be considered a tariff filing, but as a supplemental traffic report. Accordingly, none of the provisions of these rules relating to format, posting, or retention of tariffs will apply. The report will be preserved as provided in § 42.9, item 103(d).

9. We propose that Part 43 of the Commission's Rules be modified by

the addition of a new section, § 43.34, to read as follows:

§ 43.34 Reports of Facilities in Place.

(a) All companies filing domestic or international traffic reports in computer format under § 43.32 will file a periodic report of plant and facilities in place in computer readable form which will show all toll plant and facilities, whether transmission, switching, or other, which have been traversed by the traffic reported, and shall be in such detail as to permit the determination of the standard or most probable routing of each call.

(b) The report will be filed at such times, and in such formats as may be prescribed by the Commission, but will not in any case be filed more frequently than twice each year. Proposed formats are stated in appendix C.

(c) The report called for will not be considered an application under section 214 of the Communications Act.

(d) The report will be preserved as provided in § 42.9, item 103(e).

10. Comments are solicited regarding the proposed rules and regarding appropriate formats for submission of tariff rates and facilities data. Such formats will be contained in appendices B and C, respectively.

11. Authority for the rulemaking proposed herein is contained in sections 4(i), 219, and 220 of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That any interested person participating in the proceeding herein shall file comments and responses in accordance with the following schedule:

(a) Comments shall be filed on or before October 30, 1978;

(b) Responses to those comments may be filed on or before December 1, 1978; and

It is further ordered, In accordance with the provisions of § 1.419 of the Commission's rules and regulations, that all participants in the proceeding ordered herein shall file with the Commission an original and eleven (11) copies of all comments, responses, replies or other pleadings provided for herein. In addition to the material filed in response to this notice, the Commission may consider any other relevant material before it. Copies of responses filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

PROPOSED RULES

APPENDIX A.—Formats Proposed by the Commission for the Submission of Traffic Information

1. The samples of traffic submitted will be based on monthly systematic samples with a pseudo-random start. The samples will include 5 percent (0.005) of all international traffic (sampling every twentieth (1/20) call, after the first drawn), one-tenth (1/10) percent (0.001) of all domestic intrastate and two-tenths (1/50) percent (0.002) of all interstate toll calls (sampling every one-thousandth (1/1000) and five hundredth (1/200), after the first drawn, or alternatively, sampling every fiftieth (1/50) and every twenty-fifth (1/25) call respectively of previously drawn samples of every twentieth (1/20) call.

2. The calls will be reported in files as follows:

- a. International and overseas calls, with subfiles;
 - b. Interstate domestic calls with subfiles;
 - c. Intrastate domestic calls with subfiles.
3. The subfiles to be used are:
- a. Direct dialed sent paid traffic;
 - b. Operator handled sent paid traffic;
 - c. Operator handled received collect traffic;
 - d. Operator handled sent collect traffic.

(The calls reported herein need not be rearranged or sorting of the previous file, but may be a fresh sample.)

4. Where some or all calls in a class must be "generated" in the sampling process, or must have characteristics inputted to them which could not be derived from the source of the data, such calls will be clearly distinguished, as provided below.

5. Each selected sampling unit is to be observed so as to provide the information in the attached format sheet, encoded on magnetic tape, 9 track, 1600 characters per inch, phase encoded. EBCDIC letters and numerals, with minus signs punched in the leading position, and decimal points omitted, shall be encoded so as to be readily useable by computer programs written in the FORTRAN computer language. No special character other than the minus sign shall be used. Other special characters will be replaced with blanks. The tape shall be one-half (1/2) inch, 9 track, 2,400 ft., certified.

See USA standard X3.39-1973 for complete technical specifications. (Available from American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.) The blocking factor shall be twelve thousand (12,000) character per block.

APPENDIX A

ATTACHMENT I.—Overseas Layout

Position	Number of characters	Field Name
1.....	1	Settlement code.
2.....	1	Message type.
3.....	1	STA/PER IND.
4.....	1	Rate class.
5-8.....	4	Error indicators.
9.....	1	Weekday indicator.
10-11.....	2	Toll service class.

APPENDIX A—Continued

Position	Number of characters	Field Name
12-15.....	4	Minutes.
16.....	1	Tenths of Minutes.
17-19.....	3	USOC.
20-21.....	2	Connect hour.
22-27.....	6	Message charge.
28-30.....	3	To time zone.
31.....	1	To independent and reversal indicator.
32-34.....	3	To NPA*.
35-37.....	3	To NNX*.
38-40.....	3	From time zone.
41.....	1	From independent and reversal indicator.
42-44.....	3	From NPA*.
45-47.....	3	From NNX*.
48.....	1	Special change indicator.
49.....	1	Other indicator.
50.....	1	Aldi and reversal indicator.
51-53.....	3	UCB.
54.....	1	Holiday code.
55-57.....	3	Billing NPA.
58-60.....	3	Billing NNX.

APPENDIX A—Continued

Position	Number of characters	Field Name
61-65.....	5	To vertical coordinate.
66-70.....	5	To horizontal coordinate.
71-75.....	5	From vertical coordinate.
76-80.....	5	From horizontal coordinate.
81-86.....	6	Date format.
87.....	1	Method of message recording.
88-91.....	4	Mileage.
92-102.....	11	From CLLI.
103-113.....	11	To CLLI.
114-115.....	2	Billing State.
116-117.....	2	Billing company.
118-119.....	2	Billing area code.
120.....	1	Type sample: bit 0 = 1 (SP) 1 = 2 (SC) 2 = 4 (RC) Drop Pos bit 6 (Type 4 SP)

*If overseas, identifies country and city.

ATTACHMENT II.—Interstate and Intrastate Layout

Positions	Field name	Format	Contents
1.....	Type of customer.....	C	See exhibit A.
2-3.....	Customer breakdown.....	C	See exhibit B.
4-7.....	Billed miles.....	C	Airline miles of call.
8.....	Type of message.....	C	See exhibit A.
9.....	Type of billing.....	C	Do.
10.....	Day.....	C	Do.
11.....	Holiday.....	C	Do.
12-17.....	Date of message.....	C	YYMMDD.
18-21.....	Time.....	C	HHOO.
22-27.....	Originating number.....	C	NPA-NNX.*
28-33.....	Terminating number.....	C	NPA-NNX.*
34-43.....	Originating rate center.....	C	V & H. coordinates.
44-53.....	Terminating rate center.....	C	Do.
54-57.....	Minutes.....	C	XXX.X.
58-63.....	Revenue.....	C	XXX.XX.
64-67.....	Sample expansion factor.....	C	Number of messages represented by this sample record.
68.....	Originating time zone.....	C	See exhibit A.
69.....	Terminating time zone.....	C	Do.
70.....	Toll service class.....	C	Do.
71-74.....	Originating toll center.....	C	Toll center code.
75-78.....	Terminating toll center.....	C	Do.
79.....	WATS.....	C	0 = Not WATS.
80.....	WATS band purchased.....	C	1 = Full.
81.....	Special billing indicator.....	C	2 = Measured.
82-87.....	Billed number.....	C	0 = Not WATS.
88-97.....	Billed rate center.....	C	1-6 = WATS.
98-108.....	To CLLI.....	C	0 = Not being used.
109-119.....	From CLLI.....	C	1 = Optional calling.
120.....	Independent company and reversal indicator.....	C	2 = Official.

*If overseas, identifies country and city.

Exhibit A

Field name	Code	Meaning
Type of customer.....	0	Canadian-billed, no USOC.
	1	Business.
	2	Public (coin).
	3	Residence.
	4	Mobile.
	5	Official.
Type of Message	1	Person-non-TSPS.
	2	Person-TSPS.
	3	Station-DDD.
	4	Station-OPH-non-TSPS.
	5	Station-OPH-TSPS.
Type of billing	1	Sent paid.
	2	Collect.
	3	Third number.
	4	Credit card.
	5	Other.
Day	1	Monday.
	2	Tuesday.
	3	Wednesday.
	4	Thursday.
	5	Friday.
	6	Saturday.
	7	Sunday.
Holiday (see p. 2)	0	Not a holiday.
	1	Rate holiday.
	2	Legal holiday.
	3	Both rate and legal.
Time zone	0	Atlantic DT.
	1	Atlantic ST/EDT.
	2	EST/CDT.
	3	CST/MDT.
	4	MST/PDT.
	5	PST/Yukon DT.
	6	Yukon ST/Alaska-Hawaii DT.
	7	Alaska-Hawaii ST/Bering DT.
	8	Bering ST.
Independent company and reversal indicator.	0	To and from Bell.
	1	To independent from Bell.
	2	From independent to Bell.
	3	To and from independent.
	4	To independent from Bell. ¹
	5	Do. ¹
	6	From independent to Bell. ¹
	7	To and from independent. ¹

¹Generated by reversal.

ATTACHMENT II.—Exhibit B

Customer	Code	Meaning
Other than business or residence.	00	
Residence	01	One-party.
	02	Multiparty (all other).
		UCB

Field name	Code	Meaning
Business	01	(x)01-(x)14
	02	(x)15-(x)19
	03	(x)20-(x)24
	04	(x)25-(x)27
	05	(x)28-(x)33
	06	(x)34-(x)36
	07	(x)37-(x)45
	08	(x)46-(x)48
	09	(x)49-(x)52
	10	(x)53-(x)61
	11	(x)62-(x)63
	12	(x)64-(x)68
	13	(x)69-(x)70
	14	(x)71-(x)77
	15	(x)79-(x)82
	16	(x)83-(x)88
	17	(x)89-(x)90
	18	(x)91-(x)95
	19	(x)97
	20	710-714
	21	720-727
	22	730-739
	23	740-750
	24	755-757
	25	760-763
	26	770-777
	27	780-784
	28	790-795
	29	801-809
	30	820-826
	31	840-843
	32	850-859
	33	900-905
	34	911-917
	35	920-927
	36	930-939
	37	991-992

NOTE.—Where (x) appears, the first position can be 0-6; therefore, only the second and third positions are checked. Only the first 3 positions of the 5-digit UCB code are used.

Field name	Code	Meaning
Toll service class	1	LLDI.
	2	ALDI.
	3	INWATS.
	4	OUTWATS
	5	U.S.—Overseas.
	6	U.S.—Canada.
	7	U.S.—Mexico.
	8	Other—includes official.
	9	Mobile.

Rate holidays:
New Year's Day
Washington's Birthday
Independence Day
Labor Day
Thanksgiving Day
Christmas Day

Legal holidays:
New Year's Day
Lincoln's Birthday
Valentine's Day
Washington's Birthday
Good Friday
Easter Sunday
Mother's Day
Memorial Day
Father's Day
Independence Day
Labor Day
Rosh Hashana
Yom Kippur
Columbus Day
Election Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving
Christmas Eve
Christmas Day
New Year's Eve

APPENDIX B AND APPENDIX C

Suggestions are solicited as to the appropriate initial formats to be delineated in these appendices.

[FR Doc. 78-27839 Filed 10-3-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-309; FCC 78-682]

NETWORK REPRESENTATION OF TV STATIONS IN NATIONAL SPOT SALES; REQUEST OF SPANISH NATIONAL NETWORK (SIN)

Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FCC proposes to consider changes in the rule (§ 73.658(i)) barring TV stations from using as a national spot representative an organization owned by the network with which the station is affiliated. Changes may include limiting the prohibition to representative firms associated with the three national networks, and providing that it does not apply to stations having some but less than total, common ownership with the network. The proceeding is designed to consider whether the regulation should apply to representative firms connected with all network companies or just those connected with the three national networks, (ABC, CBS, and NBC).

DATES: Initial comments must be received on or before November 20, 1978, and reply comments on or before December 11, 1978.

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

FOR FURTHER INFORMATION CONTACT:

John H. Bass, Jr., Office of Network Study—(Broadcast Bureau), 202-632-6339.

MEMORANDUM OPINION AND ORDER AND NOTICE OF PROPOSED RULEMAKING

Adopted: September 22, 1978.

Released: September 29, 1978.

By the Commission: Commissioners Lee and Fogarty absent.

In the matter of amendment of § 73.658(i) of the Commission's rules, concerning network representation of

TV stations in national spot sales; request of Spanish International Network (SIN), for waiver of § 73.658(i), BC Docket No. 78-309.

1. This document, and the rulemaking proceeding begun herein, relate to the rule barring television stations from using as their national sales representative (in nonnetwork sales) an organization connected with or owned by the network with which they are affiliated—§ 73.658(i), a rule adopted in 1959.¹ The matter arises from a letter request by Spanish International Network (SIN) seeking waiver of the rule as to it and eight stations that it serves as "national rep" as well as supplier of programs by interconnection.

2. For reasons discussed below, we believe that the complete waiver for 5 years sought by SIN is by no means necessarily warranted, but that the public interest, overall, would be served by maintaining the status quo for a 1-year period; and that during that time, comments in a rulemaking proceeding should be invited, with respect to some questions raised by the SIN request. While these questions apply particularly to SIN and its situation, since that is where they arise, they have potentially wider significance, perhaps especially because the availability of communication satellites for program distribution appears likely to result in a larger number of interconnected networks, e.g., those distributing religious programming. If the information developed in this proceeding appears pertinent only with respect to SIN and its affiliated stations, action on an individual basis will be taken and the rulemaking proceeding terminated.

3. The three questions involved, discussed more fully below, are:

(a) Should the rule's prohibition, on use of representative firms owned by or with networks, extend only to firms associated with the three national networks (ABC, CBS, NBC), or to all firms which are associated with any entity falling within the definition of "network"?

(b) Should the exemption from the rule, for stations which are licensed to the network organization or a subsidiary of it, apply also to stations with a substantial degree of, although not

complete, common ownership, such as the interests of Mr. Reynold Anselmo in SIN and in six of the stations involved here?

(c) Whether the rule, to the extent it applies to stations, should apply the same to stations served by the network entity via interconnection, and stations provided with the same material by the network entity via physical delivery (mail, express, etc.) and thus, arguably, not part of a "network", such as two stations in Chicago and Albuquerque so served by SIN (and not included in the eight stations referred to above). We are presently of the view that the rule should apply in both situations.

SPANISH-LANGUAGE TV OPERATIONS

4. As of spring 1978 there are in the 50 States of the United States about a dozen TV stations (all UHF) which devote a substantial portion of their time from about 35 percent to all or almost all—to Spanish-Language material.² These include six stations having an ownership connection with SIN and using its network programming and national representative services; two stations using the SIN network programming and national representative service but without any ownership connection; two stations (not connected ownershipwise) receiving the same kind of material from SIN but not on an interconnected basis, the Chicago station (WCIU) but not the Albuquerque station (KMXN-TV) using SIN as a national rep; and two stations having no connection with SIN or Mr. Anselmo. The six stations first mentioned include outlets in the New York area (WXTV, Paterson, N.J.), Miami (WLTV), San Antonio (KWEX-TV), Los Angeles (KMEX-TV), Hanford, Calif. (KFTV), and San Francisco (KDTV).³ The two stations receiving interconnected SIN service and nation-

²In addition to the 12 mentioned, 2 other stations—KMOV, Sacramento, Calif. and WKID, Fort Lauderdale, Fla.—devote considerable time to such material though apparently less than the proportion mentioned. They have no connection with SIN or its principals. Some other stations devote smaller amounts of time to Spanish programs. Three additional stations are listed in the 1978 "Broadcasting Yearbook" as Spanish-language stations; but two of these (in Fontana, Calif. and Phoenix, Ariz.) are now primarily religious outlets and the third (Houston, Tex.) is now owned by Metromedia, Inc.

This summary does not include the numerous stations in Puerto Rico which are entirely or very largely Spanish-language, nor several Mexican border stations.

³The first five of these are licensed to Spanish International Communications Corp., of which Reynold Anselmo is president and about a 15 percent stockholder (there are two larger stockholders). The San Francisco station is licensed to another corporation of which he is president and the largest shareholder (about 44 percent).

al rep service but without any ownership connection are KLOC-TV, Modesto, Calif. and KORO, Corpus Christi, Tex. The two stations having no connection with SIN are KEMO-TV, San Francisco, and WNJU-TV, Linden, N.J. (near New York City).

5. Spanish International Network (SIN) is a U.S. corporation, 25 percent owned by Mr. Anselmo and 75 percent by Televisa, a Mexican television network and program production enterprise. For a number of years SIN has been supplying Spanish-language programs to several U.S. television stations specializing in this type of material, but only recently has it been using electronic interconnection and thus has come to be a "network" as that term is generally used in its strict sense. The SIN network affiliation agreement guarantees the stations a minimum of 42 hours of programs per week; in practice, we are told, the material per week varies from 45 to 55 hours.⁴ It includes entertainment programs, sports, a long Sunday news and commentary program, etc., and much of it (including the news program) originates in Mexico City. It comes by terrestrial microwave to San Antonio, Tex., where it is fed to the Western Union satellite and distributed to earth stations at New York, Miami and Los Angeles, and is distributed by terrestrial interconnection from there. With respect to the 9 stations which it serves as "national rep", SIN serves as their agent in the sale of the station's non-network time on a national or regional basis. Of the three Spanish-language stations not represented by SIN, one is represented by Caballero Spanish Media, Inc., a firm which also represents some Spanish-language radio stations; it is not known who represents the other two.⁵

THE BACKGROUND OF THE RULE

6. One of the recommendations of the 1957 "Barrow Report", issued following a network investigation by a special staff, was that the three national TV networks be barred from acting as national representatives for stations other than those they own (*Network Broadcasting*, H. Rept. No. 1297, 85th Cong., 2d Sess., January 1958, pp. 528-540). A rulemaking proceeding looking toward such a rule was begun in January 1959 (docket 12746), and ended in October 1959 with the decision adopting a rule essentially as proposed except that it would bar net-

⁴This is roughly half of the amount of programming which the three national commercial networks feed their affiliates (according to the rulemaking petition filed by Westinghouse Broadcasting Co., Inc. in 1976, CBS and NBC were then feeding 179.5 half-hours weekly).

⁵SIN served a copy of its waiver petition on Caballero; no responsive material has been filed.

¹§ 73.658(i): "No license shall be granted to a television broadcast station which is represented for the sale of nonnetwork time by a network organization or by an organization directly or indirectly controlled by or under common control with a network organization, if the station has any contract, arrangement, or understanding, express or implied, which provides for the affiliation of the station with such network organization: *Provided, however,* That this rule shall not be applicable to stations licensed to a network organization or to a subsidiary of a network organization." See "Network Representation of Stations in National Spot Sales," 27 FCC 697 (October 1959).

work rep organizations only from representing stations affiliated with the network, and not other stations. It was decided not to adopt a similar rule for radio. See footnote 1, above; 27 FCC 697, 720, 725-726.

7. The decision to bar TV networks from serving as national reps for their affiliates reflected two general areas of concern, in which such a role served to inhibit competition. The first was the competition among national rep firms for station clients, where a station might choose the network's representative service in order to improve its chances of getting or retaining a network affiliation (even though this was recognized as a potential rather than an actual evil). The second was the competition between networks and national spot as the channels of television advertising, so that a network organization serving as a national rep for affiliates represents a basic conflict of interest.⁶ For example, a national rep firm often advises its client stations as to the appropriate level of their national spot rates; if the rep firm is owned by a network it will tend to take into account the network's interest (in reasonably high spot rates so as to reduce competition with network rates) in rendering such advice. Also, although perhaps to a lesser extent, network-associated rep firms could tend to unduly influence station programming decisions, in favor of the network's program rather than a national spot program. In sum, network involvement in national spot representation of affiliates "involves interference with the licensee's independent duty to operate his station in the public interest." (27 FCC 720). However, it was concluded that this is true only where the affiliation relationship is present for use as a lever and therefore the rule should be limited so as to bar only representation of the network's affiliates. The decision with respect to radio reflected the conclusion that the degree of network importance in radio was much less than in television (and the CBS and NBC role in radio spot representation was less than in TV spot representation despite the vastly greater number of stations), so that a rule appeared unwarranted at that time. (27 FCC 725-726).

ARGUMENTS OF PETITIONER

8. In support of its waiver request, SIN argues, essentially, that the rule in question was adopted as a restriction on stations vis-a-vis the three national networks—ABC, CBS and

*** we are convinced that the conduct, by a network, of two operations so inherently competitive with each other unavoidably creates incentive to moderate or regulate the conduct of the less significant operation in such a manner as to maximize the network's revenues and profits." (27 FCC 715)

NBC—and was not really intended to, and should not apply to stations in relation to other network entities such as SIN. Rather, it is claimed that the Commission should in effect do here what it did in 1970 with respect to the prime time access and financial interest-syndication rules, in effect expressly limiting them to the three national entities. By way of specific points, SIN advances the following:

(a) The rule was adopted principally to avoid restraint on competition among spot representatives for stations, which the networks could unduly influence if permitted to represent their affiliates. That does not apply here.

(b) SIN is much less of a powerful force than the three national networks; one difference is that it expects to sell in 1978 no more than one-third of the inventory of its network program time to national and regional advertisers, and never more than two-thirds, thus leaving substantial amounts for local sale and avoiding an unduly anticompetitive situation.

(c) One of the points noted in the 1959 decision adopting the rule was that there are numerous large and qualified rep firms available to stations besides those connected with the networks. It is asserted that, by contrast, here there is only one other rep firm selling Spanish-language advertising for mainland U.S. stations. SIN itself does not have enough people, and, with total national and regional revenues for its stations amounting to no more than \$10 million for 1978, there is not enough economic support, to permit it to set up separate national spot and network sales organizations. Thus, denial of waiver would leave many Spanish-language stations with no choice of a representative.

(d) Waiver here would further the same objectives as the other network rules, in increasing the opportunity for the development of other networks and increased competition and diversity. It will encourage minority-format stations. Denial of waiver, assertedly, would force SIN, and other newly emerging network organizations, to "reconsider the extent to which programming is provided on an interconnected basis."

DISCUSSION AND QUESTIONS PRESENTED

9. As indicated in par. 3, above, the SIN request raises the question of how far, beyond the three national networks and representative entities affiliated with them, the rule and its prohibition should go; and whether it should apply where the station in question is partly, even though not entirely, owned in common with the network organization.

10. As to the first question, the Commission is simply not in a position to

say, at this point, whether application of the rule is or is not warranted in the case of SIN and other existing or potential new network operations such as those in the religious program field. Unquestionably, §73.658(i), like the Commission's TV and radio "network rules" generally, was adopted with the major national networks (three in television) primarily in mind, and therefore there may well be a question as to whether its application in other situations is appropriate. It appears likely that there is one important factual difference: the 1959 decision adopting the rule noted that there are numerous qualified television national reps, but here there is said to be only one other rep firm in the Spanish-language advertising area. This might be an affirmative reason not to apply the rule in these cases, since it would tend to cut down an already narrow area of choice for the stations affected; it also means that one of the reasons for adopting the rule for the national networks in 1959—to prevent restraints on competition among representatives for client stations—may be of less significance.

11. The other area of concern leading to the 1959 decision was possible network-owned rep influence over station operating policies, including the level of nonnetwork rates and, possibly, network or nonnetwork program selection. It does not appear to what extent these are pertinent considerations in the present situation. To the extent that there is competition between the sale of the station's time on a network basis in a SIN program, and on a nonnetwork basis, there may well exist the same inherent conflict of interest as that noted in the 1959 decision (par. 7, above). On the other hand, bearing in mind the fact that SIN now sells only about one-third of the commercial time in its programs on a network basis, giving the rest to the station to sell locally, this may be a matter of less significance. Comments are invited on this point—whether there is any significant difference in this respect between the national network-affiliate relationship and that of SIN, and other new network entities, with their affiliates.⁸

⁸If the rule were to apply in the case of SIN's San Francisco outlet, KDTV, it might mean that the other Spanish-language rep firm (Caballero) would, of necessity, represent both of the two Spanish-language stations in the market, which is hardly a desirable situation.

⁹Comments are also invited on whether there is any difference flowing from the form of the compensation specified in the SIN agreement compared to those of the national networks. The national network agreements specify a fixed percentage of a "network rate" figure specified in dollars; the SIN agreement simply specifies a fixed percentage of "the gross SIN advertising sales (before agency commissions) attributable

Footnotes continued on next page

12. There are, of course, other points to be considered. One is the tremendous difference in the amounts of revenue involved: the 12 stations mentioned had in 1977 total network and national-regional spot revenues of some \$9,600,000 compared to revenues of \$2.6 billion for the three national networks and nearly \$2 billion in national and regional spot revenue for the industry.⁹ This is also the fact that the three national networks, and in general their affiliates, are well established and quite successful economically, whereas SIN and some of its client stations are new and in a sense just getting started. Arguably, it may not be appropriate to apply the same regulatory restrictions to these "fledgling" entities and risk hindering their development. On the other hand, there is one other aspect of the matter to be considered: to the extent the Spanish-speaking population forms a distinct audience or "market", it is apparent that there is a high degree of control of the TV stations serving it, with SIN's principals involved in six of the 12 or 14 stations, 10 of them presenting SIN programs, and SIN serving as national rep for 9 of them. It may be that we should not consider any change in the rule, or waiver, which would tend to increase or even to continue this degree of concentration of control. Comments on this point, and similar circumstances in other situations, are invited.

13. *Application to stations under partial common ownership.*—As mentioned, SIN and six of the stations which it serves have a substantial degree of common ownership, on the part of Mr. Reynold Anselmo and some other individuals; Mr. Anselmo is also president of the two companies which are licensees of these stations. It appears quite likely, therefore, that there will always be a considerable degree of common viewpoint and action between SIN and these stations, no matter what the identity of the representative is. To this extent, application of the rule would be meaningless. Comments are invited on the extent to which the rule in these circumstances serves any real purpose.

14. Comments are also invited on whether, if this concept is to be made part of any general regulation, some standards should be specified. Should the rule not apply only where there is 10 percent or more common ownership between network and station licensee, or where a principal officer is involved? Or, should the concept be put generally, such as "substantial common ownership resulting in a substantial degree of common control"?

Footnotes continued from last page
ble to affiliate in all programs offered * * * and broadcast by affiliate."

⁹For the 12 stations as a group, a much higher percentage of their revenue is local than for TV stations generally.

15. *Applicability to noninterconnected stations.*—As mentioned earlier, there appears no reason why the rule should not apply to the two stations served by SIN on a noninterconnected basis, those in Albuquerque and Chicago, just as much as it does to the stations in the interconnected network. The same appears to be true in other situations which might be affected by the regulation here under consideration. We do not intend to adopt a rule which would bar a station from using as a national rep any firm associated with any entity which is a program source. But, on the other hand, nothing should turn on the fact that some stations receive the material electronically while others receive it by mail or express. See par. 16, below, for the formulation proposed.

RULEMAKING PROPOSALS

16. In view of the matters discussed above, the following changes in § 73.658(i) are advanced for comment:

(a) Limiting its application to representative firms owned by or commonly with the three national networks. This would be done by adding to this paragraph (or incorporating by reference) the definition now contained in § 73.658(j):

The term network means any person, entity or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states.

(b) Exempting from the rule stations which have a substantial and significant degree of common ownership with the network company. This would be done by adding, following the phrase "network organization" at the end of the present paragraph (i), the language "or to stations where there is substantial common ownership between the station licensee and the network organization resulting in a significant degree of common control." Comments are invited on whether more specific standards should be set forth.

(c) Applying the rule to stations provided by the network organization with substantial amounts of programming on a regular basis, even though they do not receive it by wire or radio interconnection. This would be done by adding to present § 73.658(i) the following language after "affiliation of the station with such network organization": "Or which receives on a regular basis substantial amounts of programming from such network organization." Comments are invited on whether a fixed minimum amount of programming, per day or per week, should be specified as necessary to bring this rule into operation as to noninterconnection stations.

INTERIM ACTION

17. As discussed above, there appears some doubt as to whether the provisions of § 73.658(i) should apply to Spanish International Network and stations served by it, because of the basic differences between this situation and those of the national networks and their affiliates which were the subject of the consideration leading to the rule. As to six of the ten stations, there is the additional point that, because of the degree of common ownership of the licensees and SIN, they perhaps should be exempted from the rule just as the national networks' owned stations are exempt. Accordingly, it does not seem appropriate to take action at this time to require SIN to cease serving as national representative for any of the 9 stations it now serves in this capacity. Accordingly, the status quo is being maintained for 1 year from now, or until 60 days after final decision in this proceeding, whichever is later.

18. In view of the foregoing:

(a) Comments are invited on the matters mentioned above, and summarized in paragraph 16;

(b) Notwithstanding the provisions of § 73.658(i) of the Commission's Rules, Spanish International Network may continue to serve as national representative, until October 1, 1979, or 60 days after final decision in this proceeding, whichever is later, for the following stations: KDTV, San Francisco, Calif.; KFTV, Hanford, Calif.; KLOC-TV, Modesto, Calif.; KMEX-TV, Los Angeles, Calif.; KORO, Corpus Christi, Tex.; KWEX-TV, San Antonio, Tex.; WCIU, Chicago, Ill.; WLTW, Miami, Fla.; and WXTV, Paterson, N.J.

(c) In all other respects, the letter request for waiver of § 73.658(i) of the Commission's rules, filed by Spanish International Network on March 9, 1978, is denied.

19. Pursuant to applicable procedures set forth in §§ 1.415 and 1.46 of the Commission's rules, interested parties may file comments on or before November 20, 1978 and reply comments on or before December 11, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding.

20. In accordance with the provision of § 1.419 of the Commission's rules, an original and five copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number, including the entire designation (BC docket No. 78-309) in the heading. All filings made in this proceeding will be made

available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-27973 Filed 10-3-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-291; FCC 78-639]

AMENDING RULES REGARDING PERSONAL ATTACKS, AND APPLICABILITY OF THE FAIRNESS DOCTRINE TO SECTION 315 "USES"

Notice of Proposed Rulemaking and Notice of Inquiry

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking and Notice of Inquiry.

SUMMARY: The Federal Communications Commission is proposing to amend its regulations relating to the personal attack rule which provides that broadcast licensees must afford reasonable opportunity for response to persons who are personally attacked under circumstances set forth in the rule. The amendment would exempt from the rule those situations which are covered by section 315 of the Communications Act which provides that licensees must afford equal opportunities to legally qualified candidates for public office. The intended effect is to make the personal attack rule consistent with the Commission's policy that the fairness doctrine does not apply to uses of broadcast facilities by legally qualified candidates. Comments are also invited on this present policy.

DATE: Interested parties may file comments on or before December 15, 1978; reply comments are due on or before January 16, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Milton O. Gross, Chief, Fairness Political Broadcasting Branch, Broadcast Bureau (202-632-7586).

SUPPLEMENTARY INFORMATION: In the matters of amendment of part 73 of the rules regarding personal attacks, and applicability of the Fairness Doctrine to section 315 "uses."

Adopted: September 14, 1978.

Released: September 28, 1978.

By the Commission: Commissioners Lee, Fogarty, concurring in the result.

1. The Commission has before it a request by the National Broadcasting Co., Inc. (NBC), for a declaratory ruling that the personal attack rule¹ is not applicable to broadcast uses covered by section 315 of the Communications Act.² NBC urges the Commission to accept the position that the Fairness Doctrine and the equal opportunities requirement of section (315a) are mutually exclusive, thus, overruling *Capital Cities Broadcasting Corp.*, 13 FCC 2d 869 (1968). For the reasons set forth below we believe there is merit to NBC's request regarding the personal attack rule in light of prior Commission decisions. Therefore we are instituting this Notice of Proposed Rulemaking and seek comments from the public on this matter. We also believe it appropriate to invite comments from the public on the Commission's present policy that the Fairness Doctrine does not apply to broadcasts which constitute uses of stations by legally qualified candidates for public office.

2. NBC's request arises from the following factual situation, according to NBC: In his 1977 campaign for President of New York City's Manhattan Borough, Andrew Stein emphasized his record as a State legislator, especially his participation in public investigation into nursing homes. Through public hearings on this subject, various abuses were discovered. Bernard Bergman, who held some financial interests in such homes, apparently refused to testify at the public hearings and left the country until their conclusion. Subsequently, Bergman was indicted, convicted, and sentenced in both State and Federal Courts on fraud and corruption charges. Stein's campaign dealt with his role in this matter, as compared to that of other politicians. In the audio portion of one video tape advertisement, Stein, in his criticism of nursing home conditions, attacked Bergman by name.³ This was part of a paid political advertisement that was broadcast on NBC's WNBC-TV, New York, N.Y. According

¹See Appendix I for text of the present personal attack rule.

²See Appendix II for text of section 315(a) of the Communications Act.

³NBC considers the following language to contain a personal attack:

Andrew Stein: "This is Bernard Bergman. His nursing homes treated sick people like animals. And nobody stopped him because he had a lot of political connections."

"I'm Assemblyman Andrew Stein. A lot of important politicians tried to stop my nursing home investigation. But I knew the corruption and mistreatment had to be stopped so I fought Bergman and I fought his political friends, and I won."

"That's the kind of job I did as an assemblyman and that's the kind of job I'll do as Manhattan Borough President."

to NBC, Bergman was not an opposing candidate, an associate of an opposing candidate, or an authorized spokesman of an opposing candidate, and thus did not fall within any of the specific exemptions cited in the personal attack rule. The tape in question was broadcast 16 times during the period September 1 through September 8, 1977. NBC notified Bergman of the attack and offered him an opportunity to respond, as required by *Capital Cities, supra*.

3. Although NBC adhered to the *Capital Cities* ruling in its treatment of the advertisement at issue, NBC questions the applicability of that ruling to this situation. In the *Capital Cities* case, the personal attack rule was held not to exempt a personal attack on a private individual by a candidate during a political broadcast. NBC submits that *Capital Cities* conflicts with the 1974 *Fairness Report*, 48 FCC 2d 1 (1974), in its interpretation of the Fairness Doctrine in regard to this situation. Citing the *Fairness Report, supra*, and *Gloria Sage (WHEN-TV)*, 62 FCC 2d 135 (1976), Application for Review denied, 63 FCC 2d 148 (1977), NBC's complaint states, at page 3, "Thus, a broadcast may be subject to equal opportunities; or it may be subject to the Fairness Doctrine. But it may not be subject to both." Further, NBC argues that since the Fairness Doctrine is not applicable to section 315 uses, the personal attack rule does not apply. In support of this, NBC maintains that the 1974 *Fairness Report* treats the Fairness Doctrine and the equal opportunities provisions as mutually exclusive. It cites the *First Fairness Report and Order*, 36FCC 2d 40 (1972),⁴ which in paragraph 27, at page 47, states the following:

In section 315(a), Congress has specified that equal opportunities shall be applicable to appearances of legally qualified candidates and that in other instances "fairness" be applicable—that is, that there be afforded " . . . reasonable opportunity for the discussion of conflicting viewpoints on issues of public importance." (Emphasis added.)

NBC also cites *Sage, supra*, which stated that " . . . the Commission has not held that the fairness doctrine is applicable to uses by candidates for public office." *Id.* at 136. The *Sage* ruling cites the 1974 *Fairness Report*, as quoted in the preceding paragraph, and then adds, "Therefore, it appears that the fairness doctrine is not applicable to 'uses' by a candidate." *Id.*

4. In *Capital Cities, supra*, the Commission held the personal attack rule applicable to a personal attack, made during a section 315 use, against a private citizen who did not fall within the exceptions set forth in subsection (b) of the personal attack rule. At issue

⁴Also found as Appendix A to the 1974 *Fairness Report*.

were remarks made by a legally qualified candidate during a televised broadcast in which he commented on the indictments of the complainants for sedition, along with mention of their alleged communist involvements and subversive activities. The complainants charged that the station would sell but not give time for them to respond to the alleged attack. In the ruling, the Commission defined the question presented as " * * * whether there should be an exemption or waiver in the case of an attack by a candidate on a person not a candidate or associated with a candidate." *Id.* at 870. In deciding not to create such an exemption, the Commission focused primarily on practical considerations. The Commission felt that a new exemption would be unnecessary in light of the infrequency of such fact patterns. Also, the ruling continued, " * * * the obligation to notify a person that he has been attacked and to send him a copy of the attack and an offer of an opportunity to reply is not comparable to the possible liability for large sums of money in damages which may result from civil action based on the broadcast of defamatory remarks." *Id.* at 870. No actual consideration was given to the applicability of the Fairness Doctrine to a section 315 use.

5. The scope and applicability of section 315, including its no censorship provision, have been the subject of various Commission and judicial decisions. In *Farmers Educational & Cooperative Union of America, North Dakota Division v. WDAY, INC.*, 360 U.S. 525 (1959) (hereinafter cited as *WDAY*), the United States Supreme Court interpreted the censorship prohibition in relation to station liability for certain libelous statements made by legally qualified candidates during political broadcasts. The case arose after a legally qualified Senatorial candidate, in an uncensored speech broadcast by *WDAY* in compliance with section 315 " * * * accused his opponents, together with petitioner, Farmers Educational and Cooperative Union of America, of conspiring to 'establish a Communist Farmers Union Soviet right here in North Dakota.'" *WDAY, supra*, at 526-7, discussing the argument that section 315 provided immunity to licensees in such situations, the court stated:

The term censorship, however, as commonly understood, connotes any examination of thought or expression in order to prevent publication of "objectionable" material. We find no clear expression of legislative intent, nor any other convincing reason to indicate Congress meant to give "censorship" a narrower meaning in section 315. *Id.* at 527.

The Court concluded " * * * that section 315 grants a licensee an immunity

from liability for libelous material it broadcasts " * * *." *Id.* at 535.

6. The no-censorship provision of section 315 has become a primary basis for distinguishing section 315 uses from those broadcasts to which the fairness Doctrine is applicable. See *Fairness Report, supra*; *Gloria Sage, supra*. A licensee has no control whatsoever over the content of a use by a candidate. However, it not only has control over other broadcasts, but is responsible for the content of them. It follows, therefore, that there should be a distinction between (1) the equal opportunities requirements of section 315 and (2) the Fairness Doctrine which governs controversial issues of public importance.

7. The 1974 *Fairness Report, supra* at 7, ascribes a two-fold duty to broadcasters under the Fairness Doctrine:

" * * * (1) the broadcaster must devote a reasonable percentage of this broadcast time to the coverage of public issues; and (2) his coverage of these issues must be fair in the sense that it provides an opportunity for the presentation of contrasting points of view.

The very concept of the Fairness Doctrine is based upon a presumption of licensee discretion in dealing with controversial issues of public importance. The personal attack rule is one aspect of the Fairness Doctrine.⁶ Generally, when a personal attack is made on an individual or group during the discussion of a controversial issue of public importance, an adequate opportunity to respond must be offered by the licensee, with three exceptions as set out in section 73.1920 (See Appendix I). In our Report and Order adopting the personal attack rule we stated, "This duty devolves upon the licensee, because other than in the case of a broadcast by political candidates, the licensee is responsible for all material broadcast over his facilities." *Amendment to Part 73 of the Rules to Provide Procedures in the Event of a Personal Attack or Where a station Editorializes as to Political Candidates*, 8FCC 2d 721, 723 (1967). Thus, when we adopted the personal attack rule we recognized that licensees had no responsibility for the material broadcast during section 315 "uses."

8. In view of the foregoing, we believe that all "uses" by a legally qualified candidate should be exempt from the personal attack rule. Accordingly, we propose to amend subparagraph (b) of the personal attack rule to read as follows:

(b) The provisions of paragraph (a) of this section shall not be applicable (i) to attacks

⁶ In the 1974 *Fairness Report*, it was stated that " * * * the personal attack and political editorializing rules are a particularization of what fairness requires in those situations." (citations omitted) 1974 *Fairness Report, supra* at 43, n. 8.

on foreign groups or foreign public figures; (ii) to personal attacks which are made by legally qualified candidates; (iii) to personal attacks made by the authorized spokespersons of legally qualified candidates or those associated with such candidates in the campaign on other such candidates their authorized spokespersons, or persons associated with the candidates in the campaigning; and (iv) to bona fide newscasts, bona fide news interviews, and on on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (a) shall be applicable to editorials of the licensee).

9. In light of the *Fairness Report* and *Gloria Sage, supra*, the proposed rule change would eliminate all applicability of the Fairness Doctrine to section 315 "uses." We invite comments from the public regarding this policy of the Commission. In particular, we would welcome comments on whether the public's right to be informed about contrasting views on controversial issues of public importance should take precedence over our policy that since licensees have no control over material broadcast during section 315 "uses," they should have no obligations based upon such broadcasts. In commenting on this, the public should take into consideration the fact that the Fairness Doctrine applies to a licensee's overall programming. Thus, if the Fairness Doctrine were to apply to a controversial issue of public importance broadcast during a section 315 "use," additional programming might not be necessary since a licensee may be able to show that contrasting views were broadcast in its other programming. Since the section 315 uses may involve paid programming, the applicability of our "Cullman" principle (*Cullman Broadcasting Co.*, 40 FCC 576 (1963)) may be pertinent. *Cullman held that:*

Where the licensee has chosen to broadcast a sponsored program which for the first time presents one side of a controversial issue, has not presented (or does not plan to present) contrasting view points in other programming, and has been unable to obtain paid sponsorship for the appropriate presentation of the opposing viewpoint or viewpoints, he cannot reject a presentation otherwise suitable to the licensee—and thus leave the public uninformed—on the ground that he cannot obtain paid sponsorship for that presentation. (Emphasis in original.)

In *Nicholas Zapple*, 23 FCC 2d 707 (1970), we held that *Cullman* does not apply to the "political supporters" policy set forth in *Zapple*. Thus, if the Fairness Doctrine were to apply to section 315 uses, should *Cullman* also apply? The foregoing are suggested areas of inquiry which interested persons may wish to address. We will of course give careful consideration to all comments regarding the matters raised herein.

10. Pursuant to applicable procedures set out in §§ 1.4, 1.415, 1.419 and 1.430 of the Commission's Rules and Regulations, interested parties may file comments on or before December 15, 1978 and reply comments on or before January 16, 1979. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such reply comments shall be accompanied by a certificate of service (See § 1.420(a), (b) and (c) of the Commission's Rules).

11. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the hearing. All filings in this proceeding will be available for public inspection by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW, Washington, D.C.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO, *
Secretary.

APPENDIX I

The personal attack rule presently states:
Section 73.120 [formerly 73.123 et al.] Personal attacks.

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than 1 week after the attack, transmit to the person or group attacked (1) notification of the date, time, and identification of the broadcast; (2) a script or tape (or an accurate summary if a script or tape is not available) of the attack; and (3) an offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable (1) to attacks on foreign groups or foreign public figures; (2) to personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign, on other such candidates, their authorized spokesmen, or persons associated with the candidates in the campaign; and (3) to bona fide newscasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs, but the provisions of paragraph (a) of this section shall be applicable to editorials of the licensee).

NOTE.—The fairness doctrine is applicable to situations coming within (b)(3), above, and, in a specific factual situation, may be

applicable in the general area of political broadcasts (b)(2), above. See, section 315(a) of the act, 47 U.S.C. 315(a); Public Notice: Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance, 29 FR 10415. The categories listed in (b)(3) are the same as those specified in section 315(a) of the act.

APPENDIX II

Section 315(a). If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

- (1) Bona fide newscast;
- (2) Bona fide news interview;
- (3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or
- (4) On-the-spot coverage of bona fide news events (included but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

[FR Doc. 78-28092 filed 10-3-78; 8:45 am]

[6712-01]

[47 CFR Part 83]

[Gen. Docket No. 78-310; FCC 78-687]

SOUTHERN LOUISIANA SECTION OF MISSISSIPPI RIVER SYSTEM

Proposed Designation of a Second Frequency for Bridge-to-Bridge Operations

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: This action proposes to amend the rules to designate a second frequency for bridge-to-bridge communications. This second frequency (156.375 MHz) will replace the use of Channel 13 (156.65 MHz) in the southern Louisiana section of the Mississippi River system. This action is taken at the request of the United States Coast Guard to provide for more effective bridge-to-bridge operation in this area.

DATES: Comments must be received on or before November 9, 1978, and

reply comments must be received on or before November 20, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Bruce A. Franca, Safety and Special Radio Services, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: September 25, 1978.

Released: September 29, 1978.

Amendment of Part 83 of the Commission's rules to designate a second frequency for bridge-to-bridge operations in the southern Louisiana section of the Mississippi River System, Gen Docket No. 78-310.

1. Notice of Proposed Rule Making is hereby given.

2. The Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201 et seq. (Supp. I, 1971)) was enacted "to provide a positive means whereby the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operator's navigation station." The Act also called for the "need for a specific frequency or frequencies dedicated to the exchange of navigational information" (emphasis added). The Commission in Docket No. 19343 (37 FR 11245) set aside Channel 13 (156.65 MHz) for this purpose. While the bridge-to-bridge radiotelephone system has generally proven very effective in most areas of the country, this has not been the case in the southern Louisiana section of the Mississippi and the Gulf Intracoastal Waterway (ICW). According to the Coast Guard this results from the following factors:

(a) The large user population of the several waterways within VHF communications range of one another.

(b) The flat terrain of the area which permits communication ranges longer than would normally be expected. This causes confusion as to the location of signals being exchanged at critical navigational and meeting situations.

(c) The use of the high transmitter power mode rather than the one watt mode when users judge the situation demands higher power to avoid receiver capture under critical situations.

3. Section 8A of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1207) tasks this Commission after consultation with other cognizant agencies to specify, among other things, "operating and technical conditions and characteristics including frequencies" The U.S. Coast Guard as the agency primarily responsible for the safety of ship navigation in the United States has, accordingly, requested the Commission's "immediate

assistance" in initiating action leading to the designation of a second frequency for bridge-to-bridge operations. This second frequency will replace the use of Channel 13 in the Mississippi River from South Pass Lighted Whistle Buoy "2" and Southwest Pass Entrance Midchannel Light Whistle Buoy to mile 242.4 AHP (above head of Passes) near Baton Rouge. In addition, this channel will be used in the Mississippi River-Gulf Outlet, the Mississippi River-Gulf Outlet Canal, and the Inner Harbor Navigational Canal. These areas are included to facilitate the frequency configuration of the portable transceivers used by pilots on the river system.

4. The Coast Guard noted that the operational requirement for designation of a second bridge-to-bridge frequency is also based on the recommendations of the Industry Ad Hoc Committee for Ports and Waterways. The Coast Guard did indicate that several other groups had recommended that Channel 13 remain the bridge-to-bridge channel on the Mississippi River and that the new or second bridge-to-bridge frequency be established for use on the parallel waterways. However, in recommending that the new channel be used on the river system, the Coast Guard indicated that this would provide "geographical boundaries readily recognized by a vessel operator as he crosses them." We believe the Coast Guard's approach is valid both from a user and an enforcement standpoint. Further, in the Report and Order in Docket No. 19343 implementing the provisions of the Bridge-to-Bridge Radiotelephone Act, the Commission, at paragraph 4, specifically addressed the question of sectorization as follows:

There is no doubt that throughout the long legislative process culminating in the Bridge-to-Bridge Radiotelephone Act, the predominant theme and understanding was that bridge-to-bridge communications were to be accomplished on a single channel, dedicated frequency, party-line system. The possibility of having the sectorize some of the more congested port and harbor areas and use a different frequency in each sector was recognized but this was not considered to be a departure from the basis single, exclusively navigation, channel concept.

Accordingly, we propose to amend the rules as requested. We will, however, take into consideration any comments regarding where the new frequency should be used.

5. After reviewing the frequencies available, it appears that Channel 67 (156.375 MHz) is the most suitable choice for use as a second bridge-to-bridge frequency. It was felt that it would be impractical and not in the public interest to choose one of the ship-to-shore commercial frequencies because of the large number of limited coast stations authorized on these fre-

quencies in the New Orleans area. This situation has been further aggravated due to the loss of certain frequencies for use in the Coast Guard's Vessel Traffic Service (VTS) system. It is felt, therefore, that the choice of an intership frequency would be the least disruptive of present operations in this area. Channel 67 is also designated for ship movement activities by the international Radio Regulations, which would be consistent with the general purposes of the bridge-to-bridge operations. It is also proposed that other use of Channel 67 be prohibited in the New Orleans VTS radio protection area¹ to prevent harmful interference to bridge-to-bridge operations on the river system.

6. The proposed amendments to the rules, as set forth in the attached Appendix, are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and Section 8(a) of the Vessel Bridge-to-Bridge Radiotelephone Act.

7. Under the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 9, 1978, and reply comments on or before November 20, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

8. In accordance with § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished to the Commission. All comments received in response to this Notice of Proposed Rule Making, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

9. Regarding questions on matters covered by this document contact Bruce A. Franca (202) 632-7197.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

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

In part 83 Stations on Shipboard in the Maritime Services:

1. Section 83.351 is amended to read as follows:

§ 83.351 Frequencies available.

(a) ***

¹The New Orleans VTS radio protection area is specified as: The rectangle between north latitudes 27° 30' and 31° 30' and west longitudes 87° 30' and 92°.

Carrier frequency (MHz)	Conditions of use	
	Section	Limitations
156.350	83.359	40, 41, 49
156.375	83.359	40, 49, 64, 65, 76
156.400	83.359	40, 49, 76
156.625156	83.359	40, 50, 52, 76
156.650	83.359	40, 41, 46, 53, 59
156.675	83.359	40, 41, 45

(b) ***

(53) Not available for use in the Mississippi River from South Pass Lighted Whistle Buoy "2" and Southwest Pass entrance entrance Midchannel Lighted Whistle Buoy to mile 242.4 AHP (above head of passes) near Baton Rouge; and in addition, the Mississippi River-Gulf Outlet, the Mississippi River-Gulf Outlet Canal, and the Inner Harbor Navigational Canal.

(64) The frequency 156.375 MHz is available for navigational communications only in the Mississippi River from South Pass lighted buoy "2" and Southwest Pass entrance midchannel lighted whistle buoy to mile 242.4 AHP near Baton Rouge; and, in addition, over the full length of the Mississippi River-Gulf Outlet, Canal from entrance to its junction with the inner harbor navigational canal, and over the full length of the inner harbor navigation canal from its junction with the Mississippi River to its entry to Lake Pontchartrain at the New Seabrook vehicular bridge.

(65) Use of the frequency 156.375 MHz for intership commercial communications is not permitted in the New Orleans VTS radio protection area specified in § 83.361.

2. Section 83.359 is amended to read as follows:

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

(a) The frequencies in the following table are available for assignment to stations as indicated.

Channel designator	Frequency (MHz)		Points of communication	
	Ship	Coast		
.	*	*	*	*
NAVIGATIONAL				
67.....	156.375	156.375	Intership and ship to coast.	
13.....		156.650	Do.	
.	*	*	*	*
(b) * * *				
.	*	*	*	*

(6) Use of the frequency 156.375 MHz by aircraft is not permitted in the New Orleans VTS radio protection area specified in § 83.361.

[FR Doc. 78-27863 Filed 10-3-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Ch. II]

[Docket No. RSGC-1; Notice 2]

STANDARDS FOR THE MAINTENANCE, INSPECTION, AND TESTING OF HIGHWAY GRADE CROSSING WARNING DEVICES

Termination of Rulemaking Proceeding

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Termination of rulemaking proceeding.

SUMMARY: The purpose of this notice is to terminate a rulemaking proceeding initiated by FRA to determine the need for mandatory Federal standards governing the installation, maintenance, operation, inspection, and testing of highway grade crossing warning devices. This action is prompted by a recent review of accident statistics by FRA which indicated that the adoption of mandatory Federal standards cannot be justified at the present time.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

Principal Program Person: William R. Paxton, Office of Safety, 202-426-0912.

Principal Attorney: Danvers E. Long, Office of the Chief Counsel, 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND

FRA responded to an independent initiative of a joint railroad labor-management committee composed of representatives of the Brotherhood of Railroad Signalmen (BRS) and the Communication and Signal Section (C&S Section) of the Association of American Railroads (AAR), by publishing in the FEDERAL REGISTER (41 FR 26580) on June 28, 1976, an advance notice of proposed rulemaking (ANPRM). That notice stated that FRA was studying the need for Federal regulations governing the maintenance and testing of railroad-highway grade crossing warning devices.

The ANPRM published, as an appendix, the proposal developed by the BRS-C&S Section committee. Interested persons were encouraged to submit comments both on the particular provisions presented in the BRS-C&S Section proposal as well as the perceived need for regulation in this area.

At the time the ANPRM was published, FRA stated that additional information and opportunity for public comment were required before a decision could be made regarding the need for Federal regulations governing the maintenance and testing of grade crossing warning devices. Comments as to the necessity for, the cost of, and the benefits to be derived from such regulations were submitted by 9 States agencies, 11 railroads, 1 city government, 1 manufacturer of railway equipment, AAR, BRS, Railway Progress Institute (RPI), Federal Highway Administration (FHWA), American Association of State Highway and Transportation Officials (AASHTO), and 1 individual.

The ANPRM presented 13 questions which the commenters were requested to address. The bulk of these questions focused upon issues raised by specific provisions of the BRS-C&S Section proposal. Therefore, responses to these questions were technical in nature.

Since Federal standards governing the maintenance and testing of railroad-highway grade crossing warning devices cannot be justified at the present time, FRA has decided to terminate this rulemaking proceeding. Therefore, a discussion of comments regarding the technical merits of the BRS-C&S Section proposal is not considered necessary. However, all comments will be retained and fully considered in the event that a similar proceeding is initiated in the future. The comments addressing the accident statistics set forth in the ANPRM are summarized and discussed below.

DISCUSSION OF COMMENTS RECEIVED

In the ANPRM, FRA stated that its preliminary analysis of the accident/

incident reports submitted by carriers indicated that there were 12,130 accidents at grade crossings during 1975. Of this total, 6,863 occurred at grade crossings where warning devices were installed. The following table, which was included in the ANPRM, indicated that 192 warning devices were not operating when accidents occurred:

Type	Number of accidents	Not operating when accident occurred
Gates with flashing light signal.....	978	41
Cantilever with flashing light signals.....	428	11
Standard flashing light signals.....	3,771	99
Wig-wag signals.....	318	11
Audible devices.....	1,368	30
Total.....	6,863	192

A number of commenters challenged the accuracy of the statistics presented in the ANPRM table. For example, the AAR concluded that, if its research were accurate, the percentage of grade crossing accidents involving nonoperating protective devices may be as low as two-tenths of 1 percent (.2 percent) of the total number of accidents occurring at protected grade crossings. AAR contends that this percentage "approaches the limit of what can realistically be expected of men and machines."

The Southern Railway System (Southern) indicated that 3 of the 192 failures reported in the table occurred on its lines, but that only 1 of the failures resulted in an accident. Southern maintains that a history of only one accident (which involved no personal injury) on its 10,500 miles of line during 1975 does not indicate the existence of a safety problem of such magnitude as to require Federal regulation.

Several other commenters also complained that no cause and effect relationship was demonstrated between the accidents and the malfunctioning devices. For example, the Pennsylvania Public Utilities Commission submitted the following comment:

Under the breakdown of accidents, in relation to the type of warning devices and the warning devices not operating when the accident occurred, the Commission has no positive evidence that any crossing accidents were caused by nonoperating warning devices.

FRA REVIEW OF STATISTICS

The table published in the ANPRM was compiled from the accident/incident reports filed with the FRA by the railroads pursuant to 49 CFR Part 225. Under that part, each railroad is required to "submit to FRA a monthly report of all railroad accidents/incidents * * * within 30 days after ex-

ration of the month during which the accidents/incidents occurred * * *"

Shortly after the ANPRM was published, FRA reviewed the 1975 statistics presented in the ANPRM and similar statistics for 1976. As a result of this review, FRA discovered that some of those statistics were incomplete. For example, the table published in the ANPRM indicated that, in 1975, 192 warning devices were not operating when accidents occurred. However, the table did not indicate how many accidents occurred at the time the 192 devices were not operating. The review indicated that 137 accidents occurred at grade crossings with nonoperational warning devices and, at the time of those accidents, 192 warning devices were not operating. In other words, some accidents occurred at grade crossings which had two or more active warning devices that were not operating.

Furthermore, the review indicated that only 37 of the 137 accidents were attributable to failures of warning devices. Seventeen of these failures were

caused by equipment failure, 15 were attributed to human error, and 4 were attributed to vandalism. Even if the 17 equipment failures could be eliminated by the adoption of maintenance and testing standards, only 17 of the total of 6,863 accidents at grade crossings in 1975, or less than three-tenths of 1 percent (.3%), could be eliminated.

In 1976, 5,434 accidents occurred at grade crossings. Forty-one of these accidents were attributable to the failure of grade crossing warning devices. Twenty of these failures were caused by equipment failure, 18 by human error, and 3 by vandalism. If all of the 20 equipment failures could be eliminated by maintenance and testing standards, the total number of accidents would be reduced by 20, or less than four-tenths of 1 percent (.4%).

The following table reflects the findings of the FRA review for 1975 and 1976 and indicates that a number of the accident/incident reports submitted by carriers for those years were miscoded and did not involve the failure of active grade crossing warning devices:

Year	Miscoded reports		Unintended nonoperational				Unknown	Total
	Working ¹	Passive ²	Equipment insulated ³	Equipment failure	Human error	Vandalized		
1975	44	27	24	17	15	4	6	137
1976	29	16	33	20	18	3	6	125
Total	73	43	57	37	33	7	12	262

¹"Working" means the protective devices were in fact operating when the accident occurred.

²"Passive" means the protective devices were passive rather than nonoperating active devices.

³"Equipment insulated" means the rail rolling equipment involved in the accident was insulated to preclude its activating of protective grade crossing devices.

In sum, FRA's review of accident/incident statistics indicates that Federal standards governing the maintenance and testing of warning devices might reduce accidents at grade crossings by approximately three-tenths of 1 percent (0.3%). However, this reduction is based on the presumption that Federal standards would prevent all grade crossing accidents caused by equipment failure.

While statistics indicate that Federal maintenance and testing standards might reduce accidents at grade crossings by three-tenths of 1 percent (0.3%), FRA believes that even this small reduction is unrealistic in view of other factors. For example, maintenance and testing standards, no matter how comprehensive, cannot be expected to eliminate all equipment failures. In addition, FRA cannot be certain that the 37 equipment failures were in fact the sole cause of 37 grade crossing accidents in 1975 and 1976. Driver recklessness or inattentiveness

and other factors may also have been significant causal factors in many of these accidents. Accordingly, FRA believes that Federal standards would reduce railroad-highway grade crossing accidents by substantially less than three-tenths of 1 percent (0.3%).

Finally, it should be noted that most of the Nation's railroad-highway grade crossings are now protected by passive warning signs only. Active warning devices provide considerably more protection at grade crossings than do the more prevalent passive warning signs. Since active warning devices are designed to "fail safe," they very rarely experience mechanical failure in other than a "fail-safe" mode. Therefore, FRA believes that installation of more active protective devices would be much more beneficial from the standpoint of safety than a Federal regulation requiring expenditure of additional resources to maintain and test those devices.

ECONOMIC IMPACT

FRA has determined that this notice does not contain significant regulations. 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 notice in accordance with DOT's existing and proposed policies for the evaluation of regulatory impacts. Since the notice would not impose a burden on any person, FRA concludes that it 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, Mar. 8, 1978; Proposed Regulatory Policies and Procedures, 43 FR 23925, June 1, 1978).

CONCLUSION AND ACTION

While FRA remains concerned about the hazards presented by highway-railroad grade crossings, it believes that Federal standards for maintenance, inspection, and testing of highway-railroad grade crossing warning devices should not be adopted unless a need for those standards can be demonstrated. In this connection, it should be noted that Executive Order 12044 directs Federal agencies to clearly establish the need for and purposes of their regulations. In addition, in the absence of a clear need for Federal standards for maintenance and testing of grade crossing warning devices, FRA believes that the allocation of Federal safety resources for this purpose, and Federal preemption of State authority, cannot be justified.

In consideration of the foregoing, FRA has determined that the issuance of a rule requiring standards for the maintenance, inspection, and testing of highway grade crossing warning devices cannot be justified. Accordingly, the proceeding initiated on June 28, 1976 (41 FR 26580) is hereby terminated.

AUTHORITY

(Secs. 202, 204, and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 433, and 437); sec. 6(e) and (f), Department of Transportation Act (49 U.S.C. 1655 (e) and (f)).

Issued in Washington, D.C., on September 29, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-28012 Filed 10-3-78; 8:45 am]

[4910-06]

[49 CFR Chapter II]

[Docket No. RSSI-78-5, Notice No. 5]

GENERAL SAFETY INQUIRY

Hearing

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Change of Hearing Dates.

SUMMARY: The purpose of this notice is to reschedule the fourth and fifth 2-day public hearings that FRA will conduct to evaluate and improve the effectiveness of its safety regulatory program. The effect of this action will be to postpone the fourth hearing on FRA track safety standards from October 18 and 19 to November 15 and 16, 1978. The fifth hearing concerning signal and communications systems, which was scheduled to take place on November 15 and 16, has been rescheduled for January 17, and 18, 1979. This action is taken in response to numerous requests received from persons and organizations desiring to participate in these public hearings.

DATES: (1) The fourth 2-day public hearing will begin at 10 a.m. on November 15, 1978. The fifth 2-day hearing will be held on January 17, and 18, 1979.

(2) Prepared written statements for the November hearing should be submitted by November 3, 1978, in triplicate to the Docket Clerk, Office of the Chief Counsel (RCC-1), Federal Railroad Administration, Room 4406, 2100 Second Street, SW., Washington, D.C. 20590.

(3) Persons desiring to participate in the November hearing should notify the principal program person by November 3, 1978, and indicate the amount of time they need to present their views.

ADDRESS: Hearing location: Trans Point Building, Room 3201, 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety (RRS-20), FRA, Room 4414N, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-0924.

Principal Attorney: Edward F. Conway, Jr., Office of the Chief Counsel (RCC-30), FRA Room 4406, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-8836.

SUPPLEMENTARY INFORMATION: On September 25, 1978, FRA pub-

lished in the FEDERAL REGISTER a notice of public hearing (43 FR 43339). That notice announced that the fourth 2-day public hearing concerning FRA track safety standards would be held on October 18, and 19, 1978. The notice also announced that the fifth 2-day hearing concerning signal and communications systems would be held on November 15 and 16, 1978.

FRA has recently received communications from numerous interested persons and organizations requesting that these hearings be postponed to facilitate their participation. FRA wishes to encourage the participation of all interested persons and organizations in the hearings being held to improve its safety regulatory program. Therefore, the fourth and fifth 2-day public hearings have been rescheduled at a later date as indicated in this notice.

Although the hearings have been postponed, it should be noted that the issues to be addressed are in no way affected by this postponement. Accordingly, interested persons should refer to the notice published in the FEDERAL REGISTER on September 25, 1978 (43 FR 43339), for a summary of the issues that will be addressed at the fourth hearing.

PUBLIC PARTICIPATION

FRA requests that the Association of American Railroads, the American Short Line Railroad Association, individual railroads, track material suppliers, the National Transportation Safety Board, railroad employee organizations, and other interested persons participate actively in the fourth 2-day hearing. Specifically, FRA requests that these persons and organizations provide knowledgeable spokespersons and pertinent technical, manufacturing, service, and cost data. These spokespersons should present detailed information to justify their positions.

DRAFTING INFORMATION

The principal author of this document is Danvers E. Long, Office of the Chief Counsel.

(Secs. 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437); §1.49(n), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49 (n).)

Issued in Washington, D.C. on October 2, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-28096 Filed 10-3-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

[50 CFR Part 226]

CRITICAL HABITAT OF ENDANGERED AND THREATENED FISH AND WILDLIFE

Proposed Determination of Critical Habitat for
Kemp's Ridley and Loggerhead Sea Turtles

AGENCY: National Marine Fisheries Service.

ACTION: Proposed Designation of Critical Habitat.

SUMMARY: The National Marine Fisheries Service (NMFS) hereby proposes to designate Critical Habitat for the Kemp's ridley, *Lepidochelys kempii*, and loggerhead, *Caretta caretta*, sea turtles in the Port Canaveral navigation channel, Cape Canaveral, Fla. The proposed action is being taken under section 7 of the Endangered Species Act of 1973 (the Act) to provide protection to hibernating sea turtles. This proposal would establish a new Part 226 in Title 50 of the Code of Federal Regulations for designating Critical Habitat for endangered and threatened species under the jurisdiction of NMFS.

DATES: Comments must be received on or before December 4, 1978. Requests for a public hearing and justification for such a request must be received by November 20, 1978.

ADDRESSES: Submit comments to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, 202-634-7287.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Mature Kemp's ridley sea turtles are found within the Gulf of Mexico and immature Kemp's ridleys range from central Florida as far north as Massachusetts, and across the Gulf Stream to Europe. The only remaining established nesting beach for Kemp's ridleys is at Rancho Nuevo, Mexico.

The loggerhead sea turtle occurs in tropical and temperate regions of the World and has been recorded from Chile to California and from Rio de la Plata to Nova Scotia. In the western

Atlantic, the major loggerhead nesting region is from North Carolina to Florida, and to a lesser extent along the gulf coast of the United States. Significant nesting occurs on the Yucatan Peninsula and in Cuba, but is either sparse or absent farther south in Central America and the West Indies. Other places where loggerhead sea turtles have been found include Africa and the western Pacific.

The Kemp's ridley sea turtle was listed as endangered on December 2, 1970 (35 FR 18320) and the loggerhead sea turtle recently was listed as threatened (43 FR 32800). This latter listing took effect on September 6, 1978.

In accordance with a July 18, 1977, Memorandum of Understanding between the NMFS and the Fish and Wildlife Service (FWS), the NMFS was given the responsibility for sea turtles while in the marine environment and the FWS was given the responsibility for sea turtles while on land.

A definition of the term "Critical Habitat" was published by the FWS and the NMFS in the FEDERAL REGISTER on January 4, 1978 (43 FR 870) (hereinafter referred to as Regulations) and is reprinted below:

"Critical Habitat" means any air, land, or water area (exclusive of those existing man-made structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of Critical Habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the Regulations, the Director (Assistant Administrator for Fisheries) will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

- (1) Space for individual and population growth and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, or rearing of offspring; and generally,
- (5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

The continued survival and recovery of the Kemp's ridley and loggerhead sea turtle species depends in part on

the maintenance of suitable and undisturbed hibernation areas. The NMFS believes that such hibernation areas qualify for designation as Critical Habitat as referred to in section 7 of the Act and defined in the Regulations.

In early 1978, the NMFS received reports that shrimp vessels had incidentally captured large numbers of loggerhead sea turtles while trawling late November 1977, in the Port Canaveral ship channel, Brevard County, Fla. One shrimp vessel caught 15 turtles during a 20 minute tow, and another vessel caught 66 turtles in 60 minutes. The turtles were reported to be listless and their shells showed clearly demarcated bare areas and muddy, barnacle encrusted zones. The appearance and behavior of the turtles led the fishermen to believe that the turtles had been buried in the sediment.

These observations, in addition to other reports of high incidental turtle capture by shrimp vessels, prompted NMFS to conduct trawl surveys of the middle and outer reach of the Port Canaveral ship channel on February 14-15 and March 15-17, 1978. Results from these trawl surveys corroborated the earlier reports.

Results from the February survey indicated that the turtles were hibernating in the mud. Their bodies were stained black from long-term contact with these sediments. The captured animals were torpid and appeared to experience difficulty in diving when released. Turtles captured during the March survey appeared to be emerging from hibernation, being more active, and diving quickly upon release. During the 2 surveys a total of 271 loggerhead, mostly subadult, and 3 immature Kemp's ridley turtles were captured; 98 percent of these turtles were taken in the navigation channel, although only 64 percent of the sampling effort was conducted in the channel. Turtles captured during the surveys exhibited shell damage which may have been caused by contact with trawl doors or vessels.

Although only three Kemp's ridleys were captured during the trawl surveys, the status of this species is so fragile that the habitat and animals found therein must be protected.

Based on the trawl surveys and other observations, NMFS investigators believe that: (1) Some unknown number of loggerhead and Kemp's ridley sea turtles hibernate in the Port Canaveral ship channel from at least November to March; (2) turtles dislodged from their hibernaculum may not successfully reenter their muddy retreats, especially if the water temperature is so low that normal swimming and reburrowing activity is inhibited; and (3) the dislodged turtles may be further weakened by exposure

to the lower ambient seawater temperature and possible shell passively at the surface.

The Assistant Administrator has concluded that designating the Port Canaveral navigation channel as Critical Habitat is necessary for the continued survival and recovery of Kemp's ridley and loggerhead sea turtles which hibernate there. Activities of Federal agencies including but not limited to maintenance dredging of the channel and passage of variable draft vessels (submarines) at other than minimum draft conditions at certain times of the year should be reviewed under section 7 of the act.

Consultation with representatives of the State of Florida on the designation of the Cape Canaveral ship channel as Critical Habitat has been conducted by the NMFS.

As information becomes available, additional areas may be proposed as Critical Habitat for these species.

EFFECT OF THE RULEMAKING

Section 7 of the Endangered Species Act states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Critical Habitat designation affects only the actions of Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

Questions of whether, and to what extent, certain kinds of actions would adversely affect listed species are not relevant to the biological basis of Critical Habitat delineations. Such questions are properly dealt with after Critical Habitat has been designated. In this respect, the NMFS and FWS, in cooperation with other agencies, have drawn up a set of regulations which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of action on Critical Habitat. The Regulations were published to assist Federal agencies in complying with section 7 of the Act.

PUBLIC COMMENTS SOLICITED

The Assistant Administrator desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested person on these proposed rules. Any final promulgation of Critical Habitat regulations will take into consideration the comments received by the Assistant Administrator. Such statements and any additional information received may lead the Assistant Administrator to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the NMFS Office of Marine Mammals and Endangered Species, Page Building No. 2, 3300 Whitehaven Street NW., Washington, D.C., and may be examined during regular business hours or can be obtained by mail.

The primary author of this proposed rule is Mr. Richard B. Roe, Office of Marine Mammals and Endangered Species, 202-634-7287.

REGULATIONS PROMULGATION

Accordingly, NMFS proposes to add a new Part 226 to read as follows:

PART 226—DESIGNATED CRITICAL HABITAT

Subpart A—Introduction

- Sec.
226.1 Purpose of regulations.
226.1 Scope of regulations.

Subpart B—Critical Habitat for Marine Mammals

226.11-.30 [Reserved].

Subpart C—Critical Habitat for Marine Fish

226.31-.70 [Reserved].

Subpart D—Critical Habitat for Marine Reptiles

226.71 Port Canaveral Navigation Channel, Cape Canaveral, Florida.
226.72-.99 [Reserved].

AUTHORITY: Endangered Species Act of 1973, section 7, Pub. L. 93-205, 16 U.S.C. § 1536, 87 Stat. 884.

Subpart A—Introduction

§ 226.1 Purpose of regulations.

The regulations contained in this Part identify those habitats designated as critical under section 7 of the Endangered Species Act by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, for those endangered and threatened species under his jurisdiction. The list of these species is found in 50 CFR § 222.23(a) for endangered species and 50 CFR § 227.4 for threatened species.

§ 226.2 Scope of regulations.

(a) The critical habitat designations contained in this Part apply only to the endangered and threatened species listed in this Part.

(b) Regulations implementing section 7 of the Endangered Species Act are found in 50 CFR Part 402.

(c) the provisions in this Part are in addition to, and not in lieu of other regulations of Parts 217-227 and 402 of this Chapter.

Subpart B—Critical Habitat for Marine Mammals

§ 226.11-226.30 [Reserved]

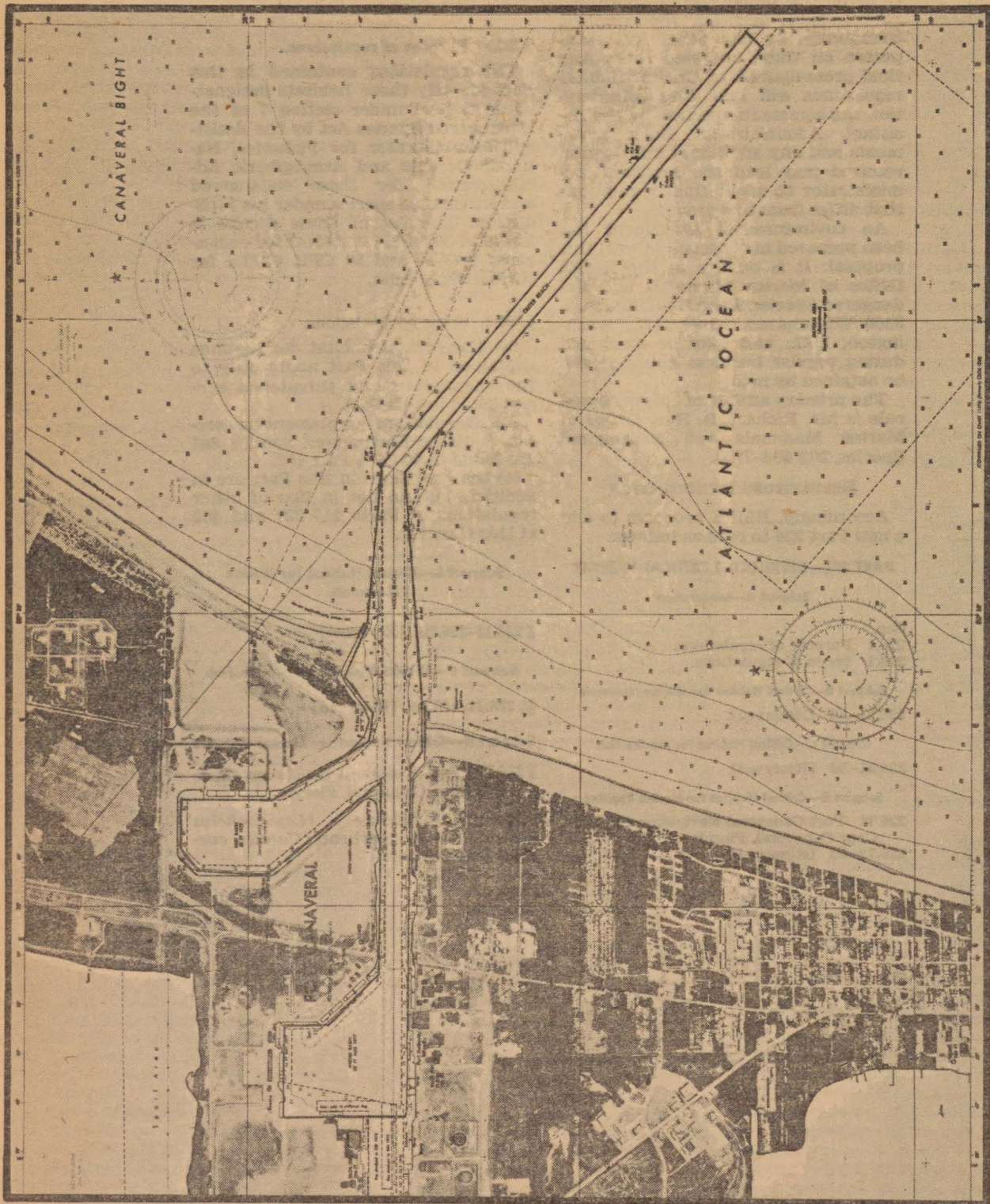
Subpart C—Critical Habitat for Marine Fish

§§ 226.31-226.70 [Reserved]

Subpart D—Critical Habitat for Marine Reptiles

§ 226.71 Port Canaveral Navigation Channel, Cape Canaveral, Florida.

Kemp's Ridley (*Lepidochelys kempii*) and Loggerhead (*Caretta caretta*) Sea Turtles.



Proposed Critical Habitat for the Kemp's ridley and Loggerhead sea turtles

§§ 226.72-226.99 [Reserved]

NOTE.—The NMFS 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 28, 1978.

JACK W. GEHRINGER,
Acting Assistant Administrator
for Fisheries, NMFS.

[FR Doc. 78-27979 Filed 10-3-78; 8:45 am]

[3510-22]

[50 CFR Part 675]

FOREIGN FISHING

Draft Fishery Management Plan; Halibut Off
The Coast Of Alaska; Public Hearings
Amendment

AGENCY: National Marine Fisheries
Service, NOAA.

ACTION: Amended Notice.

SUMMARY: The agenda for the public hearings on the Draft Fishery Management Plan for Halibut Off The Coast Of Alaska (FR Vol. 43, No. 180, pages 41244 and 41245 September 15, 1978) will also include the discussion of the Draft Environmental Impact Statement.

FOR FURTHER INFORMATION
CONTACT:

Jim H. Branson, Executive Director,
North Pacific Fishery Management
Council, P.O. Box 3136DT, Anchor-
age, Alaska, 99510, telephone: 907-
274-4563.

Dated: September 29, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-28018 Filed 10-3-78; 8:45 am]

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ated under the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

DATES: The meeting will convene at 8:30 a.m. on Tuesday, October 24, 1978, and recess at 5 p.m. On Wednesday, October 25, 1978, the meeting will convene at 8:30 a.m. and adjourn at approximately noon.

ADDRESS: The meeting will be held at the Kona Hilton Hotel, in Kailua-Kona, Hawaii.

FOR FURTHER INFORMATION CONTACT: Wilvan C. Van Campen, Executive Director, Western Pacific Regional Fishery Management Council, Room 1506, 1164 Bishop Street, Honolulu, Hawaii 96813, telephone: 808-523-1368

SUPPLEMENTARY INFORMATION: This meeting will be open to the public on a first-come first-served basis, with seating available for about 75 members of the public. Public participation in discussion will be permitted to the extent time permits. For information on seating arrangements, changes to the agenda and/or written comments, contact the Executive Director.

PROPOSED AGENDA

OCTOBER 24-25, 1978.

(1) Fishery Management Plan review procedures; (2) Organization of Fishery Management Plan development and the roles of advisory bodies in the process; (3) Role of the Council in regard to fishery development; (4) Council involvement in international fishery management and research; (5) Report of the DOC audit of Council operations; (6) Other appropriate issues.

Dated: September 29, 1978.

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

[FR Doc. 78-27966 Filed 10-3-78; 8:45 am]

[3510-22]

RECEIPT OF APPLICATION FOR PERMIT

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

1. Applicant:

- a. Name: George B. Rabb, Director, Chicago Zoological Park
- b. Address: Brookfield, Ill. 60513.

2. Type of permit: Public display.

3. Name and number of animals: Atlantic bottlenose dolphins (*Tursiops truncatus*) 2.

4. Type of take: To capture and maintain permanently in a facility.

5. Location of activity: Melbourne, Fl.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

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

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 3, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

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

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

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930; and
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Fl. 33702.

Dated: September 28, 1978.

R.V. MILLER,
Acting Director, Office of Marine
Mammal and Endangered Species,
National Marine Fisheries Service.

[FR Doc. 78-28036 Filed 10-3-78; 8:45 am]

[3510-22]

RECEIPT OF APPLICATION FOR PERMIT

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

tection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

- a. Name: Mr. A. van den Oever, Dolfirodam B.V.
- b. Address: Gebouw de Hoffdpoort, Blaak 101, 3011 GB Rotterdam, Netherlands.

2. Type of permit: Public display.

3. Name and number of animals: Atlantic bottlenose dolphins (*Tursiops truncatus*) 2.

4. Type of take: To capture and maintain permanently in a facility.

5. Location of activity: Rockport, Tex.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

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

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 3, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

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

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 F.R. 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Ministerie Van Cultuur, Recreatie en Maatschappelijk Werk, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity;

(b) Includes:

- i. A verification from the Ministerie Van Cultuur of the Netherlands of the

information set forth in the application;

ii. A certification from the Ministerie Van Cultuur that the Government of the Netherlands is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. A statement that the Ministerie Van Cultuur will have no objection to a NMFS decision to amend, suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Ministerie Van Cultuur, Recreatie en Maatschappelijk Werk have been found appropriate and sufficient to allow consideration of this permit application.

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

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Dated: September 29, 1978.

R. V. MILLER,
Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-28037 Filed 10-3-78; 8:45 am]

[3510-22]

ISSUANCE OF PERMIT FOR MARINE MAMMALS

On August 9, 1978, notice was published in the FEDERAL REGISTER (43 FR 35874) that an application had been filed with the National Marine Fisheries Service by Quinlan Marine Attractions, Route 3, Box 540, Lincolnton, N.C. 28092, to take six (6) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on September 29, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit to Quinlan Marine Attractions subject to certain conditions set forth therein. The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Gloucester, Mass. 01930.

WINFRED H. MEIBOHM,
*Acting Executive Director,
National Marine Fisheries Service.*

SEPTEMBER 29, 1978.

[FR Doc. 78-28038 Filed 10-3-78; 8:45 am]

[3510-22]

MARINE FISHERIES ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). The meeting (MAFAC XXI) will be held on Thursday and Friday, October 26 and 27, 1978, at the Kona Hilton Hotel, in Kailua-Kona, Hawaii. The meeting will convene at 8 a.m. on October 26, 1978, and recess at 5:30 p.m. On October 27, 1978, the meeting will convene at 8:30 a.m. and adjourn at approximately 12:30 p.m.

Agenda items include: current DOC/NOAA/NMFS activities in fisheries development; budget process in Federal Government; discussion of 1979, 1980, and 1981 NMFS budget; discussion of 1981 draft NMFS program emphasis document; Scientific and Statistical Committees interface with and service to Regional Fishery Management Councils in fulfillment of responsibilities under Fishery Conservation and Management Act; issues and items of interest coming out of meeting of Regional Fishery Management Council Chairmen on October 24-25, 1978; status of Inter-American Tropical Tuna Commission negotiations; current status and future development of fisheries associated with the Western Pacific Islands; Department of Commerce policy on tradeoffs with foreign countries, i.e., foreign vessel access to U.S. fishery conservation zone in exchange for preferential U.S. access to foreign markets; meeting environmental assessment and monitoring responsibilities in the Coastal Zone; and other miscellaneous items.

The committee meeting is open to the public and there will be seating for approximately 75 members of the public available on a first come, first served basis. Members of the public having an interest in specific items for discussion are advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact:

Ms. Phyllis Bentz, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, National

Marine Fisheries Service, Washington, D.C. 20235; 202-634-7355.

At the discretion of the chairman, interested members of the public may be permitted to speak at times which allow an orderly conduct of committee business, and a reasonable time relationship between the committee's discussion of a given subject, and comments to that same subject by a member of the public.

Interested members of the public who wish to submit written comments should do so at the address noted above. To receive due consideration and facilitate their inclusion in the record of the meeting, written statements should be received within 10 days after the close of the committee meeting.

Dated: September 29, 1978.

JACK W. GEHRINGER,
*Acting Assistant Administrator
for Fisheries.*

[FR Doc. 78-28046 Filed 10-3-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR FORCE INSTITUTE OF TECHNOLOGY SUBCOMMITTEE OF THE AIR UNIVERSITY BOARD OF VISITORS

Meeting

SEPTEMBER 25, 1978.

The Air Force Institute of Technology Subcommittee of the Air University Board of Visitors will hold an open meeting at 11 a.m. on November 21, 1978, in Room 2004 (10 seats available), Building 125, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting is to give the subcommittee the opportunity to present to the Commandant, Air Force Institute of Technology, a report of findings and recommendations concerning the institute's educational programs. The findings of the Subcommittee will also be reported to the Commander, Air University, at the next regular scheduled meeting of the Air University Board of Visitors.

For further information on this meeting, contact Lt. Col. Jonathan H. Snead, Chief, Degree Programs Division, Directorate of Educational Plans and Operations, Air Force Institute of Technology, 513-255-4219 or 5402.

CAROL M. ROSE,
*Air Force, Alternate
Federal Register Liaison Officer.*

[FR Doc. 78-27944 Filed 10-3-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 26, 1978.

The USAF Scientific Advisory Board will hold its Fall General Meeting at the Andrews Officers' Club, Andrews Air Force Base, Md. on October 26, 1978 from 9 a.m. to 5 p.m., and on October 27, 1978 from 8:30 a.m. to 1 p.m.

The Board will receive classified briefings and hold classified discussions on Tactical Issues in the NATO Environment. The meetings will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

CAROL M. ROSE,
Air Force, Alternate
Federal Register Liaison Officer.

[FR Doc. 78-27943 Filed 10-3-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL78-43]

BOUNTIFUL, UTAH

Petitions for Declaratory Orders and Notice of Consolidation

SEPTEMBER 27, 1978.

In the matter of City of Bountiful, Utah, Utah Power and Light Co., City of Santa Clara, Calif., and Pacific Gas and Electric Co.

Take notice that two petitions have been filed under the Federal Power Act [Act], 16 U.S.C. §§ 791a-825r, for declaratory orders determining that a "municipality" within the meaning of Section 3(7) the Act [16 U.S.C. § 796(7)], as an applicant for a new license under Section 15(a) [16 U.S.C. § 808(a)], is entitled to a preference under Section 7(a) [16 U.S.C. § 808(a)].

The City of Bountiful, Utah [Bountiful] filed its petition on July 21, 1978. Bountiful has applied for a new license for the existing Weber River Project, designated FERC Project No. 2747 in reference to Bountiful's application. The Weber River Project was designated Project No. 1744 when the original long-term license was issued to the Utah Power and Light Co. [UP&L]. The original license has expired, and UP&L has filed an application for a new license.

Bountiful states that it is a municipality and requests the Federal Energy Regulatory Commission to order that Bountiful is entitled to preference within the meaning of Sec-

tion 7(a) in the issuance of a new license for the Weber River Project. Bountiful also states that the question of whether a municipality is entitled to preference in this situation is entirely one of law and is thus suitable for resolution by declaratory order. Bountiful asserts that resolution of the question of the applicability of the preference provisions of the Act in the issuance of a new license upon expiration of an original license is a matter of interest not only to Bountiful but to other similarly situated municipal corporations, and would reduce uncertainty in this and other similar proceedings involving competing applications by municipalities for new licenses.

The City of Santa Clara, Calif. [Santa Clara] filed a similar petition on August 15, 1978. Santa Clara has applied for a new license for the existing Mokelumne River Project, now licensed to the Pacific Gas and Electric Company [PG&E] as FERC Project No. 137.¹ The original license for this project has also expired, and PG&E has filed an application for a new license. The Mokelumne River Project is designated FERC Project No. 2745 in reference to Santa Clara's application.

Santa Clara also states that it is a municipality and requests the Commission to order that Santa Clara is therefore entitled to preference within the meaning of Section 7(a) in the relicensing of the Mokelumne River Project. Santa Clara states that a decision by the Commission on this question in advance of any hearing in the matter of the competing application for a new license for the Mokelumne River Project would narrow the issues in such a hearing and reduce litigation expenses. Santa Clara also asserts that such a decision would reduce uncertainty in this and other proceedings involving competing municipal applications for new licenses after expiration of existing licenses.

Because both petitions present similar or perhaps the same questions of law regarding the applicability of municipal preference in relicensing proceedings, the petitions are consolidated under a single docket number. This will eliminate unnecessary duplicative effort and expense for all parties who may have an interest in the ultimate question presented in both petitions and who want the opportunity to express their views.

Anyone desiring to be heard or to make any protest about the petitions should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with

¹ Project No. 137 was originally licensed to J. W. Preston, Jr. The license was later transferred to PG&E. 6th Annual Report of the Federal Power Commission at 97 (1926).

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 and participate fully in any hearing or briefing in the proceeding, a person must file a petition to intervene in accordance with the Commission's Rules (18 CFR § 1.8). This requirement applies as well to anyone who is now on the official service list for any of the relevant individual project applications (i.e., FERC Nos. 137, 1744, 2745, and 2747), because this docket constitutes a separate proceeding. Any protest or petition to intervene must be filed on or before November 6, 1978. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The applications are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27946 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket Nos. C177-701, C177-799]

CITY OF PERRYTON, TEX., et al.

Certification of Stipulation and Agreement

SEPTEMBER 26, 1978.

In the matter of City of Perryton, Tex., Falcon Petroleum Co., Amoco Production Co., and Northern Natural Gas Co.

Take notice that on September 12, 1978, Presiding Administrative Law Judge Stephen L. Grossman certified a proposed stipulation and settlement agreement and certain motions and responses to the Commission for its consideration.

On December 28, 1977, the Commission issued an order in which it set for hearing the following questions: whether the applications for abandonment filed by the City of Perryton, Tex. (City) and Falcon Petroleum Co. (Falcon) should be approved; whether Amoco Production Co. (Amoco) had ceased deliveries to Northern Natural Gas Co. (Northern) from the Purdum No. 1 Well, located in Lipscomb County Tex., Section 901, H. and T.C. Railway Survey, without authorization pursuant to Section 7(b) of the Natural Gas Act; and whether, by reason of any unauthorized cessation of deliveries, Amoco or Northern acted in violation of the Natural Gas Act.

The proposed Stipulation and Agreement submitted by Falcon, et al.,¹

¹ Parties joining in this motion were City, Northern, Transwestern Pipeline Co., and High Plains Natural Gas Co.

would, if approved, resolve the issues posed by Falcon's and City's abandonment application. The Agreement states that Falcon and City would withdraw their pending application for abandonment authorization. Furthermore, Falcon would sell all gas production from the Purdum Well to Northern and Transwestern Pipeline Co. (Transwestern) at whatever price the Commission determines is just and reasonable. In addition, Falcon submitted a separate statement in support of its eligibility to collect the national rate set in Opinion No. 770-A for the Purdum gas.

Northern's Motion to Dismiss would, if granted, dispose of all questions concerning violations of the Natural Gas Act posed by the Commission's December 28 order. Northern states in its Motion to Dismiss that the proposed settlement agreement in this case would result in the Purdum Unit gas being sold to the same two pipelines who had received the gas before the alleged violative activities occurred and that deliveries would be made in the same proportions as each had previously received the gas. Northern states that in view of the fact that there is no longer any dispute concerning the disposition of the gas, and in view of the fact that the gas will be delivered to the same pipelines which had previously taken deliveries, "no useful purpose would be served in continuing the show cause aspect of the proceeding."

The Presiding Administrative Law Judge also submitted to the Commission the Commission Staff's response to the above-referenced motions, a motion of the Commission Staff to Add Parties Respondent, and responsive pleadings thereto.

Comments with respect to the proposed settlement may be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 10, 1978. Such comments will be considered in determining appropriate action, but those filing comments will not as a result of such action become parties to this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27947 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RP73-65 (PGA78-4) (AP78-1)]

COLUMBIA GAS TRANSMISSION CORP.

Deferring Procedural Dates and Scheduling Prehearing Conference

SEPTEMBER 25, 1978.

On September 18, 1978, Counsel for Columbia Gas Transmission Corp. (Columbia) filed a motion to defer pro-

cedural dates and schedule a prehearing conference for the above captioned proceeding in compliance with the Commission order issued August 31, 1978. The motion stated that Staff Counsel is agreeable to the procedures requested therein.

Upon consideration, notice is hereby given that a prehearing conference is scheduled in this proceeding for November 28, 1978, provided that Columbia furnish (at Staff's request) any additional documentation that Columbia may have to support its July 31, 1978, revised tariff sheet filing. Notice is also given that the filing of Columbia's case-in-chief and of Staff's statement of position are deferred until dates to be determined by the Presiding Administrative Law Judge after the prehearing conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27948 Filed 10-3-78; 8:45 am]

[6750-02]

[Docket No. RP73-65 (PGA No. 78-4) (AP No. 78-1)]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 26, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on September 12, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. Columbia states that this filing amends its filing of July 31, 1978, and proposes an effective date of September 2, 1978. Columbia states that the proposed changes are the result of the revised rates of Texas Eastern Transmission Corp., at Docket No. RP74-41, et al., filed September 7, 1978, to become effective August 9, 1978. As a result of this revision, Columbia's revised rates herein proposed to become effective September 2, 1978 reflect a Purchased Gas Cost Adjustment which is \$2,075,276 less than that approved, subject to refund, by Commission Order issued August 31, 1978.

Copies of the filing were served upon the Company's 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, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before 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. 78-27949 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RI78-88]

JOSEPH P. MUELLER

Petition for Special Relief

SEPTEMBER 26, 1978.

Take notice that on August 15, 1978, Joseph P. Mueller (Petitioner), 1010 Wilson Building, Corpus Christi, Tex. 78476, filed a petition for special relief in Docket No. RI78-88 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. 2.76).

Petitioner seeks a rate increase from 60¢ per Mcf to \$1.26 per Mcf for the sale of gas from the Ramirena, North (Pettus) field, Live Oak County, Tex. to United Gas Pipeline Co. Petitioner states that this rate will be required to meet the costs associated with a proposed installation of equipment for removal of excessive water interfering with increased gas production.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and procedure (18 C.F.R. 1.8 or 1.10). All such petitions or protests should be filed on or before October 17, 1978. 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. 78-27950 Filed 10-3-78; 8:45 am]

[6740-02]

MICHIGAN WISCONSIN PIPE LINE CO.

[Docket No. RP73-14 (PGA78-3) (DCA78-2)]

PGA Rate Increase

SEPTEMBER 25, 1978.

Take notice that on September 15, 1978, Michigan Wisconsin Pipe Line

Co. (Michigan Wisconsin) tendered for filing Twenty-first Revised Sheet No. 27F to its F.E.R.C. Gas Tariff, Second Revised Volume No. 1. Michigan Wisconsin proposed an effective date of November 1, 1978 for said revised sheet.

The foregoing tariff sheet reflects in the two-part rates a commodity increase of 8.56¢ per Mcf and a demand charge decrease of \$0.31 occasioned by (1) a Purchase Gas Adjustment of 15.61¢ per Mcf, together with the demand charge decrease of \$0.31, which reflects principally the combined effect of (a) the replacement of old sources of gas supply with higher priced new gas, (b) contractual increases and escalations due to producers under Opinion Nos. 699, 749 and 770, and (c) rate changes by pipeline suppliers; (2) a decrease of 6.17¢ per Mcf in the surcharge level to 5.92¢; and (3) a reduction of .88¢ per Mcf in the Demand Charge Adjustment to .39¢. One-part rates have been increased 7.88¢ to reflect the Purchase Gas Adjustment and the surcharge adjustment referred to in (1) and (2) above.

Michigan Wisconsin further states that it requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of Twenty-first Revised Sheet No. 27F to be made and to become effective November 1, 1978. However, in the event the Commission does not accept Twenty-first Revised Sheet No. 27F to become effective November 1, 1978, Michigan Wisconsin requests that Alternate Twenty-first Revised Sheet No. 27F, which excludes one-hundredth of a cent (.01¢) from the surcharge adjustment representing the cost of emergency purchases above rates prescribed by Opinion No. 770-A, be accepted and Twenty-first Revised Sheet No. 27F be suspended for 1 day to become effective November 2, 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 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 application are on file

with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27951 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. CP78-519]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

SEPTEMBER 26, 1978.

Take notice that on September 14, 1978, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP78-519 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to divert and transport up to 500 Mcf of gas per day for delivery to Amoco Production Co. (Amoco) for use as field compressor fuel, and to construct and operate facilities necessary to make such delivery, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that Applicant purchases natural gas produced by seven producers from the Campbell Reservoir, Old Ocean Field, Brazoria and Matagorda Counties, Tex., pursuant to seven separate gas purchase contracts designating Amoco as operator in the field, and that Amoco processes such gas in Amoco's Old Ocean Gasoline Plant. Applicant purchases the gas at the interconnection between Applicant's facilities and those of Amoco, located near the outlet of the gasoline plant. Applicant asserts that due to substantial decline in the pressure of the gas produced in the Campbell Reservoir compression is necessary for the maintenance of deliveries on a full time basis.

It is indicated that pursuant to a letter agreement dated April 1, 1978, Amoco has agreed to acquire, construct and operate the required compression facilities at Amoco's expense. Applicant proposes to provide fuel gas for such compression facility, up to a maximum of 500 Mcf per day. Applicant further proposes to construct and operate at Applicant's expense, 3,300 feet of two inch lateral pipeline extending from a point of Applicant's existing pipeline facilities to the site of said compression equipment, along with measuring and related facilities needed to effectuate the delivery of the fuel gas. Applicant asserts that the estimated cost of the facilities proposed to be installed by it is \$43,000, and that such cost would be financed from funds on hand.

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 interfere 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. 78-27952 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. EL78-21]

SEMINOLE ELECTRIC COOPERATIVE, INC. v. FLORIDA POWER CORP.

Granting Further Extension of Time

SEPTEMBER 25, 1978.

On September 18, 1978, Seminole Electric Cooperative, Inc., Florida Power Corp. and the Intervening Cities¹ filed a motion for a further extension of time within which to answer the complaint and to respond to Cities' petition to intervene. The

¹Cities of Alachua, Bartow, Bushnell, Chattahoochee, Ft. Meade, Kissimmee, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Williston, and Sebring Utilities Commission.

motion states that a number of related actions are pending in the U.S. District Court in Tampa, Florida. The motion further states that the report of a special investigator to the Florida Public Service Corporation, to be issued shortly, may provide a basis for a settlement which would render a separate proceeding before the FERC unnecessary.

Upon consideration, notice is hereby given that a further extension of time to answer Seminole Electric Cooperative, Inc.'s Complaint and to respond to the Cities' Petition to Intervene is granted to and including October 5, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27953 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. SP78-6]

SINCLAIR OIL CORP.

Order Granting Special Permission Request

SEPTEMBER 25, 1978.

On January 31, 1978, Sinclair Oil Corp. (Sinclair Oil) requested that the Commission grant its wholly-owned subsidiary, Sinclair Pipeline Co. (Sinclair Pipeline) exemptions from the tariff filing requirements of Section 6 of the Interstate Commerce Act (Act); the valuation reporting requirements of Section 19a and maintenance of a uniform system of accounts required by Section 20. (49 USC Sections 6, 19a, 20).¹

Sinclair Oil based its requests on the assertion that Sinclair Pipeline² is a private carrier rather than a common carrier and thus not subject to Section 6 and the other provisions of the Act.³

Nevertheless, we find that Sinclair Pipeline is a "common carrier" as that

term is defined under the Act (49 USC Section 1 et seq.).⁴ "Common Carrier" for the purposes of the Act is not limited only to common carrier for hire but rather encompasses all pipeline carriers.⁵ This interpretation is consistent with legislative history and case law. *Champlin Refining Co. v. United States*, 329 U.S. 29 (1946). *United States v. Champlin Refg. Co.*, 341 U.S. 290 (1950); *Valvoline Oil Co. v. U.S.* 308 U.S. 141 (1939) ("... the fact that the oils transported belonged to the owner of the pipeline is not conclusive against the transportation being such commerce.")⁶

However, we believe that Sinclair Pipeline should be granted a temporary waiver of the filing and reporting requirements of Section 6, 19a and 20 of the Act. This finding is based in part, on the Commission's authority to exempt a common carrier from the tariff filings requirements of Section 6 of the Act when good cause is shown, as is the case here.⁷ Further, the discretionary language of Sections 19a and 20 of the Act provides the statutory predicate for our decision to exempt Sinclair Pipeline from the reporting requirements thereunder.

Sinclair Pipeline is a common carrier subject to all of the provisions of the Act, however, we hold that present circumstances warrant the requested exemptions. Any change in the carrier's situation, as defined in ordering paragraph C, shall be reported immediately to this Commission.

The Board orders:

(A) Sinclair Oil Corp.'s request to exempt its subsidiary, Sinclair Pipeline Co., from certain reporting and filing requirements is hereby granted on a temporary basis.

(B) Until further ordered, Sinclair Pipeline Co. shall not be required to comply with Sections 6, 19a, and 20 of

the Interstate Commerce Act (49 U.S.C. §§ 6, 19a, 20), except as indicated in paragraph "(D)" below.

(C) Sinclair Pipeline Co. shall promptly report to this Commission any change in its operational status including but not limited to: (1) Increased accessibility of other pipelines or refiners to its pipeline system; (2) changes in its competitive position in the Denver, Colo. area; (3) changes in the ownership of the pipeline facilities; (4) changes in ownership of oil and petroleum by-products in transit; and (5) shipment tenders or the demand for services made by any person.

(D) Sinclair Pipeline Co. shall maintain all books and records in a manner consistent with recognized accounting principles in accordance with the Uniform System of Accounts for Oil Pipelines 49 CFR 1204 and shall make such books and records accessible to the Commission or its duly authorized agents on request.

(E) Sinclair Pipeline Co. shall keep in readiness information needed to update its most recent valuation report on file with this Commission.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Oil Pipeline Board.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27954 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RP72-121; PGA 78-3a]

SOUTHWEST GAS CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

SEPTEMBER 26, 1978.

Take notice that on September 19, 1978, Southwest Gas Corp. ("Southwest") tendered for filing Substitute First Revised Sheet No. 10, constituting the Statement of Rates of its FERC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to adjust rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of the General Terms and Conditions contained in said tariff, as a result of changes in rates from its supplier, Northwest Pipeline Corp. ("Northwest"), effective October 1, 1978. The proposed effective date for Southwest's proposed change in rates is October 1, 1978.

Southwest states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Co., and CP National (formerly California-Pacific Utilities Co.).

¹On April 11, 1978 a Notice of Request for Change in Carrier Status was issued. Petitions and protests were directed to be filed on or before April 24, 1978. None have been filed.

²Sinclair pipeline consists of three wholly-owned pipeline systems, one of which crosses state boundaries. Sinclair Pipeline consists of a "Gathering System" originating at Sand Draw Station, Wyoming and extending to Rasvoil Station, Wyoming where it connects with a segment of the "Crude Trunk System". The Crude Trunk System terminates at Sinclair Oil's refinery in Sinclair, Wyo. The crude oil is refined into petroleum products and then transported via the Medicine Bow System to Sinclair Oil's terminal facility in Denver, Colo. Title to the crude oil and the petroleum products transported within the Sinclair Pipeline System is in Sinclair Marketing, Inc., a sister subsidiary of Sinclair Pipeline. Sinclair Oil maintains that no other refiner or pipeline company has connections with the Medicine Bow System.

³Sinclair primarily bases its request as to Sections 19 and 20 of the Act on the discretionary language found in these statutes.

⁴Section 1(1) states: "The provisions of this chapter shall apply to common carriers engaged—... (b) the transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line ... From one State ... to any other State ... Section 1(3)(a) explains "The term 'common carrier' as used in this chapter shall include all pipe-line companies ... engaged in such transportation ... as common carriers for hire."

⁵See footnote 2 describing the salient characteristics of the Sinclair Pipeline System.

⁶The Supreme Court, after reviewing the legislative background of Section 1(b)(3), determined that all pipeline companies engaged in the transportation of oil or other commodities in interstate commerce are "common carriers" subject to the Act.

⁷Sinclair asserts that all systems are 100 percent owned by Sinclair. Title to all commodities transported in the systems is held by Sinclair Marketing, Inc., a sister subsidiary of Sinclair Pipeline. Sinclair further asserts that no other refinery is so situated geographically as to request use of its Pipeline System.

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. 78-27955 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RP73-114]

**TENNESSEE GAS PIPELINE CO., A DIVISION OF
TENNECO INC.**

Tariff Filing

SEPTEMBER 25, 1978.

Take notice that on September 12, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth Revised Volume No. 1, consisting of the following: First Revised Sheet Nos. 213A and 213B; and Second Revised Sheet Nos. 213 and 213C.

Tennessee states that the sole purpose of these revised tariff sheets, which are to be effective on October 13, 1978, is to make certain minor changes in the PGA provision in Article XXIII of the General Terms and Conditions in its Ninth Revised Volume No.1

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. 78-27956 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. CP71-304]

**UNION LIGHT, HEAT AND POWER CO AND
COLUMBIA GAS TRANSMISSION CORP.**

Petition to Amend

SEPTEMBER 26, 1978.

Take notice that on August 28, 1978,¹ The Union Light, Heat and Power Co. (Union), 107 Brent-Spence Square, Covington, Ky. 41012, and Columbia Gas Transmission Corp. (Columbia) 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP71-304 a joint petition to amend the order issued by the Federal Power Commission on February 14, 1972 (47 FPC 325)², in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the rate of return component included in the cost of service tariff approved therein, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Union states that pursuant to the order issued February 14, 1972, it was authorized to receive at the southern terminus of its jurisdictional feeder lines natural gas which it transports and delivers, for the account of Columbia, to points of intersection between the facilities of Union and The Cincinnati Gas and Electric Co. (Cincinnati) at the Kentucky-Ohio state line. Union further states that the gas delivered to Cincinnati for the account of Columbia represents such quantities of natural gas as Cincinnati is entitled to receive from Columbia at the subject delivery points. It is asserted that for such transportation service, Columbia pays Union an allocated portion of Union's annual costs pertaining to the facilities used in the service, and Cincinnati reimburses Columbia for all payments made by Columbia to Union for the Transportation.

It is stated that the rate of return component in the cost of service for-

mula utilized to calculate Union's monthly transportation charge is determined as an amount equal to 6¼ percent per annum of its rate base as of November 30 of each year.

Union states that this rate of return is no longer adequate and requests that the order be amended to allow a rate of return which more adequately reflects current capital costs. Union further states that since it is primarily an electric company with a capital structure and capital costs not closely attuned to its jurisdictional gas transmission operations which account for less than 1.2 percent of its gross gas revenues, it proposes to adopt in the costs of service formula prescribed under its Rate Schedule X-4, the rate of return ultimately allowed by the Commission for Union's affiliated gas transmission company, Lawrenceburg Gas Transmission Corp. (Lawrenceburg) in Lawrenceburg's pending rate case in Docket No. RP78-37. Union asserts that there is currently a settlement agreement in that proceeding before the Commission which allows a 9.87 percent overall rate of return for Lawrenceburg.

Columbia requests amendment of the certificate issued in Docket No. CP71-304 to the extent necessary to permit Columbia simultaneously to track in its Rate Schedule X-33 the increase in Union's rate of return thus permitting Columbia to be reimbursed by Cincinnati for any increased payments made to Union as a result of the change in rate of return.

Petitioners submit that this petition to amend the existing certificate is warranted in lieu of a rate filing pursuant to Section 4 of the Natural Gas Act since Union's rate schedule is a cost of service formula whose other cost elements will be unchanged by the rate of return increase requested by Union.

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 in-

¹The application was initially tendered for filing on August 28, 1978, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until September 18, 1978; thus, the filing was not completed until the latter date.

²This proceeding was commenced before the FPC. 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 October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27957 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket Nos. RP 73-3 (PGA 78-3) et al.]

TRANSCONTINENTAL GAS PIPE LINE CO.

Granting Extension of Time

SEPTEMBER 25, 1978.

On September 14, 1978, Transcontinental Gas Pipe Line Corp. (Transco) filed a letter requesting an extension of time for the filing of Tenth Revised Tariff Sheet No. 12 and Ninth Revised Tariff Sheet No. 15 in the above captioned proceeding as instructed in the Commission order of August 31, 1978. The letter stated that Transco intends to petition for rehearing in this case and that the extension of time is required to preserve Transco's right to rehearing.

Upon consideration, notice is hereby given that the time period in Ordering Paragraph (C) of the Commission order of August 31, 1978, with respect to the filing of Tenth Revised Tariff Sheet No. 12 and Ninth Revised Tariff Sheet No. 15 is extended to and including October 13, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27958 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket No. RP77-108]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Filing of Stipulation and Agreement

SEPTEMBER 26, 1978.

Take notice that on September 25, 1978, Transcontinental Gas Pipe Line Corp. (Transco) tendered for filing and "Agreement as to Rates" in this docket. Transco states that this agreement, if approved by the Commission, would resolve most of the issues in this proceeding. Specifically reserved for hearing in this docket are two issues, rate of return and the proper depreciation rates.

Any person desiring to be heard or to protest said Stipulation and Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 17, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on

file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27959 Filed 10-3-78; 8:45 am]

[6740-02]

[Docket Nos. RP72-133 (PGA78-2), et al.]

UNITED GAS PIPE LINE CO.

Notice Granting Extension of Time

SEPTEMBER 25, 1978.

On September 14, 1978, Commission Staff Counsel filed a motion for extension of time to file top sheets in the above captioned proceeding. The motion states that Staff received an incomplete response from United on its data requests and must make a further data request of United before top sheets can be prepared.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 15, 1978, for Staff's filing of top sheets in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27960 Filed 10-3-78; 8:45 am]

[3128-01]

Office of Assistant Secretary for International Affairs

UNITED STATES AND JAPAN

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the United States and Japan (Atomic Energy, Cooperation for Civil Uses), and the additional Agreement for Cooperation between the United States and the European Atomic Energy Community (Atomic Energy, Cooperation for Peaceful Uses).

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of a transfer of 65 spent fuel assemblies containing 190 kilograms of plutonium and 29,000 kilograms of uranium containing 274 kilograms of U-235 from the Kansai Electric Power Co., Japan, to the Euratom Supply Agency for Compagnie Generale des Matieres Nucleaires, LaHague, France for the purpose of reprocessing.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not

be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than October 19, 1978.

For the Department of Energy.

Dated: October 2, 1978.

HAROLD D. BENGLSDORF,
Director for Nuclear Affairs
International Programs.

[FR Doc. 78-28112 Filed 10-3-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 981-8; OPP-30154]

PESTICIDE PROGRAMS

Receipt of Applications To Register Pesticide Products Containing New Active Ingredient

ICI Americas, Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897, has submitted to the Environmental Protection Agency (EPA) applications to register the following pesticide products each containing 0.005 percent of the active ingredient 3-[3-(4'-bromof[1,1'-biphenyl]-4-yl)-1,2,3,4-tetrahydro-1-naphthalenyl]-4-hydroxy-2H-1-benzopyran-2-one which has not been included in any previously registered pesticide products. The applications propose that the products all be classified for general use for the control of the Norway and roof rats and house mice in homes, industrial, and agricultural buildings.

EPA file symbol	Product name
10182-EA.....	Talon Rodenticide Pellets.
10182-ER.....	Talon Rodenticide Bait Pack (mini pellets).
10182-EL.....	Talon Rodenticide (mini pellets) in mouse box.
10182-EU.....	Talon Rodenticide Bait Pack (pellets).
10182-EG.....	Talon Rodenticide Bait Bits in Trays.
10182-EE.....	Talon Rodenticide Pellets in Trays.
10182-EN.....	Talon Rodenticide Mini Pellets.

Notice of receipt of these applications does not indicate a decision by this Agency on the applications. Interested persons are invited to submit written comments on these applications to the Federal Register section, Program Support Division (TS-757), Office of Pesticide Programs, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The comments must be received on or before November 3, 1978, and should bear a notation indicating the EPA File Symbol to which the comments pertain. 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 these applications should be directed to Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202-755-9315. The labels furnished by ICI Americas, Inc., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register section from 8:30 a.m. to 4 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products 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 26, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-27928 Filed 10-3-78; 8:45 am]

[6560-01]

[FRL 981-61]

UNDERGROUND INJECTION CONTROL

List of States Requiring Program; Correction

On September 25, 1978, EPA published a Notice which lists States needing underground injection programs under the Safe Drinking Water Act. (FR Doc. 78-26715, 43 FR 43420.) The following corrections should be made to the Notice.

1. On page 43420, left column, add the following immediately after the "FOR FURTHER INFORMATION CONTACT" paragraph:

"SUPPLEMENTARY INFORMATION: Section 1421 of the Safe Drinking Water Act (Pub. L. 93-523, as amended by Pub. L. 95-190) requires the Administrator of the Environmental Protection Agency (EPA) to publish regulations which set forth minimum requirements for State underground injection control programs to protect drinking water sources."

2. On page 43420, right column, last paragraph, change "H.R. Report No. 93-11895" to "H.R. Report No. 93-1185."

Dated: September 28, 1978.

THOMAS C. JORLING,
Assistant Administrator for
Water and Waste Management.

[FR Doc. 78-27930 Filed 10-3-78; 8:45 am]

[6560-01]

[FRL 981-7]; OPP-50376A]

RHODIA INC., ET AL

Issuance of Experimental Use Permit; Correction

In FR Doc. 78-22490 appearing at page 36000 in the issue of Monday, August 14, 1978, in experimental use permit No. 359-EUP-56, the following correction should be made in the center section describing the experimental use permit granted to Rhodia, Inc., Monmouth Junction, N.J. 08852.

Starting on the third line, the description should read: " * * * allows the use of 1,480 pounds of the herbicide oxadiazon * * * "

Dated: September 26, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-27929 Filed 10-3-78; 8:45 am]

[6714-01]

FEDERAL DEPOSIT INSURANCE CORP.

INTERNATIONAL BANKING ACT OF 1978

Order Extending Federal Deposit Insurance Coverage to Branches of Insured Puerto Rico Banks Located in the United States

The Board of Directors of the FDIC has reviewed the International Banking Act of 1978 (the "IB Act") which provides for the first time that a branch of a foreign bank located in the United States is eligible for Federal deposit insurance. The Board of Directors has also considered the provision of the IB Act which denotes a branch of a bank organized under the laws of Puerto Rico as a branch of a foreign bank when the branch is located in the United States. The Board concludes that these provisions of the IB Act render doubtful the continued insured status of domestic branches of insured Puerto Rico banks even though the branches were insured prior to enactment of the IB Act and even though the banks themselves remain insured. In order to resolve any questions regarding the insured status of these branches and in order to avoid undue hardship to any branch or depositor that might otherwise be adversely affected by the sudden loss of deposit insurance coverage: *It is hereby ordered*, That any branch of an insured Puerto Rico bank that is located in any State will

continue to be insured beginning with the date of enactment of the IB Act.

By order of the Board of Directors.

Dated at Washington, D.C., this 28th day of September 1978.

FEDERAL DEPOSIT
INSURANCE

CORP.,

ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-27975 Filed 10-3-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 16, 1978 in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3688-1.

Filing party: Mr. D. W. Gwin, L. A. Parish, Inc., 61 Saint Joseph Street, Mobile, Ala. 36601.

Summary: Agreement No. T-3688-1, between the Lake Providence Port Commission (Port) and Lake Providence Terminal Co., Inc. (LPTC), modifies the parties' basic agreement providing for the Port's lease to LPTC of certain premises at Lake Providence, East Carroll Parish, La. to be

operated as a marine terminal facility. The purpose of the modification is to define the term "wharfage;" provide for additional insurance; provide that LPTC shall pay all taxes on the facilities; provide additional default conditions; change the term "terminal use charge" to "wharfage charge;" and provide for LPTC's retention of three percent of such wharfage use charges as a collection and handling charge.

Agreement No.: T-3688-A.

Filing party: Mr. D. W. Gwin, L. A. Parish, Inc., 61 Saint Joseph Street, Mobile, Ala. 36601.

Summary: Agreement No. T-3688-A, between the Lake Providence Port Commission (Port) and Lake Providence Terminal Co., Inc., (LPTC), provides for the Port's three-year (with renewal options) lease to LPTC of a pneumatic tire crane and a clam shell bucket, to be used at certain facilities leased to LPTC under FMC Agreement No. T-3688, at Lake Providence, East Carroll Parish, La. As compensation, LPTC shall pay Port those tonnage rental amounts stipulated in Agreement No. T-3688, together with wharfage charges, less a three percent collection and handling charge, and thirty percent of the gross earnings and revenues of LPTC from any work performed outside of the port area utilizing said crane. The terms of Agreement No. T-3688 are incorporated in and made a part of T-3688-A for all purposes by reference.

By order of the Federal Maritime Commission.

Dated: September 29, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-28035 Filed 10-3-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

WEST GEORGIA FINANCIAL CORP.

Formation of Bank Holding Company

West Georgia Financial Corp., Tallapoosa, Ga., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of West Georgia Bank of Tallapoosa, Tallapoosa, Ga. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

West Georgia Financial Corp., Tallapoosa, Ga., has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage in the activities of

acting as insurance agent or broker for the sale of credit life and accident and health insurance that is directly related to the extension of credit by a bank or bank-related firm. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Notice of the application was published on September 13, 1978, in the *Tallapoosa Journal-Beacon*, a newspaper circulated in Tallapoosa, Ga.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 23, 1978.

Board of Governors of the Federal Reserve System, September 26, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28043 Filed 10-3-78; 8:45 am]

[4110-92]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

MODEL ADOPTION LEGISLATION AND PROCEDURES ADVISORY PANEL

Meeting

The Model Adoption Legislation and Procedures Advisory Panel was established by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L. 95-266, Title II, section 202) to advise and assist the Secretary of HEW in the review of current conditions, practices, and laws relating to adoption, with special reference to their effect on facilities or impending the location of suitable adoptive homes for children who

would benefit by adoption and the completion of suitable adoptions for such children. The Panel will propose to the Secretary model adoption legislation and procedures not later than 12 months after its appointment.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Panel will hold a meeting October 16 through 19, 1978. The meeting will be held at the following times and locations:

October 16, 9 a.m.-5 p.m., Room 529A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

October 17 and 18, 9 a.m.-5:30 p.m., Room 5549, Donohoe Building, 400 Sixth Street SW., Washington, D.C.

October 19, 9 a.m.-4:40 p.m., Room 339A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

On October 16, the Panel will establish rules for decisionmaking and will consider and approve an agenda for the remainder of the meeting. The Panel's agenda will address the basic specifications for the model adoption legislation in response to a number of adoption issues identified in Pub. L. 95-266 and elsewhere. The Panel will meet in both plenary and task force sessions during the 4-day meeting.

Further information on the Panel may be obtained from Ms. Susan Weber, Acting Chief, Training and Technical Assistance Division, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, telephone 202-755-7820. Model Adoption Legislation and Procedures Advisory Panel meetings are open for public observations.

Dated: September 29, 1978.

ARNOLD SAMPSON,
HDS Committee
Management Officer.

[FR Doc. 78-28015 Filed 10-3-78; 8:45 am]

[4110-07]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Public Meeting

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given of public meetings of the Advisory Council on Social Security and the Panel of Actuaries and Economists.

SUMMARY: Notice is hereby given pursuant to Pub. L. 92-463, that the Advisory Council on Social Security, established pursuant to Section 706 of the Social Security Act, as amended, will meet on Monday, October 16, 1978 from 9 a.m. to 5 p.m. in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The meeting will be de-

voted to the topic of social security financing.

There will be a meeting of the Advisory Council's panel of actuaries and economists on Tuesday, October 17, 1978 from 9 a.m. to 12 p.m. in Room 503A, Hubert H. Humphrey Building. The panel will continue its review of the economic and actuarial assumptions used in social security cost projections.

These meetings are open to the public.

Individuals and groups who wish to have their interest in the social security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION, CONTACT:

Mr. Lawrence H. Thompson, Executive Director of the Advisory Council, P.O. Box 17054, Baltimore, Md. 21235. Telephone inquiries should be directed to Mr. John T. Sabo, telephone number 301-594-3171.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.807 Social Security Program)

LAWRENCE H. THOMPSON,
Executive Director,

Advisory Council on Social Security.
[FR Doc. 78-28094 Filed 10-3-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(INT DES 78-411)

NEW MEXICO

Availability of Draft Star Lake-Bisti Regional Coal Environmental Statement and Holding of Public Hearings

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on possible development of coal resources in the Star Lake-Bisti Region of northwestern New Mexico.

The draft statement analyzes the environmental impacts that would result from the rights-of-way for the proposed Star Lake Railroad and the Fruitland Coal Load Transmission Line which would service coal mines in the region, and examines the cumulative impacts of potential coal development through 1990 in McKinley, Rio Arriba, Sandoval, and San Juan Counties in northwestern New Mexico.

Single copies of the draft statement can be obtained from the:

BLM District Manager, Albuquerque District Office, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, N. Mex. 87107.

BLM State Director, New Mexico State Office, Post Office Building, P.O. Box 1449, Santa Fe, N. Mex. 87501.

BLM Area Manager, Farmington Resource Area Headquarters, 900 La Plata Road, P.O. Box 568, Farmington, N. Mex. 87401.

Copies of the draft statement are also available for inspection at the following locations:

Washington Office of Public Affairs, Bureau of Land Management, Room 5627, 18th and C Streets NW., Washington, D.C. 20240.

Albuquerque City Library, 501 Copper Avenue NW., Albuquerque N. Mex. 87107.

Farmington City Library, 302 North Orchard Avenue, Farmington, N. Mex. 87401.

Gallup Public Library, 115 West Hill Avenue, Gallup, N. Mex. 87301.

Santa Fe Public Library, 121 Washington Avenue, Santa Fe, N. Mex. 87501.

Grants Public Library, 525 West High, Grants, N. Mex. 87020.

Written comments on the draft environmental statement should be submitted by December 4, 1978, to the District Manager, Albuquerque District Office, Bureau of Land Management, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, N. Mex. 87107.

Oral and written comments will also be received at public hearings to be held:

November 14, 1978 at the San Juan College Theatre, San Juan College, 4601 College Boulevard, Farmington, N. Mex.

November 16, 1978, at the Holiday Inn, 2020 Menaul Boulevard NE., Albuquerque, N. Mex.

The hearings will be held at 2 p.m. and 7 p.m. at each location.

Oral testimony of 10 minutes maximum length will be accepted from each witness at the hearing in lieu of written comments or in addition to any written comments submitted by each witness. The 10-minute time limitation will be strictly enforced. The complete text of prepared testimony may be filed with the presiding officer at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted 10 minutes.

Speakers will be heard, if present, in their established order on the witness list. After the last listed witness has been heard the presiding officer will consider the request of any other person present and wishing to testify. Only one witness will be allowed to present the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinions of a private citizen.

Written requests to testify orally should be received at the Albuquerque District Office at the above address

prior to close of business on November 9, 1978. Requests should identify the organization represented and should be signed by the prospective witness.

Written and oral comments on the draft statement will receive equal consideration in preparation of the final environmental statement scheduled for publication in February 1979.

Approved: September 29, 1978.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

[FR Doc. 78-27974 Filed 10-3-78; 8:45 am]

[4310-84]

[Colorado 27134]

WESTERN SLOPE GAS CO.

Pipeline Application

SEPTEMBER 26, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Co., P.O. Box 840, Denver, Col. 80201, has applied for a right-of-way for 3.5-inch o.d. natural gas distribution pipeline totaling approximately 7 linear miles across the following public lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 S., R. 99 W., Section 34; T. 2 S., R. 99 W., Sections 2, 3, 11, 12, 13, 24, 25, and 36; T. 2 S., R. 98 W., Sections 19 and 30; T. 3 S., R. 99 W., Section 1, all in Rio Blanco County.

The primary purpose for construction of the proposed pipeline is to enable the applicant to convey natural gas from the West Douglas Natural Gas Field by way of the West Douglas to Black Sulphur Natural Gas Transmission Line to an industrial customer.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application; and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Col. 80202, as

promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-27942 Filed 10-3-78; 8:45 am]

[4310-84]

[Colorado 25122 C&D]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for right-of-way additions 78298 discontinuously through 78424, for the Foundation Creek Gathering System of approximately 15 miles of pipeline on the following Public Land:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO,
COUNTY, COLO.

T. 3 S., R. 103 W.,
Sec. 18: SW $\frac{1}{4}$
Sec. 19: SW $\frac{1}{4}$
Sec. 20: SW $\frac{1}{4}$ NW $\frac{1}{4}$
Sec. 29: NW $\frac{1}{4}$ NE $\frac{1}{4}$
T. 3 S., R. 104 W.,
Sec. 13: E $\frac{1}{2}$
Sec. 24: SE $\frac{1}{4}$ SE $\frac{1}{4}$
Sec. 25: N $\frac{1}{2}$
T. 4 S., R. 103 W.,
Sec. 15: SW $\frac{1}{4}$ NW $\frac{1}{4}$
Sec. 16: All
Sec. 17: S $\frac{1}{2}$
Sec. 18: S $\frac{1}{2}$
Sec. 19: E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$
Sec. 20: E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$
Sec. 30: NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$
Sec. 31: NW $\frac{1}{4}$ NE $\frac{1}{4}$
T. 4 S., R. 104 W.,
Sec. 2: Lot 1
Sec. 11: NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$
Sec. 12: SW $\frac{1}{4}$, SW $\frac{1}{4}$
Sec. 13: N $\frac{1}{2}$
Sec. 25: NW $\frac{1}{4}$ NW $\frac{1}{4}$

The above-named gathering system will enable the applicant to collect natural gas and to convey it to its customers. The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team
Branch of Adjudication.

[FR Doc. 78-28001 Filed 10-3-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Zoological Society of Cincinnati, 3400 Vine Street, Cincinnati, Ohio 45220.

The applicant requests a permit to import one (1) male captive-bred Bactrian camel (*Camelus bactrianus*) from the Assiniboine Park Zoo; Winnipeg, Canada, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3270. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHN,
Chief, Permit Branch, Federal
Wildlife Permit Office, U.S.
Fish and Wildlife Service.

[FR Doc. 78-27989 Filed 10-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Dr. James D. Lazell, Jr., Massachusetts Audubon Society, 346 Grapevine Road, Wenham, Mass. 01984.

The applicant requests a permit to search for and attempt to capture eight specimens of the giant anole (*Anolis roosevelti*) on Isla Culebra. The specimens will be used for morphometric and behavior studies and killed for voucher specimens.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3277. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHN,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service.

[FR Doc. 78-27990 Filed 10-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Regional Director, Regional VI, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Lakewood, Colo. 80225.

The Applicant requests a permit to take (capture) and relocate wolves (*Canis lupus*) that have been identified as being a threat to human safety or livestock, in order to enhance the survival of the species. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3276. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHN,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service.

[FR Doc. 78-27991 Filed 10-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: James C. McMurry,
Route V, Box 98, Tulia, Tex. 79088.

The applicant requests a permit to import two hite-eared pheasants (*Crossoptilon crossoptilon*) and eight brown-eared pheasants (*C. mantchurium*) from Mr. Jack Schuiteman of Devlin, Ontario for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H. Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3305. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHN,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service.

[FR Doc. 78-27992 Filed 10-3-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Henry Doorly Zoo, River-view Park, Omaha, Neb. 68107.

The applicant requests a permit to import two male and three female cheetahs (*Acinonyx jubatus*) from the Metropolitan Toronto Zoo for enhancement of propagation. The animals were removed from the wild in 1976 in Namibia, South Africa. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H. Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3306. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHN,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service.

[FR Doc. 78-27993 Filed 10-3-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 534, 1717 H. Street NW., Washington, D.C. or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240. Interested persons may comment on these applications on or before November 3, 1978, by submitting written data, views, or arguments to the Director at the above address.

Applicant: Lake Tobias and Animal Haven, PRT 2-3272, R.D. No. 4, Halifax, Pa. 17032.

Applicant: John L. Autrey, PRT 2-3271, Route 2, Box 233, Mantachie, Miss. 38855.

Applicant: Edward M. Otter, PRT 2-2460, R.D. No. 1, Lynch Road, Baldwinsville, N.Y. 13027.

Please refer to the individual applicant and the appropriately assigned PRT 2-file number when submitting comments.

Dated: September 29, 1978.

FRED L. BOLWAHN,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office.
[FR Doc. 78-27987 Filed 10-3-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Geneva R. Byers, 16109 358th Avenue SE., Sultan, Wash. 98294.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H

Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3196. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before November 3, 1978. Please refer to the file number when submitting comments.

Dated: September 29, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal
Wildlife Permit Office, U.S.
Fish and Wildlife Service.

[FR Doc. 78-27988 Filed 10-3-78; 8:45 am]

[4310-70]

National Park Service

SHILOH NATIONAL MILITARY PARK, TENN.

Boundary Change

Section 7(c) of the Land and Water Conservation Fund Act of 1965, as added by section 1(5) of the Act of June 10, 1977, Pub. L. 95-42 (91 Stat. 210), provides for publication of boundary changes in units of the National Park System.

Notice is given that the boundary of Shiloh National Military Park is hereby changed by the acquisition of certain lands by donation. The change is delineated on a map, Drawing No. 5580/80,001, dated May 1978 and prepared by the Division of Land Acquisition, Southeast Region. Copies of the map will be available for inspection in the office of the National Park Service, Department of the Interior, Washington, D.C.

Dated: September 27, 1978.

ROBERT STANTON,
Acting Associate Director, Man-
agement and Operations, Na-
tional Park Service.

[FR Doc. 78-27986 Filed 10-3-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT FES 78-26]

PROPOSED LIVESTOCK GRAZING IN THE TULE-DAD-HOME CAMP AREAS OF LASSEN AND MODOC COUNTIES, CALIF., AND WASHOE COUNTY, NEV.

Availability of final environmental statement pursuant to the section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared the final environmental statement for proposed livestock grazing in Modoc and Lassen Counties, Calif. and Washoe County, Nev.

The proposal involves construction of fences and facilities to implement livestock grazing systems, providing adequate forage and habitats for wildlife species, and consideration of other public uses on approximately 600,000 acres of public lands.

Copies are available for inspection 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.

California State Office, Bureau of Land Management, Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825, telephone 916-484-4541.

Susanville District Office, Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, Calif. 96103, telephone 916-257-5385.

A limited number of single copies may be obtained from the Office of Public Affairs, Bureau of Land Management (Washington, D.C. 20240) and the Bureau of Land Management, P.O. Box 1090, Susanville, Calif. 96103.

Dated: September 29, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary
of the Interior.

[FR Doc. 78-27995 Filed 10-3-78; 8:45 am]

[4310-84]

[INT FES 78-25]

PROPOSED UPPER GILA-SAN SIMON ENVIRONMENTAL STATEMENT AREA LIVESTOCK GRAZING MANAGEMENT PROGRAM

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 a proposed livestock grazing management program in the Upper Gila-San Simon Environmental Statement Area, Ariz. The proposal involves intensive management of grazing on 1,040,329 acres of public lands; custodial management of grazing on 38,161 acres of public lands; ephemeral management of grazing on 250,155 acres of public lands; deferment of grazing on 14,050 acres of public lands, and 4,014 acres of public lands unallotted for grazing. In addition, the proposal calls for the construction of range improvements to facilitate grazing management, including three detention dams for erosion control and sediment retention.

A limited number of copies are available upon request to the Arizona State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073.

Public reading copies will be available for review 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.

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073, telephone 602-261-3706.

Safford District Office, Bureau of Land Management, 425 E. Fourth Street, Safford, Ariz. 85546, telephone 602-428-4040.

Dated: September 29, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary
of the Interior.

[FR Doc. 78-27996 Filed 10-3-78; 8:45 am]

[4510-23]

DEPARTMENT OF LABOR

Office of the Secretary

MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Competition

AGENCY: Employment and Training Administration.

ACTION: Announcement of additional jurisdictions to be open for competition and grantees to be funded without competition.

SUMMARY: This notice announces additional areas to be open for competition as outlined in the FEDERAL REGISTER of July 14, 1978, "Change of Funding Cycle and Related Changes." Also announced are grantees that will be funded without competition.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Kranz, Acting Director, Office of Farmworker Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, 202-376-6128.

ADDITIONAL AREAS OPEN FOR COMPETITION

On July 14, 1978, the following areas were announced as open for competition: Alabama; county of Los Angeles, Calif.; Iowa; Louisiana; Massachusetts; Michigan; Minnesota; New Jersey; New Mexico; Tennessee; Texas (all counties); and Wisconsin. The purpose of this notice is to announce additional jurisdictions open for competition pursuant to section 97.204(c)(4), title 29, subtitle A, for migrant and other seasonally employed farmworker programs operated under title III, section 303, of the Comprehensive Employment and Training Act. These additional areas are Pennsylvania, Nebraska, Oregon, and Idaho.

Preapplications for Federal assistance, standard form 424, must be submitted no later than October 10, 1978, to serve the four new States. Grant applications from potential grantees seeking to serve migrant and seasonal farmworkers in jurisdictions subject to competition must be submitted no later than November 1, 1978. Funding requests will be prepared in accordance with CFR, January 7, 1977, sections 97-212 through 97-218.

GRANTEES TO BE EXTENDED WITHOUT COMPETITION

Noncompetitive grantees will be extended by the major modification process for the period January 1, 1979, through September 30, 1979. Modifications for existing section 303 grants for continuing grantees must be submitted no later than October 23, 1978. These grantees, by State, are listed below:

ARIZONA

Migrant Opportunity Programs, Phoenix, Ariz.

ARKANSAS

Arkansas Council for Farmworkers, Inc., Little Rock, Ark.

CALIFORNIA

Center for Employment Training of the Central Coast Counties, San Jose, Calif.
Proteus Adult Training, Inc., Visalia, Calif.
Campesinos Unidos, Brawley, Calif.
California Human Development Corp., Santa Rosa, Calif.
Central Coast Counties Development Corp., Aptos, Calif.
City of Stockton, Stockton, Calif.

COLORADO

Colorado Council on Migrant and Seasonal Agricultural Workers and Families, Wheat Ridge, Colo.

CONNECTICUT

New England Farmworkers Council, Inc., Hartford, Conn.

DELAWARE

Migrant and Seasonal Farmworkers Association, Inc., Dover, Del.

FLORIDA

Florida State Department of Education, Tampa, Fla.

GEORGIA

Migrant and Seasonal Farmworkers Association, Inc., Atlanta, Ga.

HAWAII

Office of the Governor, Department of Labor and Industrial Relations, Honolulu, Hawaii.

ILLINOIS

Illinois Migrant Council, Chicago, Ill.

INDIANA

Indiana Office of Manpower Development, Indianapolis, Ind.

KANSAS

ORO Development Corp., Wichita, Kans.

KENTUCKY

Tennessee Opportunity Programs, Bowling Green, Ky.

MAINE

Penobscot County Manpower Administration, Bangor, Maine.

MARYLAND

Migrant and Seasonal Farmworkers Association, Inc., Princess Anne, Md.

MISSISSIPPI

Mississippi Delta Council for Farmworker Opportunities, Clarksdale, Miss.

MISSOURI

Rural Missouri, Inc., Jefferson City, Mo.

MONTANA

Human Resources Division, State of Montana, Helena, Mont.

NEVADA

CET-State of Nevada, Carson City, Nev.

NEW YORK

Program Funding, Inc., Rochester, N.Y.

NORTH CAROLINA

Migrant and Seasonal Farmworkers Association, Inc., Raleigh, N.C.

NORTH DAKOTA

North Dakota Migrant Council, Grand Forks, N. Dak.

OKLAHOMA

ORO Development Corp., Oklahoma City, Okla.

PUERTO RICO

Commonwealth of Puerto Rico, Department of Labor, San Juan, P.R.

RHODE ISLAND

New England Farmworkers Council, Inc., Pawtucket, R.I.

SOUTH CAROLINA

South Carolina Office of the Governor, Columbia, S.C.

SOUTH DAKOTA

Minnesota Migrant Council, St. Cloud, Minn.

UTAH

Utah Migrant Council, Midvale, Utah.

VERMONT

Orleans County Council of Social Agencies, Inc., Newport, Vt.

VIRGINIA

Migrant and Seasonal Farmworker Association, Inc., Richmond, Va.

WASHINGTON

Northwest Rural Opportunities, Grandview, Wash.

WEST VIRGINIA

Governor's Manpower Office, Charleston, W. Va.

WYOMING

Northwestern Community Action Programs of Wyoming, Inc., Worland, Wyo.

Grantees should consult title 29, CFR, section 97.220.

Special instructions concerning grants and modifications will be issued in accordance with § 97.217, "Negotiations of Final Grant." All applicants should obtain these special instructions for the preparation of the grant applications from the Office of Farmworker Programs.

Signed at Washington, D.C., this 26th day of September 1978.

LAMOND GODWIN,

Administrator,

Office of National Programs.

[FR Doc. 78-28208 Filed 10-3-78; 9:43 am]

[3510-12]

NATIONAL ADVISORY COMMITTEE
ON OCEANS AND ATMOSPHERE

Meeting

SEPTEMBER 29, 1978.

Pursuant to section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day meeting on Thursday and Friday, October 19-20, 1978. The sessions will be open to the public and will be held in the Penthouse of Page Building No. 1, 2001 Wisconsin Avenue NW., Washington, D.C. The Thursday session will begin at 9 a.m.; the session on Friday at 8 a.m.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by the Congress by Public Law 95-63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative meeting schedule follows:

October 19, 1978—Page Building I, 2001 Wisconsin Avenue NW.

9 a.m. Plenary session (Penthouse)—Plans for meeting, Chairman.

9:30 a.m. Working group sessions: Transportation workshop (Penthouse), Mr. Michael Naess, NACOA.

Ocean Use panel (room 416)—Coastal Zone Management issues and legislative options, Dr. E. Murphy, NACOA.

12 m. Lunch.

1 p.m. Working group sessions (continued from a.m.).

5 p.m. Adjourn.

October 20, 1978—Page Building I, 2001 Wisconsin Avenue NW.

8 a.m. Plenary session (Penthouse)—Coastal Zone Management issues and legislative options (continued), Dr. E. Murphy, NACOA.

10 a.m. NACOA position on Federal organization, Mr. M. Dubs, NACOA.

12:30 p.m. Working lunch.

3 p.m. Adjourn.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW. (Room 434, Page Building I), Washington, D.C. 20235. The telephone number is 254-8414.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc. 78-28141 Filed 10-3-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON EM-
PLOYMENT AND UNEMPLOYMENT
STATISTICS

PUBLIC MEETING

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on October 27, 1978, in room 6510, 2020 K Street, NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under section 13 of the Emergency Jobs Program Extension Act of 1975, Pub. L. 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the

procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meeting will begin at 9:30 a.m. to discuss state and local labor force statistics. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street, NW., Washington, D.C. 20006.

Signed at Washington, D.C., this 28th day of September, 1978.

SAR A. LEVITAN,
Chairman.

(FR Doc. 78-27962 Filed 10-3-78; 8:45 am)

[7590-01]

NUCLEAR REGULATORY COMMISSION

ABNORMAL OCCURRENCE REPORT

13th Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the 13th periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 1, No. 2). The release date is September 29, 1978.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the FEDERAL REGISTER (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The 13th report to Congress is for the second quarter of 1978. The report identifies the occurrences or events that the Commission determined were significant and the remedial action that was undertaken. The report indicates that the following incidents or events were determined by the Commission to be significant and reportable:

(a) There were two abnormal occurrences at the 69 nuclear power plants licensed to operate. One involved a generic concern pertaining to fuel assembly control rod guide tube integrity. The second involved an overexposure of two radiation protection technicians.

(b) There were no abnormal occurrences at fuel cycle facilities (other than nuclear power plants).

(c) There were no abnormal occurrences at other licensee facilities.

(d) There was one abnormal occurrence reported by an agreement State. The event involved willful violations of regulations and subsequent termination of a license.

The incidents involved temporary reductions in margins of safety normally provided.

The 13th report to the Congress also contains updating information on abnormal occurrences reported in previous reports.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street NW., Washington, D.C., or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG-0090, Vol. 1, No. 2, may be purchased from the National Technical Information Service, Springfield, Va. 22161, at \$4.50 a copy on or about October 13, 1978.

Dated at Washington, D.C., this 28th day of September, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

(FR Doc. 78-28005 Filed 10-3-78; 8:45 am)

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Procedures for Meetings

BACKGROUND

Procedures to be followed with respect to meetings conducted by the Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards, which were published October 31, 1977 (42 FR 56972) are renewed by this notice. No changes have been made, and they are reprinted for the information and convenience of interested persons. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The Advisory Committee on Reactor Safeguards (ACRS) is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements from members of the public to be considered as a part of the Committee's information gathering

procedure, they are not adjudicatory hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those pertaining to radiological safety. ACRS full Committee, Subcommittee, and Working Group meetings are conducted in accordance with sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.).

GENERAL RULES REGARDING ACRS MEETINGS

An agenda is published in the FEDERAL REGISTER for each meeting. Practical considerations may dictate some alterations in the agenda. The Chairman of the Committee, Subcommittee or Working Group which is meeting is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

With respect to public participation in ACRS meetings, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. When meetings are held at locations other than Washington, D.C., reproduction facilities are usually not available. Accordingly, 15 additional copies should be provided for use at such meetings. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to the designated Federal employee specified in the FEDERAL REGISTER notice for the individual meeting in care of the ACRS, NRC, Washington, D.C. 20555. Comments postmarked no later than 1 calendar week prior to a meeting will normally be received in time for reproduction, distribution and consideration at the meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee, Subcommittee or Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether a meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor

can be obtained by a prepaid telephone call, on the working day prior to the meeting, to the Office of the Executive Director of the Committee (telephone 202-634-3265, attention: the designated Federal employee specified in the FEDERAL REGISTER Notice for the meeting) between 8:15 a.m. and 5 p.m., Washington, D.C. time.

(d) Questions may be asked only by ACRS members, consultants and staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the open portions of the meeting where factual information is presented will be available at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, for inspection within 1 week following the meeting. A copy of the minutes of the meeting will be available at the same location on or before 3 months following the meeting. Copies may be obtained upon payment of appropriate charges.

Copies of the above-mentioned minutes and transcript will also be placed in the NRC Local Public Document Room, when appropriate, on the same time schedule. The location of the Public Document Room will be indicated in these cases in the individual FEDERAL REGISTER notice for the meeting.

SPECIAL PROVISIONS WHEN PROPRIETARY SESSIONS ARE TO BE HELD

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements or orders permitting access to such information may attend those portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that

will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Employee prior to the beginning to the meeting.

Dated: September 27, 1978.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc. 78-28004 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-368]

ARKANSAS POWER AND LIGHT CO., ARKANSAS NUCLEAR ONE, UNIT 2

Issuance of Amendment to Facility Operating License and Granting of Exemptions from Certain Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-6 to Arkansas Power and Light Co. for operation of Arkansas Nuclear One, Unit 2 (the facility) at steady state reactor core power levels not in excess of 2815 megawatts thermal, in accordance with the provisions of the amended license and the Technical Specifications. However, the facility is temporarily restricted from operating at full rated power until certain tests and other items noted in license conditions are completed to the written satisfaction of the Commission. The facility is located at the licensee's site in Pope County, Arkansas. The amended license is effective as of its date of issuance and shall expire at midnight on December 6, 2012.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amended license. The application for the license complies with the standards and requirements of the act and the Commission's regulations.

This action is in furtherance of the licensing action encompassed in the combined Notice of Receipt of Application for Facility Operating License; Notice of Availability of Applicant's Environmental Report; and Notice of Opportunity for Hearing published in the FEDERAL REGISTER on April 23, 1974 (39 FR 14371).

The Commission has determined that the facility requires exemptions from certain requirements of (1) § 50.55a of 10 CFR Part 50, (2) Appendices G and H to 10 CFR Part 50, and (3) Appendix J to 10 CFR Part 50 for a period of 3 years. These exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. In making this determination, the Commission has given due consideration to the burden that could result if these requirements were imposed on the facility.

The exemption from certain requirements of § 50.55a of 10 CFR Part 50 relates to the preservice and inservice examination requirements of section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (the ASME Code) for pump scroll welds, nozzle welds, longitudinal and circumferential vessel welds, integrally welded supports, pump studs, vessel cladding, valve bodies, circumferential and longitudinal piping welds, calibration blocks and testing requirements.

The Commission has evaluated the preservice examination program for Arkansas Nuclear One, Unit 2 and has determined that a large portion of the ASME Code required preservice examinations were performed, and has concluded that failure to perform 100 percent preservice examination of the welds identified in the exemption will not significantly affect of assurance of the initial system integrity or the ability to subsequently detect and correct service-induced defects.

The exemptions from certain requirements of Appendices G and H to 10 CFR Part 50 relates to the fracture toughness requirements for the ferritic materials of the pressure-retaining components of the reactor coolant pressure boundary and the reactor vessel material surveillance program.

Although the Arkansas Nuclear One, Unit 2 reactor vessel was ordered and fabricated and its testing program was developed well before the requirements of Appendices G and H to 10 CFR Part 50 became effective, alternative methods for providing adequate margins of safety against brittle fracture and an alternative material surveillance program were proposed.

The Commission has evaluated the alternative methods for providing adequate margins of safety against brittle fracture and the alternative material surveillance program and has concluded that they are acceptable.

The exemption, which shall be granted for a period of three years, from certain requirements of Appendix J to 10 CFR Part 50 relates to the leakage testing requirements for the containment airlocks. Implementation of the specific Appendix J require-

ments would result in the testing of the entire containment airlock volume after each entry. The Commission has determined that the testing of the airlock door seals at least once each 22 hours for multiple entries occurring during that interval will provide adequate assurance of the leak tightness of the containment airlock including the containment airlock door seals.

The Commission has determined that the granting of these exemptions and the issuance of this amendment will not result in any significant environmental impact and that pursuant to § 51.5(d)(4) of 10 CFR Part 51, and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared.

For further details with respect to this action, see (1) Amendment No. 1 to Facility Operating License No. NPF-6 complete with Preoperational Tests and Other Items Which Must Be Completed Prior to Loading Fuel (Attachment 1); and (2) the Commission's related Safety Evaluation supporting Amendment No. 1 to License No. NPF-6; and (3) the Office of Nuclear Reactor Regulation's Safety Evaluation Report (NUREG-0308) Supplement No. 2 dated September 1978. All of these items are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and the Arkansas Polytechnic College, Russellville, Ark. 72801.

A copy of Items (1) and (2) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Project Management. Copies of the Safety Evaluation Report Supplement No. 2 (NUREG-0308) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22151.

Dated at Bethesda, Md., this 1st day of September 1978.

For the Nuclear Regulatory Commission.

JOHN ANGELO,
Acting Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-28006 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO., ARKANSAS NUCLEAR ONE, UNIT 2

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued

Amendment No. 2 to Facility Operating License No. NPF-6 to Arkansas Power & Light Co. for operation of Arkansas Nuclear One, Unit 2 (the facility) located at the licensee's site in Pope County, Arkansas. The amendment is effective as of the date of its issuance.

The amendment temporarily suspends the Technical Specification 3.4.1 which allows for only 1 hour operation without core flow in Operational Modes 3, 4, and 5. The temporary suspension is granted for one 96-hour period valid through October 9, 1978, to allow repairs to be completed on a decay heat suction valve prior to initial reactor criticality.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see (1) the licensee's application for amendment dated September 18, 1978 (2) Amendment No. 2 to License No. NPF-6, and (3) the Commission's related Safety Evaluation supporting Amendment No. 2 to License No. NPF-6. All of these items are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and the Arkansas Polytechnic College, Russellville, Ark. 72801.

Dated at Bethesda, Md., this 22d day of September 1978.

For the Nuclear Regulatory Commission.

DENNIS P. ALLISON,
Acting Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-28007 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-255]

CONSUMERS POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Provisional Operating License No. DPR-20, issued to Consumers Power Co. (the licensee), which revised the technical specifications for operation of the Palisades plant (the facility) located in Covert Township, Van Buren County, Mich. The amendment is effective as of its date of issuance.

The amendment changes the Palisades technical specifications relating to the limits on axial power distribution.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this action was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 15, 1978, and supplements thereto dated August 15, 21, and 25, 1978, (2) amendment No. 43 to License No. DPR-20, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 8th day of September, 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors
Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-28008 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-416]

ILLINOIS POWER CO., ET AL.

Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-137 issued to the Illinois Power Co. on February 24, 1976. The amendment reflects a change in the ownership of the Clinton Power Station, Unit 1 (the facility) located in DeWitt County, Ill. The amendment is effective as of its date of issuance.

The amendment provides for the addition of Soyland Power Cooperative, Inc., and Western Illinois Power Cooperative, Inc., as co-owners for all licenses previously requested for the facility and the transfer of 10.5 percent ownership interest to Soyland Power Cooperative, Inc., and 9.5 percent ownership interest to Western Illinois Power Cooperative, Inc., of the 100 percent ownership interest held by Illinois Power Co. in the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment contained in a letter dated January 31, 1978, (2) Amendment No. 1 to CPPR-137, and (3) the Commission's related Safety Evaluation supporting Amendment No. 1 to CPPR-137. All of these items and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Local

Public Document Room located in the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Ill. 61727.

A copy of items (2) and (3) may be obtained upon written request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Director, Division of Project Management, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 25th day of September 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors
Branch No. 1, Division of Project Management.

[FR Doc. 78-28009 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Co., The Connecticut Light and Power Co., The Hartford Electric Light Co., and Western Massachusetts Electric Co., which amended the license and its appended Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2, located in the Town of Waterford, Conn. The amendment is effective as of its date of issuance.

This amendment adds a license condition relating to the completion of facility modifications and the implementation and maintenance of administrative controls for fire protection and modifies the Technical Specifications to require three operable fire pumps and additional spray and/or sprinkler systems and fire hose stations to be operable in the turbine building.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental

impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 2, 1978, (2) the licensee's submittals dated June 2, 1976, February 28, 1977, April 12, July 11 and 14, August 2 and 17, 1978, (3) Amendment No. 43 to License No. DPR-65, 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 Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of items (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 19th day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-28010 Filed 10-3-78; 8:45 am]

[7590-01]

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO., DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. NPF-3, issued to the Toledo Edison Co. and the Cleveland Electric Illuminating Co., for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the Facility) located in Ottawa County, Ohio. The amendment is effective 20 days after its date of issuance, unless the applicant informs the Commission in writing prior to that time that he disagrees with this course of action.

The amendment revises the requirements for nonroutine environmental operating reports to make them agree with Regulatory Guide 4.8.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see Amendment No. 13 to License No. NPF-3. This item is available for public inspection at the Commission's Public Document Room, 1717, H Street, N.W., Washington, D.C. 20555 and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of Amendment 13 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects
Branch No. 1, Division of Site
Safety and Environmental
Analysis.

[FR Doc. 78-28011 Filed 10-3-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests.

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 27, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be

approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503; 202-395-4529; or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of East-West Trade, exception to requirement of order party signature, EAR 372.6(d), on occasion, commercial exporters, 12 responses, 3 hours, Kincannon, C. Louis, 395-3211.

DEPARTMENT OF DEFENSE

Departmental and other program information—institutional providers, CHAMPUS 200, A, B, C, D, annually, nursing facilities, handicapped and psychiatric facilities, 2,500 responses, 1,250 hours, Richard Eisinger, 395-3214.

Departmental and other, determination of eligibility/civilian health and medical program of the uniformed services, CHAMPUS 88, other (see SF-83), military personnel, 250,000 responses, 250,000 hours, Richard Eisinger, 395-3214.

Departmental and other, report of mental health evaluation team, CHAMPUS 345B, weekly, mental health professionals, 480 responses, 1,440 hours, Richard Eisinger, 395-3214.

Departmental and other, medical records request, CHAMPUS 345, other (SF-83), psychiatric residential treatment CTRS for children and adolescents, 2,400 responses, 2,400 hours, Richard Eisinger, 395-3214.

Departmental and other, treatment plan RTC, CHAMPUS 345A, weekly, civilian health providers, 1,500 responses, 3,000 hours, Richard Eisinger, 395-3214.

Departmental and other, OCHAMPUS record information from residential treatment centers, CHAMPUS 296, weekly, CHAMPUS approved residential treatment centers, 1,500 responses, 3,000 hours, Richard Eisinger, 395-3214.

Departmental and other, diagnostic evaluation, program for the handicapped CHAMPUS 141, weekly, CHAMPUS approved institutional providers, 3,500 responses, 7,000 hours, Richard Eisinger, 395-3214.

Departmental and other, application for preauthorization or recertification of CHAMPUS/CHAMPVA benefits, CHAMPUS 190, other (see SF-83), health care providers, 7,000 responses, 7,000 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF LABOR

Employment and Training Administration, study of special incentive work experience program, MT-295, single time, AFDC-WIN registrants; WEP work sponsors; WEP officials, 1,602 responses, 802 hours, Arnold Strasser, 395-6132.

REVISIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics and Cooperatives Service, fruit tree surveys, annually, fruit growers, 10,000 responses, 2,625 hours, Ellett, Charles A., 395-6132.

Science and Education Administration, 1977-78 nationwide food consumption

survey and food intake of individuals, single-time, households, interviewers in United States and Puerto Rico, 3,900 responses, 2,480 hours, Office of Federal Statistical Policy and Standards, Ellett, Charles A., 673-7977.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics and Cooperatives Service, Kentucky Burley Tobacco objective yield survey, other (see SF-83), tobacco growers, 460 responses, 35 hours, Ellett, Charles A., 395-6132.

Economics, Statistics and Cooperatives Service, popcorn processor survey—June and December, semi-annually, popcorn processors, 100 responses, 33 hours, Ellett, Charles A., 395-6132.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing production and mortgage credit, application for project mortgage insurance (rehabilitation), FHA 2013R, apartment owners, builders, 600 responses, 3,600 hours, Caywood, David P., 395-3443.

NATIONAL SCIENCE FOUNDATION

Applicant information form, NSF-54, teachers, 11,000 responses, 2,250 hours, Warren Topelius, 395-6134.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-28032 Filed 10-3-78; 8:45 am]

[8410-01]

OHIO RIVER BASIN COMMISSION

REGIONAL WATER AND LAND RESOURCES PLAN AND DRAFT ENVIRONMENTAL IMPACT STATEMENT

Available for Review

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has prepared a document summarizing the Comprehensive Coordinated Joint Plan for the Ohio River Basin entitled, The Ohio River Basin—The Regional Water and Land Resources Plan and Draft Environmental, Economic, and Social Impact Statements. The Ohio River Basin Plan and Draft EIS, as presented in this summary, are being reviewed by the Governors and the heads of each Federal and Interstate Agency from which a member of the Commission has been appointed.

Views, comments and recommendations on the Ohio River Basin Plan summary and Draft EIS, are requested by December 22, 1978. Copies are available on request from the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc. 78-28000 Filed 10-3-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice No. CM-8/113]

OCEAN AFFAIRS ADVISORY COMMITTEE,
ANTARCTIC SECTION

Partially Closed Meeting

The Ocean Affairs Advisory Committee, Antarctic Section will meet at 2 p.m. on November 8, 1978, in conference room 6320 of the Department of State, Washington, D.C.

At this meeting, officers responsible for Antarctic matters in the Department of State, will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. This session will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussions according to the instructions of the Chairperson.

The Ocean Affairs Advisory Committee will continue its work on November 9, and 10, 1978, at 10 a.m. in room 7835, in sessions which will not be open to the public. These sessions will be devoted to the discussion of classified material under 5 U.S.C. 552 b(c)1 and 5 U.S.C. 552 b(c)(9)(B). The disclosure of classified material and revelation and considerations which go into policy development, would substantially undermine and frustrate the U.S. position in future negotiations. The purpose of these discussions will be to elicit views concerning the further development of United States policies on Antarctic marine living resources and on Antarctic mineral resources. Other matters and issues relating to the Antarctic, which may be considered at the Tenth Antarctic Treaty Consultative Meeting will also be reviewed. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 11652.

Requests for further information on the meetings should be directed to Lisle Rose, OES/OFA/OCA, Room 5216, Department of State. He may be reached by telephone on 202-632-3262.

Dated: September 18, 1978.

BENOIT BROOKENS, II,
Special Assistant to the Deputy
Assistant Secretary for Oceans
and Fisheries Affairs.

[FR Doc. 78-27941 Filed 10-3-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket RSOR-78-3]

SEABOARD COAST LINE RAILROAD

Petition for Waiver of Railroad Radio
Standards

As required by 45 U.S.C. 431(c) and in accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Seaboard Coast Line Railroad (SCL) has submitted a waiver petition to the Federal Railroad Administration (FRA). The petition requests that the SCL be granted a permanent waiver of compliance with 49 CFR Part 220 (Radio Standards and Procedures). That part requires railroads to have certain carrier operating rules governing the use of radios during train operations.

Part 220 was published in the FEDERAL REGISTER on January 27, 1977 (42 FR 5065). Compliance with the provisions of that part became mandatory on August 1, 1977.

SCL notes that it has attempted to fully comply with the regulation but has now ascertained that considerable delays to its train operations are being caused by this regulation. These delays are resulting in increased costs and wasted energy. Consequently, SCL seeks a limited waiver of compliance.

The waiver of compliance sought by SCL involves the provisions of § 220.61(b). This section prescribes the procedures which a dispatcher or operator and a crew of a train must adhere to when communications, identified as train orders for the purpose of this regulation, are being transmitted by radio.

The SCL seeks a waiver of compliance with these procedures for several types of radio communications that are used during train operations and which were not previously considered to be train orders by the SCL or the railroad industry. The types of radio communications identified by SCL include verbal permission to proceed through an interlocking; verbal advice to trains that are operating under the authority for train movement that is conveyed by a signal system; and verbal instructions authorizing occupancy of a track or compliance by maintenance of way personnel and trains crews with certain train orders.

The SCL indicates that it has conducted train operations safely for in excess of ten years by utilizing these types of verbal communications and believes that granting this waiver would be consistent with railroad safety.

Interested persons are invited to participate in this proceeding by submitting written comments or views. The

FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. However, the FRA will provide an opportunity for oral comment if requested to do so by any interested party. Such requests must be in writing and must be submitted to the FRA before October 20, 1978.

All communications concerning this proceeding should identify the Docket Number, Waiver Petition Docket Number RSOR-78-3, 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. Communications received before November 10, 1978, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination, both before and after the closing date for comments, during regular business hours in room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

(Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C. on September 27, 1978.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 78-27999 Filed 10-3-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

MICROFICHE OF TEXT OF ADMINISTRATIVE
DECISIONS

Availability

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

ACTION: Notice of availability of new service.

SUMMARY: The text of administrative decisions issued by the Office of Regulations and Rulings, U.S. Customs Service, including those contained in the list of unpublished administrative decisions which is published biweekly in the Customs Bulletin, as well as those published as Treasury Decisions, is now available in microfiche format. In addition, a cumulative list of the decisions contained in the biweekly Customs Bulletin listings will appear in the annual bound volume of the Customs Bulletin.

EFFECTIVE DATE: The first set of microfiche is now available. Supplements will be issued periodically covering those decisions which are subsequently issued.

FOR ADDITIONAL INFORMATION CONTACT:

Sandra J. Reese, Legal Reference Area, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202-566-5095.

SUPPLEMENTARY INFORMATION: The Office of Regulations and Rulings at Customs Service Headquarters issues thousands of administrative decisions (rulings) each year applying the Customs laws and regulations to specific factual situations. Many of these decisions are issued to importers and other interested parties who have written to Customs Service headquarters requesting an administrative ruling under the provisions of Part 177 of the Customs Regulations (19 CFR Part 177). Other decisions are issued to Customs Service field offices under the Customs Service's internal advice program or under other Headquarters review procedures provided for in the Customs Regulations (protest review decisions, for example).

The effective administration of the Customs laws and regulations requires that significant administrative decisions be brought to the attention of Customs officers and the importing community. To this end, the Customs Service has substantially increased the number of decisions published in the Customs Bulletin as Treasury Decisions and, on June 21, 1978, began to publish in the Customs Bulletin a bi-weekly list of other decisions which have been determined to be significant, but not of sufficient general interest to warrant publication as Treasury Decisions. The bi-weekly lists are not cumulative, but they will be reproduced in the annual bound volume of the Customs Bulletin.

The decisions included in the bi-weekly listings are identified by the date of the decision, the six-digit control number assigned to the decision by the Office of Regulations and Rulings, and a brief statement of the issue involved. Copies of these decisions, in a form appropriate for public distribution, may be obtained upon written request to the Legal Reference Area, room 2404, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, at a cost of \$0.10 per page (the Customs Service will waive this charge if the total number of pages copied is 10 or less). In addition, the text of these decisions, as well as those published in the Customs Bulletin of Treasury Decisions, is also available in microfiche format through

subscription. The cost of the first set of microfiche, which includes a numerical index and covers those decisions contained in the bi-weekly lists published through September 27, 1978, and those issued after May 1, 1978, which have been published as Treasury Decisions, is \$2.55 (\$0.15 per sheet of fiche). It is anticipated that supplementary sets of microfiche, covering the decisions set forth in lists and Treasury Decisions contained in future issues of the Customs Bulletin, will be made available quarterly. Requests for the first set of microfiche and for subscriptions should be directed to the Legal Reference Area at the above address. Subscribers will automatically receive supplementary sets of microfiche as they are issued and will be billed accordingly.

The Customs Bulletin is published each week by the Customs Service and is offered for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current single copy price of the Customs Bulletin is \$0.85, with yearly subscriptions available for \$43.70 (\$10.95 additional for foreign mailing).

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

FR Doc. 78-27935 Filed 9-29-78; 10:44 am

[4810-22]

Office of the Secretary

**AUTOMOTIVE AND MOTORCYCLE REPAIR
MANUALS FROM UNITED KINGDOM**

Termination of Antidumping Investigation

AGENCY: U.S. Treasury Department.

ACTION: Termination of Antidumping Investigation.

SUMMARY: This notice is to advise the public that the antidumping investigation of automotive and motorcycle repair manuals from the United Kingdom is being terminated. The termination is based on a determination that in this case antidumping duties should not be assessed upon the importation of the repair manuals in question in the light of the provision in the "Florence Agreement" that such merchandise shall be imported free of any "customs duties or other charges."

EFFECTIVE DATE: October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-2938.

SUPPLEMENTARY INFORMATION: On June 30, 1978, a petition in proper

form was received pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Counsel on behalf of Clymer Publications, Los Angeles, Calif., alleging that automotive and motorcycle repair manuals from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an antidumping proceeding notice published in the FEDERAL REGISTER of August 8, 1978 (43 FR 35139).

On the basis of the evidence submitted, it was concluded that there was substantial doubt of injury or likelihood of injury to an industry in the United States by virtue of such imports. Accordingly, the U.S. International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)). On September 6, 1978, the Commission advised that there was insufficient basis to terminate the investigation (43 FR 40935).

However, subsequent to the initiation of this investigation, a question was raised whether dumping duties should not be imposed on the subject merchandise in the light of the "Florence Agreement," the Agreement on the Importation of Educational, Scientific, and Cultural Material, dated June 24, 1959, T.I.A.S. No. 6129, 17 U.S.T. 1835; as implemented pursuant to the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651), 80 Stat. 897.

It has been the uniform practice of the Customs Service, under the Act and judicial interpretations thereof, to treat antidumping duties the same as ordinary customs duties. Section 211 of the Act also provides that dumping duties "shall be treated as regular customs duties within the meaning of all laws relating to the drawback of customs duties" (19 U.S.C. 170). In construing this language, the Court of Customs and Patent Appeals has concluded that "Congress desired and intended that the additional duties provided for in this act should be considered as duties for all purposes." *C. J. Tower & Sons v. United States*, 71 F. 2d 438, 445, 21 C.C.P.A. 417, 434 (1934). Also, in *Imbert Imports, Inc. v. United States*, 331, F. Supp. 1400 (Cust. Ct. App. Term 1971), the court held that dumping duties are "duties" within the meaning of article I, section 8 of the U.S. Constitution.

The agreement provides that certain specified articles, which include the subject manuals, shall upon importation be free of "any customs duties or other charges." In the instant case, in which "substantial doubt" of injury

has already been expressed, there appears to be no reason to exclude antidumping duties from the term "any customs duties or other charges," as used in the Florence Agreement. Accordingly, I hereby terminate this investigation.

The United States became a party to the Florence Agreement subject to a reservation permitting suspension of any obligation under the agreement with respect to any covered product which, as a result of obligations incurred under the agreement, is imported in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry producing like or directly competitive products. This reservation was given effect in section 9 of the implementing legislation (Pub. L. 89-651, 80 Stat. 897), and can presently be invoked through the procedure of section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)). Accordingly, if pursuant to that procedure, it were determined that the subject merchandise is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry, duty-free treatment could then be suspended with respect to the subject merchandise. This would eliminate the preclusion against imposing dumping duties, and as a result a dumping investigation could be reinitiated upon receipt of a petition in proper form.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

[FR Doc. 78-28019 Filed 10-3-78; 8:45 am]

[4810-40]

[Supplement to Dept. Circular Public Debt Series—No. 23-78]

TREASURY BONDS—PUBLIC DEBT SERIES—No. 23-78

Interest Rate

SEPTEMBER 28, 1978.

The Secretary of the Treasury announced on September 27, 1978, that the interest rate on the bonds described in Department Circular—Public Debt Series—No. 23-78, dated September 20, 1978, will be 8% percent. Interest on the bonds will be payable at the rate of 8% percent per annum.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 78-27994 Filed 10-3-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice 722]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 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 133689 (Sub-187), Overland Express, Inc., now being assigned for Pre-hearing Conference November 27, 1978, at Chicago, IL, in a hearing room to be later designated.

MC 139577 (Sub-12F), Adams Transit, Inc., now being assigned November 28, 1978 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 113678 (Sub-740F), Curtis, Inc., now being assigned November 29, 1978 (3 days), at Chicago, IL, in a hearing room to be later designated.

MC 102616 (Sub-948F), Coastal Tank Lines, Inc., now being assigned December 4, 1978 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC C 9859, John Septon Produce Co., Inc.—Revocation of Certificates, No. MC F 12793, B. J. McAdams, Inc.—Control and Merger—John Septon Produce Co., Inc., and No. MC F 13350, Bob McAdams, B. J. McAdams, Inc., Wiley A. Sanders, Wiley A. Sanders, Inc., E. W. McKean, Jr., Clairborne W. Patty, Jr.—Investigation of Control—John Septon Produce Co., Inc., now being assigned for continued hearing on November 14, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 139495 (Sub-310), National Carriers, Inc., now being assigned November 28, 1978, at Dallas, TX (1 day), in a hearing room to be later designated.

MC 133233 (Sub-58F), Clarence L. Werner DBA Werner Enterprises, now being assigned for hearing on November 29, 1978, at Dallas, TX (1 day), in a hearing room to be later designated.

MC 115841 (Sub-589), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on November 30, 1978 (2 days), at Dallas, TX in a hearing room to be later designated.

MC 100666 (Sub-389F), Melton Truck Lines, Inc., now being assigned for hearing on December 4, 1978 (1 week), at Dallas, TX in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28021 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 723¹]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 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.

CORRECTION

MC 130223 (Sub-M2F), Peter Pan World Travel, Inc., now being assigned for hearing on November 8, 1978 (2 days), at Boston, MA, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28022 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 724¹]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 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.

CORRECTION

No. 36867, Nevada Power Company V. Union Pacific Railroad Company, et al., now being assigned for hearing on October 10, 1978 (4 days), at Las Vegas, Nev., and Continued to December 11, 1978 (1 week), at Salt Lake City, UT, in hearing rooms to be later designated and continued to January 16, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28023 Filed 10-3-78; 8:45 am]

¹This notice corrects the number of days of the hearing.

²This notice corrects the year for the January hearing date.

[7035-01]

[Revised Service Order No. 1332]

CAR SERVICE**Railroad Operating Regulations for Freight Car Movement**

Decided: September 27, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Revised Service Order No. 1332.

SUMMARY: There are severe shortages of freight cars throughout the country. Revised Service Order No. 1332 requires all railroads to place, remove, forward, weigh, clean or repair cars within 60 hours in order to expedite the handling of freight cars and to increase their availability for re-loading. Gondola cars, flat cars and boxcars with mechanical designations LC and LU are removed from the order.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: In a petition filed September 1, 1978, the Association of American Railroads (AAR) seeks various revisions of Service Order No. 1332.

Revised Service Order No. 1332 was issued on August 31, 1978, (43 FR 39883, Sept. 7, 1978) in accordance with our findings on August 29, 1978, that an acute shortage of boxcars, gondola cars, hopper cars, flat cars and covered hopper cars exists throughout the country.

The AAR now contends that although shortages of boxcars, gondola cars and flat cars still exist, the magnitude of these shortages does not justify the continued subjection of these cars to the requirements of the order.

Service Order No. 1332 was issued on August 7, 1978, in accordance with a decision of the Commission dated August 4, 1978, that an acute shortage of freight cars including boxcars, gondola cars and flat cars exists throughout the country. In a subsequent decision on August 29, 1978, the Commission repeated its finding that acute shortages of these cars exist.

Prior to the issuance of Service Order No. 1332, the Commission had issued a similar order, Service Order No. 1309, on March 9, 1978, applicable to boxcars, covered hopper cars and flat cars used for Trailer-on-Flat Car traffic. Effective April 15, 1978, this order was revised to include gondola cars, hopper cars, all flat cars and two

minor car types. This order and its various revisions were also issued because of an acute shortage of these various car types.

Cars subject to Service Order No. 1309 were required to be placed, removed, forwarded, weighed, cleaned, or given light repairs within 24 hours. This order was permitted to expire on July 31, 1978. In its place the Commission issued Service Order No. 1332 which allows the carriers 60 hours to perform all of these car movement functions except that the 24-hour time limitation continues to apply to the giving of required notices and to placement on hold or inspection tracks.

The AAR argues that the reported levels of car shortages have declined and, as to boxcars, gondola cars and flat cars, these shortages are below the levels which the AAR considers critical. Consequently, it believes that these cars should no longer be subject to the order. We do not entirely agree. In its petition the AAR stated that the average daily shortages of all cars had declined to approximately 20,000 cars as of September 1, 1978. However, the actual level of shortages reported by the carriers did not reach the 20,000 car level until September 9. During this period the average daily shortages of boxcars increased from a low level of 3,997 cars for the week ending August 12 to 4,735 cars for the week ending September 2, then declined to 4,420 cars on September 9. The average daily shortage of gondola cars during this period ranged between a high of 1,778 cars on August 12 and a low of 1,478 cars on September 2. It stood at 1,623 cars on September 9. The average daily shortage of flat cars reported by the carriers during this time approximated 250 cars. It was 252 cars on September 9.

Recently, weekly loadings of boxcars have increased slightly from 88,733 cars during the week ending August 12 to 95,755 cars during the week ending September 2. Similarly, the weekly loadings of gondola cars increased by slightly more than 4,500 cars and the weekly loadings of flat cars slightly less than 4,500 cars during this same period.

In summary, although the reported levels of shortages of these cars has remained relatively stable, weekly car loadings have increased throughout the period that Service Order No. 1332 has been in effect. Further, we are now entering that time of year when railroad carloads normally reach their peak. Crop forecasts recently released by the United States Department of Agriculture indicate that record crops of corn and soybeans will be harvested during the next few weeks. These harvests will result in sharp increases in the demand for boxcars, which the

AAR asks we eliminated from the order as well as increased demands for covered hopper cars which are also subject to this order.

We do not consider the 60-hour time limits imposed upon the carriers by Service Order No. 1332 to be unduly burdensome or harsh particularly during a period when the railroads are failing to fill orders for boxcars by several thousand cars per day. Neither do we subscribe to the idea, as expressed by the AAR in its petition, that a requirement to move cars within two and one half days (60 hours) after they become available for movement can be categorized as "special handling."

We do agree that gondola and flat car shortages have diminished sufficiently to justify the removal of these cars from the order.

It is ordered. Revised Service Order No. 1332 shall be revised as provided herein. The petition of the AAR in all other respects is denied.

By the Commission. Commissioners O'Neal, Christian Brown, Stafford, Gresham, and Clapp.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-28081 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 181]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 25, 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 1450 (Sub-95TA), filed August 2, 1978. Applicant: POWER FUELS, INC., Highway No. 2 and No. 52 West, Box 969, Minot, ND 58701. Representative: F. J. Smith, Suite 307, 420 North Fourth Street, Bismarck, ND 58501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid molten sulfur* between points in Billings, Dunn, Stark and McKenzie Counties, ND, restricted to traffic having a subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Warren Petroleum Co., a Division of Gulf Oil Corp., P.O. Box 1589, Tulsa, OK 74102. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 74416 (Sub-17TA), filed August 2, 1978. Applicant: LESTER M. PRANGE, INC., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, on vehicles equipped with mechanical unloading devices, from Eddystone, PA to points in NJ; DE; MD and DC, for 180 days. Supporting shipper(s): Concrete Products, Eddystone Industrial Park, Eddystone, PA 19013. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, Harrisburg, PA 17108.

MC 78400 (Sub-61TA), filed August 2, 1978. Applicant: BEAUFORT TRANSFER CO., P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel coils*, from the facilities of Steelabrade Corp. at Granite City, IL to Sedalia, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to

90 days of operating authority. Supporting shipper(s): Steelabrade Corp., 1603 Cleveland, Granite City, IL 62040. Send protests to: Peter E. Binder, Acting District Supervisor, Interstate Commerce Commission, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

MC 111729 (Sub-741TA), filed July 20, 1978. Applicant: PUROLATOR COURIER CORP., (a New York corporation), 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting medial of all kinds*, between Ashland, VA, on the one hand, and, on the other, Deptford and Maple Shade, NJ, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Best Products Co., Inc., P.O. Box 26303, Richmond, VA 23260. Send protests to: Maria B. Keiss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 114273 (Sub-415TA), filed July 17, 1978. Applicant: CRST, INC., 3930 16th Avenue SW., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet preparation and washing and cleaning compounds* (except in bulk, in tank vehicles) from Houlke, MA to Chicago, IL; (2) *black protective coatings and cleaners and metal cleaners* (except in bulk, in tank vehicles) from Milford, CT to Chicago; (3) *paints, varnishes, preservatives and fillers* (except in bulk, in tank vehicles), from Avon, CT to Nevada, IA; (4) *drugs, medicines, chemicals, and toilet preparations* (except in bulk, in tank vehicles), from Brooklyn, NY; Groton, CT, and Parsippany, NJ to points in IL; (5) *toilet preparations, cleaning compounds, shampoos and equipment, materials and supplies* used in the manufacture and distribution thereof, from West Springfield, MA to Fort Madison, IA; (6) *paper and paper articles*, from Warwick, NY to Chicago, IL. The purpose of this filing is to substitute single-line service for existing joint-line service. Supporting shipper(s): There are approximately 6 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the filed office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Com-

merce Commission, 518 Federal Building, Des Moines, IA 50309.

NOTE.—Common control may be involved.

MC 116763 (Sub-423TA), filed July 20, 1978. Applicant: CARL SUBLER TRUCKING, INC. (a FL Corporation), North West Street, Versailles, OH 45380. Representative: H. M. Richters (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in MN, for 180 days. Supporting shipper: Bowater Southern Paper Corp., George C. Lessig, Assistant Transportation and Distribution Manager, Calhoun, TN 37309. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 118560 (Sub-6TA), filed August 2, 1978. Applicant: GENERAL TRUCKING CO., INC., a TN corporation, 1100 School Street, P.O. Box 269, Columbia, TN 38401. Representative: Edward C. Blank II, P.O. Box 1004, Middle Tennessee Bank Building, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed limestone*, from the plantsite of Southern Stone Co., Inc., Cherokee, AL, to the Tennessee Valley Authority Nuclear Plant, Yellow Creek, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Stone Co., Inc., 2111 Eighth Avenue South, Birmingham, AL 35233. Send protests to: Glenda Kuss, Transportation Assistant, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 119489 (Sub-51TA), filed August 2, 1978. Applicant: PAUL ABLER, d.b.a. CENTRAL TRANSPORT CO., 2500 North 13th Street, P.O. Box 249, Norfolk, NE 68701. Representative: A. J. Sindelar, 2500 North 13th Street, P.O. Box 249, Norfolk, NE 68701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, from Cheyenne and Casper, WY, to points in NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dave Rau, Equipment Superintendent, Western Engineering, Inc., Box 350, Harlan, IA; Bud Knight, President, Knight Bros., Chapman, NE; Harry R. Duryea, Highway Superintendent, Custer County, Broken Bow, NE. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 123872 (Sub-87TA), filed July 20, 1978. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Bowater Southern Paper at or near Calhoun, TN, to points in IA. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Southern Paper Corp., Calhoun, TN 37309. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 128246 (Sub-29TRA), filed July 17, 1978. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A.D., Watonville, CA 95076. Representative: William F. King, Suite 400, Overlook Building, 6126 Lincolnia Road, Alexandria, VA 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Cheese, including cheese foods and cheese spreads*, (1) from the facilities of Safeway Stores, Inc., at or near LaCrosse, WI, to the facilities of Safeway Stores, Inc., at or near Tempe, AZ; Little Rock, AR; National City, Richmond, Sacramento, and Santa Fe Springs, CA; Denver, CO; Kansas City, MO-KS; Landover, MD; Butte, MT; Omaha, NE; Oklahoma City and Tulsa, OK; Clackamas, OR; El Paso, Garland, and Houston, TX; Salt Lake City, UT; Richmond, VA; and Bellevue and Spokane, WA; and (2) between the facilities of Safeway Stores, Inc., at or near LaCrosse, WI; and (b) *cheese*, from points in IA and MN to the facilities of Safeway Stores, Inc., at or near LaCrosse, WI, under a continuing contract or contracts with Safeway Stores, Inc. Supporting shipper: Safeway Stores, Inc., 5725 East 14th Street, Oakland, CA 94621. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 128527 (Sub-119TA), filed July 28, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, ID 83661. Representative: Michael Alexander, 136 Wyndwood Professional Building, Dallas, TX 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such business between points in ID, OR, WA, UT, and NV on the one hand, and CA on the other*, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

Supporting shipper(s): There are approximately 39 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 filed office named below. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 134201 (Sub-10TA), filed July 18, 1978. Applicant: JAMES V. PALMER, d.b.a. JIM PALMER TRUCKING, 3515 Hwy 10 West, Missoula, MT 59801. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles (except commodities the transportation of which because of size or weight require the use of special equipment)*, from the facilities of Keystone Consolidated Industries, Inc. at or near Peoria, IL, to points in ID, MT, ND, OR, SD, WA, and WY. Restricted to a transportation service to be performed under a continuing contract or contracts with Keystone Consolidated Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Richard J. Heynen, Keystone Consolidated Industries, Inc., Peoria, IL 61607. Send protests to: Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 134224 (Sub-14TA), filed July 18, 1978. Applicant: HAUSER TRUCKING CORP., P.O. Box 241, Cobleskill, NY 12043. Representative: Neil D. Breslin, Esq., 600 Broadway, Albany, NY 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and scrap; ferro alloys from Albany, NY, to Providence, Cranston, and Phillipsdale, RI; Bridgeport, CT; and Reading, PA. Scrap from Boston, Greenfield, Tewksbury, and Worcester, MA; Albany, Syracuse, Chili, and Buffalo, NY; Newark, NJ; Williamsport and Reading, PA; New Haven and North Haven, CT; to ports of entry on the international boundary between the United States and Canada located in NY and VT*, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Airco Alloys, P.O. Box 368, Niagara Falls, NY 14302; Intermetco Ltd., P.O. Box 70, Hamilton, ON, Canada. Send protests to: Robert Al Radler, District Supervisor, P.O. Box 1167, Albany, NY 12201.

MC 138181 (Sub-5TA), filed August 2, 1978. Applicant: TRANSPORT EXPRESS, INC., a Colorado corporation,

P.O. Box 663, Dodge City, KS 67801. Representative: Clyde N. Christey, Suite 110L, Kansas Credit Union Building, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevron Chemical Co., 3001 LBJ Freeway, Suite 139, Dallas, TX, 75234. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 139629 (Sub-4TA), filed August 2, 1978. Applicant: BOOTH REFRIGERATED LINES, INC., a Nebraska corporation, 1308 16th Avenue, Central City, NE 68826. Representative: Donald E. Booth, 1308 16th Avenue, Central City, NE 68826. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food products*, from the plantsite and storage facilities of Delicious Foods Co., at Grand Island, NE, to points in GA, KY, MO (except Kansas City), TN, FL, OH, IN, AL, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ernest Petersen, Executive Vice President, Delicious Foods Co., Box 730, Grand Island, NE 68801. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68608.

MC 139923 (Sub-47TA), filed August 2, 1978. Applicant: MILLER TRUCKING CO., INC., P.O. Box D, Stroud, OK 74079. Representative: Edward L. Handlin, President, 105 South Eighth Street, Stroud, OK 74079. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses and discount houses and drugstores (except commodities in bulk and frozen commodities)*, from the facilities of The Clorox Co. located in Houston, TX, to points in the State of OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Clorox Co., 1221 Broadway, Oakland, CA 94612. Send protests to: Connie Stanelly Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 NW Third, Oklahoma City, OK 73102.

MC 142757 (Sub-2TA), filed August 2, 1978. Applicant: WAYNE H. ROBERTSON, d.b.a. ROBERTSON TANK SERVICE, P.O. Box 305, Elkhart, KS 67950. Representative: Clyde N. Christey, Suite 110L, Kansas Credit Union Building, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevron Chemical Co., Suite 139, 3001 LBJ Freeway, Dallas, TX 75234. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita KS 67202.

MC 142843 (Sub-1TA), filed August 2, 1978. Applicant: HOLMAN TRANSPORTATION, INC., P.O. Box 31, Dodge City, KS 67801. Representative: Clyde N. Christey, Suite 110L, Kansas Credit Union Building, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevron Chemical Co., Suite 139, 3001 LBJ Freeway, Dallas, TX 75234. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita KS 67202.

MC 143277 (Sub-10TA), filed August 1, 1978. Applicant: PRINTERS EXPRESS, INC., One Hackensack Avenue, South Kearny, NJ 07032. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, magazines, periodicals, records, advertising media, and educational film strips*, (1) from Chicago, IL, Versailles, KY, Cambridge, MD, Plympton, Lowell, and Boston, MA, St. Cloud, MN, St. Louis and Jefferson City, MO, Concord, NH, Buffalo and New York, NY, Dayton and Canton, OH, Dresden, TN, Brattleboro, VT, Menasha, Madison, Milwaukee, Berlin, and Wisconsin Rapids, WI, and points in their respective commercial zones; points in NJ and Nassau and Suffolk Counties, NY, to Pleasanton, CA, St. Louis and Jefferson City, MO, and New York, NY, and points in their respective commercial zones; (2) between St.

Louis, MO, Jefferson City, MO, Pleasanton, CA, New York, NY, and points in their respective commercial zones; (3) from New York, NY, and points in its commercial zone to Versailles, KY, and points in its commercial zone, under a continuing contract or contracts with Scholastic Magazine, Inc., for 180 days. Supporting shipper(s): Scholastic Magazine, Inc., 50 West 44th Street, New York, NY 10036. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144326 (Sub-1TA), filed July 18, 1978. Applicant: RICHARDSON TRUCKING, INC. (a Colorado corporation), 330 East Eighth Street, P.O. Box 967, Greeley, CO 80631. Representative: William Fred Cantonwine (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from the facilities of Miller Brewing Co. at Milwaukee, WI, Fort Worth, TX, and Azusa, CA, and their commercial zones; from the facilities of Olympia Brewing Co. at Olympia, WA, St. Paul, MN, and San Antonio, TX, and their commercial zones; from the facilities of Anheuser Busch, Inc. at St. Louis, MO; from the facilities of Carling-National Brewing Co. at Phoenix, AZ, and Belleville, IL, and their commercial zones; to the facilities of Orrison Frontier & Distributing, Inc. at Cheyenne, Laramie, and Torrington, WY; and Glenwood Springs and Minturn, CO, and their commercial zones; from the facilities of Joseph Schlitz Brewing Co. at Milwaukee, WI, and Los Angeles, CA, and their commercial zones; from the facilities of Pabst Brewing Co. at Milwaukee, WI, Peoria, IL, and Los Angeles, CA, and their commercial zones; to the facilities of Duck Bar Beverage Co. at Cheyenne and Torrington, WY, and their commercial zones, from the facilities of Joseph Schlitz Brewing Co. at Milwaukee, WI, Longview, TX, and Los Angeles, CA, and their commercial zones; from the facilities of Wisdom Imports, Inc. at Irvine, CA; to the facilities of Twin City Distributing, Inc. at Greeley and Niwot, CO, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately four 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: Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 144353 (Sub-1TA), filed August 2, 1978. Applicant: CLARISA LUCERO CAMACHO, d.b.a. LUCERO'S TRUCKING, P.O. Box 5555, Calexico, CA 92231. Representative: Clarisa Lucero Camacho, P.O. Box 5555, Calexico, CA 92231. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rechargeable lead acid batteries and parts thereof*, between Santa Ana, CA and the United States Border at Calexico, CA, under a continuing contract or contracts with Elpower Corp., for 180 days. Supporting shipper(s): Elpower Corp., P.O. box 5130, Calexico, CA 92231. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145065 (Sub-1TA), filed July 20, 1978. Applicant: WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98121. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, or irregular routes, transporting: *Nondairy milk and cream substitutes; salad dressings; and whipped toppings, chilled and frozen*, from the facilities of Presto Food Products, Inc. at Los Angeles, CA to points in OR and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Presto Food Products, Inc. 628 South Brandon, Seattle, WA 98109. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 145071 (Sub-1TA), filed August 1, 1978. Applicant: EATON BROS. INC., 1020 West Brady, Clovis, NM 88101. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products* (except commodities in bulk, in tank vehicles). From the facilities of McCasland Enterprises, Inc., at or near Clovis, NM to the port of entry on the international boundary line between the United States and Canada at Niagara Falls, NY. Restricted to a transportation service performed under a continuing contract or contracts with McCasland Enterprises, Inc., Clovis, NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McCasland Enterprises Inc., P.O. Box 1801, 1201 Fairway Terrace, Clovis, NM 88101. Send protests to: District Supervisor, Interstate Commerce Com-

mission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 145075 (Sub-1TA), filed August 1, 1978. Applicant: ALLIED BAKERY DELIVERY, INC., a New York Corporation, 437 Railroad Avenue, Westbury, NY 11590. Representative: Piken & Piken, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* from the facilities utilized by Allied Bakers Co., Inc., located at or near Westbury, LI, NY, to points in MA, PA, MI, IL, MO, KY, TN, AR, MS, KA, TX, NC, SC, GA, AL, FL, MD, VA, OH, and Washington, DC, under a continuing contract or contracts with Allied Bakers Co., Inc., Drake Bakeries, for 180 days. Condition: Operations and services restricted to traffic moving under a contract or continuing contracts with Allied Bakers Co., Inc., of Westbury, LI, NY and Drake Bakeries Foods Division of Borden, Inc., of Wayne, NJ. Supporting shipper(s): Allied Bakers Co., Inc., 437 Railroad Avenue, Westbury, NY 11590. Drake Bakeries, Food Division of Borden, Inc., 75 Demarest Drive, Wayne, NJ 07470. Send protests to: Maria B. Keiss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 145141 TA, filed August 2, 1978. Applicant: L. J. NAVY TRUCKING CO., 2300 Eighth Avenue, Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boxes; corrugated containers; scrap paper; ink in containers; wax roll stock; paints in containers; and machinery* used in the production of paper products, (1) from Huntington, WV to points in the states on and east of the Mississippi River, including TX; and (2) interplant movements between the plant site of Western Kraft Paper Corp., Corco Division located at Grand Rapids, MI; Bowling Green and Hawesville, KY; Compti, LA; Huntington, WV, Delaware, OH and Muncie, IN, under a continuing contract or contracts with Western Kraft Paper Group, Corco Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Terry A. Flaughter, Assistant to the General Manager, Western Kraft Paper Group, Corco Division, 409 Buffington Street, P.O. Box 3064, Huntington, WV 25702. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500

Quarrier Street, Charleston, WV 25301.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27888 Filed 10-3-78; 8:45 am]

[7035-01]

[Notice No. 180]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 25, 1978.

The following are notices of filing of applications for temporary 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 47171 (Sub-113TA), filed August 1, 1978. Applicant: COOPER MOTOR LINES, INC., a South Carolina corporation, P.O. Box 4259, Greenville, SC 29608. Representative: Harris G. Andrews, P.O. Box 4259, Greenville, SC 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium dioxide and by-products thereof, dry (except in bulk), from facilities of American Cyanamid Co. at Savan-*

nah, GA to points in CT, DE, MD, MA, NJ, NY, PA, and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Cyanamid Co., Bound Brook, NJ 08805. Send protests to: E. E. Strotheid, District Supervisor, ICC, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 48017, filed July 25, 1978. Applicant: CAMEL TRUCKING, INC., 143 Addison Street, East Boston, MA 02128. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Detroit Metropolitan Airport, Detroit, MI, and John F. Kennedy International Airport, New York, NY, restricted to the transportation of shipments having an immediately prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Seaboard World Airlines, Seaboard World Airlines Building, 260 John F. Kennedy Airport, Jamaica, NY 11430. Send protests to: Max Gorenstein, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 61977 (Sub-11TA), filed July 25, 1978. Applicant: ZERKLE TRUCKING CO., 2400 Eighth Avenue, Huntington, WV 25703. 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: *Glass containers, caps and closures thereof, from Vienna, WV, to points in MD, PA, NJ, NY, RI, MA, IL, IN, and KY, for 180 days. Supporting shipper(s): Richard D. Moreland, manager, Traffic and Distribution, National Bottle Co., One Bala Cynwyd Plaza, Bala Cynwyd, PA 19004. Send protests to: Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston WV 25301.*

MC 113784 (Sub-70TA), filed August 1, 1978. Applicant: LAIDLAW TRANSPORT LIMITED, an Ontario corporation, 65 Guise Street, Hamilton, ON L8L 4M1. Representative: Douglas R. Gowland, 65 Guise Street, Hamilton, ON. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nepheline syenite in pneumatic tank, between ports of entry on the United States-Canadian boundary line located*

on the Detroit and St. Clair Rivers to Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Insusmin Ltd., 365 Bloor Street East, Suite 200, Toronto, ON. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building 111 West Huron Street, Buffalo, NY 14202.

MC 113908 (Sub-446TA), filed August 1, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G. S. S., 2105 East Dale Street, Springfield, MO 65804. Representative: B.B. Whitehead, traffic manager, P.O. Box 3180 G. S. S., 2105 East Dale Street, Springfield, MO 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, from Hammondsport, NY, to Buchanan, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tabor Hill Vineyard and Vinecellar, Buchanan, MI. Send protests to: DS John V. Barry, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 115213 (Sub-2TA), filed July 18, 1978. Applicant: ELLIOTT & FIKES TRUCK LINE, INC., 414 National Building, Pine Bluff, AR 71601. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing supplies, and roofing materials: and supplies, equipment, and materials used in the manufacture of roofing from the facilities of Masonite Corp., Meridian, MI, to AL, AR, FL, GA, KY, LA, MO, NC, SC, TN, VA; and from the above destination States to Meridian, MI. From the facilities of Masonite, Little Rock, AR, to AL, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, OK, TN, TX, and from the above destination States to Little Rock, AR, for 180 days. Supporting shipper(s): Masonite Corp., P.O. Box 5777, Meridian, MS. Send protests to: William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201*

MC 117686 (Sub-216TA), July 21, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, 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: *Bananas*, from Long Beach, CA, to points in IA, MN, NE, ND, and SD., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Sup-

porting shipper(s): Ben E. Klein, senior vice president-marketing, Del Monte Banana Co., 1201 Brickell Avenue, Miami, FL 33101. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 118159 (Sub-278TA), August 1, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC. P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Battery boxes, covers and vents, rubber and plastic.* From Indianapolis, IN, and Philadelphia, MS to points in AL, CT, DE, GA, KS, KY, MS, MA, NH, NJ, NC, OH, PA, RI, SC, TN, TX, VA, and WI. For 180 days. Supporting shipper(s): The Richardson Co., 2701 Lake Street, Melrose Park, IL 60160. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 North West third, Oklahoma City, OK 73102.

MC 119493 (Sub-224TA), August 1, 1978. Applicant: MONKEM CO., INC. P.O. Box 1196, West 20th Street, Joplin, MO 64801. Representative: Lawrence F. Kloepfel, P.O. Box 1196, West 20th Street, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour, flour mixes, and ingredients thereof, from: Alton, IL, To: AR, AL, IN, GA, FL, IA, IL, KS, KY, LA, MS, MO, NE, OL, OH, TN, TX, MI, MN, SD, WO, CO, NC, SC, and materials and supplies used in the manufacture and distribution of flour, flour mixes and ingredients.* From: Above named destinations to Alton, IL for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peavey Co., Minneapolis, MN. Send protests to: District Supervisor John V. Barry, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 119702 (Sub-63TA), filed July 26, 1978. Applicant: STAHLY CARTAGE CO., 119 South Main Street, Edwardsville, IL 62025. Representative: Jeff S. Wohlford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, (in bulk, in tank vehicles), from Ashkum, IL, to points in IN on and north of I-70, for 180 days. Supporting shipper(s): Michael M. Meier Secretary, Meier Oil Service, Inc., Box 8, Ashkum, IL 60911. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Com-

mission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 125368 (Sub-34TA), filed July 26, 1978. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C.W. Fletcher, P.O. Box 26, Holly Ridge, NC 28445. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glass products*, from the plantsite and storage facilities of Libbey-Owens Ford Glass, Inc., at or near Laurinburg, NC, to points in FL and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Libbey-Owens-Ford Co., 811 Madison Avenue, Toledo, OH 43695. 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 126276 (Sub-197TA), filed July 20, 1978. Applicant: FAST MOTOR SERVICE, INC. (an Illinois corporation), 9100 Plainfield Road, Brookfield, IL 60513. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Metal containers and metal container ends* from Milwaukee, WI, to Fulton, Liverpool, Syracuse and Oswego, NY, under a continuing contract(s) with Miller Brewing Co., 3939 West Highland Boulevard, Milwaukee, WI. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 126822 (Sub-50TA), filed August 1, 1978. Applicant: WESTPORT TRUCKING CO., 812 South Silver, P.O. Box 401, Paola, KS 66071. Representative: Kenneth E. Smith, 6405 Metcalf Avenue, Suite 322, Shawnee Mission, KS. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products and commodities used in the installation thereof*, (except commodities in bulk), from Chicago, IL, to points in KS, and MO. Applicant states it does not intend to tack or interline. For 180 days. Supporting shipper(s): The Ferris Kimballs, 1401 Fairfax Trafficway, Kansas City, KS 66115. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 136343 (Sub-148TA), filed July 25, 1978. Applicant: MILTON TRANS-

PORTATION, INC., P.O. Box 355, R.F.D. 1, Milton, PA 17847. 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: *Glass containers*, between the facilities of Midland Glass Co., at or near Cliffwood, NJ, on the one hand, and, on the other, Williamsburg, VA, and points within its commercial zone, and the facilities of Midland Glass Co. at or near Newport News and Suffolk, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 141958 (sub-6 TA), filed July 26, 1978. Applicant: FEDCO FREIGHT-LINES, INC., P.O. Box 422, Route 32 South, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62704. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses, for the account of Procter & Gamble Distributing Co., between Chicago, IL, and Cincinnati, Ohio, under a continuing contract, or contracts, with the Procter & Gamble Distributing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Norman Homleid, Traffic Analyst, the Procter & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Charles D. Little, District Supervisor, Interstate Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 142447 (Sub-7 TA), filed July 26, 1978. Applicant: LOUISIANA-PACIFIC TRUCKING CO., P.O. Drawer AB, New Waverly, TX 77358. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chips, sawdust, and shavings*, from the Louisiana-Pacific Corp. plant, at or near Carthage, TX, to the Western Craft plant, at or near Campti, LA, under a continuing contract, or contracts, with Louisiana-Pacific Corp., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Louisiana-Pacific Corp., P.O. Drawer AA, New Waverly, TX 77358. Send protests to: John F. Mens-

ing, District Supervisor, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 142811 (Sub-4 TA), filed July 26, 1978. Applicant: S.R.I. TRUCKING CO., 1000 North Cindy Lane, Carpinteria, CA 93013. Representative: J. W. Conner, 431 Keith Avenue, Akron, OH 44313. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides), from the facilities of Beef Processors of Arizona, Inc., at or near Phoenix, AZ, to Los Angeles, CA, and points in its commercial zone, under a continuing contract, or contracts, with Beef Processors of Arizona, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beef Processors of Arizona, Inc., 2601, 2601 North 31 Avenue, Phoenix, AZ 85009. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143555 (Sub-3TA), filed July 26, 1978. Applicant: RIVERSIDE TRANSPORTATION CO., INC., 1903 Canal Drive, Wilson, NC 27893. Representative: Robert B. Walker, 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and landscape timbers*, from the facilities of Weyerhaeuser Co. at Lewiston, Plymouth, Jacksonville, and Askin, NC, to points in DE, MD, NJ, NY, PA, VA, and DC, for 180 days. Supporting shipper(s): Weyerhaeuser Co., P.O. Box 787, Plymouth, NC 27962. 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 143787 (Sub-4TA), filed July 25, 1978. Applicant: ADMIRAL TRANSPORT CORP., 821 Pulliam Avenue, Worland, WY 82401. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, from the facilities of Seven-Up Bottling Co., Salt Lake City, UT, to points in ID, NV, CO, AZ, and WY, under a continuing contract or contracts, with Seven-Up Bottling Co., of Salt Lake City, UT, for 180 days. Applicant has also filed an

underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Seven-Up Bottling Co., of Salt Lake City, 959 South 800 West, Salt Lake City, UT 84104. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 144407 (Sub-3TA), filed August 1, 1978. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, NJ 07444. 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: *Cabinets, sink tops, materials, equipment, and supplies* used or useful in the manufacture or sale of the foregoing commodities (except commodities in bulk), between the facilities of AMPCO, Division of Chromalloy American Corp. at or near Rosedale, MS, and Tyrone, PA, on the one hand, and, on the other, points in the States of MO, IL, WI, IN, KY, OH, PA, WV, VA, MD, DE, NJ, NY, CN, MA, and RI. (Hearing site: Jackson, MS, or Washington, DC.) Authority between Tyrone, PA, and points in PA is required for import, export, and interstate highway movements on stopoff shipments, for 180 days. Supporting shipper(s): AMPCO, Division Chromalloy American Corp., P.O. Box 608, Rosedale, MS. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144740 (Sub-3TA), filed July 25, 1978. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Jacob P. Billig, 2033 K Street NW, Suite 300, Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from the facilities of Pet Inc., at Chambersburg and Allentown, PA, to Santa Fe Springs, CA, restricted to a transportation service performed under a continuing contract, or contracts, with Pet Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pet Inc., Frozen Foods Division, 400 South Fourth Street, St. Louis, MO 63102. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145064 (Sub-1TA), filed July 25, 1978. Applicant: HUNTER TRUCKING, INC., 805 32d Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought

to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in TN, KY, MO, IL, IN, AR, AL, and MI, to points in WA, OR, ID, CA, UT, NV, and AZ, under a continuing contract or contracts, with Portland Hardwoods, Inc., for 180 days. Supporting shipper(s): Portland Hardwoods, Inc., P.O. Box 988, Portland, OR 97207. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 145064 (Sub-2TA), filed July 25, 1978. Applicant: HUNTER TRUCKING, INC., 805 32d Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Breadstown, IL; Frohna, MO; Kansas City, KS; Memphis and Nashville, TN; Scottsville, KY; Utica, MS; Camden, AL; and Tullalah, LA, and points in their commercial zones to point in WA, OR, ID, CA, and UT, under a continuing contract, or contracts, with Portland Hardwoods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Portland Hardwoods, Inc.,

P.O. Box 988, Portland, OR 97207. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 145101 (Sub-1TA), filed July 26, 1978. Applicant: BILLY P. RUPPE, d.b.a. RUPPE MOTOR LINES, 309 Kraft Street, Gaffney, SC 29340. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonwoven synthetic fabric*, from the facilities of Phillips Fibers Corp. at or near Startex, SC, to points in MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Phillips Fibers Corp., P.O. Box 666, Startex, SC 29377. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 145187TA, filed July 14, 1978. Applicant: W. R. HURST, INC., P.O. Box 416, 349 South Main Street, Blanding, UT 84511. Representative: William Reed Hurst (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Any and all types of ores, rock, sand, and gravel in bulk and as a backhaul such mining supplies as power caps, drill still, groceries, small amounts of lumber, nails, diesel fuel, oil, and gasoline in barrels and other mining supplies that could be carried in dump trucks which would not require the use of special equipment between points within the area defined as follows: Beginning at Salina, UT, then east on Interstate 70 to Grand Junction, CO, then south on U.S. Hwy 50 to Montrose, CO, then south on U.S. Hwy 550 to Shiprock, NM, then south on U.S. Hwy 666 to Gallup, NM, then west on Interstate 40 to Flagstaff, AZ, then north on U.S. Hwy 89 to Salina, UT, for 180 days. Supporting shipper(s): There are approximately four 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 filed office named below. Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27889 Filed 10-3-78; 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

	Items
Federal Communications Commission	1, 2, 3
Federal Reserve Board	4
International Trade Commission	5
Mississippi River Commission	6, 7, 8, 9
Nuclear Regulatory Commission	10
U.S. Parole Commission	11

[6712-01]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 3, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

Agenda, Item No., and Subject

General-1—Briefing on preparations of WARC 1979, including status of consultations with foreign countries.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 2, 1978.

[S-2006-78 Filed 10-2-78; 3:37 pm]

[6712-01]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following open meeting which is scheduled to commence at 9:30 a.m.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing-1—Petition to terminate renewal proceeding and approve plan to assign WETT's license; requests for clarification

and official notice; petition to deny the assignment application, and a motion to dismiss the petition to deny, in the WETT Ocean City, Md., AM renewal proceeding (Docket No. 20674).

Hearing-2—Reconsideration of the designation of KLBK-TV, KMON-TV, KWAB-TV and KTXS-TV (Docket No. 21283).

General-1—Discussion of personnel problem.

General-2—Los Angeles Women's Coalition for Better Broadcasting v. FCC and CBS, Inc., Case No. 76-1133 and Los Angeles Women's Coalition for Better Broadcasting v. FCC and Metromedia, Inc., Case No. 76-1711.

General-3—American Security Council Education Foundation v. FCC, USA and CBS, Inc., Case No. 77-1443.

Cable Television-1—Instructions to General Counsel on conduct of litigation in N.C.C.B v. FCC, Nos. 75-1933, et al. D.C. Cir.

Complaints and Compliance-1—Field investigation into the operation of Radio Station WFIF, Milford, Conn., licensed to Colonial Broadcasting, Inc.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 2, 1978.

[S-2007-78 Filed 10-2-78; 3:37 pm]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTER TO BE CONSIDERED.

Agenda, Item No., and Subject

Hearing-1—Request for waiver of the provision requiring the presiding judge's permission to appeal to the Commission from an adverse interlocutory ruling in the Gilmer, Tex., FM broadcast proceeding (Docket Nos. 21281-82).

Hearing-2—Vue-Metrics, Inc.'s appeal of Judge's order dismissing with prejudice its applications for construction permit for new TV station and subscription TV authorization in the Philadelphia, Pa., comparative proceeding. (Docket Nos. 20842-20845).

General-1—Rules implementing the new forfeiture statute; Pub. L. 95-234, February 21 1978.

General-2—Citations to the record in decisions of the Commission, the Review Board and Administrative Law Judges.

General-3—Measurement techniques of television receiver noise figures.

General-4—Delegation of authority to consolidate related hearing proceedings to the Chief Administrative Law Judge.

General-5—Applications for review of staff ruling partially granting the Freedom of Information Act request jointly filed by Classical Radio for Connecticut, Inc., and the WTIC-FM Listeners' Guild.

Safety and Special Radio Services-1—VHF frequency assignments to the Maritime Mobile Services along the coastline and the Mississippi River System.

Common Carrier-1—American Telephone & Telegraph Co., revision to Tariff FCC No. 263 880th revised page 1 and amendment of part 68 of the rules to provide for certain exceptions required to protect the national defense and security as well as other appropriate exceptions.

Common Carrier-2—Amendment of part 21 of the rules to reflect the availability of land mobile channels in the 470-512 MHz band in 13 urbanized areas of the United States (Docket No. 21039).

Common Carrier-3—Spanish International Network request for authorized user status under the Communications Satellite Act of 1962.

Common Carrier-4—Tariff revisions filed by ITT to implement flow through of Comsat rate reductions.

Cable Television-1—Applications for construction permits for two new stations in the cable television relay service filed by American Television of Midwest City, Inc.

Cable Television-2—Petition for waiver filed by Meyer Broadcasting Co., North Dakota.

Cable Television-3—Petition for waiver filed by Jonesboro Cable TV, Inc.

Cable Television-4—Petition for reconsideration filed by People's Cable Co., Henrietta, N.Y.

Cable Television-5—Petition for special relief filed by WBOY-TV, Inc., Clarksburg, W. Va.

Assignment and Transfer-1—Petition to deny and for special relief filed by the New Jersey Coalition for Fair Broadcasting against the application (BALCT-675) for the voluntary assignment of license of WGAL-TV, Lancaster, Pa.

Renewal-1—Petition for partial reconsideration of Commission action denying petition to deny renewal applications of KUHT (TV) and KUHF (FM), Houston, Tex.

Renewal-2—Action pursuant to the order of the U.S. Court of Appeals in *Committee for Open Media v. FCC*, D.C. Cir. No. 77-1135, November 21, 1977.

Renewal-3—Petition to deny renewal application of noncommercial station WYEP-FM, Pittsburgh, Pa.

Aural-1—Application for major change in the facilities of a commercial FM station filed by Hall Broadcasting Co., WIYD-FM, Palatka, Fla., et al.

Aural-2—Joint request for approval of agreement contemplating reimbursement of expenses and dismissal of the application for Huntsville, Ark., filed by JEM Broadcasting Co., Bentonville, and Mountain Media Corp., Huntsville, Ark.

Aural-3—Application for an AM construction permit filed by Millard v. Oakley, Dayton, Tenn.

Aural-4—Applications of Radio Greenbrier, Inc., and Lewisburg FM Broadcasters for a new FM broadcast station at Ronceverte and Lewisburg, W. Va. Respectively and petition to deny the Lewisburg application filed by Greenbrier.

Television-1—Application of Puerto Rico Broadcasting, Inc., for a CP for a new TV on Channel 18, San Juan, P.R.

Broadcast-1—Amendment of the Commission's rules to add a new program type, "Community Service" program, to the program definitions for commercial broadcast stations and related matters.

Broadcast-2—Applicability of distress sale policy to those licensees in adjudication at the time of the adoption of the policy.

NOTE.—Items 1 and 2 hearing agenda rescheduled from closed to open meeting.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 2, 1978.

[S-2008-78 Filed 10-2-78; 3:37 pm]

[6210-01]

4

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 43813, September 27, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, September 29, 1978.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting:

Proposed Board position regarding a congressional amendment of the grandfather provisions of the Bank Holding Company Act.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2002-78 Filed 10-2-78; 8:58 am]

[7020-02]

5

[USITC SE-78-49]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, October 12, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Nylon yarn from France (Inv AA1921-185)—briefing and vote.
7. Any items left over from previous agenda.

Portions closed to the public:

6. Status report on investigation 332-301 (MTN) (if necessary).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2001-78 Filed 10-2-78; 8:58 am]

[3710-6X]

6

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 4 p.m., October 18, 1978.

PLACE: On board MV *Mississippi* at City Front, Foot of Crawford Street, Vicksburg, Miss.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger O. Harris, telephone 601-636-1311, extension 5766.

[S-2005-78 Filed 10-2-78; 3:37 pm]

[3710-6X]

7

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 2:30 p.m., October 20, 1978.

PLACE: On board MV *Mississippi* at Coast Guard Wharf, Morgan City, La.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger O. Harris, telephone 601-636-1311, extension 5766.

[S-2009-78; Filed 10-2-78; 3:37 pm]

[3710-EX]

8

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 9 a.m. October 16, 1978.

PLACE: On board MV *Mississippi* at Foot of Eighth Street, Cairo, Ill.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; (3) District Engineer's report on the Mississippi River and Tributaries Program in Memphis District.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger O. Harris, telephone 601-636-1311, extension 5766.

[S-2010-78 Filed 10-2-78; 3:37 p.m.]

[3710-6x]

9

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: 9 a.m., October 17, 1978.

PLACE: On board MV *Mississippi* at City Front, Vicinity of Beale Street, Memphis, Tenn.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report by the president on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2)

SUNSHINE ACT MEETINGS

Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger O. Harris, telephone 601-636-1311, extension 5766.

[S-2011-78 Filed 10-2-78; 3:37 p.m.]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

TIME AND DATE: October 3, and 4, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (changes).

MATTERS TO BE CONSIDERED:

TUESDAY, OCTOBER 3; 10 A.M.

1. Discussion of 10 CFR Part 21, Applicability to Non-Licensee Suppliers of Commer-

cial Grade Items (approximately 1 hour, public meeting), postponed from September 29, 1978.

2. Discussion of employee allegations (approximately 1 hour, closed—exemption 6) as announced.

WEDNESDAY, OCTOBER 4; 2 P.M.

1. Discussion of personnel matter (approximately 1 hour, closed—exemption 6), postponed from October 3, 1978.

ADDITIONAL INFORMATION: Regarding the discussion of 10 CFR Part 21: Those persons who planned to attend this meeting on September 29, 1978 and are now unable to attend this rescheduled meeting should call the contact below for a copy of the meeting transcript.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: September 29, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-2004-78 Filed 10-2-78; 2:48 pm]

[4410-01]

11

PAROLE COMMISSION. National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Friday, October 13, 1978, at 9:30 a.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C. 20537.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 25 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-2003-78 Filed 10-2-78; 11:27 am]

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WEDNESDAY, OCTOBER 4, 1978
PART II



CENTRAL INTELLIGENCE
AGENCY

DEPARTMENT OF STATE

INTERNATIONAL
BOUNDARY AND
WATER COMMISSION,
UNITED STATES
SECTION

SMALL BUSINESS
ADMINISTRATION



PRIVACY ACT OF 1974

Systems of Records; Annual
Publication

[6310-02]

CENTRAL INTELLIGENCE AGENCY PRIVACY ACT ISSUANCES Notice of Incorporation by Reference

Agency: Central Intelligence Agency.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this Agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Mr. George W. Owens,

Information and Privacy Coordinator,

Central Intelligence Agency,

Washington, D.C. 20505.

Approval of the Director

The notices of systems of records of this Agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted

approval to incorporate by reference these Privacy Act issuances on 13 July 1978.

1977 Compilation Up-To-Date

Information about this Agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date. Since publication of the 1977 Compilation, this Agency has made no changes to its systems of records.

Availability of 1977 Compilation

"Privacy Act Issuance—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be obtained from this Agency free of charge by writing to the Information and Privacy Coordinator or by calling (703) 351-7486. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this Agency's systems of records appear in Volume I of the 1977 Compilation at page 48050 (Vol. 42, No. 184, pp. 48050-48074, 22 September 1977). The price of this Volume is six dollars and fifty cents.

John F. Blake,
Deputy Director for Administration.

[FR Doc 78-27008 Filed 10-3-78; 8:45 am]

[4710-05]

DEPARTMENT OF STATE

(Public Notice 628)

PRIVACY ACT ISSUANCES**Notice of Incorporation by Reference**

Agency: Department of State.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Ms. Sharon Kotok,
Chief, Privacy Staff,
Room 1239,
Department of State,
Washington, D.C. 20520, 202-632-1267.

Approval of the Director, Federal Register: The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval on July 13, 1978 to incorporate these Privacy Act Issuances by reference. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

Availability of 1977 compilation: "Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of notices in 1977 compilation: Notices of this agency's systems of records appear in Volume II of the Privacy Act Issuances—1977 Compilation page 49699 (42 FR 49699) September 27, 1977. The price of this Volume is six dollars and seventy-five cents.

Dated: September 13, 1978.

For the Secretary of State.

Ben H. Read,

Deputy Under Secretary for Management.

State—36

System name: Security Records.

System location: Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system: Employees and former employees of the Department of State; applicants for Departmental employment who have been or are presently being investigated; contractors working for the Department; recipients of Cultural Grants; individuals requiring access to the official Department of State premises who have undergone or are undergoing security clearance; individuals involved in matters of passport and visa fraud, munitions control, unauthorized access to classified information, and alien prospective spouses of American personell of the Department of State; individuals whose activities have a potential bearing on the security of Departmental or Foreign Service Operations. In addition, security files contain information needed to provide protective services for the Secretary of State and visiting foreign dignitaries and heads of state, and to protect the Department's official premises. There are also information copies of investigations of individuals conducted abroad at the request of Federal agencies. Finally, security files contain documents and reports furnished to the Department by other agencies concerning individuals whose activities the other agencies believe may have a bearing on U.S. foreign policy interests.

Categories of individuals covered by the system: Investigatory material relating to any category of individual described above; applications for employment; intelligence reports; fingerprints; photographs; internal memoranda; security violations records.

Authority for maintenance of the system: 5 U.S.C. 7311 and 7531-33; 8 U.S.C. 1104; 18 U.S.C. 111, 112, 201, 202, 1114, 1116, 1117, 1541, 1542, 1543, 1544, 1545, 1546; 22 U.S.C. 211a, 846, 911, 2454, and 2667; Executive Order 10450; Executive Order 11652; Executive Order 10865; 22 CFR Subchapter M.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The principal users of this information outside the Department of State are: Department of Treasury; Civil Service Commission; Agency for International Development; U.S. Information Agency; Arms Control and Disarmament Agency; U.S. Secret Service; Immigration and Naturalization Service; Department of Defense; Central Intelligence Agency; Department of Justice; National Security Agency; Drug Enforcement Administration; any other Federal agency inquiring pursuant to law or Executive Order in order to make a determination of general suitability for employment or retention in employment, to grant a contract or issue a license, grant, or security clearance; any other Federal, State, or municipal law enforcement agency for law enforcement purposes; any other agency or Department of the Federal Government pursuant to statutory intelligence responsibilities or other lawful purposes, any other agency or Department of the Executive Branch having oversight or review authority with regard to its investigative responsibilities; to the extent necessary to identify the individual adequately, to any other record custodian in order to obtain information relevant to a legitimate investigative or intelligence interest of the Department of State. The information may also be released to other Government agencies who have statutory or other lawful authority to maintain such information. Also see 'Routine Uses' of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy; microfilm; microfiche; computer media.

Retrievability: By individual name.

Safeguards: All employees of the Department of State have undergone a thorough security investigation. Access to the Department of State building and its annexes is controlled by security guards, and is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

Retention and disposal: Retention of these records varies, depending upon the specific kind of record involved. They are retired or destroyed in accordance with published schedules of the Department of State. More specific information may be obtained by writing to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

System manager(s) and address: Deputy Assistant Secretary for Security, Room 2513, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure: Individuals who wish to find out if the Office of Security has records pertaining to them should write to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. At a minimum, the individual must include: Name; date and place of birth; current mailing address and ZIP code; signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Foreign Affairs Document and Reference Center (address above).

Contesting record procedures: (See above).

Record source categories: The individual; persons having knowledge of the individual; persons having knowledge of incidents or other matters of investigative interest to the Department; pertinent records of other Federal, State, or local agencies or foreign governments; pertinent records of private firms or organizations; public sources.

Systems exempted from certain provisions of the act: Certain records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), and (H), and (I), and (f). See 22 CFR 6a.6. Pursuant to Section (j)(2) of the Act, records compiled by the Passport and Visa Fraud Branch of the Office of Security may be exempted from the requirements of any part of the Act except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) to the extent necessary to assure the effective completion of the investigative and judicial processes.

State—49

System name: Skills Catalogue Records.

System location: Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system: Family members of U.S. Government employees (specifically family members of Department of State, Agency for International Development, and International Communications Agency personnel).

Categories of records in the system: Biographic data, including educational background, language skills, special skills, work experience, availability for employment.

Authority for maintenance of the system: 22 U.S.C. 2693.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Family Liaison Office will use this record system to assist family members of U.S. Government employees in acquiring employment and other services. Information from this system will be made available to personnel offices of other Government agencies having employment opportunities. Information may also be disclosed to multinational corporations, international organizations, business firms, foundations, foreign governments, and families at overseas posts who are interested in hiring Foreign Service family members to perform a task commensurate with their work experience or to utilize their services in performing voluntary work.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy, computer media.

Retrievability: By individual name, education, work experience, language facility, overseas experience, current address, Foreign Service post, country, regional bureau.

Safeguards: All employees of the Department of State have undergone a thorough background investigation. Access to the Department of State building and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

Retention and disposal: These records will be maintained for two years and then retired or destroyed in accordance with published schedules of the Department of State. More specific information may be obtained by writing to Director of Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

System manager(s) and address: Director, Family Liaison Office, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure: Individuals who have reason to believe that the Skills Catalogue Records might have records pertaining to them should write to the Chief of the Privacy Staff, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. The individual must specifically request that the Skills Catalogue Records be checked. At a minimum, the individual must include name, date and place of birth, current mailing address and ZIP code, and signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to them should write to the Chief of the Privacy Staff (address above).

Contesting record procedures: (see above).

Record source categories: The individual; Who's Who and other such reference publications; newspapers and periodicals; testimony and comments from other persons having knowledge of the individual; pertinent records of other Federal, State, or local agencies and foreign governments; pertinent records of private firms or organizations; other public sources.

State—50

System name: Family Liaison Office Records.

System location: Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system: Foreign Service employees (primarily State, AID, ICA) and their dependents who have asked the Department of State to provide information regarding governmental and community services available to them.

Categories of records in the system: Name, address, phone number and description of the service requested by the individual; description of steps taken to meet the needs of the individual, i.e. persons/agencies contacted and the results of these contacts.

Authority for maintenance of the system: 22 U.S.C. 811a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from this record system will be used to assist Foreign Service employees and their dependents in acquiring governmental and community services available to them. Personal information (name, address, phone number and a brief description of the service requested) may be made available to persons or agencies who can perform the requested service, i.e. information may be disclosed to schools to register dependents; to marriage counselors to solve marital grievances; to hospitals to find out services offered.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy.

Retrievability: By individual name.

Safeguards: All employees of the Department of State have undergone a thorough background investigation. Access to the Department

of State building and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

Retention and disposal: These records will be maintained for two years and then retired or destroyed in accordance with published schedules of the Department of State. More specific information may be obtained by writing to Director of Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

System manager(s) and address: Director, Family Liaison Office, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure: Individuals who have reason to believe that the Family Liaison Office Records might have records pertaining to them should write to the Chief of the Privacy Staff, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. The individual must specifically request that the Family Liaison Office Records be checked. At a minimum, the individual must include name, date and place of birth, current mailing address and ZIP code, and signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to them should write to the chief of the Privacy Staff (address above).

Contesting record procedures: (see above).

Record source categories: The individual, personnel of the Family Liaison Office, employee supervisors, employee counselor, personnel, security, and medical offices, grievance and appeals board.

State—43

System name: Congressional Correspondence and Voting Records.

System location: Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system: Members of Congress and their constituents who request Congressional assistance in obtaining information or services from the Department of State.

Categories of records in the system: Copies of correspondence to and from Members of Congress, which may include inquiries on behalf of constituents and letters to Congressional committees; Congressional voting records on matters pertaining to international relations.

Authority for maintenance of the system: 22 U.S.C. 811a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The principal user of this information outside the Department of State is the Member of Congress. See also "Routine Uses" paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy and computer media.

Retrievability: By name of Member of Congress and constituent; by foreign policy issue.

Safeguards: All employees of the Department of State have undergone a thorough background security investigation. Access to the Department of State and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restrictive areas, access to which is limited to authorized employees.

Retention and disposal: The Congressional Correspondence information will be retained for one year; the Congressional Voting Records will be retained for six years.

System manager(s) and address: Assistant Secretary of State for Congressional Relations, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure: Individuals who have reason to believe that the Congressional Correspondence and Voting Records might have information pertaining to them should write to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. The individual must specify that he/she wishes the Congressional Correspondence and Voting records to be checked. At a minimum, the individual should include: name, date and place of birth, current mailing address and ZIP code; signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Foreign Affairs Document and Reference Center (address above).

Contesting record procedures: (See above).

Record source categories: The Member of Congress, constituent, the Office of the Department which drafted the reply to the Congressional inquiry, the Congressional Record, Congressional Quarterly, Congressional Directory.

[4710-07]

INTERNATIONAL BOUNDARY AND WATER COMMISSION—UNITED STATES SECTION

PRIVACY ACT OF 1974

Notices of Systems of Records; Annual Publications

In accordance with Section 552a(e)(4) of the Privacy Act of 1974, the U.S. Section of the International Boundary and Water Commission hereby publishes the system of records and rules currently maintained by the Section. The last publication was on September 7, 1977 (42 FR 48166-48296).

Dated this 12th day of September, 1978.

For the United States Section, International Boundary and Water Commission:

Frank P. Fullerton,
Legal Advisor.

Table of Contents

- Sec.-1. Attendance, Leave, and Payroll records of employees.
- Sec.-2. Accounts Receivable.
- Sec.-3. Confidential statements of employment and financial interests.
- Sec.-4. Individual identification cards.
- Sec.-5. Certificates of Medical Examination.
- Sec.-6. Equal Employment Opportunity.
- Sec.-7. Occupational Health and Injury Files.
- Sec.-8. Motor Vehicle Operator Records.
- Sec.-9. Employees' travel records—initial appointment and/or change of duty stations.
- Sec.-10. Freedom of Information Act requests for records.
- Sec.-11. General Personnel Records.
- Sec.-12. Investigative records.
- Sec.-13. Employees' vehicle accident reports.
- Sec.-14. Records of cash receipts.
- Sec.-15. Disciplinary Action, Appeal, and Grievance Files; and Unfair Labor Practice Charges/Complaints.
- Sec.-16. Official Personnel Folders.
- Sec.-17. Service records.
- Sec.-18. Employment resources files.
- Sec.-19. Incentive Awards files.
- Sec.-20. Travel advance information files.
- Sec.-21. Employer's tax return files.
- Sec.-22. Privacy Act request file.

IBWC/US SEC.-1

System name: Attendance, Leave, and Payroll records of employees.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Name, Social Security Number and employee number, grade, step, and salary; organization (code), retirement or FICA data as applicable; Federal, State and local tax deductions, as appropriate; Internal Revenue Service tax lien data; savings bond and charitable deductions; regular and optional government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost-of-living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal of data to United States Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes.

Reporting: Tax withholding to Internal Revenue Service and appropriate State and local authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health insurance to the insurance carriers and the United States Civil Service Commission; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and/or employee number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance when open is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Cut off at the end of a calendar year; retained for 3 years or until after General Accounting Office audit, whichever is earlier; and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Request from individuals should be addressed to the FOIA Administrator, same address as stated in the notification Section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individuals concerned appear in the Section's rules and published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individuals, supervisors, time-keepers, official personnel records, and Internal Revenue Service.

IBWC/US SEC.-2

System name: Accounts Receivable.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Persons owing money to the United States Section, including employees, former employees, business firms, general public, and institutions.

Categories of records in the system: Names and addresses; amounts owed and services performed, overpayment or other accounting therefor; invoice numbers, if any; and United States Treasury certificates of deposit numbers.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For billing purposes to obtain funds due the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and invoice number, as appropriate.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained until payment is received and account audited, then disposed of in accordance with standard procedures.

System manager(s) and address: Chief Financial Services, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individual; Procurement Section; and accounting records.

IBWC/US SEC.-3

System name: Confidential statements of employment and financial interests.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees paid at a level of the Executive Schedule in subchapter II of 5 U.S.C. 53, and Section employees who are required by Executive Order 11222 to file such statements, including former employees.

Categories of records in the system: Statements of personal and family holdings and other interests in business enterprises; listing of creditors, outside employment and opinion of reviewing official; and any confirmation material.

Authority for maintenance of the system: Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To comply with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 735). Records form an effective system of review for disclosing conflicts or apparent conflicts of interest on the part of employees. Records from this system may be forwarded to the United States Civil Service Commission when requested. Information may not be disclosed from a statement other than to designated employees who have an official need, except as the Chairman of the United States Civil Service Commission, or the Commissioner of the Section, may determine for a good cause shown.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in sealed envelopes.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in a locked box in a combination safe-metal file cabinet in a secured room, with access limited under very controlled conditions to those individuals whose official duties require access.

Retention and disposal: The records are disposed of 2 years after separation of the employee, in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Employees on whom records are required to be maintained:

IBWC/US SEC.-4

System name: Individual identification cards.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Key employees of the two Sections of the International Boundary and Water Commission, whose duties necessitate travel across the border between the two countries in conduct of the Sections' business affairs.

Categories of records in the system: Names, titles, nationalities, places of birth, physical descriptions (color of hair, eyes, and height, etc.), and photographs.

Authority for maintenance of the system: 1944 Water Treaty; 5 U.S.C. 301, and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the identification of key employees of the two Sections of the International Boundary and Water Commission, whose duties necessitate travel across the border between the two countries in conduct of the Sections' business affairs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index card records.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in metal card-file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained for 6 years after cancellation, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Individuals to whom identification cards pertain.

IBWC/US SEC.-5

System name: Certificates of Medical Examination.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Medical certificates (SF-78* or equivalent) and any other medical records of examinations used to determine and employee's fitness for the job, and may include employee's name, date of birth, and Social Security Number. (* Parts D, E, and F of SF-78 are not considered a medical record, and are filed in the Official Personnel Folder.)

Authority for maintenance of the system: 5 U.S.C. 3301, 3302; and Executive Order 10577.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine medical eligibility for appointment, and for changes in assignment within the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Upon employee's transfer to another agency or separation from Federal service, the sealed envelope with medical records attached on the right side of the Official Personnel Folder will be forwarded to National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, Missouri 63118, within thirty (30) days after separation from Federal service, or to the agency to which the employee is transferring within thirty (30) days from such transfer. In the case of disability retirements, medical information is obtained and forwarded to the United States Civil Service Commission's Medical Officer in the El Paso, Texas area.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above. Information may be released upon receipt of a subpoena, or to a nonfederal entity or person, upon written authorization from employee, and the extent of the information will be in accordance with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 339).

Contesting record procedures: Rules for access to records for contesting contents and appealing initial determinations by the individual concerned, as published in the Section's rules in the Federal Register (42 FR-48291), are in accordance with United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 339).

Record source categories: Individual's physician or Section's designated physician covering individuals to whom the records pertain.

Systems exempted from certain provisions of the act: Subject system from Pub. L. 93-579, 552a, Sec. 3(k)(6), unless approved for release by the Regional Medical Officer of the United States Civil Service Commission. Information will be given to the employee if determined by the Regional Medical Officer that the material is not considered detrimental to the employee's well-being. Medical information may also be released to a licensed physician designated in writing for that purpose by the individual to whom the information pertains, or to his or her designated representative.

IBWC/US SEC.-6

System name: Equal Employment Opportunity

System location: Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees or applicants for employment who have filed complaints of discrimination against the Section.

Categories of records in the system: Affidavits concerning the complaint; correspondence and written documentation related to the complaint; and copies of personnel records and information covering how the complaint was resolved.

Authority for maintenance of the system: Executive Order 11478; Pub. L. 92-261; and Pub. L. 93-259.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain records of discrimination complaints filed by employees or applicants for employment with the Section, and all documentation and information pertaining thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Records are retained for 7 years after close of the matter, and then destroyed in accordance with standard procedures.

System manager(s) and address: Director, Equal Employment Opportunity, United States Section, International Boundary and Water Commission, Room 227, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: From employees of, or applicants for employment with, the Section involved as complainants, witnesses, etc., in discrimination complaints; reports of investigations, and other materials prepared by the Equal Employment Opportunity Director, Equal Employment Opportunity Assistant, counselors, coordinators, and investigators; copies of Section documents relevant to any Equal Employment Opportunity investigations; and records of hearings on complaints.

IBWC/US SEC.-7

System name: Occupational Health and Injury Files

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who have sustained injuries or have other occupational health problems.

Categories of records in the system: Accident reports (CA-1 and CA-2); claims for compensation for injury or occupational disease (CA-4); claims for continuance of compensation on account of disability (CA-8); logs of employees receiving medical services or who have sustained a work-related injury or disease; health and medical records, including medical reports on the compensation forms or in response to medical treatment and examination; and related correspondence.

Authority for maintenance of the system: 5 U.S.C. 81; 5 U.S.C. 7153; 5 U.S.C. 7901; The Occupational Safety and Health Act of 1970; and Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide information, including statistical data, required by the Occupational Safety and Health Administration, Department of Labor, and Office of Worker's Compensation Programs, Department of Labor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in a lockable metal file cabinet in a secured area, with access limited to those individuals whose official duties require access.

Retention and disposal: Files are maintained indefinitely while individual is in employ of the Section. Upon separation, records are retained for 5 years and then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Official records are maintained by the Office of Workers' Compensation Programs (OWCP), New Orleans, Louisiana, or other district offices of the OWCP, and records contested must be filed with that agency under its contesting procedures. Information and address may be obtained from the Comptroller, address as noted under notification section above.

Record source categories: From employees who have suffered a work-related illness or injury; Section supervisory personnel; medical authorities treating or examining employee; and witnesses to an accident or occurrence giving rise to a claim.

Systems exempted from certain provisions of the act: Pub. L. 93-579, 552a, Sec. 3(k) (1) and (4). Records maintained under this system are unofficial copies of OWCP records and are maintained to assist in processing compensation claims. Persons seeking information under this system should follow the directions given in the notification procedure above. Information will be given to supervisors and to the employee covered by the record if the material is not considered detrimental to the employee's well-being. Requests for information which appear detrimental will be referred to the OWCP for opinion prior to release.

IBWC/US SEC.-8

System name: Motor Vehicle Operator Records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who are seeking or holding a United States Government Motor Vehicle Operator's Identification Card.

Categories of records in the system: Applications for Government driver's licenses, Social Security Numbers, physical fitness statements, driving violation records, road test results, and pertinent correspondence.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471, et. seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide the Section with information necessary and relevant to the accomplishment of its functions covering motor vehicle operators; and to request information from State and local police departments to determine an employee's eligibility for a Government license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name alphabetically.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retained 3 years after separation of employee or 3 years after rescission of authorization to operate a government-owned vehicle, whichever occurs earlier; then destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Individuals to whom records pertain, witnesses to driving violations, police and court records, and road test examiners.

IBWC/US SEC.-9

System name: Employees' travel records—initial appointment and/or change of duty stations.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Employees and applicants selected for appointment in shortage category occupations.

Categories of records in the system: Names, addresses, estimated travel expenses, modes of travel, employment service agreements, and travel orders.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claims Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document authority for change of duty station travel and the payment of authorized travel expenses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable paper copy.

Retrievability: Filed in chronological order.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retained according to General Services Administration Federal Travel Regulations, and then disposed of and destroyed in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individual, supervisors, and Finance Office standard references.

IBWC/US SEC.-10

System name: Freedom of Information Act requests for records.

System location: Room 212, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Persons requesting copies of records from the United States Section under the provisions of the Freedom of Information Act, as amended.

Categories of records in the system: Names, addresses and telephone numbers of requesters; description or identification of records requested, furnished, and/or denied; dates of request and response; amount of fees paid, reduced, or waived, if any; payment delinquencies, if any; petitions of indigency; appeals of denials; final determinations; and names and titles of denying officials and determining officials.

Authority for maintenance of the system: Freedom of Information Act, as amended (Pub. L. 93-502).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For Annual Report to the Congress under section (d) of the Freedom of Information Act, as amended; and available for public inspection at all times.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed chronologically by date received.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Approved requests and denied requests which do not result in appeals or litigation: completed actions cut off at close of fiscal year and destroyed two years after cutoff in accordance with standard procedures. Denied requests resulting in appeals or litigation: cut off at close of fiscal year in which final determination is made. Transferred to Federal Archives Records Center, Fort Worth, Texas, two years after cut off, and destroyed ten years after cutoff in accordance with standard procedures.

System manager(s) and address: FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individuals, Section officers, and employees engaged in processing or making determinations with respect to Freedom of Information Act requests.

IBWC/US SEC.-11

System name: General Personnel Records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902, or Field Office where individual is employed.

Categories of individuals covered by the system: Current employees of the United States Section.

Categories of records in the system: General correspondence and files relating to employment or conditions of employment; promotion, Notification of Personnel Action (SF-50), and Request for Personnel Action (SF-52) files; leave and training records; Central Personnel Data File (CPDF), and retirement records relating to personnel actions and determinations concerning an individual while employed. These records may contain information about an individual relating to name; date of birth; home address; telephone number; emergency addresses; Social Security Number; Veteran's Preference; tenure; work connected injuries; handicap code; employment history; qualification background; past and present salaries; grades and position titles; training; awards and other recognition; counseling; performance appraisal; conduct; pay and leave; and data documenting reasons for personnel actions; decisions or recommendations concerning an employee; and background data and documentation leading to an adverse action being taken against an employee.

Authority for maintenance of the system: 5 U.S.C. 1302, 2951, 4118, 4308, 4506, 7501, 7511, 7521; and Executive Order 10561.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be used:

A) By an agency of the Federal government having oversight or review authority, such as the United States Civil Service Commission.

B) In the event an appeal is made outside the Section, records which are relevant may be referred to the appropriate agency charged with rendering a decision on the appeal.

C) Information, without prior employee consent, can be disclosed as follows:

1. To the Public: Employee name; position title/grade (past/present); salary (past/present); and duty station (past/present—as specific as building/room number).

2. To a prospective Federal employer: All items on Request for Preliminary Employment Data (SF-75).

3. To a prospective nonfederal employer: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present); tenure of employment; Civil Service status; length of service (Section/Federal government); and date/reason for separation (from Notification of Personnel Action SF-50).

4. To a police department/court: Any information requested for law enforcement purposes.

5. To a credit firm:

a) May be provided: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present).

b) May only be verified (the firm may be advised if its information is correct; if not correct, it is not permitted to disclose the "right answer"): Tenure of employment; Civil Service status; and length of service (Section/Federal government).

Any other disclosure requires prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards, and computer printouts.

Retrievability: Records are indexed by any combination of name, date of birth, Social Security Number, or employee identification number.

Safeguards: Records are located in locked metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained during the period of individual's employment with the Section; transferred to individual's Official Personnel Folder upon resignation, transfer or separation from Section service.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the

notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: From information supplied by applicable individuals, or as provided by applicable Section supervisors.

IBWC/US SEC.-12

System name: Investigative records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Current employees of the United States Section.

Categories of records in the system: Name, address, date and place of birth; citizenship status; physical characteristics; employment and military service history; arrest records; Federally-employed relatives; dates and purposes of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and conflicts of interest, security, and suitability material.

Authority for maintenance of the system: Executive Orders 10450 and 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine suitability for Federal employment.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by employee name alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: The records consist of confidential background investigations for Section employees; and are filed in manila envelopes attached on the outside of the Official Personnel Folder, the envelopes bearing employee name and Social Security Number. When the employee transfers or separates, these records are placed in the Official Personnel Folder and disposed of as part of such Official Personnel Folder.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Applications and other personnel and security forms furnished by the individual; investigative and other record material furnished by other Federal agencies; notices of personnel actions furnished by other Federal agencies; personal investigations or written inquiries from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications; and published hearings of Congressional Committees.

Systems exempted from certain provisions of the act: Certain records contained within this system of records are exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f). Reference Section's rules published in the FEDERAL REGISTER (42 FR-48291).

IBWC/US SEC.-13

System name: Employee's vehicle accident reports.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records covered by the system: Full names and addresses of persons involved and their individual statements; vehicle tag number; service and repairs required; invoice number; cost code; and applicable appropriation symbol.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1941, as amended (40 U.S.C. 471, et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For Finance Section employees to complete billing procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name, date of accident, and invoice number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retain on hand 3 fiscal years, and then dispose of and destroy in accordance with standard procedures.

System manager(s) and address: FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: From subject individual, supervisors and/or Finance Section's standard references.

IBWC/US SEC.-14

System name: Records of cash receipts.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Individuals and companies making payments to cover goods acquired and services rendered; reimbursements for overpayments; and miscellaneous monies received by the Section.

Categories of records in the system: Names of individuals or companies; goods acquired or services rendered; amounts, dates; check numbers; locations; bank deposit information; and United States Treasury deposit numbers.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Accounting for all monies received by the Section.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable paper copy.

Retrievability: By name and/or account or invoice number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Retained for one year following the end of the fiscal year; then transferred to Federal Archives Records Center, Fort Worth, Texas.

System manager(s) and address: Chief Financial Services, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary

and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Subject individual and/or company.

IBWC/US SEC.-15

System name: Disciplinary Action, Appeal, and Grievance Files; and Unfair Labor Practice Charges/Complaints.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Section employees who have had disciplinary actions taken against them, and who have filed appeals or grievances.

Categories of records in the system: Warning letters and official reprimand files; grievance files (Section or negotiated); adverse action decision letters; disciplinary action files; appeals hearing transcripts (if held); background information in support of disciplinary and adverse actions; and unfair labor practice charges/complaints.

Authority for maintenance of the system: Executive Orders 10987, 11491, 11787; and 5 U.S.C. 77.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a) To the United States Civil Service Commission upon request in conjunction with any appeal or in conjunction with its official duties pertaining to personnel matters and investigations regarding complaints of Federal employees or applicants for employment.

b) To designated officers and employees of other Federal agencies conducting investigations of an individual for the purpose of granting security clearance or access determination, and having a need to evaluate qualifications, suitability and loyalty to the United States Government in connection with employment.

c) In the event of any indication of violation or potential violation of the law, to the appropriate Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcement or implementation of the statute, rule, regulation or order issued pursuant thereto.

d) To respond to a court subpoena or response to a district court in connection with a civil suit.

e) To designated hearing examiners, arbitrators, and third-party appellate authorities involved in the hearing or appeal processes.

f) To investigate officials of the Department of Labor and Federal Labor Relations Council for settlement of a complaint or appeal.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By employee name, filed alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to individuals whose official duties require access.

Retention and disposal: Records involving court actions are retained permanently; all others retained 7 years after completion of action, and then disposed of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Individuals to whom records pertain; Section officials; affidavits or statements from employees; testimony of witnesses; official documents relating to appeals, grievances, or complaints; and correspondence from specific organizations or individuals.

IBWC/US SEC.-16

System name: Official Personnel Folders

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Official Personnel Folders containing name, Social Security Number; date of birth; employment history; education; job and pay data; performance reviews; letters of commendation; reprimands; training certificates; salary and benefits information, to include allowance and insurance data; travel orders and general correspondence; other personnel data such as security clearance, loyalty, military service evidence, injury reports, suggestions, health qualification records, etc.

Authority for maintenance of the system: Executive Order 10561; and United States Civil Service Commission Regulations (Federal Personnel Manual Chapters 293 and 294).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(A) To provide hard-copy documentation on employees' current job and pay data, past job history, career progression, etc. Used to determine qualifications and to provide information for processing personnel actions.

(B) Information, without prior employee consent, can be disclosed as follows:

1. To the public: Employee name; position title/grade (past/present); salary (past/present); and duty station (past/present—as specific as building/room number).

2. To a prospective Federal employer: All items on Request for Preliminary Employment Data (SF-75).

3. To a prospective nonfederal employer: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present); tenure of employment; Civil Service status; length of service (Section/Federal Government); and date/reason for separation (from notification of Personnel Action SF-50).

4. To a police department/court: Any information requested for law enforcement purposes.

5. To a credit firm:

(a) May be provided: Employee name; position title/grade (past/present); salary (past/present); duty station (past/present).

(b) May only be verified (the firm may be advised if its information is correct; if not, it is not permitted to disclose the "right answer"): Tenure of employment; Civil Service status; and length of service (Section/Federal Government).

Any other disclosure requires prior written consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by employee name—alphabetically.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to individuals whose official duties require access.

Retention and disposal: Retained for duration of employment, and then folders are transmitted to the Personnel Records Center (Civilian) at 111 Winnebago Street, St. Louis, Missouri 63118, within 30 days after separation—except for those employees leaving on military furlough, or with retirement applications pending, or compensation cases which are pending and which have not been adjudicated.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (41 FR-19625).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Applications for employment; applications for fidelity bonds; college transcripts; personnel actions; performance reviews and/or personnel evaluation reports; letters of commendation or reprimand; training certificates; travel orders; employee insurance data; certificates of clearance; and loyalty affidavits.

IBWC/US SEC.-17

System name: Service records.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Official summary of employment history to include name, Social Security Number, date of birth, service computation date, Veteran's Preference, life insurance enrollment, retirement data, handicap code, performance reviews (date and type), service award data, and employment record to include date, type, job, pay, and separation data.

Authority for maintenance of the system: United States Civil Service Commission Regulations (Federal Personnel Manual Chapter 293-31).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To have a ready reference to official summary of employment histories, chronology of personal and service data of employees, and provide information for processing personnel actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records filed in Kardex or file box.

Retrievability: Arranged by (a) budgeted position in organization sequence; (b) pay plan; and (c) descending grade level within each pay plan.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those individuals whose official duties require access.

Retention and disposal: Retain 3 years after employee's separation from the Section, then dispose of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Personnel actions, performance reviews and/or personnel evaluation reports; application forms, and training and service award certificates.

IBWC/US SEC.-18

System name: Employment resources files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Applicants for employment with the United States Section.

Categories of records in the system: Applications for employment; personal qualifications statement (SF-171); and other pertinent employment data.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 634(b)(6); and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain a source of qualified applicants for the purpose of filing vacancies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records files in file folders.

Retrievability: Grouped by positions for which applicants appear qualified; arranged by name within position groupings.

Safeguards: Records are located in lockable metal file cabinets or metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Applications considered active for 2 years; then destroyed after 2 years from date signed, in accordance with standard procedures—except upon written request that they be returned to individuals.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Applicants; previous employers.

IBWC/US SEC.-19

System name: Incentive Awards files.

System location: Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section, or non-employees who submit suggestions.

Categories of records in the system: Award certificates; letters of commendation, citation, and awards; letters of non-adoption of suggestions.

Authority for maintenance of the system: 5 U.S.C. 45.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To document staff or other agency comments in support of justification for, or disapproval of, award nominations in order to present findings to Incentive Awards Committee or other Section officials or, at its request, to the United States Civil Service Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Suggestions—by number; performance nominations—chronologically by type of award.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured room or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at end of calendar year, retained for 2 years, and then disposed of in accordance with standard procedures.

System manager(s) and address: Director of Personnel, United States Section, International Boundary and Water Commission, Room 223, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the Federal Register (42 FR-48291).

Record source categories: Employees, supervisors, management officials, Incentive Awards Committee, officials of other agencies, and members of the public, if appropriate.

IBWC/US SEC.-20

System name: Travel advance information files.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section who are required to travel.

Categories of records in the system: Employees' names, areas of assignment, and dollar amounts advanced.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: By the Finance Section to monitor travel advance expenditures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index card records.

Retrievability: Filed by employee name, alphabetically.

Safeguards: Records are located in metal card file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at end of fiscal year; retained for 3 years, and then destroyed in accordance with standard procedures.

System manager(s) and address: Chief Financial Services, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: From Imprest fund receipts signed by employee-traveler when amount is under \$150.00, and from Bureau schedules for checks issued by the United States Treasury to employee-traveler when the amount is above \$150.00.

IBWC/US SEC.-21

System name: Employer's tax return files.

System location: Room 229, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: All employees of the United States Section.

Categories of records in the system: Federal and State Monthly and/or quarterly employee withholding tax form information; computer printouts, magnetic tapes and related documents showing reports of Federal and State taxes withheld from employees, and the banking and payment thereof.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 665.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For reconciliation and payment of taxes withheld from employees and employer's share; to provide Internal Revenue Service with record representing wages covered by Social Security.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable copy.

Retrievability: By name and/or employee number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Cut off at the close of fiscal year, retained for 2 years, and then destroyed in accordance with standard procedures.

System manager(s) and address: Chief Financial Services, United States Section International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned, appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Data stored in payroll master file.

IBWC/US SEC.-22

System name: Privacy Act request file.

System location: IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Categories of individuals covered by the system: Individuals requesting information on records concerning them or someone on whose behalf the individual is authorized to act which are in the custody of the United States Section, or individuals requesting access or amendment to such records under the provisions of The Privacy Act of 1974, 5 U.S.C. 552a.

Categories of records in the system: Copies of correspondence between individuals and Section custodian official; written summaries of conversations with individuals; coordination documents between the Section and other Federal, State, and local government agencies when records which are the subject of an individual inquiry were originated by another agency; and copies of documents which are the subject of an individual inquiry. Originals of amendment requests, refusals, and appeals accumulated by the custodian of the records concerned are included in the file containing those records.

Authority for maintenance of the system: The Privacy Act of 1974, 5 U.S.C. 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To process and coordinate requests for information, access, and amendment of personal records; to process and record appeals by individuals against Section rulings; and to assure timely response to requesters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by requester's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

Retention and disposal: Approved and/or denied requests not resulting in appeals or litigation—completed actions cut off at close of fiscal year and destroyed 2 years after cutoff in accordance with standard procedures. Denied requests resulting in appeals or litigation—cut off at close of fiscal year in which final determination is made; transferred to Federal Archives Record Center, Fort Worth, Texas, 2 years after cutoff; destroyed 10 years after cutoff in accordance with standard procedures.

System manager(s) and address: FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Notification procedure: Information may be obtained from the FOIA Administrator, United States Section, International Boundary and Water Commission, IBWC Building, 4110 Rio Bravo, El Paso, Texas 79902.

Record access procedures: Requests from individuals should be addressed to the FOIA Administrator, same address as stated in the notification section above, and conform to the inquiry provisions of the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Contesting record procedures: Rules for access for contesting contents and appealing initial determinations by the individual concerned appear in the Section's rules as published in the FEDERAL REGISTER (42 FR-48291).

Record source categories: Individual requesters, and agencies of the Federal, State, and local governments.

[FR Doc. 78-27010 Filed 10-3-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Small Business Administration

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this Agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact: Nicholas Kalcounos, Freedom of Information Act and Privacy Act Officer.

Approval of the Director

The notices of systems of records of this Agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978. Published below is the full text of systems of records that this Agency has amended since publication of the 1977 Compilation.

SBA285

System name: Official Travel Files—SBA285.

System location: Central Office, at address listed in Appendix A, Federal Records Centers, at addresses listed in Appendix B.¹

Categories of individuals covered by the system: SBA employees.

Categories of records in the system: Files include Travel Voucher and Applications for Advance of Funds submitted by each employee.

Authority for maintenance of the system: 5 U.S.C. 301.44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are reviewed by the General Accounting Office in the course of an audit of the Agency.

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 regulatory rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcement of implementing the statute, rule, regulation or order issued pursuant thereto.

Storage: Records are kept in file folders.

Retrievability: Records are indexed by employee name and Social Security Number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

Retention and disposal: Records are maintained for 2 years after the end of a fiscal year, or until a GAO audit. Records are then transferred to the Federal Records Center, where they will be disposed of 10 years after the end of the fiscal year in which the records were compiled.

System manager(s) and address: Privacy Act Officer. See Appendix A for address.

Notification procedure: An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer, at the address contained in Appendix A.

Record access procedures: In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

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.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories: Travel Vouchers and Applications for Advance of Funds submitted by employees.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this Agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this Agency's systems of records appear in Volume II, of the 1977 Compilation at page 48785 (42 FR 48785, September 23, 1977). The price of this Volume is six dollars and seventy-five cents. Dated: September 15, 1978.

Patricia M. Cloherty,
Acting Administrator.

[FR Doc. 78-27011 Filed 10-3-78; 8:45 am]

Registered
Federal

WEDNESDAY, OCTOBER 4, 1978
PART III



**OFFICE OF
MANAGEMENT
AND BUDGET**

Department of Labor



**PROPOSED RESCISSION
IN EMPLOYMENT AND
TRAINING FUNDS**

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENT OF LABOR

Proposed Rescission in Employment and Training Funds

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of \$10.8 million in employment and training funds appropriated to the Department of Labor.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, September 28, 1978.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Item	Budget Authority
	Department of Labor:	
	Employment and Training Administration	
R78-8	Community Service Employment for Older Americans.....	10,800

SUMMARY OF SPECIAL MESSAGES
FOR FY 1978
(in thousands of dollars)

	Rescissions	Deferrals
Eleventh special message:		
New items.....	10,800	---
Effect of eleventh special message.....	10,800	---
Previous special messages.....	635,923	4,966,813
Total amount proposed in special messages...	646,723 (in 8 rescissions)	4,966,813 ^{1/} (in 66 deferrals)

^{1/} This amount represents budget authority except for \$14,573,000 consisting of four Department of the Treasury deferrals of outlays only (D78-28B, D78-50, D78-58, D78-66).

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-351

Agency Department of Labor	New budget authority \$ 211,700,000 (P.L. 95-205; 95-355)
Bureau Employment and Training Administration	Other budgetary resources _____
Appropriation title & symbol	Total budgetary resources 211,700,000
Community Service Employment for Older Americans	Amount proposed for rescission \$ 10,800,000
1680175	
OMB identification code: 16-0175-0-1-504	Legal authority*(in addition to sec. 1012): <input checked="" type="checkbox"/> Antideficiency Act
Grant program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Other _____
Type of account or fund: <input checked="" type="checkbox"/> Annual	Type of budget authority: <input checked="" type="checkbox"/> Appropriation
<input type="checkbox"/> Multiple-year _____ (expiration date)	<input type="checkbox"/> Contract authority
<input type="checkbox"/> No-year	<input type="checkbox"/> Other _____

Justification: The Community Service Employment for Older Americans (CSEOA) program provides part-time work opportunities, generally at the minimum wage, for low-income persons over age 55. The 1978 appropriation, which funds the program for the period from July 1, 1978, to June 30, 1979, did not take into account the statutory increases in the minimum wage effective January 1, 1978, and January 1, 1979. The President requested 1978 supplemental funds to finance the minimum wage increases for the 47,500 recipient level provided for by the 1978 appropriation.

The Congress reduced the request to \$21.3 million. The reports of the House and Senate Appropriations Committees discussing this appropriation state:

"The funds in this bill will provide for the cost of these [minimum wage] increases for the 47,500 enrollees from enactment of this supplemental bill to June 30, 1979...The Committee has reduced the budget request to reflect the fact that a portion of the time period covered by the request will have elapsed by the enactment date of this supplemental." (House Rep. No. 93-1350)

"The additional funds are necessary to sustain the current level of 47,500 enrollees at the new minimum wage...The reduction from the budget request takes into account the fact that less funds are needed to cover the remaining time period subsequent to enactment of this supplemental." (Senate Rep. No. 95-1061)

Final calculation of the amount needed to fulfill the intent of financing the minimum wage increases for 47,500 enrollees through June 30, 1979, indicates an actual need of \$10.5 million. Since the only purpose for which the funds were appropriated can be accomplished at this level, the remaining \$10.8 million is not required. Therefore, a rescission of \$10.8 million is proposed.

Estimated Effect: This rescission proposal has no programmatic effect since the planned level of the program can be achieved without these funds.

Outlay Effect: This rescission proposal will have no outlay effect since it is consistent with the planned, congressionally-approved enrollment level.

TITLE I - DEPARTMENT OF LABOR

Employment and Training Administration

Community Service Employment for Older Americans

Of the funds appropriated under this head in the Second Supplemental Appropriations Act, 1978, \$10,800,000 are rescinded.

[FR Doc. 78-28031 Filed 10-3-78; 8:45 am]

Order

WEDNESDAY, OCTOBER 4, 1978
PART IV



**DEPARTMENT OF
TRANSPORTATION**
Office of the Secretary
**DEPARTMENT OF
ENERGY**
Office of the Secretary

**NATIONAL ENERGY
TRANSPORTATION
STUDY**

**Announcement of Public
Hearings**

[4910-62]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

(OST File No. 61; Notice 78-131)

DEPARTMENT OF ENERGY

Office of the Secretary

NATIONAL ENERGY TRANSPORTATION STUDY

Announcement of Public Hearings

AGENCIES: Department of Transportation (DOT) and Department of Energy (DOE).

ACTION: Announcement of public hearings.

SUMMARY: In conjunction with the President's national energy plan, DOT and DOE are conducting a joint study to determine if the Nation's transportation system is adequate to meet the future energy demands of the United States. A series of three public hearings has been scheduled to receive oral presentation of information and comment from interested individuals and groups concerning the issues involved and regional and local impacts of anticipated changes in the energy transportation system. These hearings are in addition to the open file announced in the *FEDERAL REGISTER* of August 30, 1978, to which the public is invited to submit information.

ADDRESS: Address requests to speak to: National Energy Transportation Study Public Hearings, Office of Intermodal Transportation, P-10, room 9217, Department of Transportation, Washington, D.C. 20590.

DATES: Hearing dates: 9 a.m. e.s.t., Monday, October 30, 1978, Sheraton Biltmore Hotel (Georgia Ballroom), 817 West Peachtree Street NE., Atlanta, Ga.; 9 a.m. m.s.t., Friday, November 3, 1978, Executive Tower Inn (Beethoven Room), 1405 Curtis Street, Denver, Colo.; 9 a.m. p.s.t., Monday, November 6, 1978, Holiday Inn-Downtown (Crown Room), 750 Garland Avenue, Los Angeles, Calif.

FOR FURTHER INFORMATION CONTACT:

Nancy MacRae, Staff Member, National Energy Transportation Study (NETS), Office of Intermodal Transportation, DOT, 202-426-4203, or Diana Diamond, Office of Policy and Evaluation, DOE, 202-566-9037.

SUPPLEMENTARY INFORMATION:**I. BACKGROUND**

By 1985 and beyond it appears likely that the Nation will experience numerous changes in the historical patterns of energy supply and demand which in turn will require changes in the way energy is transported. The

changing energy patterns include dwindling domestic oil and natural gas production, regional shifts in supply and demand, and shifts in national and regional fuel use, including new energy sources. The Nation's transportation system established during the last 50 years must adjust to accommodate new markets and new energy sources. These adjustments may have broad social, economic, and environmental impacts.

The joint DOT-DOE study team will look at important aspects of the movement of coal, crude oil and petroleum products, natural gas, nuclear fuel, and electrical power to 1985 and beyond. This will be done to determine what adjustments are needed in the present transportation network. While the major emphasis of the study is the transportation needs to 1985, the study team will also look at 1990 and 2000.

The final report is expected to identify constraints on the efficient transportation of energy and to recommend any Federal actions that may be necessary.

II. SCOPE OF STUDY

The study is intended to be an overview of energy transportation needs, based on various scenarios of energy use in 1985 and beyond, and of the adaptation that will be necessary in present energy production and transportation patterns. This will be done by computer-based analysis of transportation network flows by mode of various energy materials. These include crude oil, syncrude, petroleum products, natural gas, electricity transmission, and nuclear materials. The modes included in the network are pipelines, inland and intracoastal waterways, highways, railroads, and tankers; terminals and ports are also included. The study will attempt to identify future shortfalls in transportation capacity, recognizing the limitations of this type of analysis.

In addition, major issues affecting efficient energy distribution will be considered. Examples are: The ability of railroads to invest for required capacity; impact of unit trains on rail/highway crossings; capacity and investment requirements of water transportation; coal slurry pipelines (constraints and competition); highway requirements for coal movement; oil distribution; natural gas distribution (including LNG and LPG); electric power transmission; safety requirements for the movement of nuclear waste; new fuel sources; and major regional shifts. The study team will review alternatives for action and conclude with recommendations for Federal action, if appropriate.

III. TOPICS FOR PUBLIC HEARING

DOT and DOE are interested in receiving information on constraints which would affect the ability and capacity of the transportation system to carry future energy commodities. These potential constraints can be divided into four categories:

- *Financial*, such as investment requirements to handle increased capacity (terminals, locks, highways, port facilities);
- *Technological*, such as future availability of advanced techniques for transporting energy materials;
- *Environmental/social*, such as impacts of increased coal unit train movement, long-range health effects of high-voltage electrical transmission, impacts of coal slurry pipelines, and disposal of scrubber sludge;
- *Institutional*, for example, constraints of economic regulation and the need for safeguards to the movement of potentially hazardous materials such as liquefied natural gas (LNG), liquefied petroleum gas (LPG), or spent nuclear fuel.

Interested persons are invited to make oral presentations on these four or any related topics. DOT and DOE are particularly interested to learn about regional or local constraints or problems which might otherwise be overlooked.

IV. HEARING PROCEDURES

1. *Request procedure.* Public hearings to receive oral presentation of data, views, and arguments from interested persons will be held at the times and places indicated earlier in this notice. Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class or persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Office of Intermodal Transportation, P-10, Room 9217, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Requests must be received before 4:30 PM E.T.D. on October 20, 1978, for the Atlanta hearing and October 24, 1978, for the other two hearings. A request should be labeled, both on the document and on the envelope, "National Energy Transportation Study Public Hearings."

The person making the request should be prepared to describe the interest concerned, to state why he or she is a proper representative of a group or class or persons which has such an interest, and to give a concise summary of the proposed statement and a telephone number where he or she may be reached through October 28, 1978, for the Atlanta hearing and November 1, 1978, for the other two hearings.

Each person selected to be heard will be notified by DOT before 4:30 PM, October 25, 1978, for the Atlanta hearing.

ing and October 31, 1978 for the Denver or Los Angeles hearing, and must submit 10 copies of his or her statement to the registration desk at the hearing at which he or she is to speak.

2. *Conduct of hearing.* DOT and DOE reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The time allotted to each presentation may be limited, depending on the number of persons requesting to be heard. Each person testifying should be prepared to submit his or her statement and attachments for the record and to make a summary oral presentation. DOT and DOE officials will preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings.

If time permits at the end of a hearing, any person who makes an oral statement may ask a question of any other person making a statement, but questions must be submitted in writing to the presiding officer, who determines whether the question is relevant and whether time limits permit it to be presented for answer. Any further procedural rules needed for the proper

conduct of this hearing are announced by the presiding officer.

A transcript of each hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOT and DOE and made available for inspection in the DOE Freedom of Information Offices, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday; and the DOT/DOE Open File in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Nassif (DOT Headquarters) Building, Washington, D.C., between 9 a.m. and 5:30 p.m. local time, Monday through Friday except holidays.

Issued in Washington, D.C., on September 29, 1978.

CHESTER DAVENPORT,
Chairman, NETS, Assistant Secretary for Policy and International Affairs, Department of Transportation.

ALVIN L. ALM,
Vice Chairman, NETS, Assistant Secretary for Policy and Evaluation, Department of Energy.

[FR Doc. 78-28042 Filed 10-3-78; 8:45 am]

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