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# federal register

Wednesday
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## Highlights

20300 **Rehabilitation Long-Term Training** HEW/HDSO announces acceptance of applications for competitive grants program for fiscal year 1979; applications by 5–18 and 6–1–79

20302 **Rehabilitation Short-Term Training** HEW/HDSO announces acceptance of applications for competitive grant program of national scope; applications by 6–15–79

20067 **Financial Assistance Programs** SBA releases final rules on discrimination; effective 4–4–79

20176 **Social Security** HEW/SSA proposes to revise its rules on determinations, the administrative review process, reopenings and representation of parties; comments by 6–4–79

20078 **Income Tax** Treasury/IRS promulgates final regulations relating to the filing of returns for estates and trusts

20382 **Research Subjects** HEW/PHS publishes rules to protect the privacy of individuals involved in mental health experiments; effective 4–4–79 (Part VII of this issue)

20290 **Asbestos in Schools** EPA publishes denial of citizens petition

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# Rules and Regulations

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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.
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## DEPARTMENT OF ENERGY

### 10 CFR Part 420

### State Energy Conservation Plans; Final Rulemaking

**AGENCY:** Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** This notice of final rulemaking amends the Department of Energy guidelines for State energy conservation plans, 10 CFR Part 420, in order to simplify and consolidate program requirements, to amend the program requirements relative to right turn at a red traffic light, to expand the definition of "energy conservation," to explain the application of State thermal efficiency standards and to revise the criteria for extensions for State compliance. The final rule is the same as the proposed rule except as discussed below.

**DATES:** Effective date: March 29, 1979.

**FOR FURTHER INFORMATION CONTACT:**
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**SUPPLEMENTARY INFORMATION:**

I. Background.
II. Discussion of Comments.
(a) Definitions.
(b) Financial Assistance.
(c) Review and Approval of Annual State Applications and State Plans.
(d) Minimum Criteria for Required Program Measures for Plans.
(1) General.
(2) Mandatory thermal efficiency standards for New and Renovated Buildings.
(3) Right-Turn-On-Red Law or Regulation.
(e) Extensions for Compliance with Required Program Measures.
(f) Prohibited Expenditures.
III. Nondiscrimination.
IV. Administrative Review.

#### I. Background

When first enacted, Part C of Title III of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6321 *et seq.*, provided financial assistance to develop, modify or implement State energy conservation plans (plan). Part C was subsequently amended by Part B of Title IV of the Energy Conservation and Production Act (ECPA) which provides financial assistance to develop, modify or implement supplemental State energy consevation plans (supplemental plans). Together, the EPCA provisions regarding plans and the ECPA provisions regarding supplemental plans constitute the program for State energy conservation plans (program). The program currently is authorized through fiscal year 1979.

Regulations for the program, 10 CFR Part 420, were promulgated by the Federal Energy Administration on February 20, 1976 (41 FR 8335, February 26, 1976); October 28, 1976 (41 FR 48325, November 3, 1976); and May 13, 1977 (42 FR 26413, May 24, 1977).

The Notice of Proposed Rulemaking (NOPR) for this rule was published on January 22, 1979 (44 FR 4562). A public hearing was held on the NOPR on February 14, 1979 in Washington, D.C., and the record remained open for the submission of written comments until February 21, 1979.

#### II. Discussion of Comments

In response to the NOPR, 9 persons presented oral testimony at the public hearing, and 11 written comments were received. This final rulemaking contains revisions based upon the Department of Energy's (DOE) consideration of the public comments and other available information.

*(a) Definitions, § 420.2.*

Four favorable comments were received on the revised definition of "energy conservation." DOE has retained this definition in the final rule.

A few comments were received on minor aspects of program definitions which were not offered for amendment in the proposal. The DOE has considered these comments and has determined that no further changes in these definitions are necessary at present.

*(b) Financial Assistance, § 420.3.*

One comment opposed an aspect of the funding formula in the NOPR for the allocation of financial assistance for plans, § 420.3(b). The funding formula in the NOPR made no change in the formula which is currently in effect. The existing formula provides for funding on the basis of resident population (40 percent), equal shares to participating States (25 percent), and estimated energy savings in calendar year 1980 (35 percent). The commenter felt that energy savings are an "unjustified and unrealistic" criterion, that there is some lack of uniformity from State to State in the way savings are estimated, as well as a lack of uniformity from Region to Region in the review and approved of these estimates. The comment concluded that those States which, for whatever, reasons, estimate their energy savings most conservatively are penalized. Section 363(a)(3) of the EPCA requires that the amount of Federal assistance to be provided to any State take into account the contribution to energy conservation which can reasonably be expected. The DOE is making every effort to provide the States with uniform criteria and methodologies for calculating energy savings and to provide uniform criteria for Regional review of these estimates. The DOE would always welcome specific suggestions for improving the uniform application of these procedures.

*(c) Review and Approval of Annual State Applications and State Plans, § 420.5.*

One comment suggested that the Regional Representatives' review of a State's annual application be limited to 45 days. While DOE agrees that all review of applications and plans should be timely and expects that such reviews will normally fall well within a 45-day period, the DOE is not, however, requiring completed reviews within this period. It is foreseen that circumstances may occur which require a somewhat longer time for additional information, clarification or action on the part of a State prior to completion of the Regional Representative's review of an application.

Moreover, DOE has received no information that the current practice has

resulted in any delay which could have been corrected by inclusion of a stipulation in its regulations, limiting the time a Regional Representative has to review a State's application.

*(d) Minimum criteria for required program measures for plans, § 420.7.*

(1) General. One comment raised the following general questions, under the heading of § 420.7—

(i) Section 420.7(a), mandatory lighting efficiency standards, and (d), mandatory thermal efficiency standards for new and renovated buildings,—"How do you propose that these measures be implemented? Because mechanisms, authorities and conditions for implementation vary from State to State, no single strategy can be mandated by DOE. One purpose of a State plan is to develop implementation procedures appropriate to a State's own peculiar circumstances. In approving and funding each plan, DOE indicates how it, and the particular State, propose to implement each measure.

(ii) Section 420.7(a)(2), minimum criteria for mandatory lighting efficiency standards for public buildings, excludes "all buildings under a certain size, as determined by the State. What does the size of a building have to do with lighting?" The size of a building determines its potential for energy savings and the practicality of State enforcement of the program measure.

(iii) Section 420.7(a)(4)—It is alleged that EPCA does not require lighting standards to be applied to existing public buildings. Section 362(c)(1) of EPCA requires that plans shall contain "mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States)." DOE believes the intent of the law, in not specifying either new or existing buildings, is to cover existing public buildings as well as new public buildings.

(iv) It is alleged that § 420.7(c), mandatory standards and policies affecting State and local procurement practices, lacks specificity. The program experience to date has been that State and local regulations, practices, other institutional constraints, and specific opportunities for energy conservation in procurement practices varies to such a degree that the only reasonable approach to this measure is to allow maximum flexibility for State and local governments to develop measures appropriate to their unique circumstances.

(v) The comment also objected that because § 420.7(d)(5) establishes no mandatory uniform thermal efficiency standards for renovated buildings, that that section should be deleted. In fact, the effect of § 420.7(d)(5) is to cause States to develop their own standards, if they can, for renovated buildings. § 420.7(d)(5), therefore, has not been changed.

Additional comments on this section were received pertaining to mandatory thermal efficiency standards for new buildings, § 420.7(d), and the right-turn-on-red (RTOR) program measure, § 420.7(e). These will be discussed in detail below.

[2] *Mandatory thermal efficiency standards for new and renovated buildings, § 420.7(d).* A comment was received regarding the coordination of certain aspects of the thermal efficiency standards and the applicance efficiency provisions of the EPCA, as amended, 42 U.S.C. 6291 *et seq.*, superseding State law. Proposed § 420.7(d)(3) and (4) required the adoption of standards no less stringent than the Department of Housing and Urban Development's (HUD) minimum property standards or the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Incorporated (ASHRAE) 90-75, which contain certain provisions regarding applicance efficiency. (Note that the proposal does not specifically require the adoption of ASHRAE 90-75 or the HUD standards).

Section 327 of the EPCA, under various conditions, provides for the supersession of State regulations concerning appliance efficiency. Section 327 also provides various possibilities for the reversal of supersession which would otherwise prevail. DOE has established test procedures for three products included in the minimum property standards and in ASHRAE 90-75: water heaters (42 FR 54110, October 4, 1977), furnaces (43 FR 20108, May 10, 1978) and central air conditioning units (42 FR 60150, November 25, 1977).

Subparagraphs 420.7(d)(3) and (4) have been modified in the final regulation to clarify that the DOE does not intend the States to base compliance with the program's building thermal efficiency requirements upon ASHRAE 90-75 or the HUD standards wherever the operation of Section 327 of the EPCA would render this approcah to compliance impracticable. The DOE is actively reviewing the issues raised by this comment and will provide further guidance in this area if appropriate.

Furthermore, DOE wishes to provide notice that it intends to revise the minimum criteria specified in § 430.7(a) and (d) to reflect the Buildings Energy Performance Standards, mandated by Title III of the ECPA, when these standards have been promulgated. Also, as part of its Regulatory Reform Initiatives for 1979, published on January 3, 1979, (44 FR 1032), DOE has given notice that the minimum criteria for lighting efficiency standards for existing buildings will be examined and appropriate changes proposed.

(3) Traffic Law or Regulation Permitting Right-Turn-on-Red, § 420.7(3). DOE received 15 comments opposing proposed §420.7(e) which would have required all States participating in the program to have adopted by December 31, 1979, a traffic law or regulation which would permit the operator of a motor vehicle to make a right turn (left turn with respect to the Virgin Islands) at a red traffic light after stopping, except where specifically prohibited by a traffic sign for reasons of safety, (such law or regulation is hereinafter referred to as the "Western Rule").

The preamble stated that the proposal did not provide for special consideration of urban "enclaves," or central-city districts, both because program experience with the Western Rule in large cities had apparently been successful and because the Federal Highway Administration current policy calls for uniform adoption of the Western Rule without making any distinction or exemption for urban enclaves.

Two comments were received in support of this change. One of these also recommended a joint DOE/Department of Transportation project to redesign the red fresnel lens used in traffic signals so that the red signal, when illuminated, would display a standard symbol either permitting or prohibiting RTOR. While this suggestion may well have merit, it is outside the purview of this regulation.

Those opposing uniform adoption of the Western Rule included five public officials representing the three jurisdictions (Massachusetts, New York City, District of Columbia) which have not adopted a Western Rule, two private citizens, and several associations representing senior citizens, the blind, and the handicapped. Opposition to the rule change was based on the following objections: safety, feasibility in congested urban areas, public opinion, and the allegation that energy savings would be minimal.

(A) Safety. The opinion of all those who opposed the rule change was that the proposed rule would be particularly inappropriate in "urban enclaves" which exhibit marked pedestrian and vehicular congestion, narrow streets, sign proliferation, made that under such conditions, it is already difficult for vehicles and pedestrians to cope with each other and that the proposed rule would add new right of way conflicts and confusion creating severe safety

problems for school children, the blind and visually impaired, those who are otherwise physically handicapped and the elderly. While a few persons preferred no RTOR in any location under any circumstances, all comments were in agreement that the major safety problem of RTOR is related to the Western Rule in urban enclaves. All comments agreed that the Eastern Rule is preferable to the Western Rule.

Other arguments relating to safety concerned lack of enforcement and disobedience of existing traffic laws requiring full stops at red traffic lights, the number of signs and signals which a driver must already take into account and the additional confusion which RTOR signs would create, and the problem that missing or vandalized signs would create under the Western Rule.

The countervailing safety arguments are that the Western Rule has been adopted in many urban areas without any apparent safety problems,that drivers are creatures of habit and cross State and city lines. If the Western Rule applies in all but three States or sub-State jurisdictions, even though drivers are warned at the entry points to these jurisdictions, many are likely—absent signs at intersections—to revert to habit thereby creating an unanticipated and dangerous situation.

The DOE finds that the data is not conclusive one way or the other on whether the Western Rule would be safe in every urban enclave in the country and that many of the arguments on either side of the issue have equal merit.

(B) Feasibility in Congested Urban Areas. Many of the arguments which relate to this objection were set out in the urban enclave safety arguments discussed above. Additionally, it was contended that in cities such as New York and Boston, while RTOR would be allowed at the same number of intersections under either rule, significantly more intersections would have to be signed prohibiting ROTR under the Western Rule. This leads those opposing the Western Rule to make the following points:

(1) Erecting and maintaining signs would impose prohibitive expenses;

(2) It is good traffic management practice to "sign for the exception," and

(3) Cities might be held liable for damages in those cases where signs prohibiting RTOR had been defaced or removed and an otherwise prohibited RTOR was the cause of an accident.

One oral objection, as well, was received on aesthetic grounds—i.e., that signing a majority of intersections under the Western Rule would add to "sign pollution" in his city.

The objection that one should "sign for the exception" to the general rule (i.e., if RTOR is permitted at 20 percent and prohibited at 80 percent of a city's signalized intersections, then the 20 percent should be signed) can be argued both ways; i.e., on the basis of a single State or sub-State jurisdiction or nationwide.

The liability issue would involve specific application of law to a specific set of facts. Regardless of which RTOR rule applied, the responsibility is with the driver of a vehicle to come to a complete stop at a red traffic light and to ascertain that a turn is in fact safe prior to proceeding. No data or court decision was submitted to support the tentative conclusion that a municipality would be liable for negligence in not properly maintaining a Western Rule RTOR sign.

(C) Energy Savings. Arguments with regard to energy savings apply substantially equally to the Western and the Eastern rules implemented to the maximum extent practicable consistent with safety, since RTOR would be allowed or disallowed at the same number of intersections in either case. The objection, therefore, has no bearing on which RTOR rule is adopted.

The final rule requires each participating State to have adopted the Western Rule by June 27, 1979. The final rule, however, does not preclude exempting urban enclaves for reasons of safety. The present position of the DOE is to give substantial weight to State findings on the need to exempt specific urban enclaves for reasons of safety.

Finally, the DOE wishes to note that any jurisdiction which cannot have adopted the Western Rule by the deadline established in the final rule may avail itself of the program's extension process, discussed in more detail below.

*(e) Extensions for compliance with required program measures, § 420.9.*

Two comments were received to the effect that criteria for extensions of time for compliance with mandatory program measures, proposed § 420.9, were overly specific and were "rather harsh."

The final rule, § 420.9, retains the opportunity, in appropriate circumstances, for a participating State to receive an extension of time in which a required program measure must be ready for implementation. A request for an extension must be in writing, must give reasons justifying the extension, and must be accompanied by an action plan acceptable to DOE for achieving compliance on the shortest reasonable schedule and with sufficient resources. The appropriate Regional Representative—working with both the affected State and the National office—will review the extension request and set forth in writing, together with relevant documentation, the reasons for granting or not granting an extension. Any extension will be granted only for the shortest reasonable time that DOE determines is necessary to achieve compliance.

The DOE will be advising the States on the status of those extensions granted prior to the issuance of this rulemaking. The DOE intends to monitor progress under any extension, taking into account the action plan and any other relevant factors, and to take appropriate action where satisfactory progress is not being made.

*(f) Prohibited expenditures, § 420.14.*

One suggestion was received to the effect that the prohibition against purchase of equipment other than office equipment placed restrictions on States which might hamper effective program implementation. It was suggested that DOE allow more flexibility in the guidelines regarding purchase of equipment.

It is advisable that undue emphasis not be placed upon purchase of equipment from funds appropriated for the program. DOE, therefore, has determined not to modify proposed § 420.14.

**III. Nondiscrimination.**

DOE published, on November 16, 1978, a proposed rulemaking in the **Federal Register** entitled, "Nondiscrimination in Federally Assisted Programs" (43 FR 53658, *et seq.*). Grantees will be responsible for compliance with the provisions of this regulation upon its final publication.

**IV. Administrative Review.**

This rulemaking has been reviewed in accordance with DOE Order 2030 which sets forth procedures for implementing Executive Order 12044 (43 FR 12661, May 1, 1978). Under these procedures, DOE has determined that the rulemaking is "significant" but not "major" and therefore does not require regulatory analysis. The anticipated effects of the rule would be primarily to simplify program procedures. There are few substantive changes, other than the revision of RTOR requirements and the opportunity to include renewable resource measures in appropriate circumstances. A public comment period of 30 days was provided after the publication of the NOPR on January 22,

1979 (44 FR 4562). The Deputy Secretary waived the requirement for a 60 day comment period because it is in the public interest to simplify program guidelines at the earliest date practicable.

The rulemaking has also been reviewed in accordance with OMB Circular A–116 to assess the impacts on urban centers and communities. DOE has found that the rule does not constitute a major proposal under Circular A–116 which would require formal analysis.

Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, DOE completed an environmental assessment of the orginal program under EPCA. A subsequent environmental assessment of the ECPA amendments to the program was completed prior to issuance of the guidelines applicable to supplemental plans. Notice of these assessments was published with the notices proposed rulemaking (41 FR 24410, 24412–13, June 16, 1976, and 42 FR 16150, 16151, March 25, 1977).

Each plan and supplemental plan was required to include a detailed description of the increase or decrease in environmental residuals expected from the implementation of the subject plan and an indication of how the environmental factors were considered in the selection of program measures. Environmental impact determinations were considered and published for each plan prior to funding. Applications for financial assistance submitted in accordance with the regulation will be subject to NEPA review, as appropriate, prior to approval in a manner similar to the treatment of applications filed under existing regulations.

This regulation permits the inclusion of renewable resource program measures which had been excluded by the original plan guidelines. DOE does not believe that the substitution of renewable for nonrenewable energy resources will have a significant adverse environmental impact, and the reduced consumption of fossil fuels is expected to have beneficial, although insignificant, environmental impacts. Therefore, an environmental assessment dealing with this shift in policy has not been prepared at this time.

DOE will, however, require that an environmental discussion accompany a State application. Should DOE, in its review of a State's submittal, find reason to reconsider its initial judgment regarding the insignificance of the impacts associated with the use of renewable resources, DOE will prepare an environmental assessment to support its consideration of the State's submittal.

The rule is being made effective immediately because it has been determined to be in the public interest to simplify program guidelines and to have funds available under them at the earliest date practicable.

In consideration of the foregoing, Part 420 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., March 29, 1979.

**Maxine Savitz,**

*Deputy Assistant Secretary, Conservation and Solar Applications.*

## CHAPTER II—DEPARTMENT OF ENERGY

## PART 420—STATE ENERGY CONSERVATION PLANS

Sec.

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**Authority:** Title III, Part C, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. 6321 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*

### § 420.1 Purpose and scope.

(a) This part prescribes requirements for program measures included in plans and supplemental plans, and guidelines for the development, modification and funding of plans and supplemental plans. It is the purpose of this part to promote the conservation of energy and to reduce the rate of growth of energy demand through the development and implementation of a comprehensive State energy conservation plans program and the provision of Federal financial and technical assistance to States in support of such program.

(b) DOE has the responsibility to foster and promote comprehensive State energy conservation plans by providing technical and financial assistance for specific State initiatives to conserve and improve efficiency in the use of energy and to encourage the use of renewable resources. Because of the diversity of conditions among the various States and regions of the Nation, a wholly Federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities.

### § 420.2 Definitions.

As used in this part—

"Act" means Title III, Part C, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. 6321 *et seq.*

"ASHRAE 90–75" means those designated standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Incorporated, as approved by its Board of Directors on August 11, 1975, to provide design requirements for improvements of energy utilization in new buildings.

"Btu" means British thermal unit.

"British thermal unit" means the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit at 39.2 degrees Fahrenheit and one atmosphere of pressure.

"Building" means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

"Carpool" means the sharing of a ride by two or more people in an automobile.

"Carpool matching and promotion campaign" means a campaign to coordinate riders with drivers to form carpools and/or vanpools.

"Commercial building" means any building other than a residential building, including any building constructed for industrial or public purposes.

"DOE" means the Department of Energy.

"Energy audit" means a survey of a building or buildings that is conducted in accordance with § 420.7(b)(3) and Subpart B of 10 CFR Part 450 and which—

(a) Identifies the type, size, energy use level and the major energy using systems of such building or buildings;

(b) Determines appropriate energy conservation maintenance and operating procedures; and

(c) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

"Energy conservation" means energy conservation, efficient energy use or the utilization of renewable energy resources which results in energy savings based upon a net reduction in the use of non-renewable energy resources.

"Energy conservation measure" means a measure which is identified as an energy conservation measure in accordance with Subpart D of 10 CFR Part 450.

"Energy measure" means an energy conservation measure or a renewable-resource energy measure as prescribed in Subpart D of 10 CFR Part 450.

"Environmental residual" means any pollutant or pollution causing factor which results from any activity.

"Exempted building" means—

(a) Any building whose peak design rate of energy usage for all purposes is less than one watt (3.4 Btu's per hour) per square foot of floor area for all purposes;

(b) Any building with neither a heating nor cooling system;

(c) Any mobile home; or

(d) Any building owned or leased in whole or in part by the United States.

"Exterior envelope physical characteristics" means the physical nature of those elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

"Governor" means the chief executive officer of a State and the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act upon his or her behalf.

"Grantee" means the State or other entity named in the Notice of Grant Award as the recipient.

"HVAC" means heating, ventilating and air conditioning.

"Heating, ventilating and air conditioning" means a system that provides heating, ventilation and/or air conditioning within or associated with a building.

"HUD minimum property standard" means any of the rules and regulations adopted by the Department of Housing and Urban Development establishing minimum acceptable levels of site design, site preparation, exterior and interior appurtenances which standard is applied to single or multifamily housing units which seek assistance under one or more programs administered by the Assistant Secretary for Housing and Mortgage Credit of the Department of Housing and Urban Development.

"Industrial plant" means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

"Major building type" means a class of buildings within which similar functions occur such as hospitals, restaurants, hotels and supermarkets.

"Metropolitan Planning Organization" means that organization required by the Department of Transportation, and designated by the Governor as being responsible for coordination within the State, to carry out transportation planning provisions in a Standard Metropolitan Statistical Area.

"National energy conservation program" means a program which is authorized by Federal statute and is wholly implemented by the Federal Government, without the active participation of a State or local government, other than for usual coordination or acknowledgement.

"Park-and-ride lot" means a parking facility generally located at or near the trip origin of carpools, vanpools, and/or mass transit.

"Plan" means a State energy conservation plan including required program measures in accordance with § 420.7 and otherwise meeting the applicable provisions of this part.

"Political subdivision" means a unit of government within a State, including a county, municipality, city, town, township, parish, village, local public authority, school district, special district, council of governments, or any other regional or intrastate governmental entity or instrumentality of a local government exclusive of institutitons of higher learning and hospitals.

"Preferential traffic control" means any one of a variety of traffic control techniques used to give carpools, vanpools and public transportation vehicles priority treatment over single occupant vehicles other than bicycles and other two-wheeled motorized vehicles.

"Program measure" means one or more State actions, in a particular area, designed to effect energy conservation, excluding actions in areas specifically covered by national energy conservation programs.

"Public building" means any building which is open to the public during normal business hours, except exempted buildings, including—

(a) Any building which provides facilities or shelter for public assembly, or which is used for educational, office or institutional purposes;

(b) Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment which provides services or retail merchandise;

(c) Any portion of an industrial plant building used primarily as office space; or

(d) Any building owned by a State or political subdivision thereof, including libraries, museums, schools, hospitals, auditoriums, sport arenas, and university buildings.

"Public transportation" means any scheduled or nonscheduled transportation service for public use.

"Regional Representative" means the Regional Representative of the DOE.

"Renewable-resource energy measure" means a measure which is identified as a renewable resource energy measure in accordance with Subpart D of 10 CFR 450.

"Residential building" means any structure which is constructed for residential occupancy.

"Secretary" means the Secretary of DOE.

"State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

"Supplemental plan" means a supplemental State energy conservation plan including required program measures in accordance with § 420.8 and otherwise meeting the applicable provisions of this part.

"Transit level of service" means characteristics of transit service provided which indicate its quantity, geographic area of coverage, frequency and quality (comfort, travel, time, fare and image).

"Urban area traffic restriction" means a setting aside of certain portions of an urban area as restricted zones where varying degrees of limitation are placed on general traffic usage and/or parking.

"Vanpool" means a group of riders using a vehicle, with a seating capacity of not less than eight individuals and not more than fifteen individuals, for transportation to and from their residences or other designated locations and their place of employment, provided the vehicle is driven by one of the pool members.

"Variable working schedule" means a flexible working schedule to facilitate carpool, vanpool and/or public transportation usage.

**§ 420.3 Financial assistance.**

(a) The Regional Representative shall provide financial assistance to develop, modify or implement a plan, a supplemental plan, or both, on a calendar year basis, from funds available for any fiscal year, to each State having an approved annual application.

(b) Financial assistance to develop, implement or modify plans shall be allocated among the States from funds available for any fiscal year, based on the following formula—

(1) Forty percent of available funds will be divided on the basis of the resident population of the participating

States as of July, 1976, as reported by the Department of Commerce, Bureau of Census, in their most recent publication of "Current Population Reports;"

(2) Twenty-five percent of available funds will be divided among the participating States equally; and

(3) Thirty-five percent of available funds will be divided on the basis of estimated energy savings in calendar year 1980 resulting from the implementation of State energy conservation plans; provided, however, that no State shall receive more than twenty percent of the funds available to be divided on the basis of the estimated energy savings in calendar year 1980; and

(c) Financial assistance to develop, implement or modify supplemental plans shall be allocated among the States from funds available for any fiscal year, based on the following formula—

(1) Seventy-five percent of available funds will be divided on the basis of the resident population of the participating States as of July, 1976, as reported by the Department of Commerce, Bureau of Census, in their most recent publication of "Current Population Reports;" and

(2) Twenty-five percent of available funds will be divided among the participating States equally.

### § 420.4 Annual State applications.

(a) To be eligible for financial assistance under this part, a State on or before the last day of the calendar year shall submit an original and two copies to the Regional Representative of an annual application, executed by the Governor. The annual application shall be submitted in accordance with DOE Form CS–1 and shall request financial assistance for either a plan or a supplemental plan or for both.

(b) An application shall include—

(1) The name and address of the grantee;

(2) With respect to either a plan or supplemental plan or both—

(i) A description of proposed modifications, including new and amended program measures;

(ii) For the year in which financial assistance will be provided—

(A) A budget listed by program measure and by object class category;

(B) A narrative statement detailing the nature of amendments and of new program measures;

(C) A listing of milestones by calendar quarter; and

(D) A description of the source and amount of funding, if any, other than financial assistance provided under this part, which is expected to be available to the State;

(E) An explanation of how the minimum criteria for required program measures prescribed in § 420.7 for plans and § 420.8 for supplemental plans shall be satisfied.

(iii) A detailed description of the estimated energy savings and the estimated cost of implementation for each program measure described in the application; and

(3) A detailed description of the increase or decrease in environmental residuals expected from implementation of either a plan or supplemental plan, or both, defined insofar as possible through the use of information to be provided by DOE, and an indication of how these environmental factors were considered in the selection of program measures.

(c) The detailed description of estimated energy savings for a plan, specified in subparagraph (b) (2) (iii) of this section, shall include—

(1) The estimated energy savings in Btu's expected as a result of the implementation of the program measure for calendar year 1980, and beyond;

(2) The sources of numerical data, any assumptions, and the actual calculations used by the State to estimate the energy savings;

(3) For those program measures for which DOE has not made available a methodology for estimating the energy savings, the methodology used to estimate the energy savings; and

(4) The manner in which the State will assess actual energy savings under the program measure.

(d) The Governor may request an extension of the annual submission date by submitting a written request to the Regional Representative on or before December 15. The extension shall only be granted, for a period not to exceed three months, if, in the Regional Representative's judgment, acceptable and substantial justification is shown, and the Regional Representative determines that participation by the State submitting the request is likely to result in significant progress toward achieving the purposes of this part.

### § 420.5 Review and approval of annual State applications and State plans.

(a) The Regional Representative shall review each timely annual application and provide financial assistance if he or she determines that—

(1) The application conforms to the requirements of this part;

(2) The proposed program measures are consistent with a State's achievement of its energy conservation goal and interim goals, if any, in accordance with § 420.6;

(3) The provisions of the application regarding program measures satisfy the minimum program requirements prescribed by § 420.7.

(b) If the annual application is not approved according to paragraph (a) of this section, the Regional Representative shall return it to the State together with a written statement describing why the annual State application fails to meet the requirements of this part. The State will be given a reasonable period of time, as determined by the Regional Representative, to amend its annual application and submit it for reconsideration according to paragraph (a) of this section.

### § 420.6 Energy conservation goals.

(a) DOE shall set an energy conservation goal for each State for calendar year 1980 pursuant to section 364 of the Act.

(b) DOE may set interim goals for the States pursuant to § 364 of the Act.

(c) With regard to interim goals prescribed in accordance with paragraph (b) of this section, DOE shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.

### § 420.7 Minimum criteria for required program measures for plans.

A plan shall satisfy all of the following minimum criteria for required program measures.

(a) Mandatory lighting efficiency standards for public buildings shall—

(1) Be under implementation throughout all political subdivisions of the State;

(2) Apply to all public buildings above a certain size, as determined by the State;

(3) For new public buildings, be no less stringent than provisions of section 9 of ASHRAE 90–75; and

(4) For existing public buildings, contain the elements deemed appropriate by the State.

(b) Program measures to promote the availability and use of carpools, vanpools and public transportation shall—

(1) Have at least one of the following actions under implementation in at least one urbanized area with a population of 50,000 or more within the State or in the largest urbanized area within the State if that State does not have an urbanized area with a population of 50,000 or more—

(i) A carpool/vanpool matching and promotion campaign;

(ii) Park-and-ride lots;
(iii) Preferential traffic control for carpoolers and public transportation patrons;
(iv) Preferential parking for carpools and vanpools;
(v) Variable working schedules;
(vi) Improvements in transit level of service for public transportation;
(vii) Exemption of carpools and vanpools from regulated carrier status;
(viii) Parking taxes, parking fee regulations or surcharge on parking costs;
(ix) Full-cost parking fees for State and/or local government employees;
(x) Urban area traffic restrictions;
(xi) Geographical or time restrictions on automobile use; or
(xii) Area or facility tolls; and
(2) Be coordinated with the relevant Metropolitan Planning Organization, unless no Metropolitan Planning Organization exists in the urbanized area, and not be inconsistent with any applicable Federal requirements.
(c) Mandatory standards and policies affecting the procurement practices of the State and its political subdivisions to improve energy efficiency shall—
(1) With respect to all State procurement and with respect to procurement of political subdivisions to the extent determined feasible by the State, be under implementation; and
(2) Contain the elements deemed appropriate by the State to improve energy efficiency through the procurement practices of the State and its political subdivisions.
(d) Mandatory thermal efficiency standards for new and renovated buildings shall—
(1) Be under implementation, with respect to all buildings other than exempted buildings, throughout all political subdivisions of the State;
(2) Take into account the exterior envelope physical characteristics, HVAC system selection and configuration, HVAC equipment performance and service water heating design and equipment selection;
(3) For all new commercial buildings, be no less stringent than a standard consistent with provisions of Sections 4–9 of ASHRAE 90–75, unless the operation of Section 327 of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6297, renders reliance on such standard to be impracticable;
(4) For all new residential buildings, be no less stringent than either the HUD minimum property standards or a standard consistent with the provisions of sections 4–9 of ASHRAE 90–75, unless the operation of Section 327 of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6297, renders reliance on such standards to be impracticable; and
(5) For renovated buildings—
(i) Apply to those buildings determined by the State to be renovated buildings; and
(ii) Contain the elements deemed appropriate by the State regarding thermal efficiency standards for renovated buildings.
(e) A traffic law or regulation which permits the operator of a motor vehicle to make a right turn at a red light after stopping shall—
(1) Be in a State's motor vehicle code and under implementation throughout all political subdivisions of the State, except as provided in paragraph (e)(3) of this section;
(2) Permit the operator of a motor vehicle to make a right turn (left turn with respect to the Virgin Islands) at a red traffic light after stopping except where specifically prohibited by a traffic sign for reasons of safety or except where generally prohibited in an urban enclave for reasons of safety; and
(3) For any State without such traffic law or regulation in effect before December 31, 1978, be ready for implementation by June 27, 1979, and fully meet the requirements of paragraphs (e)(1) and (2) of this section thereafter.

**§ 420.8 Minimum criteria for required program measures for supplemental plans.**

A supplemental plan shall satisfy all of the following minimum criteria for required program measures.
(a) Procedures for carrying out a continuing public education effort to increase significantly public awareness of the energy and cost savings which are likely to result from the implementation, including implementation through group efforts, of energy measures shall—
(1) Be under implementation; and
(2) Provide a public awareness program regarding energy audits with respect to buildings and industrial plants which at least includes a campaign publicizing the availability of energy audits in at least one urbanized area with a population greater than 50,000 or in the largest urbanized area within a State if the State does not have an urbanized area with a population of 50,000 or more. The campaign must make clear reference to the range of technical assistance available to the owner or occupant of the building or industrial plant and provide a point of contact with the organization administering the energy audits, including a telephone number;
(b) Procedures for carrying out a continuing public education effort to increase significantly public awareness of information and other assistance, including information as to available technical assistance, which is or may be available with respect to the planning, financing, installing, and monitoring the effectiveness of measures likely to conserve, or to improve efficiency in the use of energy, including energy measures shall—
(1) Be in place and under implementation; and
(2) Contain the elements considered appropriate by a State.
(c) Procedures for ensuring that effective coordination exists among various local, State and Federal energy conservation programs within and affecting such State, including the comprehensive energy extension service program, under 10 CFR Part 460, shall—
(1) Be in place and under implementation; and
(2) Contain provisions for activities considered appropriate by a State such as coordinating local and State agencies to prevent duplication of energy conservation activities or conducting public hearings to ensure that individuals and groups concerned with program measures to be incorporated in a plan or supplemental plan and all other energy conservation programs in the State, shall be afforded the opportunity to participate in their development, implementation, and modification.
(d) Procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants shall—
(1) Be under implementation throughout all political subdivisions of the State;
(2) Be in accordance with subpart B of 10 CFR Part 450; and
(3) Provide and make available, to the extent feasible, Class A energy audits in at least one political subdivision for the buildings or industrial plants in at least one of the following categories and as many Class C energy audits as are practicable within the State in the remaining categories—
(i) Apartment buildings;
(ii) Educational institutions;
(iii) Hospitals;
(iv) Hotels and motels;
(v) Industrial plants;
(vi) Office buildings;
(vii) Restaurants;
(viii) Retail stores;
(ix) Transportation terminals; and
(x) Warehouses and storage facilities; and
(4) Make available Class B or C audits to all individuals, as requested by such

individuals, who are occupants of residential dwelling units in a State at no direct cost to those persons.

**§ 420.9 Extensions for compliance with required program measures.**

An extension of time by which a required program measure must be ready for implementation may be granted if DOE determines that the extension is justified. A written request for an extension, with accompanying justification and an action plan acceptable to for achieving compliance in the shortest reasonable time, shall be made to the appropriate Regional Representative. Any extension shall be only for the shortest reasonable time that DOE determines necessary to achieve compliance. The action plan shall contain a schedule for full compliance and shall identify and make the most reasonable commitment possible to provision of the resources necessary for achieving the scheduled compliance.

**§ 420.10 Administrative review.**

(a) If the Regional Representative intends to deny an annual State application resubmitted by the Governor according to § 420.5(b) or refuses to accept an annual State application resubmitted by the Governor after the time period referred to in § 420.5(b) has expired, the Regional Representative shall give notice to the Governor.

(b) If the Regional Representative determines that implementation of a State plan approved according to § 420.5 fails to meet the requirements of this part, the Secretary shall give notice to the Governor of his or her intent to terminte or suspend financial assistance to the grantee.

(c) The notice required by paragraphs (a) or (b) of this section shall be issued in writing by registered mail with return receipt requested and include—

(1) A statement of the reasons for the intended denial, termination or suspension of financial assistance;

(2) The date, place and time of a public hearing to be held by a review panel concerning the intended denial, termination or suspension of financial assistance, the hearing to be held within 15 working days after the date of receipt by the Governor of the notice; and

(3) The manner in which views may be presented.

(d) The Governor may submit written views with supporting data to the Regional Representative on or prior to the date of the public hearing and shall be offered an opportunity to make an oral presentation at the public hearing.

(e) The review panel shall be appointed by the Regional Representative and shall consist of three disinterested members.

(f) The review panel shall consider all relevant views and data submitted on or prior to the date of the public hearing. The review panel shall submit a written report containing its findings and recommendations to the Regional Representative within 10 working days after the date of the public hearing.

(g) The Regional Representative shall submit the report, together with his or her recommendations, to the Secretary within 5 working days after receipt of the report.

(h) The Secretary shall issue a final determination, accompanied by a statement of the reasons for the actions taken, within 10 working days after receipt of the submission from the Regional Representative.

(i) Upon issuance of the notice referred to in paragraphs (a) and (b) of this section, the Secretary may suspend financial assistance to the grantee pending a final determination. If the Secretary makes a final determination adverse to the grantee, the Regional Representative shall terminate financial assistance to the grantee.

**§ 420.11 Technical assistance.**

At the request of the Governor of any State to DOE and subject to the availability of personnel and funds, DOE will provide information and technical assistance to the State in connection with effectuating the purposes of this part.

**§ 420.12 Recordkeeping.**

Each State or other entity within a State receiving financial assistance under this part shall make and retain records required by the Secretary, including records which fully disclose the amount and disposition of financial assistance received; the cost of administration; the total cost of all activities for which assistance is given or used; the source and amount of any funds not supplied by the Secretary; and any data and information which the Secretary determines are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. The Secretary, or any of his or her duly authorized representatives, shall have access, until three years after the completion of the activities involved, to any books, documents, records or receipts which the Secretary determines are related or pertinent, either directly or indirectly, to financial assistance provided under this part.

**§ 420.13 Reports.**

Each State receiving financial assistance under this part shall submit to the Regional Representative a quarterly program performance report and a quarterly financial status report. The report shall contain such information as the Secretary may prescribe in order to monitor effectively the implementation of a plan or supplemental plan. The reports shall be submitted to the Regional Representative within 30 days following the end of each calendar quarter.

**§ 420.14 Prohibited expenditures.**

Grants awarded under this part shall not be used directly or indirectly—

(a) to purchase equipment, other than office equipment, such as weatherization materials and law enforcement equipment;

(b) for construction, such as construction of mass transit systems and exclusive bus lanes;

(c) to subsidize fares for public transportation; or

(d) for subsidies for utility rate demonstrations or Sate insulation tax credits.

**§ 420.15 Administration of financial assistance.**

Except where this part provides otherwise, the award and administration of this part will be governed by the following—

(a) Office of Management and Budget Circular A–102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(b) Office of Management and Budget Circular A–95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects;"

(c) Federal Management Circular 73–2 (34 CFR 251), entitled "Audit on Federal Operations and Programs by Executive Branch Agencies;"

(d) Federal Management Circular 74–4 (34 CFR 255), entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(e) Office of Management and Budget Circular A–97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(f) Treasury Circular 1082 Revised, entitled "Notification to States of Grant-in-Aid Information;"

(g) Treasury Circular 1075, entitled "Treasury Fiscal Requirements Manual;"

(h) DOE Assistance Regulations (10 CFR Part 600); and

(i) Such procedures applicable to this part as DOE may from time to time prescribe for the award or administration of financial assistance provided under this part.

[FR Doc. 79-10382 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

### 12 CFR Part 4

### Procedures Regarding Applications for Permission To Establish, Convert to, or Relocate Federal Branches and Agencies of Foreign Banks

**AGENCY:** Comptroller of the Currency.

**ACTION:** Final Rule.

**SUMMARY:** This rule establishes procedures of the Office of the Comptroller of the Currency for applications for permission to establish, convert to, or relocate Federal branches and Federal agencies of foreign banks. These procedures are being established to implement, in part, the International Banking Act of 1978, and generally conform to those that relate to national banks.

**EFFECTIVE DATE:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** James V. Elliott, Director Bank Organization and Structure Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1184.

**SUPPLEMENTARY INFORMATION:** On September 17, 1978, the International Banking Act of 1978 (Pub. L. 95-369) was enacted. Section 4 of the Act provides that with the approval of the Comptroller of the Currency, foreign banks may establish Federal branches or agencies. This rule establishes procedures for filing of applications for permission to establish, convert to, or relocate such branches and agencies.

The Administrative Procedures Act does not require public procedures and delayed effectiveness in connection with rules of agency organization, procedures or practice. The amendments will therefore become effective on April 4, 1979. However, the Comptroller's Office will review the effectiveness of the regulation as it gains experience operating under it. The Comptroller will also accept and consider written comments for six months from the effective date of the regulation. Comments may be submitted to Alan Herlands, Director, Regulations Analysis, Office of the Comptroller of the Currency, Washington, D.C. 20219. This regulation is not a significant regulation under Treasury Department criteria.

#### Adoption of Amendment

12 CFR Part 4 is amended by adding new subparts 4.7c through 4.7e as follows:

## PART 4—DESCRIPTION OF OFFICE

Sec.

* * * * *

4.7c Establishment of Federal branch or Federal agency of a foreign bank.

4.7d Conversion of a branch or agency operated by a foreign bank or a commercial lending company controlled by a foreign bank into a Federal branch or a Federal agency.

4.7e Relocation of a Federal branch or Federal agency of a foreign bank.

* * * * *

#### § 4.7c Establishment of Federal branch or Federal agency of a foreign bank.

(a) *Application.* A foreign bank desiring to establish and operate a Federal branch or Federal agency should submit to the Comptroller of the Currency, Washington, D.C. 20219, an "Application to Establish a Federal Branch or Agency." This application and instructions are furnished by the Office of the Comptroller of the Currency or the Office of the Regional Administrator of National Banks upon request.

(b) *Investigation.* An investigation may be conducted to the extent necessary, including the gathering of information as provided in Part 5 of this chapter.

(c) *Approval.* The Comptroller of the Currency determines whether or not approval of the application should be granted. An approval will ordinarily be rescinded if the Federal branch or Federal agency has not commenced business within 18 months from the date of approval.

(d) *Certification.* If the determination of the Comptroller of the Currency is favorable, a certificate will be issued evidencing approval for the establishment and operation of the Federal branch or Federal agency.

(e) *Disapproval.* (1) When a Federal branch or Federal agency application is disapproved, a written statement of the reasons for the disapproval will be furnished the applicant.

(2) Requests for reconsideration of disapproved applications will not be accepted. A new application may be filed at any time by submitting substantive new or additional information to the Comptroller of the Currency. To the extent relevant, the Comptroller will consider and incorporate the prior administrative record. The normal filing fee will be required.

(f) *Opinions.* When the Comptroller determines that the decision represents a new or changed policy or presents issues of general importance to the public or the banking industry, an opinion will be published. If the Comptroller determines it to be in the public interest, the name of the applicant and other information deemed to be of a private and confidential nature will not be disclosed.

#### § 4.7d Conversion of a branch or agency operated by a foreign bank or a commercial lending company controlled by a foreign bank into a Federal branch or a Federal agency.

(a) *Application.* Foreign banks desiring to convert an existing branch, agency or commercial lending company into a Federal branch or agency should submit to the Comptroller of the Currency, Washington, D.C. 20219, an "Application to Convert an Existing Office of a Foreign Bank." This application and instructions are furnished by the Office of the Comptroller of the Currency or by the Office of the Regional Administrator of National Banks upon request.

(b) *Examination and Investigation.* An examination and investigation may be conducted to the extent determined necessary, including the gathering of information as provided in Part 5 of this chapter. The cost of any such examination shall be paid by the applicant.

(c) *Approval.* The Comptroller of the Currency determines whether or not approval of the application should be granted. An approval will ordinarily be rescinded if the conversion has not been accomplished within 18 months from the date of approval.

(d) *Certification.* If the determination of the Comptroller of the Currency is favorable, a certificate will be issued evidencing approval for the conversion to a Federal branch or a Federal agency.

(e) *Disapproval.* (1) When an application to convert to a Federal branch or Federal agency is disapproved, a written statement of the reasons for the disapproval will be furnished the applicant.

(2) Requests for reconsideration of disapproved applications will not be accepted. A new application may be

filed at any time by submitting substantive new or additional information. To the extent relevant, the Comptroller will consider and incorporate the prior administrative record. The normal filing fee will be required.

(f) *Opinions.* When the Comptroller determines that the decision represents a new or changed policy or presents issues of general importance to the public or the banking industry, an opinion will be published. If the Comptroller determines it to be in the public interest, the name of the applicant and other information deemed to be of a private and confidential nature will not be disclosed.

**§ 4.7e Relocation of a Federal branch or Federal agency of a foreign bank.**

(a) *Application.* A foreign bank desiring to relocate a Federal branch or agency should submit to the Comptroller of the Currency, Washington, D.C. 20219, an "Application to Relocate a Federal Branch or Agency." This application, instructions and supporting documents are furnished by the Office of the Comptroller of the Currency or the Office of the Regional Administrator of National Banks upon request.

(b) *Investigation.* An investigation may be conducted to the extent necessary, including the gathering of information as provided in Part 5 of this chapter.

(c) *Approval.* The Comptroller of the Currency determines whether or not approval of the application should be granted. An approval will ordinarily be rescinded if the Federal branch or Federal agency has not been relocated within 18 months from the date of approval.

(d) *Certification.* If the determination of the Comptroller of the Currency is favorable, a certificate will be issued evidencing approval of the relocation of the Federal branch or Federal agency.

(e) *Disapproval.* (1) When an application to relocate a Federal branch or Federal agency is disapproved, a written statement of the reasons for the disapproval will be furnished the applicant.

(2) Requests for reconsideration of disapproved applications will not be accepted. A new application may be filed at any time by submitting substantive new or additional information. To the extent relevant, the Comptroller will consider and incorporate the prior administrative record. The normal filing fee will be required.

(f) *Opinions.* When the Comptroller determines that the decision represents a new or changed policy or presents issues of general importance to the public or the banking industry, an opinion will be published. If the Comptroller determines it to be in the public interest, the name of the applicant and other information deemed to be of a private and confidential nature will not be disclosed.

(International Banking Act of 1978 (Pub. L. 95–369).)

Dated: March 21, 1979.

**John G. Heimann,**
*Comptroller of the Currency.*

[FR Doc. 79-10363 Filed 4-3-79; 8:45 am]
BILLING CODE 4810-33-M

## DEPARTMENT OF THE TREASURY

## Comptroller of the Currency

## 12 CFR Part 5

## Supplemental Application Procedures for Charters, Domestic Brancnes, Mergers, Relocations, Conversions, Domestic Operating Subsidiaries, Fiduciary Powers and Title Changes

**AGENCY:** Comptroller of the Currency.

**ACTION:** Final rule.

**SUMMARY:** This rule expands the Comptroller's Supplemental Application Procedures to incorporate provision for public comment on application of foreign banks for permission to establish Federal branches and Federal agencies. These procedures are being established to implement, in part, the International Banking Act of 1978, and generally conform to those that relate to national banks.

**EFFECTIVE DATE:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** James V. Elliott, Director, Bank Organization and Structure Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202–447–1184.

**SUPPLEMENTARY INFORMATION:** On September 17, 1978, the International Banking Act of 1978 (Public Law 95–369) was enacted. Section 4 of the Act provides that with the approval of the Comptroller of the Currency, a foreign bank may establish a Federal branch or agency. This amendment provides for public comment on applications of foreign banks for permission to establish, convert to, or relocate such branches and agencies.

The Administrative Procedures Act does not require public procedures and delayed effectiveness in connection with rules of agency organization, procedures, or practice. Therefore, the Amendments will become effective on April 4, 1979. However, the Comptroller's Office will review the effectiveness of the regulation as it gains experience operating under it. The Comptroller will also accept and consider written comments for six months from the effective date of the regulation. Comments may be submitted to Alan Herlands, Director, Regulations Analysis, Office of the Comptroller of the Currency, Washington, D.C. 20219. This regulation is not a significant regulation under Treasury Department criteria.

**Adoption of Amendment**

12 CFR Part 5 is amended by revising 5.1 as follows:

* * * * *

**5.1 Scope of part.**

This part contains procedures by which the Comptroller of the Currency may reach informed decisions with respect to applications to charter national banks, to establish domestic branches of national banks, to merge or consolidate with or purchase the assets of another bank where the resulting bank is a national bank, to relocate offices of national banks, to convert state-chartered institutions to national banks, to acquire domestic operating subsidiaries, to exercise fiduciary powers to change corporate titles, to establish, convert to or relocate Federal branches and Federal agenices of foreign banks, and in other such cases as the Comptroller in his sole discretion shall deem appropriate. These procedures provide a method by which all persons interested in the subject mater of such applications may present their views. Nothing contained herein shall be construed to prevent interested persons from presenting their views in a more informal manner when deemed appropriate by the Comptroller, his deputy, or by the Regional Administrator of National Banks, or to prevent the Comptroller or the Regional Administrator from conducting such other investigation as may be deemed appropriate. The procedures established by this Part, other than the notice provisions of 5.2a, and written comment provision of 5.4a, do not apply to applications for permission to establish a CBCT branch, unless the Comptroller shall specifically so direct. The initial Federal branch or Federal agency established in the United States by a foreign bank shall be deemed the bank's head office for purposes of this Part.

* * * * *

**Authority:** International Banking Act of 1978 (Pub. L. 95–369).

Dated: March 21, 1979.

John G. Heimann,

*Comptroller of the Currency.*

[FR Doc. 79-10364 Filed 4-4-79; 8:45 am]

BILLING CODE 4810-33-M

## 12 CFR Part 8

## Assessments of Fees: National Banks, District of Columbia Banks, Federal Branches and Agencies.

**AGENCY:** Comptroller of the Currency.

**ACTION:** Final regulation.

**SUMMARY:** The following amendments to Part 8 of 12 CFR establish assessment rates for Federal branches and Federal agencies of foreign banks established pursuant to authority conferred by Section 4 of the International Banking Act of 1978, and generally conform to those that relate to national banks.

**EFFECTIVE DATE:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** James J. Gartner, Executive Assistant to the Senior Deputy Comptroller for Bank Supervision (202-447-0150); William B. Glidden, Staff Attorney (202-447-1880); Office of the Comptroller of the Currency, Washington, D.C. 20219.

**SUPPLEMENTARY INFORMATION:** On September 17, 1978, the International Banking Act of 1978 (Pub. L. 95-369) was enacted. Section 4 of the Act provides that, except as otherwise provided in the Act or in rules, regulations or orders of the Comptroller of the Currency, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to the duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location. The amendments being adopted set assessments of fees for Federal branches and Federal agencies. All other fees found in 12 CFR Part 8 remain unchanged.

The Administrative Procedures Act does not require public procedures and delayed effectiveness in connection with rules of agency organization, procedures or practice. This regulation is not a significant regulation under Treasury Department criteria.

### Adoption of Amendment

12 CFR Part 8 is amended to include assessments and fees for Federal branches and Federal agencies. Sections have been renumbered and redesignated for clarity and, therefore, this Part is published in its entirety as follows:

Sec.

8.1 Scope and application.
8.2 Semiannual assessment.
8.3 Filing fee for new bank charter applications and initial Federal branches and Federal agencies in a State.
8.4 Filing fee for a domestic bank branch or additional Federal branches or agencies within a State.
8.5 Filing fee for applications for mergers and consolidations.
8.6 Daily rate for examination of affiliates and for special examinations and investigations.
8.7 Daily rate for trust examinations.

### § 8.1 Scope and application.

The assessments contained in this part are made pursuant to the authority contained in R.S. 5240, as amended, 12 U.S.C. 482, 12 U.S.C. 3102, and in section 3, 47 Stat. 1566, 26 D.C. Code 102.

### § 8.2 Semiannual assessment.

(a) Each national bank and each district bank shall pay to the Comptroller of the Currency on or before January 31 and July 31 of each year a semiannual assessment fee for the six-month period beginning thirty days before each payment date. The amount of the semiannual assessment paid by each bank is computed as follows:

| If the bank's total assets (consolidated and domestic and foreign subsidiaries) are— | | The assessment is— | | |
|---|---|---|---|---|
| Over— | But not over— | This amount— | Plus— | Of excess over |
| *Million* | *Million* | | | *Million* |
| 0 | $1 | 0 | 0.001000 | 0 |
| $1 | 10 | $1,000 | .000125 | $1 |
| 10 | 50 | 2,125 | .000095 | 10 |
| 50 | 100 | 5,925 | .000060 | 50 |
| 100 | 500 | 8,925 | .000050 | 100 |
| 500 | 1,000 | 28,925 | .000045 | 500 |
| 1,000 | 3,000 | 51,425 | .000040 | 1,000 |
| 3,000 | 10,000 | 131,425 | .000034 | 3,000 |
| 10,000 | 20,000 | 369,425 | .000032 | 10,000 |
| 20,000 | | 689,425 | .000021 | 20,000 |

Each semiannual assessment is based upon the total assets shown in the bank's "Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries)" most recently preceding the payment date. The assessment shall be computed in the manner and on the form provided by the Comptroller of the Currency. Each bank subject to the jurisdiction of the Comptroller of the Currency on the date of the second or fourth condition reports is subject to the full assessment for the next six month period without proration for any reason.

(b) Each Federal branch and each Federal agency shall pay to the Comptroller of the Currency on or before January 31 and July 31 of each year a semiannual assessment fee for the six month period beginning thirty days before each payment date.

The amount of the semiannual assessment paid by each Federal branch and Federal agency shall be computed at the same rate as provided in the Table in 12 CFR Part § 8.2(a); however, only the total domestic assets of the Federal branch or Federal agency shall be subject to assessment.

Each semiannual assessment of each Federal branch or Federal agency is based upon the total assets shown in the Report of Condition most recently preceding the payment date. The assessment shall be computed in the manner and on the form provided by the Comptroller of the Currency. Each Federal branch or Federal agency subject to the jurisdiction of the Comptroller of the Currency on the date of the second or fourth condition reports is subject to the full assessment for the next six month period without proration for any reason.

### § 8.3 Filing fee for new bank charter applications and initial Federal branches and Federal agencies in a State.

(a) A filing fee of $2,500 is assessed for investigating and processing each application to organize a new national bank.

(b) A filing fee of $2,500 is assessed for investigating and processing the initial application to establish a Federal branch or a Federal agency in any State.

### § 8.4 Filing fee for a domestic bank branch or additional Federal branches or agencies within a State.

(a) A filing fee of $500 is assessed for investigating and processing each application for a domestic bank branch, other than a CBCT branch.

(b) A filing fee of $500 is assessed for investigating and processing each additional application for a Federal branch or agency within a State where a foreign bank operates an initial branch or agency.

(c) A filing fee of $200 is assessed for processing each application by a bank or Federal branch or agency for a CBCT branch.

### § 8.5 Filing fee for applications for mergers and consolidations.

A filing fee of $1,500 is assessed each participating bank, Federal branch or agency for investigating and processing each application for a merger, consolidation, or purchase of assets and assumption of liabilities.

**§ 8.6 Daily rate for examination of affiliates and for special examinations and investigations.**

The assessment rate for examinations of affiliates and for special examinations and investigations is $140 a day for the Examiner-in-Charge and $80 a day for each additional Examiner. A separate charge will not be made for a regular examination of any operating subsidiary if the assets of such subsidiary are included in the consolidated report of the parent bank or Federal branch or agency.

**§ 8.7 Daily rate for trust examinations.**

The assessment rate for trust examinations is $140 a day for the person in charge of the examination and $80 a day for each of the assisting personnel except those hired on a temporary basis, for whom no charge will be made. The minimum rate for the examination of a trust department or Federal branch or agency engaged solely in trust activity is $25.

**Authority:** International Banking Act of 1978 (Pub. L. 95–369).

Dated: March 16, 1979.

**John G. Heimann,**

*Comptroller of the Currency.*

[FR Doc. 79-10365 Filed 5-4-79; 8:45 am]

**BILLING CODE 4810-33-M**

## FEDERAL RESERVE SYSTEM

## 12 CFR Parts 207, 220, 221

## 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:** April 2, 1979.

**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 October 2, 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 Regulations 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. 78 g 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

Aerosonic Corporation; $.$40 par common.
Air Florida System, Inc.; $.50 par common.
Alabama-Tennessee Natural Gas Company; $1.00 par common.
Allied Van Lines, Inc.; Class B, no par common.
Ambassador Group, Inc.; $.10 par common.
American Home Shield Corporation; $.01 par common.
American Monitor Corporation; No par common.
American Resources Management Corporation; $.50 par common.
Anderson Industries, Inc.; $1.00 par common.
Apogee Enterprises, Inc.; $.33⅓ par common.
Automated Medical Laboratories, Inc.; $.01 par common.
B–O–P Corporation; $5.00 par common.
Barris, Chuck Productions, Inc.; $.50 par common.
Berkline Corporation, The; $1.00 par common.
Bond Industries, Inc.; $1.00 par common.
Brennand-Paige Industries, Inc.; $.10 par common.
Cambridge Memories, Inc.; $.10 par common.
Campanelli Industries, Inc.; $.01 par common.
Celina Financial Corporation; Class A, $1.00 par common.
Cindy's Inc.; $.10 par common.
Cole Consumer Products, Inc.; $1.00 par common.
Columbia National Corporation; No par common.
Columbus Mills, Inc.; $1.00 par common.
Computer Consoles, Inc.; $.10 par common.
Control Laser Corporation; $.01 par common.
Dixico Incorporated; $.50 par common.
Drexler Technology Corporation; $.20 par common.
Elder-Beerman Stores Corp., The; No par common.
Empire National Bank; $5.00 par common.
Employee Benefits Inc.; Class A, $1.00 par common.
Erb Lumber Company; $.01 par common.
Everest & Jennings International; $1.00 par common.
Fairfield Communities, Inc.; $.10 par common.
First American Bank Corporation; $10.00 par capital.
First Bankshares Corporation of South Carolina; $5.00 par common.
First Savings & Loan Association; No par common.
First Wisconsin Mortgage Trust; $1.00 par regular shares of beneficial interest.
Flame Industries, Inc.; $.10 par common.
Florafax International, Inc.; $.10 par common.
Frequency Sources, Inc.; $.10 par common.
Funding Systems Corporation; $.01 par common.
General Semiconductor Industries, Inc.; $.66⅔ par common.
Geriatric & Medical Centers, Inc.; $.10 par common.
Government Services Savings & Loan, Inc.; $1.00 par guarantee stock
Guarantee Bank; $1.00 par common.
Hadson Ohio Oil Company; No par common, $.10 stated value.
Hardwicke Companies Incorporated; $1.00 par common.
Hauserman, Inc.; $1.00 par common.
Hazleton Laboratories Corporation; $.10 par common.
Industrial Resources, Inc.; No par common.
Integrity Entertainment Corporation; $.01 par common.
JLG Industries, Inc.; $.20 par common.
Kenton Corporation; $.01 par common.
Key Pharmaceuticals, Inc.; $1.00 par common.
Knogo Corporation; $.01 par common.
Kulicke & Soffa Industries, Inc.; No par common.
LDB Corporation; $1.00 par common.
Lakewood Bank and Trust Company; $5.00 par common.
Lazare Kaplan International Inc.; $1.00 par common.
Lifetime Communities, Inc.; $.05 par common.
Lincoln Financial Corporation; No par common.
Little, Arthur D., Inc.; $1.00 par common.
LogEtronics Inc.; $.16⅔ par common.
Mark Products, Inc.; No par common.

[1] Copy of current List filed as part of original document.

McM Corporation; $1.00 par common.
Meenan Oil Co., Inc.; $1.00 par common.
Micro Mask, Inc.; $1.00 par common.
Mid-America Industries, Inc.; $1.00 par common.
Midland Capital Corporation; $1.00 par common.
Minnetonka, Inc.; $.10 par common.
Mischer Corporation, The; $1.00 par common.
Mr. Steak, Inc.; No par common.
Mylan Laboratories Inc.; $.50 par common.
National Micronetics, Inc.; $.10 par common.
New Jersey Life Company; $.01 par common.
Nucorp, Inc.; $.50 par common.
Omaha National Corporation; $5.00 par common.
Overmyer Corporation; No par common.
Owens, Minor & Bodeker, Incorporated; Class A, $2.00 par common.
PRF Corporation; $.10 par common.
Peerless Chain Company; $.25 par common.
Penril Corp.; $.01 par common.
Perry Drug Stores, Inc.; $.05 par common.
Petroleum Development Corporation; $.01 par common.
Phoenix Resources Company; Class B, $1.00 par common.
Pinehurst Corporation; $.50 par common.
Polymer Materials, Inc.; $.10 par common.
Pubco Corporation; $.40 par common.
Quality Care, Inc.; $.01 par common.
RMIC Corporation; $1.00 par common.
Rapidata, Inc.; $.01 par common.
Reliable Investors Corporation; $1.00 par common.
Roberts & Porter, Inc.; $1.00 par common.
Rose's Stores, Inc.; Class B, $1.25 par common.
SafeCard Services, Incorporated; $.01 par common.
Salem Carpet Mills, Inc.; $1.00 par common.
Savannah Foods & Industries, Inc.; $.25 par common.
Schaak Electronics, Inc.; $.10 par common.
Sierra Research Corporation; $.10 par common.
Solomon, Sam, Company, Inc.; $.10 par common.
Southern Bancorporation Inc.; $2.50 par common.
Southwest Leasing Corporation; $.10 par common.
Staff Builders, Inc.; $.10 par common.
Standard Microsystems Corporation; $.10 par common.
Standun Inc.; $1.00 par common.
Strother Drug Company; $2.00 par common.
Surgicot, Inc.; $.01 par common.
TPC Communications Inc.; $.01 par common.
Tanden Computers Inc.; $.05 par common.
Telenet Corporation; $1.00 par common.
Teltronics Services, Inc.; $.01 par common.
Temtex Industries, Inc.; $.20 par common.
Terminal Data Corporation; $1.00 par common.
Tomlinson Oil Company, Inc.; No par common.
Toys "R" Us, Inc.; $.10 par common.
Tratec Incorporated; $.25 par common.
Tri-American Corporation; No par common.
Tucker Drilling Company, Inc.; $.01 par common.
USP Real Estate Investment Trust; $1.00 par shares of beneficial interest.
Unimed, Inc.; $1.00 par common.
United Kentucky, Inc.; $1.00 par common.
United Presidential Life Insurance Company; $1.00 par common.
Virginia International Company; $.01 par special stock.
Volt Information Sciences, Inc. $.10 par common.
Zenith National Insurance $1.00 par common.

Deletions From List

*Stocks Removed for Failing Continued Listing Requirements*

Brink's, Inc., $.50 par common.
Earth Sciences, Inc.; $.01 par common.
First Fidelity Investment Trust; No par shares of beneficial interest.
First Surety Corporation; $1.00 par common.
Investment Annuity, Inc.; No par common.
Overseas National Airways, Inc. $1.00 par common.
Security Life and Accident Co. Series A, $2.00 par common.
Southland Equity Corporation $.16⅔ par common.
United Diversified Corporation $2.50 par common.
Vico Corporation $1.00 par common.

*Stocks Removed for Reasons such as Listing on National Securities Exchanges or Being Involved in an Acquisition*

American Telecommunications Corporation; $.10 par common.
American Television and Communications Corporation; $.75 par common.
Cannon Mills Company; $5.00 par common.
Captech Inc.; $1.00 par common.
Cardiac Pacemakers Inc.; $.01 par common.
Central National Corporation (Virginia); $5.00 par common.
Century Telephone Enterprises, Inc.; $1.00 par common.
Cross Company, The; $5.00 par common.
Data 100 Corporation; $.50 par common.
Domain Industries, Inc.; $1.00 par common.
Electronic Arrays, Inc.; $1.00 par common.
Entemann's, Inc.; $.01 par common.
Equitable General Corporation; $3.00 par common.
Fingerhut Corporation; $1.00 par common.
First Merchants National Bank (New Jersey); $2.50 par common.
Flynn Energy Corporation; $.10 par common.
Four-Phase Systems, Inc.; $.04 par common.
Franklin Life Insurance Company, The; $2.00 par common.
General Care Corporation; $.10 par common.
Gilbert/Robinson, Inc.; $1.00 par common.
HMO International; $.10 par common.
Hudson Pulp & Paper Corporation; $1.00 par common.
Hyatt Corporation; $.50 par common.
Ivy Corporation; $.10 par common.
Jenn-Air Corporation; $1.00 par common.
Keyes Fibre Company; $1.00 par common.
Keystone Custodian Funds, Inc.; Class A, non-voting, no par common.
LMF Corporation; $.40 par common.
Leonard Silver International, Inc.; $.01 par common.
Lippincott, J. B. company; No par common, $1.00 stated value.
Management Assistance Inc.; Series C, $.20 par cumulative preferred.
McMoran Exploration Company; $1.00 par common.
Mercury General Corporation; $1.00 par common.
NFC Corporation; $.10 par common, 8% convertible subordinated debentures.
National Liberty Corporation; $1.00 par common.
New Plan Realty Trust; No par shares of beneficial interest.
Orion Capital Corporation; $1.00 par common.
Peterson, Howell & Heather, Inc.; No par common.
Piedmont Aviation, Inc.; $1.00 par common.
Pogo Producing Company; $1.00 par common.
Post Corporation; $1.00 par common.
Saslow, D. L. Company, Inc.; $.50 par common.
Spectra-Physics, Inc. $.20 par common.
Sta-Rite Industries, Inc.; $2.00 par common.
Supron Energy Corporation; $1.00 par common.
Telemed Corporation; $.05 par common.
Ups 'N Downs, Inc.; $.02½ par common.
Vapor Corporation; Voting, $1.00 par common.
Weight Watchers International, Inc.; $.25 par common.
World Jai-Alai, Inc.; $.10 par common.
Younker Brothers, Inc.; No 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)), April 2, 1979.

**Griffith L. Garwood,**
*Deputy Secretary of the Board.*

[Regs. G, T, U and X]

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 113

### Nondiscrimination in Financial Assistance Programs of Small Business Administration—Effectuation of Policies of Federal Government and SBA Administrator; Inclusion of the Nondiscrimination Sanctions Contained in Section 504 of the Rehabilitation Act of 1973, as Amended, and the Addition of a Federal Financial Assistance Program Which is Covered by This Part to Appendix A

**AGENCY:** Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** This revision will put into effect the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, making it unlawful for any recipient or subrecipient of Federal financial assistance administered by the Small Business Administration to discriminate against a qualified handicapped person on the basis of

handicap, in employment or the receipt of services.

It also adds to the listing of the types of Federal financial assistance programs which are covered by this part.

**EFFECTIVE DATE:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Arnold Feldman, Chief, Compliance Division, 1441 L Street, NW., Suite 1200, Vermont Building, Washington, D.C. 20416, (202) 653–6054.

**SUPPLEMENTARY INFORMATION:** On March 8, 1978, the Small Business Administration published in the Federal Register notice of proposed changes in our Rules and Regulations, 13 CFR Part 113, regarding nondiscrimination against qualified handicapped persons on the basis of handicap, in employment or the receipt of services. This revision also listed another type of Federal financial assistance program which is covered by this part.

Interested parties were given 30 days to submit comments, suggestions or objections regarding this revision. In response to requests from some groups interested in the problems of the handicapped, an additional 30 days was allowed for comment. Many comments were received from these groups. Most of the comments dealt with the nondiscrimination subsections of the regulation, 113.3, 113.3–1, and 113.3–3. Suggestions were made concerning the expansion and clarification of those subsections dealing with employment, accessibility, and usability of recipient businesses. Suggestions were also made concerning the clarification and interpretation of the concept of reasonable accommodation. In response to these suggestions, some sections of the nondiscrimination subsections have been changed to expand and clarify them.

Dated: March 17, 1979.

William H. Mauk, Jr.,
*Deputy Administrator.*

Part 113 is revised to read as follows:

## PART 113—NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SBA—EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR

Sec.

113.1 Purpose.
113.2 Definitions.
113.3 Discrimination prohibited.
113.3–1 Consideration of race, color, religion, sex, marital status, handicap or national origin.
113.3–2 Accommodations to religious observance and practice.
113.3–3 Structural accommodations for handicapped clients.
113.4 Assurances required.
113.5 Compliance information.
113.6 Conduct of investigations.
113.7 Procedure for effecting compliance.
113.8 Hearings.
113.9 Decisions and notices.
113.10 Effect on other regulations; forms and instructions.

Authority: The provisions of this Part 113 issued under secs. 5, 308, 72 Stat. 385, 694, as amended; 15 U.S.C. 633, 634, 687; 1691; 20 U.S.C. 1681 et seq.; 29 U.S.C. 794.

### § 113.1 Purpose.

(a) Part 112 of this chapter, issued pursuant to Title VI of the Civil Rights Act of 1964, prohibits discrimination on the basis of race, color, or national origin by some recipients of financial assistance from SBA. The purpose of this part is to reflect to the fullest extent possible the nondiscrimination policies of the Federal Government as expressed in the several statues, Executive Orders, and messages of the President dealing with civil rights and equality of opportunity, and in the previous determination of the Administrator of the Small Business Administration that discrimination based on race, color, religion, sex, marital status, handicap or national origin shall be prohibited, to the extent that it is not prohibited by Part 112 of this chapter, to all recipients of financial assistance from SBA.

(b) In accordance with Pub. L. 94–239, 15 U.S.C. 1691, cited as the Equal Credit Act Amendments of 1976, it is unlawful for any recipient creditor to discriminate against any applicant, with respect to any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age: (*Provided*, the applicant has the capacity to contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

(c) It is the intention of the Administrator that the prohibitions in this part supplement those in Part 112 of this chapter, that the two parts be read in pari materia, and that the procedures established herein be harmonized to the maximum extent feasible with those established in Part 112 of this chapter.

### § 113.2 Definitions.

As used in this part:

(a) The term "financial assistance" means any financial assistance extended pursuant to any authorizing legislation administered by the Small Business Administration, whether extended directly or in cooperation with banks or other lenders through agreements to participate on an immediate basis, or under guaranty agreements.

(b) The terms "applicant" and "recipient" mean, respectively, one who applies for and one who receives any of the financial assistance under any of the statutes referred to in paragraph (a) of this section. The term "recipient" also shall be deemed to include "subrecipients"of SBA financial assistance, i.e, concerns which secondarily receive financial assistance from the primary recipients of such financial assistance. For the purposes of this part, a paragraph (b) lender (13 CFR 120.4(b)) shall be deemed a recipient of financial assistance.

(c) The term "religion" includes all aspects of religious observance and practice, as well as belief.

(d) The term "qualified handicapped person" means (1) with respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question and (2) with respect to services a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(e) The term "handicapped person," as defined by the guideline set forth by the Department of Health, Education, and Welfare in § 85.31 of Title 45 of the CFR (43 FR 2137, dated January 13, 1978), means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(f) As used in paragraph (e) of this section, the phrase:

(1) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) "Major life activities" means functions such as caring for one's self,

performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (f)(1) of this section but is treated by a recipient as having such an impairment.

(g) The term "reasonable accommodation" as used in these Regulations may include: (1) making facilities used by employees readily accessible to and usable by handicapped persons; and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(h) The term "facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property.

### § 113.3 Discrimination prohibited.

To the extent not covered or prohibited by Part 112 of this chapter, recipients of financial assistance may not:

(a) Discriminate with regard to goods, services, or accommodations offered or provided by the aided business or other enterprise, whether or not operated for profit, because of race, color, religion, sex, handicap, or national origin of a person, or fail or refuse to accept a person on a nonsegregated basis as a patient, student, visitor, guest, customer, passenger, or patron.

(b) With regard to employment practices within the aided business or other enterprise, whether or not operated for profit; fail or refuse, because of race, color, religion, sex or national origin of a person, to seek or retain the person's services, or to provide the person with opportunities for advancement or promotion, or accord an employee the rank and rate of compensation, including fringe benefits, merited by the employees services and abilities.

(c) With regard to employment practices within the aided business or other enterprise, whether or not operated for profit; discriminate against a qualified handicapped person; or because of handicap, fail or refuse to seek or retain the person's services or to provide the person with opportunities for advancement or promotion, or accord an employee the rank and rate of compensation, including fringe benefits, merited by the employee's services and abilities. All employment decisions shall be made in a manner which ensures that discrimination on the basis of handicap does not occur. Such decisions may not limit, segregate, or classify job applicants or employees in any way that adversely affects the opportunities or status of qualified handicapped individuals.

(d) Participate in a contractual or other relationship that has the effect of subjecting job applicants or employees to discrimination prohibited by this part. The relationships referred to in this paragraph include those with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeship programs. Activities covered by this part are as follows:

(1) Recruitment, advertising, and the processing of applications for employment;

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

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

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

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

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

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

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

(e) Use employment tests or criteria that discriminate on the basis of race, color, religion, sex, marital status, handicap, or national origin. Employment tests which are used for all other job applicants shall be adapted in an appropriate mode for use by persons who have handicaps that impair sensory, manual, or speaking skills.

(f) Conduct a preemployment medical examination, unless required of all job applicants, and subsequent to a conditional offer of employment. The results of all such medical examinations shall be kept confidential.

(g) Make a preemployment inquiry as to whether a job applicant is a handicapped person or as to the nature or severity of a handicap: EXCEPT when a recipient is taking remedial action to overcome the effects of conditions which resulted in past discrimination, or when a recipient is taking affirmative action pursuant to Section 503 of the Rehabilitation Act of 1973, as amended.

(1) Such preemployment inquiry may only be made after the job applicant has been informed that such disclosure is for the purposes set forth in (g) above; that the disclosure is voluntary and will be kept confidential; and that refusal of the job applicant to provide such information will not subject the applicant to any adverse action.

(2) Information elicited from qualified handicapped job applicants concerning their medical history or condition shall be kept confidential EXCEPT that (i) supervisors and managers may be informed about restrictions on or accommodations to be made for the qualified handicapped individual;

(ii) first aid and safety personnel may be informed, where appropriate, of the need for possible emergency treatment; and (iii) compliance officials shall be given relevant information, if requested.

(h) Discriminate on the basis of race, color, religion, handicap or national origin in the use of toilets or any facilities for rest or comfort. Discriminate on the basis of race, color, religion, sex, handicap or national origin in the use of cafeterias, recreational programs or other programs sponsored by the applicant or recipient.

(i) With regard to all recipients offering credit, such as Small Business Investment Companies and Community Development Companies, discriminate against debtors on the basis of race, color, religion, sex, marital status, handicap, or national origin.

(j) With regard to the granting of credit by all recipient creditors, discriminate against any credit applicant, with respect to any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, handicap, age (provided the applicant has the capacity to contract), because all or part of the applicant's income derives from any

public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

**§ 113.3–1 Consideration of race, color, religion, sex, marital status, handicap, or national origin.**

(a) This regulation does not prohibit the consideration of race, color, religion, sex, marital status, handicap, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, religion, sex, marital status, handicap, or national origin. Where previous discriminatory practices or usage tends, on the grounds of race, color, religion, sex, marital status, handicap, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of this regulation. All programs and activities shall be administered in the most integrated setting possible.

(b) Nothing in this part shall prohibit the restriction of certain jobs to members of one sex if a bona fide occupational qualification can be demonstrated by the applicant or recipient. Custom or tradition is not a bona-fide occupational qualification.

(c) Recipients shall take steps to ensure that communications with job applicants and employees who have vision and/or hearing disabilities are available in appropriate modes.

(d) Recipients shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped job applicant or employee UNLESS the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of the business. Factors to be considered in determining whether an accommodation would impose an undue hardship on the operation of a recipient's business include:

(1) The overall size of the recipient's business with respect to number of employees, number and type of facilities, size of budget, and the financial condition of the business;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(e) Such accommodation may include making facilities used by employees readily accessible to and usable by handicapped persons, job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(f) The final decision, when making a review or investigation of a complaint, as to whether an accommodation would impose an undue hardship on the operation of a recipient business will be made by the compliance officials of the Small Business Administration.

(g) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, and shall not participate in a contractual relationship that has the effect of subjecting qualified handicapped job applicants or employees to discrimination prohibited by this part. The relationships referred to in this paragraph include those with referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeship programs.

(h) Nothing in this part shall apply to a religious corporation, association, educational institution or society with respect to the membership or the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its religious activities.

**§ 113.3–2 Accommodations to religious observance and practice.**

A recipient of financial assistance must accommodate to the religious observances and practices of an employee or prospective employee unless the recipient demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. As part of this obligation, recipient must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as Sabbath and/or who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the employer's business. In determining the extent of a recipient's obligations under this section, at least the following factors should be considered: (a) business necessity, (b) financial costs and expenses, and (c) resulting personnel problems.

**§ 113.3–3 Structural accommodations for handicapped clients.**

(a) Recipients in preexisting structures shall make their goods or services accessible to and usable by handicapped clients. Where structural changes are necessary to make the recipient's goods or services accessible, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of this Regulation. A plan setting forth the steps necessary to complete such structural changes shall be developed and submitted to SBA. If practical, interested persons, including handicapped persons or organizations representing handicapped persons, will be consulted.

(b) Alterations to existing facilities that affect usability shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(c) All new facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons in accordance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A–117.1–1961 (R1971)) or as required in the local building code. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided. The ANSI standard cited above is the minimum acceptable standard for accessibility purposes.

**§ 113.4 Assurances required.**

An application for financial assistance shall, as a condition to its approval and the extension of such assistance, contain or be accompanied by an assurance that the recipient will comply with this part. Such an assurance shall contain provisions authorizing the acceleration of the maturity of the recipient's financial obligations to SBA in the event of a failure to comply, and provisions which

give the United States a right to seek judicial enforcement of the terms of the assurance. SBA shall specify the form of the foregoing assurance for each program, and the extent to which like assurances will be required of contractors and subcontractors, transferees, successors in interest, and other participants in the program.

**§ 113.5 Compliance information.**

(a) Cooperation and assistance: SBA shall to the fullest extent practicable seek the cooperation of applicants and recipients in obtaining compliance with this part and shall provide assistance and guidance to applicants and recipients to help them comply voluntarily with this part. Recipients are expected to continually evaluate their compliance status, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons.

(b) Compliance reports: Each applicant or recipient shall keep such records and submit to SBA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as SBA may determine to be necessary to enable SBA to ascertain whether the applicant or recipient has complied or is complying with this part. In the case of a small business concern which receives financial assistance from a development company or from a small business investment company, such concern shall submit to the company such information as may be necessary to enable the company to meet its reporting requirements under this part.

(c) Access to sources of information: Each applicant or recipient shall permit access by SBA during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of an applicant or recipient is in the exclusive possession of any other agency, institution or person; and such agency, institution or person shall fail or refuse to furnish this information, the applicant or recipient shall so certify in its report and shall set forth what efforts it has made to obtain this information.

(d) Information to the Public. Each recipient shall make available to persons entitled under this part to protection against discrimination by the recipient such information as SBA may find necessary to apprise them of their rights to such protection.

(1) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of equal opportunity. If the efforts required of the applicant or recipient under § 113.5(b) to provide information as to the availability of equal opportunity, and the rights of individuals under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make equal opportunity fully available to racial, qualified handicapped, nationality groups and persons who because of their sex were previously subjected to discrimination.

(2) Even though an applicant or recipient has never used discriminatory policies, the opportunities in the business it operates may not in fact be equally available to some racial, qualified handicapped, or nationality groups. In such circumstances a recipient may properly give special consideration to race, color, religion, sex, marital status, qualified handicap or national origin to make the opportunities more widely available to such groups.

**§ 113.6 Conduct of investigations.**

(a) *Periodic compliance reviews.* SBA shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes that he, she or any class of individuals has been subjected to discrimination prohibited by this part may, personally or through a representative, file with SBA a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by SBA.

(c) *Investigations.* SBA will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the applicant or recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the applicant or recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, SBA will so inform the applicant or recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 113.7.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section, SBA will so inform the applicant or recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No applicant or recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this part or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

**§ 113.7 Procedure for effecting compliance.**

(a) *General.* (1) If there appears to be a failure or threatened failure to comply with this part and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by suspending, terminating, or refusing any financial assistance approved but not yet disbursed to an applicant. In the case of loans partially or fully disbursed, compliance with this part may be effected by calling, canceling, terminating, accelerating repayment, or suspending in whole or in part the financial assistance provided. In addition compliance may be effected by any other means authorized by law.

(2) Such other means may include but are not limited to (i) legal action by SBA to enforce its rights, embodied in the assurances described in § 113.4; (ii) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States; and (iii) any applicable proceedings under State or local law.

(b) *Noncompliance with § 113.4.* If an applicant fails or refuses to furnish an assurance required under § 113.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. SBA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that SBA shall

continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Condition precedent.* Under this Part 113, no order suspending, terminating, refusing, calling, canceling, or accelerating repayment of financial assistance in whole or in part shall become effective until (1) SBA has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means; (2) there has been an express finding on the record after an opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part; and (3) the action has been approved by the Administrator of SBA pursuant to § 113.9.

(d) Other means authorized by law. No action to effect compliance by any other means authorized by law shall be taken until:

(1) SBA has determined that compliance cannot be secured by voluntary means.

(2) The action has been approved by the Administrator or the Administrator's designee.

(3) The applicant or recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance.

(4) The expiration of at least 10 days from the mailing of such notice to the applicant or recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the applicant or recipient or other person to comply with this part and to take such corrective action as may be appropriate.

**§ 113.8 Hearings.**

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 113.7, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of SBA that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and as consent to the making of a decision on the basis of such information as is available. Hearing impaired persons will be afforded, upon request, the services of a qualified sign language interpreter for the hearing by SBA.

(b) *Time and place of hearing.* Hearing shall be held at the offices of SBA in Washington, D.C., at a time fixed by SBA unless SBA determines that the convenience of the applicant or recipient or of SBA requires that another place be selected. Hearings shall be held before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and SBA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554 through 557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules or procedures as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, request for findings and other related matters. Both SBA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

**§ 113.9 Decisions and notices.**

(a) *Decision by a hearing examiner.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including the hearing examiner's recommended findings and proposed decision to the Administrator for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Administrator exceptions to the initial decision, with reasons therefor. In the absence of exceptions, the Administrator may on his or her own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he or she will review the decision. Upon the filing of such exceptions or of such notice of review the Administrator shall review the initial decision and issue his or her own decision thereon including the reasons therefor. The decision of the Administrator shall be mailed promptly to the applicant or recipient and the complainant, if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Administrator.

(b) *Decisions on record or review by the Administrator.* Whenever a record is certified to the Administrator for decision or the Administrator reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the Administrator conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with the Administrator briefs or other written statements of its contentions, and a copy of the final decision of the Administrator shall be given in writing to the applicant or recipient and the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 113.8 a decision shall be made by the Administrator on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or the Administrator shall set forth the ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Contents of orders.* The final decision may provide for a refusal to extend financial assistance or, in the event that such assistance has already been granted, for acceleration of the recipient's obligation in accordance with the provisions of § 113.7(a)(1). The decision may contain such further terms, conditions and provisions as are consistent with, and will effectuate the purposes of, this part.

(f) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Fereral financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the Administrator to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (f)(1) of this section. If the Administrator determines that those requirements have been satisfied, eligibility shall be restored.

(3) If the Administrator denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the Administrator. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (f)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

**§ 113.10 Effect on other regulations, forms and instructions.**

(a) *Effect on other regulations.* All regulations, orders of like directions heretofore issued by SBA which impose requirements designed to prohibit any discrimination against individuals on the grounds of race, color, religion, sex, handicap, marital status, age, or national origin and which authorize the suspension or termination of a refusal to grant to or to continue financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction or like direction prior to the effective date of this part.

(b) *Forms and instructions.* SBA shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part.

(c) *Supervision and coordination.* The Administrator may from time-to-time assign to officials of SBA or to officials of other agencies of the Government, with the consent of such agencies, responsibilities in connection with the effectuation of the purposes of this part (other than responsibility of first decisions as provided in § 113.9) including the achievement of effective coordination and maximum uniformity within SBA and within the executive branch of the Government in the application of his part and of comparable regulations issued by other agencies of the Government to similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Administrator of SBA.

**Appendix A**

| Name of program covered by this part | Authority |
|---|---|
| Regular business loans. | Small Business Act, sec. 7(a). |
| Economic opportunity loans. | Small Business Act sec. 7(i) (formerly Title IV of the Economic Opportunity Act). |
| Pool loans | Small Business Act, sec. 7(a)(5). |
| Displaced business loans. | Small Business Act, sec. 7(b)(3). |
| Handicapped assistance loans. | Small Business Act, sec. 7(h). |
| Debtor small business investment companies and their small business concerns. | Small Business Act, Title III. |
| Debtor local development company loans (502) and their small business concerns. | Small Business Act, sec. 502. |
| Debtor State development company loans (502) and their small business concerns. | Small Business Act, sec. 501. |
| Lease guarantees | Small Business Investment Act, Title IV. |
| Surety bond guarantees. | Small Business Investment Act, Title IV, Part B. |
| Disaster loans: | |
| Physical including riot. | Small Business Act, sec. 7(b)(1) as amended by sec. 231, 234, as amended by secs. 231 and 234 of the Disaster Relief Act of 1970, Public Law 92-385, Public Law 93-24, and Public Law 94-68. |
| Economic injury. | Small Business Act, sec. 7(b)(2) as amended by sec. 231 and 234 of the Disaster Relief Act of 1970, Public Law 92-385, Public Law 92-385, Public Law 93-24 and Public Law 94-68. |
| Product disaster. | Small Business Act, sec. 7(b)(4); Public Law 92-385, Public Law 93-24, and Public Law 94-68. |
| Coal mine health and safety loans. | Small Business Act, sec. 7(b)(5). |
| Consumer protection. | Small Business Act, sec. 7(b)(5). |
| Occupational safety and health. | Small Business Act, sec. 7(b)(5). |
| Other regulatory. | Small Business Act, sec. 7(b)(5). |
| Strategic arms economic injury loans. | Small Business Act, sec 7(b)(6). |
| Air pollution control loans. | Small Business Act, sec. 7(b)(5). |
| Base closing economic injury. | Small Business Act, sec. 7(b)(7). |
| Water pollution control loans. | Small Business Act, sec. 7(g)(1). |
| Emergency energy shortage economic injury. | Small Business Act, sec. 7(b)(8). |
| Economic dislocation | Small Business Act, sec. 7(b)(9). |
| Small Business lending companies and their small business concerns. | Small Business Act, sec. 7(a); also see 13 CFR 120.4(b). |
| Pollution control financing guarantee | Small Business Investment Act, sec. 404(b). |

[Rev. 1]

[FR Doc. 79-10437 Filed 4-3-79; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF COMMERCE

## Industry and Trade Administration

## 15 CFR Part 372

## Individual Validated Licenses and Amendments, Correction of Reference

**AGENCY:** Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

**ACTION:** Final Rule (editorial amendment).

**SUMMARY:** This document makes an editorial amendment to the Export Administration regulations by correcting an erroneous reference in § 372.11 *Amending export licenses.*

**EFFECTIVE DATE:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:**
Dale F. Snell, Jr., Chief Management Services Branch, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202–377–2440).

**SUPPLEMENTARY INFORMATION:** It has been determined that this regulatory provision is "not significant" within the meaning of Department of Commerce Administrative Order 218–7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instructions 1–6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations".

Part 372 of the *Export Administration Regulations* (15 CFR Part 372) is amended as follows:

**§ 372.11 [Amended]**

The parenthetical sentence following the first sentence of § 372.11(e)(3) is amended by deleting "§ 372.11(f)(5)" and inserting in lieu thereof "§ 372.11(f)(6)".

Authority: Sec. 4 Pub. L. 91–184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10–3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45–1, dated December 4, 1977, 42 FR 64716 (1977).

Stanley J. Marches,
*Deputy Assistant Secretary for Trade Regulation.*

[FR Doc. 79–10535 Filed 4–3–79; 9:50 am]
BILLING CODE 3510–25–M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

### Kaufman & Broad, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

**AGENCY:** Federal Trade Commission.

**ACTION:** Final order.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Los Angeles, Calif. builder and seller of residential housing to cease misrepresentations of fact and using other unfair or deceptive practices in the advertising, sale and construction of consumer homes. The order requires that prospective customers be furnished with disclosures regarding construction materials and components, as well as information relating to the land, taxes and community facilities. Further, the company is required to provide home purchasers with warranties patterned on the housing industry's Home Owners Warranty program; and to employ the industry's standards in home construction and repair. Additionally, provisions in the order would entitle original owners of company homes purchased from January 1, 1972, to have specified defects repaired, and would require the firm to repurchase such homes at the original price should it fail to make proper repairs in a timely manner. The order would also provide that disputes concerning repairs may be settled through third-party arbitration.

**DATES:** Complaint and order issued February 12, 1979.*

**FOR FURTHER INFORMATION CONTACT:**
Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. 312–353–4423.

**SUPPLEMENTARY INFORMATION:** On Friday, July 7, 1978, there was published in the **Federal Register,** 43 FR 29304, a proposed consent agreement with analysis In the Matter of Kaufman and Broad, Inc., a corporation, Kaufman and Broad Homes, Inc., a corporation, and Kaufman and Broad Home Sales, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10–1 Availability of merchandise and/or facilities; § 13.15 Business status, advantages or connections; 13.15–20 Business methods and policies; 13.15–80 Government connection; § 13.30 Composition of goods; § 13.35 Condition of goods; § 13.70 Fictitious or misleading guarantees; § 13.73 Formal regulatory and statutory requirements; § 13.85 Government approval, action, connection or standards; 13.85–27 Federal Housing Administration; 13.85–60 Standards, specifications, or source; § 13.125 Limited offers or supply; § 13.155 Prices; 13.155–5 Additional charges unmentioned; 13.155–75 Product or quantity covered; 13.155–95 Terms and conditions; § 13.160 Promotional sales plans; § 13.175 Quality of product or service; § 13.185 Refunds, repairs, and replacements; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–5 Arbitration; 13.533–20 Disclosures; 13.533–25 Displays, in-house; 13.533–45 Maintain records; 13.533–55 Refunds, rebates and/or credit. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies and practices.—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1590 Composition; § 13.1595 Condition of goods; § 13.1623 Formal regulatory and statutory requirements; § 13.1635 Government inspection; § 13.1645 Government standards or specifications; § 13.1647 Guarantees; § 13.1715 Quality; § 13.1725 Refunds; § 13.1740 Scientific or other relevant facts; § 13.1747 Special or limited offers; § 13.1760 Terms and conditions; 13.1760–50 Sales contract.—Prices: § 13.1778 Additional costs unmentioned; § 13.1823 Terms and conditions.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1845 Composition; § 13.1850 Content; § 13.1852 Formal regulatory and statutory requirements; § 13.1863 Limitations of product; § 13.1882 Prices; 13.1882–10 Additional prices unmentioned; § 13.1886 Quality, grade or type; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905–50 Sales contract. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1980 Guarantee, in general; § 13.2000 Limited offers or supply; § 13.2013 Offers deceptively made and evaded; § 13.2063 Scientific or other relevant facts; § 13.2080 Terms and conditions. Subpart—Substituting Product Inferior To Offer: § 13.2263 Substituting product inferior to offer.

* Copies of the Complaint and Decision and Order filed with the original document.

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

Carol M. Thomas,
*Secretary.*

[Docket C-2954]

[FR Doc. 79-10352 Filed 4-3-79; 8:45 am]
BILLING CODE 6750-01-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 211

### Interpretative Releases Relating to Accounting Matters; Staff Accounting Bulletin No. 29

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Publication of Staff Accounting Bulletin.

**SUMMARY:** These interpretations set forth the staff's view that material changes in earnings per share amounts that result from factors other than changes in net income, including an issuer's purchase of its own equity securities, should be included in management's discussion and analysis of the summary of earnings for the period of purchase, whenever that period is to be reported upon, in order to comply with the intent and spirit of Guides 1 and 22. An example of suggested disclosure for a simple issuer equity purchase transaction is included.

**EFFECTIVE DATE:** March 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** Howard P. Hodges, Jr., (202-755-1744), Division of Corporation Finance, or Edmund Coulson, Office of the Chief Accountant (202-472-3782), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** In Accounting Series Release ("ASR") No. 159 [39 FR 31894], August 14, 1974, the Commission authorized the adoption of amendments to Guide 22 of the Guides for Preparation and Filing of Registered Statements under the Securities Act of 1933, and authorized the adoption of Guide 1 of Guides for Preparation and Filing of Reports and Registration Statements under the Securities Exchange Act of 1934. Guides 1 and 22 provide for a separately captioned section, entitled "Management's Discussion and Analysis of the Summary of Earnings," to be presented immediately following the summary of earnings to enable investors to understand and evaluate material periodic changes in the various items of the summary. Guides are not rules of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Commission's Division of Corporation Finance and, in the case of Guides 1 and 22, the Commission's Office of the Chief Accountant, in administering the disclosure requirements of the Federal securities laws.

Questions have been raised as to whether Guides 1 and 22 apply to periodic changes in earnings per share amounts resulting from an issuer's purchase of its own equity securities, and, additionally, as to what constitutes adequate disclosure in these circumstances. The staff's view is that Guides 1 and 22 call for an explanation of material changes in earnings per share amounts that result from factors other than changes in net income. The accompanying staff accounting bulletin provides an example of suggested disclosure in the case of an issuer's purchase of its own equity securities.

In Securities Exchange Act Release No. 15068 [43 FR 37460], August 16, 1978, the Commission requested comments on, among other things, the substantially revised annual report format recommended by the Advisory Committee on Corporate Disclosure, including the revised version of management's discussion and analysis—"Management Analysis of the Financial Statements and Forward-Looking Information." [1] This Staff Accounting Bulletin relates solely to the present Guides 1 and 22 and is being published to provide clarification in an area where the staff believes that guidance is currently needed.

The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

March 26, 1979.

George A. Fitzsimmons,
*Secretary.*

### STAFF ACCOUNTING BULLETIN NO. 29

The staff hereby adds subsection 6 of Topic 6-G which sets forth the staff's view that material changes in earnings per share amounts that result from factors other than changes in net income, including an issuer's purchase of its own equity securities, should be included in management's discussion and analysis of the summary of earnings for the period of purchase, whenever that period is to be reported upon, in order to comply with the intent and spirit of these Guides. An example of suggested disclosure for a simple issuer equity purchase transaction is included.

*Topic 6: interpretation of accounting series releases*

* * * * *

G. Accounting Series Release No. 159—Management's Discussion and Analysis of the Summary of Earnings or Operations.

* * * * *

*6. Earnings Per Share Amounts*

*Facts:*

Guides 1 and 22 call for a discussion of changes in the items of revenue and expense, accounting principles and practices, and other facts which may make the reported results not indicative of current or future operations. Guides 1 and 22 do not specifically refer to changes in earnings per share amounts, although they do call for disclosure to clarify and explain the financial information called for by the summary of earnings.

*Question:*

Do the disclosures called for in Guides 1 and 22 apply to earnings per share amounts when changes in per share amounts are materially affected by factors other than changes in earnings? (For example, earnings per share materially increases as a result of a reduction of shares outstanding by issuer purchases, whereas aggregate earnings remain relatively unchanged.)

*Interpretive Response:*

Yes. The purpose of management's discussion and analysis is to enable investors to appraise the quality of earnings. Earnings per share amounts are widely used in evaluating the past operating performance of a business, in forming an opinion as to its potential future performance and in making investment decisions. Guides 1 and 22 call for an explanation of any transaction which materially affects the quality or trend of reported earnings and which in the opinion of management may make historical reported earnings not indicative of current or future earnings. In keeping with the intent and spirit of Guides 1 and 22, and because earnings per share amounts are viewed by many as an indication of the operating performance of a company, material changes in reported earnings per share amounts due principally to changes in the number of shares outstanding, including an issuer's purchase of its own equity securities, should be explained in management's discussion and analysis of the summary of earnings.

There may be significantly different implications to be drawn from an increase in per share earnings which results from an improvement in earnings spread over an unchanged number of shares outstanding as opposed to an increase achieved by a reduction of the capital base of a company.

[1] The comment period on this release expired January 15, 1979, and the comments are being reviewed. This release did not propose amendments to Guides 1 and 22, but rather its purpose was to elicit comment to assist in developing possible future rulemaking proposals. Additional future rulemaking may include amendments to Guides 1 and 22.

An issuer may purchase its own equity securities for several reasons and by a number of means. When a material amount of equity is purchased by an issuer, reported earnings will usually decrease as a result of the loss of investment income associated with use of cash or the additional interest cost resulting from increased borrowings. Regardless of the reasons for and method of an issuer's purchase of its own equity securities, the transaction can have a material effect on reported earnings and earnings per share amounts. In these situations, the staff believes that disclosure is called for in management's discussion and analysis of the summary of earnings, for the period of purchase, whenever that period is to be reported upon, to explain (i) the effect of the transaction on the trend of reported earnings of the issuer; (ii) any increased leveraging resulting from the transaction (i.e., higher debt/total capitalization ratio); and (iii) the effect of the transaction on the trend of reported earnings per share amounts.

A material issuer equity purchase transaction which occurs towards the end of the reporting period which does not significantly affect current earnings per share amounts because of the use of a weighted average to compute them should be explained in management's discussion and analysis when such transactions may have a significant effect on future reported results.

While recognizing that an issuer equity purchase transaction does not occur in a vacuum, its effects should be isolated if they have a material impact on reported earnings per share amounts. For purposes of illustrating such a transaction, the following assumptions are made:

On June 30, 19X1 a calendar year company borrows funds ($2,000) to acquire 25% (250) of its previously outstanding common shares (1,000) through a cash tender offer at $8 per share. There are no other changes in common shares outstanding during the reporting periods. It is further assumed that earnings before considering interest expense arising from the new borrowings (hereinafter referred to as "operating earnings") are unchanged during the reporting periods and therefore the only changes relate to the issuer equity purchase transaction. The company's effective tax rate is 50%. The annual interest expense (10%) on the new debt is $200. The effect of this transaction on reported earnings, earnings per share and common stockholders' equity are as follows:

| | 19X0 | 19X1 | 19X2 |
|---|---|---|---|
| Interest expense on additional debt | $0 | $100 | $200 |
| Tax benefit | 0 | (50) | (100) |
| Net interest cost | $0 | $50 | $100 |
| Net income | $1,000 | $950 | $900 |
| Weighted average shares | 1,000 | 875 | 750 |
| Earnings per share | $1.00 | $1.09 | $1.20 |
| Long-term debt | $10,000 | $12,000 | $12,000 |
| Common stockholders' equity, Dec. 31 | $10,000 | $8,950 | $9,850 |

Thus in this example, operating earnings are unchanged, and net income has declined due to the additional interest expense on borrowed funds used to finance the purchase by the issuer of equity shares. However, earnings per share reflects an increase of 9% in 19X1 and 10% in 19X2 due principally to the reduced number of shares outstanding, resulting from the issuer purchase of equity securities.

The following is a suggested example of disclosure for this issuer equity purchase transaction in management's discussion and analysis for the period of purchase and the next subsequent period. This example provides suggested disclosure only for the effects of the issuer equity purchase transaction and does not attempt to provide suggested disclosure concerning the operating earnings of the company.

19X1 Compared to 19X0

*Interest Costs.* On June 30, 19X1, the company borrowed $2,000 to finance a cash tender offer for 250 shares of its outstanding common stock at $8 per share. [Management should explain the reasons for the issuer equity purchase transaction. If such explanation is included elsewhere in the report or registration statement an appropriate cross-reference may be made.] The additional $100 in interest expense reflected in the 19X1 income statement is related to this borrowing. Interest costs in fiscal 19X2 should be greater than in 19X1 as interest expense will reflect the first full-year cost of the debt. At December 31, 19X1, long-term debt increased to approximately 57% of the company's total capitalization from 50% at December 31, 19X0, reflecting the increased borrowing related to the issuer equity purchase transaction and the resulting decrease in common stockholders' equity.[2]

*Net Income.* Net income declined by $50 or 5%. The decline is related to the interest costs incurred to finance the company's cash tender offer as discussed under "Interest Costs" above. Also as noted above, future earnings will be affected by a full-year interest charge on the new debt.

*Earnings Per Share.* Despite the decline in net income, earnings per share increased 9 cents or 9%. The increase in earnings per share was caused by a decrease in the weighted average number of shares of common stock actually outstanding during the year, resulting from the company's purchase of 250 of its common shares on June 30, 19X1 as discussed above. The effect of the reduced number of shares outstanding more than offset the increased interest expense on the funds borrowed to finance the tender offer, thus resulting in the increase in reported earnings per share for 19X1. If the tender offer had been consummated as of January 1, 19Z1, reported earnings per share would have been $1.20 for the year ended December 31, 19X1.

* * * * *

In the year 19X2, in addition to the foregoing under 19X1 compared to 19X0, the following information under 19X2 compared to 19X1 should also be presented.

* * * * *

19X2 Compared to 19X1

*Interest Costs.* [This would generally be an update of the 19X1 discussion.]

*Net Income.* Net income declined by $50 or 5%. The decline is related to the interest costs incurred to finance the company's cash tender offer as discussed under "Interest Costs" above.

*Earnings Per Share.* Despite the decline in net income, earnings per share increased by 11 cents or 10%. These changes reflect the effect of the company's purchase of 25% of its outstanding common shares on June 30, 19X1. The additional interest expense on the indebtedness related to this transaction reduced net income. However, the corresponding reduction in average shares outstanding more than offset the additional interest costs, thus accounting for the increase in reported earnings per share.

* * * * *

The above example assumes no change in operating earnings. However, even if operating earnings had increased or decreased, issuer equity purchase transactions can still have a material effect on reported earnings per share amounts. For example, using the asssumptions as stated in the previous case, further assume that operating earnings increase as follows:

| | 19X0 | 19X1 | 19X2 |
|---|---|---|---|
| Operating earnings | $1,000 | $1,250 | $1,600 |
| Interest cost (net of tax benefit) on additional debt | 0 | 50 | $100 |
| Net income | $1,000 | $1,200 | $1,500 |
| Earnings per share | $1.00 | $1.37 | $2.00 |

Due to the issuer equity purchase transaction, the increase in earnings per share is not proportional to the increase in net income (net income increased 20% in 19X1 and 25% in 19X2; however, earnings per share increased 37% in 19X1 and 46% in 19X2). An explanation of this is necessary to inform investors as to factors affecting the trend of reported earnings per share amounts.

Finally, the effect of a material issuer equity purchase transaction may be offset to some extent by the issuance of additional shares for stock option plans, acquisitions, etc. This would not lessen the need to provide investors with disclosure in management's discussion and analysis of the effect of the issuer equity purchase transaction on the trend of reported earnings and reported earnings per share amounts (possibly net of the shares issued from those purchased if they were specifically purchased for that purpose) and any increased leveraging resulting from the transaction.

[Re. No. SAB 29]

[FR Doc. 79-10300 Filed 4-3-79; 8:45 am]

BILLING CODE 8010-01-M

[2] Guides 1 and 22 do not explicitly require an issuer to discuss material changes in its balance sheet. However, the staff believes that, in connection with an issuer equity purchase transaction, the disclosure suggested is appropriate.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 3

### Amendment to Rules Relating to Delegation of Commission's Authority

Issued March 19, 1979.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** This rule amends § 3.5(f) of the Federal Energy Regulatory Commission's regulations. By this amendment to its rules, the Commission is delegating to the Director of the Office of Pipeline and Producer Regulation the authority, under § 275.202(b)(2) of its regulations to notify jurisdictional agencies when their notices of determination are incomplete.

**EFFECTIVE DATE:** March 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Eli Farrah, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-3969.

**SUPPLEMENTARY INFORMATION:** Section 501(a) of the Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350 (NGPA), provides that "the Commission ——— is authorized to perform any and all acts ———, and to prescribe, issue, amend, and rescind such rules and orders as it may find necessary or appropriate to carry out its functions under this Act." Pursuant to this authority, the Commission is amending § 3.5(f) of its rules by adding subparagraph (9) which delegates authority to the Director of the Office of Pipeline and Producer Regulation (OPPR) to act in behalf of the Commission in carrying out its authority under 18 CFR, 275.202(b)(2).

#### Background

Section 275.202(a) of the Commission's rules states that except as provided in paragraph (b) of this section, a determination submitted to the Commission by a jurisdictional agency shall become final 45 days after the date on which the Commission received notice of the determination, unless within the 45-day period the Commission makes certain preliminary findings and issues written notice of such preliminary findings, including the reasons for those findings. Section 275.202(b) provides that notwithstanding the provisions of paragraph (a), the 45-day period for Commission review of a determination shall not begin if the notice forwarded to the Commission by the jurisdictional agency does not contain all the information required in § 274.104(a) (4) and (5), and the Commission notifies the jurisdictional agency, within 45 days after the date on which the Commission receives notice of the determination, that the notice is incomplete. Therefore, when the Commission receives an incomplete notice of a determination by a jurisdictional agency, it is not only unable to perform its review function as prescribed by section 503(b) of the NGPA, but it also must notify the jurisdictional agency, within 45 days, that the notice is incomplete or the jurisdictional agency's determination becomes final and review is foreclosed. It is, therefore, essential that the ministerial act of notification be accomplished expeditiously.

By this amendment to its rules, the Commission is delegating to the Director of OPPR the authority, under § 275.202(b)(2) of its regulations, to notify jurisdictional agencies when their notices of determination are incomplete. This will not only enable the Commission to focus on more complex and controversial tasks, but it will also ensure that the Commission's review function under section 503(b) of the NGPA will be carried out expeditiously.

Under § 1.7(d) of the Commission's Rules, any action taken pursuant to authority delegated by the Commission may be appealed to the Commission by filing a petition within 15 days after such action.

#### Effective Date

The amendment prescribed herein concerns matters of agency organization and procedure which do not require notice or hearing under 5 U.S.C. 553. For the reasons set forth above, the Commission finds that it is appropriate and in the public interest to adopt the amendment hereinafter set forth effective upon the issuance of this order.

(Administrative Procedure Act, 5 U.S.C. 551, Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350), Department of Energy Organization Act (Pub. L. 95-91), (E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission proposes to amend Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,
*Secretary.*

Subchapter A, Part 3, Chapter I of Title 18, Code of Federal Regulations is amended by adding a new subparagraph 9 to § 3.5(f) which reads as follows:

**§ 3.5 Delegations of authority.**

* * * * *

(f) The Director of the Office of Pipeline and Producer Regulation or in the Director's absence, the Director's designee to:

* * * * *

(9) Notify jurisdictional agencies, within 45 days after the date on which the Commission receives notice of the jurisdictional agency determination, that the notice is incomplete.

[Docket No. RM78-19]

[FR Doc. 79-10316 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 35

### Filing of Rate Schedules; Change in Notice Requirements; Correction

March 28, 1979.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Errata Notice.

**SUMMARY:** This notice contains a correction to the Supplementary Information portion of FR Doc. 79-8205, Docket No. RM79-11, (44 FR 16371, March 19, 1979).

**FOR FURTHER INFORMATION CONTACT:** Teresa Ponda, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100-J, 825 North Capitol Street, NE, Washington, D.C. 20426 (202) 275-4236.

**SUPPLEMENTARY INFORMATION:** Note the following corrections in the Commission's final rule, entitled "Change in Notice Requirements," issued January 2, 1979 (44 FR 16371, March 19, 1979):

(1) At 44 FR 16371, "Pub.L. 95-1750" is corrected to read "Pub. L. 95-617".

(2) At 44 FR 16732:

(a) In the last sentence of the first full paragraph "ninety days to one hundred-twenty days" is corrected to read "thirty to sixty days"; and

(b) "Pub. L. 95-1150" is corrected to read "Pub. L. 95-617".

Kenneth F. Plumb,
*Secretary.*

[Docket No. RM 79-11]

[FR Doc. 79-10292 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 284

### Certain Sales of Natural Gas by Intrastate Pipelines; Erratum Notice

March 28, 1979.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Erratum notice.

**SUMMARY:** This notice contains a correction to FR Doc. 79–6856, appearing at page 12406 in the **Federal Register** for Wednesday, March 7, 1979.

**FOR FURTHER INFORMATION CONTACT:** Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100-J, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275–4236.

**SUPPLEMENTARY INFORMATION:** In the Federal Energy Regulatory Commission's Final Regulations issued March 1, 1979, entitled Certain Sales of Natural Gas by Intrastate Pipelines (44 FR 12406, March 7, 1979) at 44 FR 12411, in § 284.148(a)(6), "§ 284.165(b)" should be corrected to read "§ 284.144(b)".

**Kenneth F. Plumb,**
*Secretary.*

[Docket No. RM79–20]

[FR Doc. 79–10275 Filed 4–3–79; 8:45 am]

**BILLING CODE 6450–01–M**

### 18 CFR Part 287

### Determination of Powerplant Design Capacity; Correction

March 28, 1978.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Errata notice.

**SUMMARY:** The rules generally applicable to powerplant and industrial fuel use shall be located in Part 287 of the Federal Energy Regulatory Commission's regulations rather than Part 285. Incorrect references to Part 285 are corrected by this notice.

**FOR FURTHER INFORMATION CONTACT:** Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100–J, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275–4236.

**SUPPLEMENTARY INFORMATION:** Please note the following corrections in the Commission's Interim Rule, entitled Determination of Powerplant Design Capacity issued February 9, 1979 (44 FR 10366, February 20, 1979).

*At 44 FR 10367:*

1. "PART 285" should be corrected to read "PART 287";

2. The reference to "§ 285.101" in the Supplementary Information should be corrected to read "§ 287.101".

*At 44 Fed. Reg. 10369:*

1. "PART 285" should be corrected to read "PART 287";

2. "§ 285.101" should be corrected to read "§ 287.101".

**Kenneth F. Plumb,**
*Secretary.*

[Docket No. Rm 79–10]

[FR. Doc. 79–10259 Filed 4–3–79; 8:45 am]

**BILLING CODE 6450–01–M**

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

### 20 CFR Part 422

### Organization and Procedures; Social Security Number Issuance

*Correction*

In FR Doc. 79–5282, appearing on page 10369, of the issue for Tuesday, February 20, 1979 make the following correction:

On page 10371, change the heading for § 422.105, so that that section number, which currently reads "§ 422.105a" to read "§ 422.105."

[Reg. No. 22]

**BILLING CODE 1501–01–M**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

### Income Tax; Returns by Fiduciaries for Estates and Trusts

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the filing of income tax returns for estates and trusts. The amendment eliminates the present requirements under which the fiduciary of an estate or trust must file a copy of the will or trust instrument with the fiduciary income tax return, and provides instead that the fiduciary is required to file a copy of the will or trust instrument only on request. The amendment affects any executor or trustee filing a fiduciary income tax return for an estate or trust having a gross income of $5,000 or more.

**DATES:** The regulations are effective for taxable years beginning after December 31, 1953.

**FOR FURTHER INFORMATION CONTACT:** Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention:CC:LR:T, LR–24–76, 202–566–3328, not a toll-free call.

**SUPPLEMENTARY INFORMATION:**

*Background*

On August 30, 1978, the **Federal Register** published a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 6012 of the Internal Revenue Code of 1954 (43 FR 38730). No public hearing was held. Four written comments were received and they were generally in favor of the proposed amendment. After consideration of all the comments regarding the proposed amendment, the proposed amendment is adopted by this Treasury decision with the following minor change. Paragraph (a)(2) of the proposed amendment is revised by deleting the phrase "district director" and the phrase "Internal Revenue Service" is inserted in its place.

This amendment does not meet the Treasury criteria for a significant regulation under paragraph 8 of the final Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52120).

**PRESENT FILING REQUIREMENT**

Under the existing regulations the fiduciary of an estate or trust must file a copy of the will or trust must file a copy of the will or trust instrument with the fiduciary income tax return filed for the first taxable year for which the gross income of the estate or trust is $5,000 or more. Once the will or trust instrument has been filed, the fiduciary need not again file a copy, but must attach a statement to the return showing when and where the documents were filed. If the trust instrument is amended after filing, the fiduciary must file a copy of the amendment with the return for the taxable year in which the amendment was made.

**NEW FILING REQUIREMENT**

In order to simplify administration for fiduciaries and the Internal Revenue Service, the final regulation eliminates the filing requirements described above and requires only that the fiduciary file a copy of the will or trust instrument on request. The final regulation retains the

requirement that a will or trust instrument filed with the Internal Revenue Service be accompanied by a statement by the fiduciary indicating the provisions of the will or trust instrument which, in the fiduciary's opinion, determine the extent to which the income of the estate or trust is taxable to the estate or trust, the beneficiaries, or the grantor.

**DRAFTING INFORMATION**

The principal author of this regulation is Robert H. Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

*Adoption of Amendments to the regulations.* Accordingly, 26 CFR 1.6012–3 is amended as follows:

**§ 1.6012–3 Returns by fiduciaries.**

(a) *For estates and trusts.* * * *

(2) *Wills and trust instruments.* At the request of the Internal Revenue Service, a copy of the will or trust instrument (including any amendments), accompanied by a written declaration of the fiduciary under the penalties of perjury that it is a true and complete copy, shall be filed together with a statement by the fiduciary indicating the provisions of the will or trust instrument (including any amendments) which, in the fiduciary's opinion, determine the extent to which the income of the estate or trust is taxable to the estate or trust, the beneficiaries, or the grantor, respectively.

* * * * *

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917) (26 U.S.C. 7805))

**Jerome Kurtz,**

*Commissioner of Internal Revenue.*

Approved: March 22, 1979.

**Donald C. Lubick,**

*Assistant Secretary of the Treasury.*

[T.D. 7608]

[FR Doc. 79–10287 Filed 4–3–79; 8:45 am]

**BILLING CODE 4830–01–M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

### Alabama: Approval of Plan Revision

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** EPA is today giving notice of its approval of regulations adopted by the Alabama Air Pollution Control Commission for the charging and pushing of coke in existing conventional batteries. These revised regulations are part of the plan revision submittal Alabama is making pursuant to requirements of the Clean Air Act Amendments of 1977.

**EFFECTIVE DATE:** April 4, 1979.

**ADDRESSES:** Copies of the materials submitted by the State of Alabama are available for public inspection during normal business hours at the following locations:

Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36130.

Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Eliot Cooper of EPA Region IV's Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Ga. 30308. Telephone: 881–3286, FTS 257–3286.

**SUPPLEMENTARY INFORMATION:** On March 3, 1978, on the basis of information submitted by the Alabama Air Pollution Control Commission, the Administrator designated areas in Jefferson and Etowah Counties nonattainment for particulate matter. Under section 172 of the Clean Air Act, as amended 1977, plan revisions assuring the attainment of national standards for particulate matter are to "provide for implementation of reasonably available control measures as expeditiously as practicable." The new coke oven regulations described below are intended to serve as part of the attainment plan which Alabama is to submit by January 1, 1979, for the Birmingham and Gadsden areas pursuant to section 172 of the Clean Air Act.

On July 11, 1978, following notice and public hearing in conformity with 40 CFR 51.4 and 51.6, the Alabama Air Pollution Control Commission adopted changes in its regulations for emissions of particulate matter from existing coke batteries. These revised regulations were submitted for EPA's approval on July 14, 1978.

This revision includes changes to the existing charging regulation and requires pushing controls in Jefferson and Etowah Counties. They apply to the charging of wet coal by use of a larry car in existing conventional coke batteries and restrict the allowable visible emission from any five consecutive charges to 94 seconds.

Also, existing coke oven batteries shall be equipped with a device that will capture and collect coke-side emissions resulting from the pushing operation. The collection device shall be such that the outlet gas shall contain no more than 0.03 pounds of noncondensable particulate matter per ton of coal charged for each oven, averaged over five consecutive pushes. In addition, there shall be no visible emissions resulting from the pushing of coke which are in excess of 20% opacity.

The revised regulations were announced as proposed rulemaking in the **Federal Register** of October 23, 1978 (43 FR 49327). Only one comment was received in the period provided for the submittal of written comments. (Two comments were received after the close of the comment period). This comment objected to the approval of the proposed regulations on the basis that reasonably available control technology for coke oven batteries can only be established on a case-by-case basis; the reasonable emission limits thus determined should be written into each battery's permit, it was asserted. In the Administrator's judgment, the revised regulations provide sufficient flexibility to make this sort of case-by-case regulatory approach unnecessary.

Moreover, the revised regulations have been determined by the Agency to represent reasonably available control measures that can be applied now to reduce particulate emissions in the Birmingham and Gadsden nonattainment areas, and it is on that basis that they are approved. This action is effective immediately. Alabama's January 1979 plan revision submittal is to contain a control strategy demonstration which will take into account the particulate emission reduction expected from the new coke oven regulations and other control measures which the Alabama Air Pollution Control Commission will have adopted by that time. Under section 172 of the Clean Air Act, the completed January 1979 submittal must show that all primary ambient particulate standards will be attained by December 1982.

(Sec. 110(a), Clean Air Act (42 U.S.C. 7410(a)))

Dated: March 28, 1979.

**Douglas M. Costle,**

*Administrator.*

Incorporation by reference provisions approved by the Director of the **Federal**

Register May 18, 1972. A copy of the incorporated material is on file in the Federal Register Library.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

**Subpart B—Alabama**

In § 52.50, paragraph (c) is amended by adding subparagraph (17) as follows:

**§ 52.50 Identification of plan.**

* * * * *

(c) * * *

(17) Revised regulations for the charging and pushing of coke in existing conventional batteries, submitted on July 14, 1978, by the Alabama Air Pollution Control Commission.

[FRL 1090-4]

[FR Doc. 79-10224 Filed 4-3-79; 8:45 am]

BILLING CODE 6560-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 65

### Delayed Compliance Orders; Approval of a Delayed Compliance Order Issued by the Connecticut Department of Environmental Protection to the Leverty and Hurley Company

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Connecticut Department of Environmental Protection to the Leverty and Hurley Company. The Order requires the company to bring air emissions from its asphalt batching plant at Bridgeport, Connecticut, into compliance with certain regulations contained in the federally-approved Connecticut State Implementation Plan (SIP). Because of the Administrator's approval, Leverty and Hurley Company's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

**DATES:** This rule takes effect April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Michael Gurchin at (617) 223-5061 or engineer Steven Fradkoff at (617) 223-5610, both at the following address: U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, Massachusetts 02203.

**ADDRESSES:** A copy of the Delayed Compliance Order, any supporting material and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at the address indicated above.

**SUPPLEMENTARY INFORMATION:** On December 28, 1978, the Regional Administrator of EPA's Region I Office published in the **Federal Register** 43 FR 60624, a notice proposing approval of a delayed compliance order issued by Connecticut Department of Environmental Protection to the Leverty and Hurley Company. The notice asked for public comments by January 29, 1979 on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to Leverty and Hurley Company is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the Leverty and Hurley Company on a schedule to bring its asphalt batching plant at Bridgeport, Connecticut into compliance as expeditiously as practicable with Sections 19-508-5(e) and 19-508-18(b)(3)(i) of the Connecticut Regulations for the Abatement of Air Pollution, a part of the federally-approved Connecticut State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Leverty and Hurley Company to delay compliance with the SIP regulations covered by the Order until May 25, 1979. The company is unable to immediately comply with these regulations.

Because the Order has been approved by EPA, compliance with its terms will preclude federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order during the period the Order is in effect. Citizen suits under Section 304 of the Act are similarly precluded. If the Administrator determines that the Leverty and Hurley Company is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

EPA had determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place the Leverty and Hurley Company on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the Connecticut State Implementation Plan.

(Authority 42 U.S.C. 7413(d), 7601)

Dated: March 28, 1979.

**Douglas M. Costle,**

*Administrator.*

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

## PART 65— DELAYED COMPLIANCE ORDERS

1. By adding to § 65.111 an entry to the table to read as follows:

**§ 65.111 EPA approval of State delayed compliance orders issued to major stationary sources.**

* * * * *

| Source | Location | Order No. | SIP regulation(s) involved | Date of FR proposal | Final compliance date |
|---|---|---|---|---|---|
| Leverty and Hurley Company | Bridgeport, Conn | 685 | 19-508-5(e), 19-508-18(b)(3)(1). | Dec. 28, 1978 | May 25, 1979. |

* * * * * * *

[FRL 1085-6]

[FR Doc. 79-10222 Filed 4-3-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

## Approval of a Delayed Compliance Order Issued by the Knox County Department of Air Pollution Control to Tamko Asphalt Products Co., Knoxville, Tenn.

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Knox County Department of Air Pollution Control to Tamko Asphalt Products Company, Knoxville, Tennessee. The Order requires the Company to bring air emissions from its coal-fired boilers at Knoxville, Tennessee into compliance with applicable local air pollution control regulations contained in the federally approved Tennessee State Implementation Plan (SIP). Because of the Administrator's approval, Tamko Asphalt Company's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

**DATES:** This rule takes effect on April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bert Cole, Environmental Engineer, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Altanta, Georgia 30308, Telephone Number: (404) 881–4298.

**ADDRESSES:** A copy of the State Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street, NE., Altanta Georgia 30308.

**SUPPLEMENTARY INFORMATION:** On Tuesday, November 28, 1978, the Regional Administrator of EPA's Region IV Office published in the **Federal Register**, 43 FR 55427, a notice proposing approval of a delayed compliance order issued by the Knox County Department of Air Pollution Control to Tamko Asphalt Products Company, Knoxville, Tennessee. The notice asked for public comments by December 28, 1978, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to Tamko Asphalt Products Company is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Tamko Asphalt Products Company on a schedule to bring its coal-fired boilers into compliance as expeditiously as practicable with §§ 17.0 and 41.0 of the Knox County Air Pollution Control Regulations, part of the federally approved Tennessee State Implementation Plan. The Order also imposes an interim opacity limit of 20% opacity and an interim mass emission limit of 14 lbs per hour. If the conditions of the Order are met, it will permit Tamko Asphalt Products Company to delay compliance with the SIP regulations convered by the Order until June 1, 1979. The facility is unable to comply immediately with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the immediate need to place Tamko Asphalt Products Company on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) in the Tennessee State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601.)

Dated: March 26, 1979.

**Douglas M. Costle,**

*Administrator.*

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

### PART 65—DELAYED COMPLIANCE ORDERS

1. The table in § 65.471 is amended by adding the following entry to read as follows:

**§ 65.471 EPA Approval of State delayed compliance orders issued to major stationary sources.**

* * * * *

| Source | Location | Order No. | SIP regulation(s) involved | Date of FR proposal | Final compliance date |
|---|---|---|---|---|---|
| Tamko Asphalt Products Company. | Knoxville, Tenn. | DCO–78–28 | §§ 17.0, and 41.0. | Nov. 28, 1978 | June 1, 1979. |

[FRL 1084–1]

[FR Doc. 79–10018 Filed 4–3–79; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 65

## Approval of a Delayed Compliance Order Issued by the Puget Sound Air Pollution Control Agency to Lone Star Industries, Inc.

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Puget Sound Air Pollution Control Agency to Lone Star Industries, Inc. The Order requires the company to bring air emissions from its cement plant at Seattle, Washington, into compliance with certain regulations contained in the federally approved Washington State Implementation Plan (SIP). Because of the Administrator's approval, Lone Star Industries' compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

**DATES:** This rule takes effect on April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth D. Brooks, EPA, Washington Air Coordinator, M/S 513, 1200 Sixth Avenue, Seattle, Washington, telephone (206) 442–1387.

**ADDRESSES:** A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying (for appropriate charges) during normal business hours at the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101—11th Floor (11B).

**SUPPLEMENTARY INFORMATION:** On February 13, 1979, the Regional Administrator of EPA's Region 10 Office published in the **Federal Register**, 44 FR 9406, a notice proposing approval of a delayed compliance order issued by the Puget Sound Air Pollution Control Agency to Lone Star Industries, Inc. The notice asked for public comments by March 15, 1979 on EPA's proposed approval of the Order. No public comments were received in response to the proposed notice.

Therefore, the delayed compliance order issued to Lone Star Industries, Inc. is approved by the Administrator of

EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Lone Star Industries, Inc. on a schedule to bring its cement plant at Seattle, Washington into compliance as expeditiously as practicable with Section 9.15 of Regulation I of the Puget Sound Air Pollution Control Agency, a part of the federally approved Washington State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and reporting requirements. Inclusion of monitoring requirements would be unreasonable for this Order. If the conditions of the Order are met, it will permit Lone Star Industries, Inc. to delay compliance with the SIP regulations covered by the Order until July 1, 1979. The company is unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Lone Star Industries, Inc. on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Washington State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: March 26, 1979.

**Douglas M. Costle,**

*Administrator.*

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

## PART 65—DELAYED COMPLIANCE ORDERS

1. The table in § 65.521 is amended by adding the following entry to read as follows:

**§ 65.521 EPA Approval of State delayed compliance orders issued to major stationary sources.**

* * * * *

| Source | Location | Order No. | SIP regulation(s) involved | Date of FR proposal | Final compliance date |
|---|---|---|---|---|---|
| Lone Star Industries Inc. | Seattle, Wash. | WII | Sec. 9.15, Reg. I, PSAPCA. | Feb. 13, 1979 | July 1, 1979. |

* * * * * * *

[FRL 1085-2]

[FR Doc. 79-10020 Filed 4-3-79; 8:45]

BILLING CODE 6560-01-M

## 40 CFR Part 65

## Delayed Compliance Order for Formica Corp.

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Formica Corporation. The Order requires the Company to bring air emissions from its laminate manufacturing plant at Evendale, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Formica Corporation compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

**DATE:** This rule takes effect on April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Colantoni, United States Environmmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

**SUPPLEMENTARY INFORMATION:** On February 1, 1979 the Regional Administrator of the U.S. EPA's Region V Office published in the **Federal Register** (44 FR 6466) a notice setting out the provisions of a proposed State Delayed Compliance Order for Formica Corporation. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Formica Corporation by the Administrator of U.S. EPA pursuant to the authority of section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Formica Corporation on a schedule to bring its boilers #3 and #4 at Evendale, Ohio, into compliance as expeditiously as practicable with Regulation OAC-3745-17-10, a part of the federally approved Ohio State Implementation Plan. Formica Corporation is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Formica Corporation to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by February 1, 1979 will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Formica Corporation is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Formica Corporation on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: March 26, 1979.

**Douglas M. Costle,**

*Administrator.*

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

## PART 65—DELAYED COMPLIANCE ORDERS

1. The table in § 65.401 is amended by adding the following entry to read as follows:

**§ 65.401 U.S. EPA approval of State delayed compliance orders issued major stationary sources.**

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the

Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

| Source | Location | Date FR Proposal | SIP regulation involved | Final compliance date |
|---|---|---|---|---|
| Formica Corporation | Evendale, Ohio. | Feb. 1, 1979 | OAC-3745-17-10 | July 1, 1979. |

**BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of: Formica Corporation, Applicant; Stipulation.

The parties in the above matter hereby agree that the Stipulations and attached Orders which were filed by the parties on July 27, 1977, November 23, 1977, and May 5, 1978, are hereby withdrawn for any and all purposes:

The parties further agree that the Applicant hereby:

1. Withdraws its adjudication request in reference to the denial of Permit Application No. 1431150801 B002 relating to Formica's No. 4 B & W Traveling Grate Boiler and the denial of Permit Application No. 1431150801 B003 relating to Formica's No. 3 B & W Traveling Grate Boiler;

2. Waives its right to a hearing before the Ohio Environmental Protection Agency (OEPA) with respect to the Order of the Director, a copy of which is attached hereto;

3. Waives its right to contest the lawfulness or reasonableness of said Order before the Ohio Environmental Board of Review or any court of competent jurisdiction; but waives no other right.

Provided, however, that the above withdrawal and waivers will be void and of no effect if the Director fails to enter the said Order upon his Journal, or if the USEPA fails to approve the issuance of said order.

Respectfully submitted, William J. Brown, *Attorney General of Ohio.*

By: Robert E. Olwell, *Assistant Attorney General, Environmental Law Section, 30 East Broad Street, 17th Floor, Columbus, Ohio 43215, (614) 466-2766.*

Vincent B. Stamp, *Dinsmore, Shohl, Coates, & Deupree, Attorney for Applicant, 2100 Fountain Square, 511 Walnut Street, Cincinnati, Ohio 45202, (513) 621-6747.*

**BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of: Formica Corporation, Applicant; Order.

Pursuant to Section 3704.03(S) of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et. seq., the Director of the Ohio Environmental Protection Agency (OEPA) (hereinafter "Director") hereby makes the following Findings of Fact and issues the following orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

**FINDINGS OF FACT**

1. Formica owns and operates a laminate manufacturing plant in Evendale, Ohio.

2. On February 4, 1977, the Director issued proposed denials of Formica's applications for permits to operate listed below:

(a) Permit Application No. 1431150801 B001 relating to Formica's No. 5 Erie City Traveling Grate Boiler (hereinafter referred to as "No. 5 Boiler");

(b) Permit Application No. 1431150801 B002 relating to Formica's No. 4 B & W Traveling Grate Boiler (hereinafter referred to as "No. 4 Boiler"); and

(c) Permit Application No. 1431150801 B003 relating to Formica's No. 3 B & W Traveling Grate Boiler (hereinafter referred to as "No. 3 Boiler").

3. On March 3, 1977, Formica filed a timely request for an adjudication hearing to contest the Director's proposed denials of the permit applications referred to herein.

4. Applicant Formica Corporation has withdrawn its adjudication request with regard to the Director's proposed denials of the permit applications referred to herein.

5. Boilers 3, 4, and 5 are coal burning boilers with separate stacks, feeding systems, ash removal systems and controls. Each separate boiler attaches to a common steam duct which carries steam into Formica's manufacturing plant.

6. In addition to Boilers 3, 4, and 5, Formica currently has at its Evendale plant Boilers 1 and 2 which are gas burning boilers with separate stacks, feeding systems, and controls. Formica was issued an operating permit for Boiler 1 (Application No. 1431150801 B004) and Boiler 2 (Application No. 1431150801 B005) on January 25, 1974. The OEPA on May 13, 1977, issued a notification to Formica that Boilers 1 and 2 were being placed on the exempt registration list effective June 27, 1977, pursuant to OAC 3745-35-05(F).

7. On December 7, 1976, Formica applied to the Ohio EPA for and subsequently the OEPA issued to Formica a permit for the installation of phenolic treating machines including an oil burning incinerator for fume destruction with a waste heat steam recovery system (hereinafter referred to as "No. 6 Boiler"). This boiler will have a separate stack, feeding system, and separate controls from Boilers 1, 2, 3, 4 and 5. Boiler 6 will attach to the same steam duct referred to above.

8. Pursuant to presently applicable statutes, rules and regulations of the State of Ohio and U.S. EPA, particularly Ohio Administrative Code § 3745-17-10 (formerly AP 3-11), the applicable particulate emission standard for each of the coal burning boilers 3, 4 and 5 is 0.164 lbs. per million BTU, and for oil burning boiler 6 is 0.151 lbs. per million BTU.

9. Boiler No. 5's particulate emission is 0.160 lbs. per million BTU and therefore is in compliance with applicable particulate emission standards of the state of Ohio and the U.S. EPA.

10. Boiler No. 3's particulate emission is 0.265 lbs. per million BTU and Boiler No. 4's particulate emission is 0.270 lbs. per million BTU. Formica Corporation is currently unable to comply with OAC § 3745-17-10 regarding the particulate emissions of Boilers No. 3 and No. 4.

11. Achievement of compliance with Ohio Administrative Code § 3745-17-10 by Formica Corporation as expeditiously as possible will require until July 1, 1979.

12. Compliance will be achieved by the installation on Boilers No. 3 and No. 4 of baghouses which shall exhaust into a stack. In this situation, it is feasible to install a continuous monotoring opacity meter on the stack and to conduct a stack test.

13. The Director's determination to issue the Orders set forth below is based on his consideration of reliable, probative, and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

**ORDERS**

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Section 3704.03(S) of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Except as hereinafter stated otherwise, Formica Corporation is hereby ordered to bring the particulate emissions from Boilers No. 3 and No. 4 into compliance with the currently applicable particulate emission standard under Ohio law of 0.164 lbs. per million BTU pursuant to the following compliance schedule:

(a) Engineering study to scope work and select control method By 8/15/77.

(b) Authorization of funds—finalization of equipment specifications and evaluation of bids: By 12/1/77.

(c) Awarding of primary contracts: By 3/15/78.

(d) Detailed engineering, delivery and erection on site: By 5/1/79.

(e) Start-up and debug of system: By 6/1/79.

(f) Compliance testing and achievement of compliance: By 7/1/79.

The above compliance schedule constitutes achievement of compliance with OAC § 3745-17-10 by Formica Corporation as expeditiously as possible.

2. Applicant Formica Corporation is further ordered to submit quarterly progress reports for each source to the Ohio Environmental Protection Agency until such compliance has been achieved. Such reports shall include any steps taken to achieve compliance and the results of any testing. Such reports shall be sent to: Division of Air Pollution Control, 2400 Beekman Street, Cincinnati, Ohio 45214.

3. Formica Corporation is hereby notified that, except as otherwise stated by law, it will be required to pay a noncompliance penalty under the Clean Air Act Amendments of 1977, Pub. L. No. 95–95, § 120, 91 Stat. 715, in the event Formica fails to achieve final compliance under the Order by July 1, 1979.

4. In the event of an amendment or modification of the Ohio implementation plan so as to allow for a particulate emission from either Boiler No. 3, Boiler No. 4 or Boiler No. 5 of a particulate emission greater than 0.164 lbs. per million BTU or for Boiler No. 6 of a particulate emission of greater than 0.151 lbs. per million BTU, Formica shall be allowed to comply with such greater emission standard in accordance with the compliance schedule referred to above.

5. Formica shall install an opacity meter on any stack into which Boilers No. 3 and No. 4 shall exhaust. The opacity meter shall be operational by July 1, 1979, and shall continuously monitor and record opacity.

6. Formica shall submit quarterly opacity monitoring reports to the OEPA. Said reports shall include, as applicable, all opacity excursions in violation of OAC § 3745–17–07, the nature and cause of the excursions, and the remedial action taken in response to the excursions, or the fact that no excursions have occurred. Said reports shall be sent to: Division of Air Pollution Control, 240 Beekman Street, Cincinnati, Ohio 45214. All data resulting from the operation of the opacity meter shall be retained for at least two (2) years and shall be available upon request for inspection by appropriate personnel of the OEPA.

7. During the pendency of these Orders, Formica Corporation is ordered to: (a) properly use and maintain all emission reduction systems currently installed on any and all boilers, including all multiclones; and (b) during periods where boiler use is below capacity, to utilize to the greatest extent possible the boiler or boilers emitting the least amount of pollutants, considering, when necessary, the need to eliminate sanding dust and phenolic fumes.

8. Compliance with this Order relates only to compliance with emission regulation OAC 3745–17–10 and in no way excuses the applicant from complying with any and all applicable laws or regulations, including the requirement to obtain a permit to operate pursuant to OAC 3745–35–02. Further, the applicant shall comply with the requirements of the Ohio implementation plan during the pendency of these Orders insofar as the applicant is able to do so.

**Ned E. Williams, P.E.,**
*Director, Ohio Environmental Protection Agency.*

[FRL 1082–6; Case No. 77–AP–054]

[FR. Doc. 79–10017 Filed 4–3–79; 8:45 am]

**BILLING CODE 6560–01–M**

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## 40 CFR Part 86

## Denial of Petition for Reconsideration of Hydrocarbon Standard

**AGENCY:** Environmenal Protection Agency.

**ACTION:** Denial of Petition for Reconsideration of Hydrocarbon Standard; 1980 and 1981 Light-Duty Vehicles.

**SUMMARY:** On October 20, 1978, Ford Motor Company petitioned the Environmental Protection Agency for reconsideration of two final rules which set hydrocarbon (HC) emission standards for light-duty vehicles for the 1980 and 1981 model years. On February 16, 1979, by letter to Herbert L. Misch, Vice President of Ford's Environmental and Safety Engineering Staff, EPA informed Ford that it had reviewed the petition and decided to let the two rules stand as originally promulgated. In that letter, EPA noted that the letter would be published in the **Federal Register** to provide a more complete explanation of EPA's reasons for publishing the 1980 and 1981 emission standards as final.

**FOR FURTHER INFORMATION CONTACT:** George Kittredge, Senior Technical Advisor, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, Waterside Mall, Washington, D.C. 20460, 202–426–2464.

The text of the letter and appendix follows.

Dated: March 22, 1979.

**David G. Hawkins,**
*Assistant Administrator for Air, Noise and Radiation.*

**Environmental Protection Agency, Washington, D.C. 20460**

*February 16, 1979*

Mr. Herbert L. Misch, Vice President
Environmental and Safety Engineering Staff
Ford Motor Company
The American Road
Dearborn, Michigan 48121

Dear Mr. Misch: I have reviewed Ford Motor Company's petition, dated October 20, 1978, for reconsideration of EPA's regulations containing hydrocarbon (HC) exhaust emission standards for 1980 and 1981 model year light-duty vehicles.

In its December 7, 1978, letter to EPA, Ford states that the "narrow legal issue" at the heart of Ford's petition is whether the Clean Air Act authorizes regulations which require the control of methane. I agree that resolution of the legal issue is dispositive of this matter. Based on my review, I have concluded that the statutory standard for HC established by Congress in Section 202(b) contemplates control of all exhaust hydrocarbons, including methane, and that the promulgation of the 1980 and 1981 HC emission standards which Ford challenges was therefore consistent with the requirements of the Clean Air Act. I am, therefore, denying Ford's petition.

Although not specifically requested by Ford to do so, I have also considered whether the Agency should propose an alternative non-methane HC standard that manufacturers could elect to meet in lieu of meeting the statutory standard of 0.41 grams per mile (g/mi) of total HC emissions. (The total HC standard would be retained.) For the reasons discussed in the Appendix to this letter, I have decided that it would not be in the public interest to propose such a standard.

Congress established a statutory standard in 1970 for HC exhaust emissions which required a 90 percent reduction in HC emissions from baseline levels. In 1971, EPA conducted a rulemaking proceeding concerning this requirement in which notice and an opportunity for comment were provided. Upon completion of that rulemaking, EPA promulgated regulations establishing a test procedure and identifying the numerical value for the HC standard as 0.41 grams per mile total hydrocarbons. Since that time EPA, Congress, and the manufacturers have relied on that figure as representing the level of control required by the statutory standard. When Congress, in 1977, changed the model year in which that statutory standard would first apply from 1978 to 1980, EPA proceeded to make necessary technical amendments to its regulations to reflect this change. No further rulemaking was required in promulgating the 1980 and 1981 model year emission standards because EPA had already conducted the necessary rulemaking in 1971 to establish the numerical value of the 90 percent reduction HC standard based on measurement of all hydrocarbons, including methane, and Congress has given no indication that EPA should revise the results of that rulemaking in any respect other than the deadline for compliance.

In promulgating the 1980 emission standards, EPA explained that it was making technical amendments to its regulations to bring those regulations into conformity with the statutory revisions. Publication of the 1981 standards did not contain a similar explanation. This letter will serve to provide Ford and other manufacturers[1] with a more complete explanation of EPA's reasons for publishing the 1980 and 1981 emission standards as final.

I. The 1980 and 1981 Hydrocarbon Standards Established by Section 202(b) of the Clean Air Act Include Control of Methane.

Ford maintains that EPA exceeded its statutory authority in promulgating the 1980

[1] This letter will be published in the **Federal Register** for the benefit of other parties interested in this issue.

and 1981 HC standards, arguing that Section 202(a)(1) of the Act authorizes the Administrator to promulgate standards only for air pollutants which may reasonably be anticipated to endanger the public health and welfare. Ford argues that since methane is generally regarded as unharmful to the public health, EPA lacks authority under Section 202(a)(1) to promulgate standards which include the control of methane.

The 1980 and 1981 HC standards were not promulgated by the Administrator under Section 202(a)(1) but were established by Congress and implemented by EPA under the authority of Section 202(b) of the Act. The Section 202(b) statutory standard for HC has always been, and continues to be, based on control of all hydrocarbons.

The Clean Air Amendments of 1970 established a HC emission standard applicable to light duty vehicles and engines manufactured during or after model year 1975 which required a reduction of at least 90 percent of the hydrocarbon emissions allowable under the standards applicable to light-duty vehicles and engines manufactured in model year 1970.[2] The standards applicable to 1970 vehicles and referenced in the 1970 Amendments were based on measurement of all hydrocarbons including methane.[3]

On July 2, 1971, EPA promulgated regulations containing exhaust emission standards applicable to 1975 and later model year light duty vehicles.[4] Using the newly-adopted Federal Test Procedure and calculating a 90 percent reduction in total HC emissions from 1970 model vehicles and engines, EPA derived a numerical value of 0.41 grams per mile (g/mi) which reflected the statutory HC standard. The fact that the 0.41 g/mi figure represents a 90 percent reduction in total hydrocarbon emissions is not in dispute.

The 1975 deadline for implementing the statutory HC standard has been postponed several times by administrative and legislative action; the standard is now scheduled to take effect with the 1980 model year. For model years 1975 through 1977 an interim HC standard of 1.5 grams per mile has been established.[5] This interim standard is also based on control of total hydrocarbons.

The Clean Air Act Amendments of 1977 extended the 1.5 g/mi interim HC standard to 1978 and 1979 model year automobiles.[6] Compliance with this standard has, as in the past, been based on a measurement of total hydrocarbons. The 1977 amendments also established the 1980 model year as the first year in which compliance with the statutory HC standard would be required.

Despite the fact that the statutory HC standard established by Congress in 1970 and subsequent interim HC standards all were based on control of total hydrocarbon emissions, Ford argues that EPA now lacks authority to promulgate an HC standard which includes control of methane.

Ford has cited nothing in the Clean Air Act or its legislative history that suggests Congress intended to change the manner of calculating the statutory HC standard by eliminating the measurement of methane. Congress may have been aware of the health data on methane and the fact that various emission control systems result in differing ratios of methane/nonmethane hydrocarbons in exhaust gas, but these facts alone would not support the conclusion that Congress intended to eliminate methane from the HC standard. Congress would not have made such a basic change in the method of calculating HC emissions *sub silentio*. Such a course of action would be contrary to Congress' general approach, which is to specify exhaust emission standards for automobiles in the enabling legislation itself, in order to provide certainty to manufacturers as a means of forcing and fostering the development of emission technology as expeditiously as feasible.

In any event Congress was not silent on this issue. The 1977 Amendments in no way alter the provision of the prior law that "measurement techniques" for "emission standards" were to be promulgated within 180 days of the Clean Air Amendments of 1970.[7] As discussed above, the "measurement techniques" adopted by EPA for determining the HC standard measured total hydrocarbons in arriving at a numerical value and Congress has given no indication of disagreement with this approach. Indeed, Congress has endorsed the numercial value representing the statutory 90 percent reduction standard for exhaust HC contained in Section 202(b)(1)(A). The Conference Report expressly indicated that the HC standard for the 1980 and 1981 model years is 0.41 g/mi.[8] As Ford is fully aware, the 0.41 g/mi HC standard represents a 90 percent reduction in total HC, and not a 90 percent reduction in nonmethane hydrocarbons. This has been true since 1971 and the precise level of the statutory standards for automobile exhaust emissions was intensively debated prior to passage of the 1977 amendments. Had Congress intended to change EPA's approach, it would have made no sense to cite the 0.41 g/mi value without change and absent any discussion of the issue.

The Act and the legislative history thus make it clear that Congress, in establishing the statutory standard for HC in 1970 and in subsequent legislation altering its effective date, contemplated control of all hydrocarbons. While Ford may question the wisdom of Congress' judgment, EPA is not free to unilaterally reverse this decision of Congress by adopting a standard representing a 90 percent reduction in nonmethane HC alone *in lieu* of the total HC standard of 0.41 g/mi.

II. Promulgation of Exhaust HC Emission Standards for the 1980 and 1981 Model Years Conformed with Applicable Rulemaking Requirements.

Ford maintains that EPA exercised discretion in choosing to include methane in the 1980 and 1981 emission standards and, in so doing, has failed to comply with the rulemaking requirements of Section 307(d) of the Clean Air Act. As discussed above, EPA did not elect to control methane; that decision was made by Congress. EPA merely took the long-established numerical figures as cited in the Conference Report (0.41 g/mi for the 1980 and 1981 model years) and inserted those numbers in its regulations. That is the sum total of the action Ford is now challenging.

EPA was simply bringing its regulations into conformity with the 1977 Amendments. This is precisely the type of ministerial act Congress had in mind when it provided an exception to the extensive rulemaking requirements of Section 307(d) in Section 307(d)(1)(N).

EPA's action in making these conforming amendments is consistent with its prior practice. When Congress adopted the interim HC standard for the 1976 model year[9] and again for the 1978–1979 model years[10] EPA made conforming amendments to its regulations without first proposing the standards.[11] Neither Ford nor anyone else has ever questioned this practice. Indeed, it is worth noting that had EPA followed the rulemaking procedure Ford now suggests when EPA promulgated standards for the 1978 model year, the regulations would not have been in place in time for the automobile manufacturers to have met their production deadlines.

EPA merely amended its regulations to reflect the changes Congress had made in designating the model year when the statutory standard will become applicable and did not in this way exercise any administrative discretion.

Separate and distinct from the question of promulgating the statutory HC standard of 0.41 g/mi total hydrocarbons for the 1980 and 1981 model years are the questions of whether EPA has the discretion to adopt a nonmethane hydrocarbon standard that would be a separate and alternative standard

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[2] Section 6 of the Clean Air Amendments of 1970, Pub. L. 91–604, 84 Stat. 1690.

[3] 33 FR 8340 (June 4, 1968).

[4] 36 FR 3528.

[5] The Administrator granted a one year suspension of the effective date of the HC statutory standard and adopted an interim HC standard under Section 202(b)(5)(A) of the Clean Air Act, 42 U.S.C. 7521(b)(5)(A). On June 22, 1974, Congress enacted the Energy Supply and Environmental Coordination Act of 1974, Pub. L. 93–319, 88 Stat. 246, which extended the HC emission standard established by the Administrator for 1975 automobiles to the 1976 model year. On March 5, 1975 the Administrator suspended the effective date of the 1977 model year emission standards (40 FR 11900), and on June 5, 1975, published an interim HC of 1.5 grams per mile. (40 FR 24350).

[6] Section 202(b)(1)(A) of the Act, 42 U.S.C. 7521(b)(1)(A).

[7] Section 202(b)(2) of the Act, Pub. L. 91–604, 42 U.S.C. 1857f–1(b)(2), superseded codification.

[8] H.R. Report No. 95–564, 95th Cong., 1st Sess. 166 (1977).

[9] Energy Supply and Enviromental Coordination Act of 1974 (ESECA), Pub. L. 93–319, 88 Stat. 246.

[10] Clean Air Act Amendments of 1977, Pub. L. 95–95, 91 Stat. 685.

[11] 40 FR 24350—1976 model year; 41 FR 35628, 35629, *corrected* 42 FR 16397, 16400—1978 model year; and 43 FR 43299, 43302—1979 model year. It is worth noting that the 1978 model year standards were initially issued in the same manner as the 1981 standards challenged by Ford; that is, they were added as a ministerial conforming amendment in the same notice that issued the 1978 evaporative HC emission standards after proposal of the evaporative standards, without proposal of the exhaust standards, since these too were specified by the 1977 Clean Air Act Amendments.

which manufacturers could elect to meet in lieu of the 0.41 total HC standard, and, assuming that it does have such authority, whether EPA should do so. For the reasons discussed in the Appendix to this letter, I have elected not to pursue the development of an alternative nonmethane hydrocarbon standard.

Sincerely yours,
**Barbara Blum,**
*Deputy Administrator.*

**Appendix—Need for and Desirability of an Alternative Nonmethane Hydrocarbon Emission Standard**

*Issue:* Should EPA propose a nonmethane hydrocarbon standard for light-duty vehicle exhaust emission as an optional alternative to the 0.41 gram per mile (g/mi) total hydrocarbon standard?

I. *Facts and Arguments Bearing on the Issue.*

A. Current EPA motor vehicle exhaust emission standards are specified in terms of total hydrocarbon (HC) measurements, including methane. Methane accounts for approximately 5% of the total HC from non-catalyst-equipped motor vehicles and from 20 to 30% of the total HC from catalyst-equipped vehicles.

B. The current EPA ambient air quality standards for hydrocarbons are specified in terms of nonmethane hydrocarbons. The amount of methane is subtracted from the total HC measurement because EPA scientists believe methane is photochemically unreactive and does not contribute to the formation of photochemical smog.

C. Ford Motor Company has argued in the past that EPA should permit certification of post-1980 model year motor vehicles (the first models which must comply with the full 90% statutory reduction in hydrocarbon emissions) to a nonmethane HC standard.

D. In considering its response to Ford's 1973 petition to set a nonmethane standard, EPA staff has already completed much, but by no means all, of the technical work required to permit the initiation of a nonmethane HC rulemaking action, but has elected not to do so.

E. Also relevant to the issue are the following facts: (1) A decision to promulgate a nonmethane HC standard would result in somewhat higher emissions of nonmethane HC from motor vehicles certified to that standard (based on 90% reduction from the nonmethane emissions of 1970 model vehicles) compared to motor vehicles certified to the present 0.41 g/mi total HC standard. This is because manufacturers would no longer need to allow for the 20–30% methane which is present in the exhaust of modern catalyst-equipped vehicles and could design their systems much closer to the regulatory limit. This loss in nonmethane HC control, over a 100,000 mile lifetime for a single vehicle, could amount to roughly 6 kilograms, an increase of about 6% of the total lifetime emissions of 104 kilograms for a vehicle meeting the current 0.41 g/mi total HC standard. This must be considered in light of the fact that many Air Quality Control Regions are still projected to fail to attain the health-based oxidant standard well into the 1980's—including such major population centers as New York, Chicago, Los Angeles and San Francisco. Of these increased emissions, about 230g would be present as benzene, which is generally considered to be a carcinogen in humans.

(2) Ford has recently maintained that certification of its vehicles to meet the 0.41 g/mi total HC standard will result in up to 4% poorer fuel economy for certain engine models. According to EPA engineering staff, this loss may be recoverable over the longer term through introduction of more advanced technology.

(3) Although Ford has expressed concern in the past over the ability of some of its models to meet certification requirements for 1981, if the present 0.41 g/mi total HC standard remains in effect, this claim is not concurred in by EPA engineering staff. Moreover, recent conversations with Ford indicate that the technological feasibility of compliance with the 1980 0.41 g/mi total HC standard is no longer in question.

(4) The implementation of a new rulemaking action to establish an alternative nonmethane HC standard would cost EPA at least 0.5 person years of resources and would delay other rulemaking actions which have positive instead of negative environmental effects.

II. *Discussion of Issues.*

A. *Emission Control, Fuel Economy, and Cost Impacts.* Since methane does not participate in photochemical oxidant-forming reactions that contribute to smog, it has been argued that a nonmethane HC standard is technically more appropriate than a total HC standard for vehicle emissions and is more consistent with EPA's overall air quality strategy. However, in practical terms the distinction between total and nonmethane HC emissions becomes significant only when the methane fraction of the total HC is large (see discussion below). When this is the case, it becomes more difficult to reduce total HC emissions through the use of catalysts which are less effective in reducing methane than other HC. The methane fraction of the HC emissions in precatalyst vehicles was small, approximately 5%. With cataglytic technology, however, methane generally accounts for 20% to 30% of the total HC mass from 1977 oxidation catalyst systems. This increase in the percentage of methane in exhaust HC occurs because catalysts preferentially oxidize the more reactive HC, thereby reducing their concentration without a proportional decrease in methane. The exact methane mass fraction will depend, of course, on the specific catalyst system and the composition of the exhaust gas which enters the catalyst.

As claimed by Ford, the current requirement basing compliance on a total HC emission standard results in a greater percentage reduction in nonmethane HC from vehicles relying on catalyst systems for emission control than from other vehicles (e.g., diesels or vehicles with noncatalyst emission control systems). In terms of relative impact on Ford as a catalyst-equipped vehicle manufacturer, however, it must be noted that over 90% of all 1981 cars are expected to be catalyst-equipped.

With a nonmethane HC based standard, it is true that manufacturers might be able to modify some catalyst-equipped vehicles quickly to improve fuel economy and driveability when compared to the sytems used to meet a total HC standard for 1980 or, if more time is needed, at least for the 1981 model year. For example, certain catalyst vehicles, which would achieve 0.41 g/mi total HC only with the use of retarded spark timing, could be recalibrated to advance spark timing to achieve better fuel economy without exceeding a nonmethane HC standard based on 90% reduction from nonmethane HC levels of 1970 model year vehicles (about 0.39 g/mi). It is even possible that some cost savings to vehicle purchasers would result if less complex catalytic systems (such as a three-way catalyst only instead of a three-way catalyst plus an oxidation catalyst) could be used to achieve a nonmethane HC standard.

Concerning fuel economy, to the extent that some manufacturers may have to employ some degree of retarded ignition timing (relative to the timing that is best for fuel economy) to achieve the 0.41 g/mi standard for 1981 model years, some fuel economy benefit might result, perhaps ranging up to as much as 4% for some vehicle models, if an alternative nonmethane HC standard were adopted by EPA. Ford has

informally indicated to EPA that, if vehicle models with compromised fuel economy appear to place Ford's compliance with the fuel economy standards for 1981 in jeopardy, such models may have to be withdrawn from production.

Thus, some benefits in the way of better driveability, lower costs or better fuel economy might result from the promulgation of a nonmethane HC standard, but the degree of benefit is hard to predict since it would depend on how the manufacturers chose to use the flexibility a nonmethane HC standard would provide. Consider, for example, the 4% fuel economy improvement claimed by Ford, the most significant benefit, both as a cost factor and as a factor in energy conservation. In the years in question, automobile manufacturers are required to comply with fuel economy standards under Section 502 of the Motor Vehicle Information and Cost Savings Act.[1] Since these standards apply to the average fuel economy of each manufacturer's product line taken in the aggregate, unlike emission standards which apply to vehicles individually, a manufacturer could use a 4% fuel economy savings to increase the percentage of large cars it produces while maintaining its corporate average fuel economy. In this case there would be *no* net savings due to the fuel economy improvement from a nonmethane standard when the overall impact is considered. In fact, this is the more reasonable expectation since manufacturers are unlikely to do more than demonstrate bare compliance with the fuel economy standards. Seen in this light, the issue may not be fuel savings, but simply the relative difficulty of meeting the emissions and fuel economy standards under a total HC standard as opposed to a nonmethane standard.

Although Ford once argued that the 0.41 g/mi total HC standard was infeasible, this is not now Ford's position. Ford now expects to be able to meet the standard, with some possible impact on the mix of large and small cars and options. EPA's technical staff believes that Ford will be capable of meeting both the 1981 fuel economy standards and a 0.41 g/mi total HC standard, while still offering a full range of vehicle types and styles to serve its normal markets.

B. *Air Quality Impact.* Actual exhaust emissions of reactive* hydrocarbons from vehicles are likely to be higher if EPA permits use of a nonmethane procedure than would be the case if only a total HC procedure were available for compliance determinations. This results from the fact that under a total HC procedure, catalyst-equipped vehicles must reduce reactive HC emissions by more than 90% in order to reduce total HC emissions by just 90%. Under a nonmethane procedure based on proportional reduction, these cars would be permitted to increase their nonmethane HC emissions up to a level which represents a 90% reduction from the 1970 baseline, or about 0.39 g/mi.

For example, if a catalyst-equipped car emitted exactly 0.41 g/mi total HC, 30% of which were methane, the car would emit about 0.29 g/mi of reactive HC. If a nonmethane procedure were available, a manufacturer could (and presumably would) increase the emissions of reactive HC from this car to 0.39 g/mi in order to reduce equipment costs or to improve the fuel economy of the car. This would be an increase of approximately 34%

It is important to note that the methane fraction in the exhaust of catalyst-equipped cars generally varies from 20% to 30%. The example above therefore represents the largest increase in reactive HC emissions that is likely to result from an affirmative decision. At a 10% methane level, the increase in reactive HC emissions would be only .02 g/mi or 5%, and the benefit to the manufacturer would be correspondingly less. It is not possible at this time to predict with confidence what the average methane fraction will be when the statutory standard goes into effect. However, the average is expected to be about 25% for 1981 and later models; i.e., closer to the 30% example than the 10% example.

Therefore, there would be an unknown but distinct adverse air quality impact associated with granting the petition, which cannot be dismissed since in parts of the United States the primary health-based ambient air quality standard for ozone may never be attained, even with the recently announced relaxation in the standard.

The increased nonmethane HC that would be emitted into the atmosphere if EPA relaxed the HC standard from 0.41 g/mi total HC to 0.39 g/mi nonmethane HC has been estimated for a yearly period corresponding to 1990 or later. Assuming that all vehicles were equipped with three-way catalysts and produced 25% of their hydrocarbon emissions as methane, about 0.08 g/mi of additional nonmethane HC would be emitted. For a population of 120,000,000 vehicles each of which travels 11,000 miles per year, the aggregate loss in reactive HC control would amount to about 120,000 tons/year. This is about the same as the emission reductions which are expected to result, for example, from application of HC controls to such major sources of ambient HC as dry cleaning establishments and vapor degreasing operations nationwide, through state regulations required in non-attainment areas. That is, the positive effects of these actions would be offset by the negative impact of EPA's implementing a nonmethane standard.

Another adverse impact of such an action is that emissions of benzene, one component of the nonmethane HC fraction of vehicle HC emissions, would be expected to increase by roughly the same amount as the increases in the nonmethane HC fraction itself. EPA technical staff estimates that benzene emissions for a single vehicle might increase from about 3.9 kilograms to as much as 4.2 kg over a 100,000 mile lifetime, if a nonmethane HC standard of 0.39 g/mi were promulgated in place of, or as an alternative to, the present 0.41 g/mi total HC standard. It is not known at this time what the precise significance of the increase might be in terms of either increased benzene exposure to the general public of increased numbers of leukemia cases in future years.

C. *Impact on Other Rulemaking Activity.* There would be significant resource costs to the EPA of promulgating a nonmethane HC standard. A standard to be implemented as an alternative for 1980, assuming promulgation without prior proposal, would cost EPA about 0.5 person years. A voluntary standard implemented in 1981 would cost about 0.5 person years (again assuming no proposal). Proposal of such standards would entail additional resource expenditures due to the need to prepare preliminary documents for the proposals as well as the documents accompanying the final actions, the requirements for preparation of regulatory analysis documents, the need for hearings, etc. A mandatory nonmethane HC standard would require about 2.0 person years for the proposal and 1.0 person year for the final rule. This could not be accomplished for either the 1980 or the 1981 model year. These costs of undertaking a nonmethane HC rulemaking action at this time would be

[1] 15 U.S.C. Section 2002.

*The terms *reactive* and *nonmethane* HC are used interchangeably, even though there are varying degrees of reactivity in the different nonmethane HC fractions, and there is not complete agreement among all air quality chemists on those relative reactivities. However, it is generally agreed that methane is non-reactive insofar as oxidant formation is concerned.

significant in terms of the impact on other high priority rulemaking actions by the EPA.

EPA's consideration of whether to propose a nonmethane HC standard in 1977 took place in the context of the numerous tasks (many subject to statutory deadlines) imposed by the 1977 Amendments and by prior law, and these demands on resources had to be taken into account in addition to the merits of the proposal of a nonmethane standard in and of itself. These tasks include the conduct of the manual certification program (manufacturers must obtain certificates before their vehicles or engines may be introduced into commerce, so this must be carried out in a timely manner), expeditious preparation of new exhaust emission standards for trucks, and a number of other significant rulemakings mandated by the 1977 Act Amendments. Each of these rulemakings entails proposal and promulgation and, due to lead-time considerations, activity on each mobile source matter has to be begun as soon as the 1977 Amendments were passed. (This work is now in progress.) For the control of mobile source emissions alone, the 1977 Amendments required:

—Setting standards representing a 90% reduction in HC and CO from heavy-duty engines and light-duty trucks (two rules) beginning no later than the 1983 model year;

—Setting standards representing a 75% reduction in oxides of nitrogen emissions from heavy-duty engines and light-duty trucks beginning no later than the 1985 model year (two rules);

—Setting particulate emission standards, beginning with the 1981 model year, for light- and heavy-duty diesels (two rules);

—Establishing procedures for modifying vehicles to lower their emissions at high altitudes;

—Establishing procedures for measuring heavy-duty vehicle evaporative emissions;

—Establishing a mandatory research program for development of cars that can meet a NOx standard of 0.4 grams/mile with good fuel economy.

—Establishing procedures for determining that 1984 and later model year vehicles meet emission standards at all altitudes.

In addition to these rulemakings, EPA's mobile source staff was also charged by the 1977 amendments with the carrying out of a number of technical studies and several discretionary rulemakings which will have a positive environmental impact, for example, setting emission standards for high altitude cars for model years 1981–1983. All of these activities were required to be carried out without an increase in resources due to budget constraints. Even without the addition of a nonmethane rulemaking, the demands on EPA resources have meant that some mandated activities will not be completed in a timely manner.

III. *Conclusion*

The foregoing discussion leads to the inescapable conclusion that the environmental disbenefits of proceeding with a nonmethane HC rulemaking action in response to the Ford petition outweigh the possible energy, economic and market benefits to Ford, other auto makers, and the country as a whole. This conclusion takes into consideration that Ford and the other manufacturers *can* comply with both emission and fuel economy standards in the post-1981 period even if the present 0.41 g/mi total HC standard is retained, the only apparent penalty being a possible shrinkage in the complete range of options on some vehicle models marketed during this period. EPA resources would not be productively applied to proceeding with a proposed rulemaking action on nonmethane HC, as opposed to other rulemaking tasks having environmental benefits.

It would not appear to be appropriate for an agency with the legislative charter that EPA has to use its discretionary authority under a law such as the Clean Air Act to take an action which will unquestionably have adverse environmental impacts absent a clear showing that such an action is necessary, required by law, or otherwise *clearly* in the public interest. In the instant case, the benefits would not necessarily be fully realized, would at best be modest, and at worst would not accrue to the public as a whole. Therefore, it would not be appropriate for EPA to pursue a nonmethane HC standard-setting rulemaking at this time.

[FRL 1086–4]

[FR Doc. 79–9818 Filed 4–3–79; 8:45 am]

BILLING CODE 6560–01–M

## DEPARTMENT OF HEALTH, EDUCATON, AND WELFARE

### Social and Rehabilitation Service

### 45 CFR Part 228

### Social Services Programs; Child Care Services and Services for Drug and Alcohol Abusers; Correction

**AGENCY:** Administration for Public Services (APS), Office of Human Development Services (HDS), Department of Health, Education, and Welfare.

**ACTION:** Final regulations, correction.

**SUMMARY:** The following paragraphs were inadvertently omitted from the final regulation published Monday, March 19, 1979 in the **Federal Register**, Vol. 44, No. 54, page 16398.

**FOR FURTHER INFORMATION, CONTACT:** Mrs. Johnnie U. Brooks, 202–245–9415.

**CORRECTION:** Please insert the following material in the final regulation after the topical heading FOR FURTHER INFORMATION, CONTACT: Mrs. Johnnie U. Brooks, 202–245–9415 and before the section entitled GRANTS TO CHILD DAY CARE PROVIDERS TO EMPLOY AFDC RECIPIENTS:

**SUPPLEMENTARY INFORMATION:**

**Background**

*Services to Drug and Alcohol Abusers*

Under title XX of the Social Security Act, specific limitations were placed on expenditures for certain services. For example, Section 2002(a)(7) of the Act states that medical and remedial care and room or board can be provided only if they are integral but subordinate to a social service. Section 2002(a)(11) of the Act states that services can be provided to individuals in certain institutions, including hospitals, but only under conditions which restrict the nature of the services provided and the method of service delivery.

These restrictions were waived by Pub. L. 94–120 (enacted October 21, 1975), Pub. L. 94–401 (enacted September 7, 1976), and Pub. L. 95–171 (enacted September 30, 1977) as they applied to services for drug and alcohol abusers. Since the statutory authority for the waiver has expired, the regulations are being revised accordingly. This means that after September 30, 1978, services to drug and alcohol abusers under title XX must be provided under the same conditions as apply to other groups and individuals. (See 45 CFR 228.40, 228.41, and 228.44.)

Dated: March 29, 1979.

Ernest L. Osborne.

*Commissioner, Administration for Public Services.*

[FR. Doc. 79–10252, Filed 4–3–79; 8:45 am]

BILLING CODE 4110–92–M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 33

### National Wildlife Refuges in Idaho

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Special regulations.

**SUMMARY:** The Director has determined that the opening to sport fishing of certain Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES:** May 15, 1979 through December 31, 1979.

**FOR FURTHER INFORMATION CONTACT:** Area Manager, U. S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, ID 83705, telephone: (208) 384–1960.

Detailed information about specific refuges may be obtained from refuge managers shown below.

**SUPPLEMENTARY INFORMATION:**

**§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.**

Sport fishing is permitted only on the areas designated by signs as being open to fishing. These areas are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U. S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, ID 83705. Sport fishing shall be in accordance with the applicable State regulations subject to the following conditions listed:

*Bear Lake National Wildlife Refuge,* Refuge Manager Gerry Deutcher, Box 9, Montpelier, ID 83276. Telephone: (208) 467–1757.

1. The use of boats is prohibited.

*Deer Flat National Wildlife Refuge,* Refuge Manager Russell R. Hoffman, Box 448, Nampa, ID 83651. Telephone: (208) 467–5245.

1. Fishing is not permitted on the public hunting areas during migratory waterfowl hunting season.

2. Boats with motors may be used one hour before sunrise to one hour after sunset from April 15 through September 30.

3. Fishing from islands of the Snake River section is prohibited from February 1 to May 31 to protect Canada goose nesting.

*Kootenai National Wildlife Refuge,* Refuge Manager Larry Napier, Star Route 1, Box 160, Bonners Ferry, ID 83805. Telephone: (208) 267–3888.

1. Sport fishing is permitted on portions of Kootenai River, Deep Creek and Myrtle Creek within the refuge.

*Minidoka National Wildlife Refuge,* Refuge Manager John D. Hill, Route 4, Rupert, ID 83350. Telephone: (208) 436–3589.

1. Shoreline fishing shall be permitted on the entire refuge year around.

2. Boat fishing is permitted on the main reservoir from Minidoka Dam to the west end of Bird Island April 1 through September 30, and from Smith Springs to the east end of the refuge October 1 through June 30 during daylight hours only.

3. Boat crossing lanes at Smith and Gifford Springs open year around.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Reguge System published in November 1976. Funds are available for the administration of the recreation activities permitted by these regulations.

The U. S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: March 26, 1979.

L. A. Mehrhoff,
*Area Manager.*

[FR. Doc. 79–10391, Filed 4–3–79; 8:45 am]

BILLING CODE 4310–5–M

### CFR Part 33

### National Wildlife Refuges in Oregon

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Special regulations.

**SUMMARY:** The Director has determined that the opening to sport fishing of certain Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES: MAY 15, 1979 THROUGH DECEMBER 31, 1979.**

**FOR FURTHER INFORMATION CONTACT:** Area Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, ID 83705, Telephone: (208) 384–1960.

Detailed information about specific refuges may be obtained from refuge managers shown below.

**SUPPLEMENTARY INFORMATION:**

**§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.**

Sport fishing is permitted only on the areas designated by signs as being open to fishing. These areas are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, ID 83705. Sport fishing shall be in accordance with the applicable State regulations subject to the following conditions listed:

*Ankeny National Wildlife Refuge,* Refuge Manager Palmer C. Sekora, Route 1, Box 198, Jefferson, OR 97352. Telephone: (503) 327–2444.

1. The use of boats is prohibited.

2. During the open season, fishing shall be permitted each day from one hour before sunrise to one hour after sunset. Use of artifical lights is prohibited.

3. The use of archery equipment is prohibited.

*Cold Springs National Wildlife Refuge,* Refuge Manager John E. Kurtz, Box 239, Umatilla, OR 97882. Telephone: (503) 922–3232.

1. The refuge is closed to sport fishing during the migratory waterfowl hunting season.

2. Boats without motors may be used for purpose of fishing.

*Klamath Forest National Wildlife Refuge,* Refuge Manager Robert C. Fields, Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, CA 96134. Telephone: (916) 667–2231.

1. Use of boats is prohibited.

*Malheur National Wildlife Refuge,* Refuge Manager Joseph P. Mazzoni, Box 113, Burns, OR 97720. Telephone (503) 493–2323.

1. Refuge waters, with the exception of Krumbo Reservoir, are closed to the use of boats for fishing purposes.

2. The use of motor boats is not permitted on Krumbo Reservoir.

*McKay Creek National Wildlife Refuge,* Refuge Manager John E. Kurtz, Box 239, Umatilla, OR 97882. Telephone: (503) 922–3232.

1. The refuge is closed to sport fishing during the migratory waterfowl hunting season.

*Umatilla National Wildlife Refuge,* Refuge Manager John E. Kurtz, Box 239, Umatilla, OR 97882. Telephone: (503) 922–3232.

1. McCormack Slough is open to sport fishing June 15, 1979 through September 30, 1979.

2. Boats without motors are permitted.

*Upper Klamath National Wildlife Refuge,* Refuge Manager Robert C. Fields, Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, CA 96134. Telephone: (916) 667–2231.

1. Speed boats shall not exceed ten miles per hour in any stream, creek, or canal, and that portion of Pelican Bay west of a line beginning at designated points on the north shore of Pelican Bay one-fourth mile east of Crystal Creek and extending due south to opposite shore of the lake.

*William L. Finley National Wildlife Refuge,* Refuge Manager Palmer C. Sekora, Route 2, Box 208, Corvallis, OR 97330. Telephone: (503) 753–8056.

1. Use of boats is prohibited.

2. During the open season, fishing shall be permitted each day from one hour before sunrise to one hour after sunset. The use of artificial lights is prohibited.

3. The use of archery equipment is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance for the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the Administration of the recreational activities permitted by these regulations.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb)

Dated: March 26, 1979.

L. A. Mehrhoff,
*Area Manager.*

[FR Doc 79-10392 Filed 4-3-79; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Housing—Federal Housing Commissioner

### 24 CFR Part 841

### Public Housing Program; Development Phase; Appendix A—Prototype Cost Limits for Low-Income Housing

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development.

**ACTION:** Notice of Prototype Cost Determination Under 24 CFR, Part 841, Subpart A.

**SUMMARY:** On June 22, 1978, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Housing." After consideration of additional factual data, revisions are necessary to establish two Indian prototype areas in Southern Florida for detached and semi-detached dwellings, and to consolidate four existing prototype areas into two areas in Mississippi.

**DATES:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6282, 451 7th Street, SW., Washington, D.C. 20410 (202) 755–5880 (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Based on information supplied by the Field Office, new prototype per unit cost schedules are being published for two newly established Indian areas in Southern Florida and the existing schedules for Biloxi and Tupelo in Mississippi are deleted.

These schedules establish per unit limits in prototype costs (dwellings construction and equipment) for development of public housing and Indian housing under the United States Housing Act of 1937. The Act provides (Section 6(b)) that the prototype costs shall become effective upon the date of publication in the **Federal Register,** and this Notice is, therefore, made effective upon publication.

However, timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures.

A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk.

Accordingly, the prototype per unit cost schedules issued under 24 CFR, Part 841, Appendix A, Prototype Cost Limits for Low-Income Housing, are amended as follows:

1. At 43 FR 27005, add the prototype per unit cost schedule for detached and semi-detached dwellings as shown on the Prototype Per Unit Cost Schedules, Region IV, Big Cypress and Brighton, within the Miami, Florida Prototype area. These schedules are established for special Indian prototype cost areas (pursuant to 24 CFR, § 805.213), and

apply only for the development of Indian Housing under 24 CFR, Part 805.

2. At 43 FR 27009, delete the prototype per unit cost schedules for detached and semi-detached, row, walkup and elevator dwellings, Region IV, Biloxi and Tupelo, Mississippi. These areas are incorporated with the existing schedules for Gulfport and Corinth, respectively.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Sec. 6(b), U.S. Housing Act of 1937, 42 U.S.C. 1437(d)); (Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).)

Issued at Washington, D.C. on March 23, 1979.

**Lawrence B. Simons,**

*Assistant Secretary for Housing–Federal Housing Commissioner.*

[Docket No. R-79-639]

**BILLING CODE 4210-01-M**

5 REGION IV

| Big Cypress | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | 6 BR |
|---|---|---|---|---|---|---|---|
| Det. & Semi-Det. | 15,100 | 18,000 | 22,000 | 26,500 | 32,050 | 35,250 | 37,100 |
| Row Dwellings | | | | | | | |
| Walk-Up | | | | | | | |
| Elevator-Structure | | | | | | | |

| Brighton | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | 6 BR |
|---|---|---|---|---|---|---|---|
| Det. & Semi-Det. | 15,100 | 18,000 | 22,000 | 26,500 | 32,050 | 35,250 | 37,100 |
| Row Dwellings | | | | | | | |
| Walk-Up | | | | | | | |
| Elevator-Structure | | | | | | | |

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | 6 BR |
|---|---|---|---|---|---|---|---|
| Det. & Semi-Det. | | | | | | | |
| Row Dwellings | | | | | | | |
| Walk-Up | | | | | | | |
| Elevator-Structure | | | | | | | |

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | 6 BR |
|---|---|---|---|---|---|---|---|
| Det. & Semi-Det. | | | | | | | |
| Row Dwellings | | | | | | | |
| Walk-Up | | | | | | | |
| Elevator-Structure | | | | | | | |

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | 6 BR |
|---|---|---|---|---|---|---|---|
| Det. & Semi-Det. | | | | | | | |
| Row Dwellings | | | | | | | |
| Walk-Up | | | | | | | |
| Elevator-Structure | | | | | | | |

[FR Doc. 79-10071 Filed 4-3-79; 8:45 am]
BILLING CODE 4210-01-C

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### 24 CFR Part 1914

### Communities Eligible for the Sale of Insurance; Status of Participating Communities

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

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

**EFFECTIVE DATES:** The date listed in the forth column of the table.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–5581 or Toll Free Line 800–424–8872.

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

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

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

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

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

**§ 1914.6 List of eligible communities.**

| State | County | Location | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| Pennsylvania | Montgomery | Pottstown, borough of | 420705–B | June 6, 1973, emergency, Oct. 1, 1977, regular. | May 3, 1974 and Feb. 20, 1976. |
| Florida | Santa Rosa | Unincorporated areas | 120274–A | Aug. 28, 1970, emergency, Oct. 14, 1977, regular. | Jan. 24, 1975. |
| Iowa | Emmet | Estherville, city of | 190124–B | Jan. 15, 1974, emergency, Oct. 14, 1977, regular. | Mar. 29, 1974 and Apr. 30, 1976. |
| Massachusetts | Plymouth | Marshfield, town of | 250273–A | Jan. 14, 1972, emergency, Oct. 14, 1977, regular. | Aug. 30, 1974. |
| Minnesota | Benton | Sauk Rapids, city of | 270023–C | June 18, 1973, emergency, Oct. 14, 1977, regular. | Oct. 12, 1973 and Dec. 31, 1976. |
| New Jersey | Monmouth | Ocean, township of | 340319–C | Nov. 24, 1972, emergency, Oct. 14, 1977, regular. | Sept. 10, 1976. |
| Do. | Morris | Passaic, township of | 340356–A | May 26, 1972, emergency, Oct. 14, 1977, regular. | Feb. 15, 1974. |
| New York | Livingston | Conesus, town of | 360382–B | July 5, 1973, emergency, Oct. 14, 1977, regular. | Apr. 4, 1974 and July 9, 1976. |
| Pennsylvania | Montgomery | Lower Gwynedd, township of | 420953–B | Sept. 26, 1973, emergency, Oct. 14, 1977, regular. | June 14, 1974 and July 30, 1976. |
| South Carolina | Horry | North Myrtle Beach, town of | 450110–B | Aug. 23, 1974, emergency, Oct. 14, 1977, regular. | Aug. 23, 1974 and Sept. 5, 1975. |
| Virginia | Botetourt | Troutville, town of | 510021–B | Feb. 26, 1975, emergency, Oct. 14, 1977, regular. | June 14, 1974 and Apr. 23, 1976. |
| Wisconsin | Shawano | Unincorporated areas | 550412–A | Dec. 30, 1971, emergency, Oct. 14, 1977, regular. | Oct. 14, 1977. |
| * | * | * | * | * | * |
| New Jersey | Union | Fanwood, borough of | 340463–B | June 16, 1972, emergency, Oct. 17, 1977, regular. | Oct. 17, 1977. |
| California | San Mateo | Atherton, town of | 060312–B | July 8, 1975, emergency, Oct. 28, 1977, regular. | Oct. 28, 1977. |

| State | County | Location | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---|---|---|---|---|---|
| Kansas | Doniphan | Wathena, city of | 200085-B | June 10, 1975, emergency, Oct. 28, 1977, regular. | Do. |
| Maryland | Cecil | Cecilton, town of | 240020-B | June 25, 1975, emergency, Oct. 28, 1977, regular. | Do. |
| Do | Calvert | Preston, town of | 240163 | July 22, 1975, emergency, Oct. 28, 1977, regular. | Do. |
| North Carolina | Halifax | Scotland Neck, town of | 370118-B | Dec. 17, 1974, emergency, Oct. 28, 1977, regular. | Do. |
| New Jersey | Bergen | Fort Lee, borough of | 340035-B | Mar. 31, 1975, emergency, Oct. 28, 1977, regular. | Do. |
| New Mexico | Grant | Hurley, town of | 350021-B | Oct. 16, 1975, emergency, Oct. 28, 1977, regular. | Do. |
| New York | Rockland | Upper Nyack, village of | 360695-B | July 3, 1975, emergency, Oct. 28, 1977, regular. | Do. |
| Oregon | Umatilla | Hermiston, city of | 410209-B | Nov. 7, 1974, emergency, Oct. 28, 1977, regular. | Do. |
| Pennsylvania | Lebanon | Richland, borough of | 420579 | Mar. 16, 1973, emergency, Oct. 28, 1977, regular. | Do. |
| * | * | * | * | * | * |
| Pennsylvania | Montgomery | Rockledge, borough of | 420706-A | Mar. 3, 1973, emergency, Oct. 28, 1977, regular. | Do. |
| Do | Allegheny | Whitehall, borough of | 420088-A | Apr. 4, 1974, emergency, Oct. 28, 1977, regular. | Do. |
| Tennessee | Ridgely | Ridgely, town of | 470338 | May 14, 1977, emergency, Oct. 28, 1977, regular. | Do. |
| Texas | Hardin | Sour Lake, city of | 480286-B | June 3, 1974, emergency, Oct. 28, 1977, regular. | Do. |
| Do | Freestone | Teaque, city of | 480236-B | Sept. 24, 1975, emergency, Oct. 28, 1977, regular. | Do. |
| Iowa | Black Hawk | Evansdale, city of | 190020-B | May 25, 1973, emergency, Nov. 2, 1977, regular. | May 17, 1974 and Sept. 19, 1975. |
| Illinois | Kankakee | Aroma Park, village of | 170740-A | Aug. 25, 1975, emergency, Nov. 2, 1977, regular. | Nov. 15, 1974. |
| Do | Dupage | Itasca, village of | 170210-B | May 29, 1973, emergency, Nov. 2, 1977, regular. | Nov. 16, 1973 and Feb. 20, 1976. |
| Do | Kankakee | Manteno, village of | 170878-A | May 16, 1975, emergency, Nov. 2, 1977, regular. | Mar. 28, 1975. |
| Do | do | Momence, city of | 170340-B | Aug. 8, 1975, emergency, Nov. 2, 1977, regular. | Jan. 9, 1974 and Apr. 30, 1976. |
| Kentucky | Hardin | Ewst Point, city of | 210097-B | Mar. 7, 1974, emergency, Nov. 2, 1977, regular. | May 17, 1974 and Mar. 5, 1976. |
| North Dakota | Pembina | Pembina, city of | 385368-D | June 12, 1970, emergency, Nov. 2, 1977, regular. | June 20, 1970. |
| * | * | * | * | * | * |
| New York | Wayne | Arcadia, town of | 360972-B | June 4, 1973, emergency, Nov. 2, 1977, regular. | 4Apr. 12, 1974 and June 11, 1976. |
| Do. | Chautauqua | Bemus Point, village of | 360133-B | July 16, 1975, emergency, Nov. 2, 1977, regular. | Aug. 9, 1974. |
| Do. | Wayne | Sodus Point, village of | 360899-B | Mar. 9, 1973, emergency, Nov. 2, 1977, regular. | Aug. 31, 1973 and Oct. 24, 1975. |
| Do. | Steuben | Wayne, town of | 360785-B | July 19, 1973, emergency, Nov. 2, 1977, regular. | May 24, 1974 and June 25, 1976. |
| Do. | Cayuga | Weedsport, village of | 360132-A | May 19, 1975, emergency, Nov. 2, 1977, regular. | June 7, 1974. |
| Ohio | Cuyahoga | Avon Lake, city of | 390602-B- | Feb. 11, 1977, emergency, Nov. 11, 1977,regular. | Apr. 12, 1974 and June 4, 1976 |
| Pennsylvania | Montgomery | Ambler, borough of | 420947-A | Dec. 6, 1973 emergency, Nov. 11, 1977 regular. | May 31, 1974 and April 30, 1976. |

| State | County | Location | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---|---|---|---|---|---|
| Pennsylvania | Bucks | Nockamixon, township of | 420710-B | Feb. 2, 1973 emergency, Nov. 2, 1977 regular. | July 19, 1974 and June 18, 1976. |
| Do. | Chester | West Goshen, townshsip of | 420293-B | Jan. 26, 1973 emergency, Nov. 2, 1977, regular. | June 21, 1974 and June 18, 1976. |
| Tennessee | White | Sparta, town of | 470203-B | Mar. 14, 1974, emergency, Nov. 2, 1977, regular. | June 28, 1974 and Apr. 2, 1976. |
| Texas | McLennan | Waco, city of | 480461 | Nov. 26, 1971, emergency, Nov. 2, 1977, regular. | Nov. 2, 1977. |
| Virginia | Amherst | Amherst, town of | 510193-A | Feb. 7, 1974, emergency, Nov. 2, 1977, regular. | Jan. 31, 1975. |
| Do. | Botetourt | Buchanan, town of | 510019-B | Jan. 10, 1974, emergency, Nov. 2, 1977, regular. | Feb. 1, 1974 and May 28, 1976. |
| * | * | * * | * | * | * |
| Washington | King | Normandy Park, city of | 530084-B | Jan. 21, 1974, emergency, Nov. 2, 1977, regular. | June 28, 1974 and Oct. 31, 1975. |
| Do | Okanogan | Winthrop, town of | 530125-A | May 29, 1974, emergency, Nov. 2, 1977, regular. | Feb. 21, 1975. |
| Arkansas | Crawford | Van Buren, city of | 050053-B | Jan. 16, 1974, emergency, Nov. 16, 1977, regular. | Nov. 16, 1973 and Apr. 23, 1976. |
| Colorado | Adams | Brighton, city of | 080004-B | Aug. 2, 1974, emergency, Nov. 16, 1977, regular. | Feb. 22, 1974 and Oct. 15, 1976. |
| Florida | Walton | Unincorported areas | 120317-A | Oct. 16, 1970, emergency, Nov. 16, 1977, regular. | Feb. 21, 1975. |
| Georgia | Cook | Sparks, town of | 130061 | Dec. 26, 1973, emergency, Nov. 16, 1977, regular. | Feb. 14, 1975. |
| North Carolina | Rockingham | Madison, town of | 370207-A | June 27, 1973, emergency, Nov. 16, 1977, regular. | Nov. 22, 1974. |
| Oregon | Tillamook | Wheeler, city of | 410203-C | Mar. 27, 1974, emergency, Nov. 16, 1977, regular. | Sept. 13, 1974 and Nov. 28, 1975 and July 30, 1976. |
| Pennsylvania | Montgomery | Horsham, township of | 420700-B | May 9, 1973, emergency, Nov. 16, 1977, regular. | June 21, 1974 and June 18, 1976. |
| Do | ....do | Upper Merion, township of | 420957-A | Dec. 17, 1973, emergency, Nov. 16, 1977, regular. | May 10, 1974. |
| Do | Luzerne | Wyoming, borough of | 420633-C | Nov. 3, 1972, emergency, Nov. 16, 1977, regular. | Feb. 9, 1973, Mar. 22, 1974 and Oct. 31, 1975. |
| Texas | Wilson | Floresville, city of | 480671-B | Jan. 7, 1974, emergency, Nov. 16, 1977, regular. | Mar. 8, 1974 and June 4, 1976. |
| * | * | * * | * | * | * |
| Alabama | Colbert | Tuscambia, city of | 010049-B | Nov. 27, 1973, emergency, Dec. 1, 1977, regular. | Mar. 8, 1974 and Oct. 15, 1976. |
| California | Marin | San Anselmo, city of | 060180-B | Oct. 24, 1973, emergency, Dec. 1, 1977, regular. | Mar. 1, 1974 and Feb. 28, 1975. |
| Colorado | Morgan | Brush, city of | 080130-B | June 18, 1975, emergency, Dec. 1, 1977, regular. | Nov. 23, 1973. |
| Do. | Rio Blanco | Rangely, town of | 080152-B | May 30, 1973, emergency, Dec. 1, 1977, regular. | Apr. 12, 1974 and Dec. 26, 1975. |
| Florida | St. Lucie | Fort Pierce, city of | 120286-B | Jan. 16, 1974, emergency, Dec. 1, 1977, regular. | May 24, 1974 and Aug. 27, 1976. |
| Do. | Duval | Jacksonville, city of | 120077-B | Nov. 19, 1971, emergency, Dec. 1, 1977, regular. | Jan. 31, 1975 and Aug. 20, 1976. |

| State | County | Location | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---|---|---|---|---|---|
| Florida | Broward | Miramar, city of | 120048-B | Oct. 18, 1973, emergency, Dec. 1, 1977, regular. | Jan. 15, 1974 and Nov. 1, 1974. |
| Do. | do. | Oakland Park, city of | 120050-B | Oct. 27, 1972, emergency, Dec. 1, 1977, regular. | June 28, 1974 and Apr. 9, 1976. |
| Georgia | Cobb | Austell, city of | 130054-B | Aug. 30, 1974, emergency, Dec. 1, 1977, regular. | Apr. 5, 1974 and Feb. 20, 1976. |
| Do. | Fayette | Peachtree City, city of | 130078-C | Mar. 14, 1974, emergency, Dec. 1, 1977, regular. | May 31, 1974 and July 11, 1975. |
| Iowa | Multiple | Dyersville, city of | 190120-B | Dec. 29, 1972, emergency, Dec. 1, 1977, regular. | June 28, 1974 and May 14, 1976. |
| Kansas | Marshall | Marysville, city of | 200212-A | July 2, 1974, emergency, Dec. 1, 1977, regular. | Dec. 7, 1973. |
| * | * | * * | * | * | * |
| Kentucky | Knox | Barbourville, city of | 210132-C | Nov. 23, 1973, emergency, Dec. 1, 1977, regular. | Mar. 15, 1974 and Aug. 30, 1974. |
| Massachusetts | Berkshire | Alford, town of | 250017-B | Jan. 28, 1974, emergency, Dec. 1, 1977, regular. | June 7, 1974 and June 11, 1976. |
| Maryland | Carroll | Westminster, city of | 240018-B | June 25, 1973, emergency, Dec. 1, 1977, regular. | June 28, 1974. |
| Michigan | Berrien | Hagar, township of | 260035-B | Apr. 19, 1973, emergency, Dec. 1, 1977, regular. | May 31, 1974 and Mar. 5, 1976. |
| Do | do. | Royalton, township of | 260043-B | May 17, 1973, emergency, Dec. 1, 1977, regular. | June 21, 1974 and June 25, 1976. |
| Minnesota | Hennepin | Excelsior, city of | 270161-B | May 20, 1974, emergency, Dec. 1, 1977, regular. | May 31, 1974. |
| Nebraska | Saunders | Wahoo, city of | 310204-B | Aug. 25, 1972, emergency, Dec. 1, 1977, regular. | Oct. 12, 1973 and June 18, 1976. |
| Do | Cass | Weeping Water, city of | 310036-B | May 5, 1975, emergency, Dec. 1, 1977, regular. | Jan. 9, 1974 and Dec. 19, 1975. |
| New Jersey | Morris | Hanover, township of | 340343-B | Jan. 28, 1972, emergency, Dec. 1, 1977, regular. | Dec. 28, 1973 and Jan. 3, 1975. |
| Do | Hudson | Kearney, town of | 340224-B | Apr. 18, 1975, emergency, Dec. 1, 1977, regular. | June 28, 1974 and Aug. 13, 1976. |
| Do | Mercer | Lawrence, township of | 340250-A | June 16, 1972, emergency, Dec. 1, 1977, regular. | June 1, 1973. |
| New York | Chautauqua | Cassadaga, village of | 361053-B | June 19, 1975, emergency, Dec. 1, 1977, regular. | May 31, 1974. |
| * | * | * * | * | * | * |
| New York | Jefferson | Clayton, village of | 360331-B | Mar. 8, 1974, emergency, Dec. 1, 1977, regular. | May 31, 1974 and Nov. 28, 1975. |
| Do | Steuben | Corning, city of | 360772-C | Feb. 23, 1973, emergency, Dec. 1, 1977, regular. | Aug. 24, 1973 and Dec. 7, 1973 and Aug. 6, 1976. |
| Do | Westchester | Mamaroneck, village of | 360916-B | Mar. 24, 1972, emergency, Dec. 1, 1977, regular. | Sept. 14, 1973 and Jan. 16, 1976. |
| Do | Chautauqua | Sinclairville, village of | 360145-B | July 7, 1975, emergency, Dec. 1, 1977, regular. | May 10, 1974 and June 4, 1976. |
| Ohio | Cuyahoga | Bay Village, city of | 390093-B | June 14, 1974, emergency, Dec. 1, 1977, regular. | Apr. 12, 1974 and May 21, 1976. |
| Do | Lake | Mentor, city of | 390317-B | Dec. 29, 1972, emergency, Dec. 1, 1977, regular. | June 14, 1974 and June 18, 1976. |

| State | County | Location | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---|---|---|---|---|---|
| Oklahoma | Creek | Sapulpa, city of | 400053-A | Aug. 4, 1972, emergency, Dec. 1, 1977, regular. | May 11, 1973. |
| Pennsylvania | Chester | East Vincent, township of | 420278-A | Feb. 9, 1973, emergency, Dec. 1, 1977, regular. | Dec. 28, 1973. |
| Do | Schuylkill | Schuylkill Haven, borough of | 420787-A | Oct. 20, 1972, emergency, Dec. 1, 1977, regular. | Aug. 2, 1974. |
| Do | Montgomery | Whitemarsh, township of | 420712-A | Nov. 12, 1971, emergency, Dec. 1, 1977, regular. | Oct. 22, 1976. |
| Do | Lycoming | Williamsport, city of | 420662-B | Nov. 24, 1972, emergency, Dec. 1, 1977, regular. | June 29, 1973 and Aug. 27, 1976. |
| Tennessee | Warren | McMinnville, city of | 470195-A | Jan. 15, 1974, emergency, Dec. 1, 1977, regular. | Mar. 29, 1974. |
| Texas | Bandera | Bandera, city of | 480021-B | Feb. 17, 1976, emergency, Dec. 1, 1977, regular. | Apr. 12, 1974 and Dec. 19, 1975. |
| * | * | * | * | * | * |
| New York | Multiple | Mineral Wells, city of | 480517-B | Mar. 3, 1972, emergency, Dec. 1, 1977, regular. | May 3, 1974 and July 23, 1976. |
| Do | Wilson | Poth, city of | 480672-B | July 24, 1975, emergency, Dec. 1, 1977, regular. | May 24, 1974 and Jan. 16, 1976. |
| Do | Gonzales | Waelder, city of | 480255-B | June 17, 1975, emergency, Dec. 1, 1977, regular. | July 19, 1974 and Apr. 2, 1976. |
| Washington | Chelan | Cashmere, city of | 530016-B | Aug. 23, 1974, emergency, Dec. 1, 1977, regular. | Apr. 5, 1974 and May 21, 1976. |
| * | * | * | * | * | * |
| Alabama | Colbert | Muscle Shoals, city of | 010047-B | Jan. 30, 1974, emergency, Dec. 15, 1977, regular. | Mar. 8, 1974. |
| Do | ....do | Sheffield, city of | 010048-B | Jan. 10, 1974, emergency, Dec. 15, 1977, regular. | Mar. 22, 1974 and Jan. 22,, 1976. |
| California | Marin | Corte Madera, town of | 065023-B | July 17, 1970, emergency, Dec. 15, 1977, regular. | June 28, 1974 and Jan. 16, 1976. |
| Colorado | Garfield | Unincorporated areas | 080205-A | Mar. 27, 1974, emergency, Dec. 15, 1977, regular. | Dec. 15, 1977. |
| Connecticut | New Haven | Branford, town of | 090073-B | Apr. 5, 1973, emergency, Dec. 15, 1977, regular. | July 26, 1974 and Nov. 26, 1976. |
| Florida | Broward | Pembroke Pines, city of | 120053-A | Oct. 27, 1972, emergency, Dec. 15, 1977, regular. | Apr. 6, 1973. |
| Georgia | Fulton | Roswell, city of | 130088-B | Nov. 21, 1973, emergency, Dec. 15, 1977, regular. | June 7, 1974 and Feb. 6, 1976. |
| Do | Cobb | Smyrna, city of | 130057-B | Dec. 17, 1973, emergency, Dec. 15, 1977, regular. | June 7, 1974 and Jan. 30, 1976. |
| Louisiana | Concordia | Ferriday, town of | 220055-B | Apr. 26, 1973, emergency, Dec. 15, 1977, regular. | Jan. 9, 1974 and Nov. 7, 1975. |
| Michigan | Jackson | Jackson, city of | 260273-B | Sept. 19, 1973, emergency, Dec. 15, 1977, regular. | June 7, 1974. |
| North Dakota | Mercer | Hazen, city of | 380067-B | Aug. 13, 1974, emergency, Dec. 15, 1977, regular. | Nov. 23, 1973 and Mar. 26, 1976. |
| New Jersey | Somerset | Peapack and Gladstone, borough of | 340441-B | Jan. 28, 1972, emergency, Dec. 15, 1977, regular. | Mar. 1, 1974 and Mar. 19, 1976. |

| State | County | Location | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---|---|---|---|---|---|
| Pennsylvania | Montgomery | Conshohocken, borough of | 420949-A | Apr. 10, 1973, emergency, Dec. 15, 1977, regular. | Mar. 22, 1974. |
| * | * | * | * | * | * |
| Pennsylvania | Bucks | New Hope, borough of | 420195-B | Jan. 19, 1973, emergency, Dec. 15, 1977, regular. | Apr. 27, 1973 and June 11, 1976. |
| Do. | York | Springettsbury, township of | 421031-A | Nov. 2, 1973, emergency, Dec. 15, 1977, regular. | Mar. 22, 1974. |
| Rhode Island | Providence | North Providence, town of | 440020-A | Oct. 6, 1972, emergency, Dec. 15, 1977, regular. | Apr. 13, 1973. |
| South Dakota | Union | North Sioux City, city of | 460087-B | Feb. 2, 1973, emergency, Dec. 15, 1977, regular. | Nov. 16, 1973 and July 16, 1976. |
| Texas | Gregg | Longview, city of | 480264-B | Dec. 6, 1973, emergency, Dec. 15, 1977, regular. | Aug. 9, 1974 and Oct. 10, 1975. |
| Alabama | Mobile | Mount Vernon, town of | 010169-C | July 25, 1975, emergency, Dec. 16, 1977, regular. | Dec. 17, 1973 and June 11, 1976. |
| Do. | Geneva | Slocomb, city of | 010089-C | May 21, 1975, emergency, Dec. 16, 1977, regular. | May 24, 1974 and June 11, 1976. |
| Iowa | Marion | Knoxville, city of | 190603-B | Aug. 10, 1976, emergency, Dec. 16, 1977, regular. | Dec. 16, 1977. |
| Louisiana | Vermilion Parish | Gueydan, town of | 220225-A | July 1, 1974, emergency, Dec. 16, 1977, regular. | Do. |
| Do. | Iberville | White Castle, town of | 220088-A | Apr. 23, 1973, emergency, Dec. 16, 1977, regular. | Do. |
| Pennsylvania | Bedford | Juniata, township of | 421340-A | Sept. 4, 1975, emergency, Dec. 16, 1977, regular. | Jan. 17, 1975. |
| South Carolina | Oconee | Seneca, town of | 450158-B | July 24, 1975, emergency, Dec. 16, 1977, regular. | June 14, 1974 and Apr. 2, 1976. |
| New Jersey | Warren | Alpha, borough of | 340576-A | Oct. 2, 1975, emergency, Dec. 23, 1977, regular. | Oct. 22, 1976. |
| * | * | * | * | * | * |
| New Jersey | Burlington | Beverly, city of | 340086-C | Feb. 7, 1975, emergency, Dec. 23, 1977, regular. | June 21, 1974, and June 4, 1976, and Nov. 12, 1976. |
| Alabama | Coffee | Kinston, town of | 010237-A | Oct. 8, 1975, emergency, Dec. 30, 1977, regular. | Jan. 10, 1975. |
| Do | Baldwin | Fairhope, city of | 010006-B | Sept. 22, 1972, emergency, Jan. 5, 1978, regular. | May 24, 1974. |
| Arizona | Maricopa | Wickenburg, town of | 040056-B | Jan. 16, 1974, emergency, Jan. 5, 1978, regular. | Feb. 1, 1974 and Oct. 10, 1975. |
| California | Marin | Fairfax, town of | 060175-A | Oct. 9, 1973, emergency, Jan. 5, 1978, regular. | Jan. 15, 1978. |
| Colorado | Arapahoe | Greenwood Village, city of | 080195-A | Mar. 16, 1976, emergency, Jan. 5, 1978, regular. | Dec. 27, 1974. |
| Connecticut | Litchfield | Woodbury, town of | 090133-B | Feb. 18, 1972, emergency, Jan. 5, 1978, regular. | Apr. 12, 1974. |
| Iowa | Muscatine | Muscatine, city of | 190213-A | Jan. 15, 1974, emergency, Jan. 5, 1978, regular. | Feb. 1, 1974. |
| Do | Scott | Riverdale, city of | 190245-B | July 7, 1975, emergency, Jan. 5, 1978, regular. | Jan. 23, 1974 and Mar. 26, 1976. |
| Illinois | Madison | Venice, city of | 170450-B | Feb. 11, 1974, emergency, Jan. 5, 1978, regular. | Feb. 15, 1974. |

| State | County | Location | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---|---|---|---|---|---|
| Kansas | Leavenworth | Leavenworth, city of | 200190-A | May 1, 1973, emergency, Jan. 5, 1978, regular. | Nov. 28, 1973. |
| Maryland | Montgomery | Rockville, city of | 240051-B | Dec. 1, 1972, emergency, Jan. 5, 1978, regular. | Apr. 5, 1974 and Feb. 13, 1976. |
| Michigan | St. Clair | Algonac City, city of | 260191-B | Dec. 15, 1972, emergency, Jan. 5, 1978, regular. | Apr. 12, 1974 and July 9, 1976. |
| * | * | * | * | * | * |
| Michigan | Wayne | River Rouge, city of | 260239-B | May 12, 1973, emergency, Jan. 5, 1978, regular. | May 17, 1974 and Sept. 26, 1975. |
| Missouri | Clay | Gladstone, city of | 290091-B | Feb. 9, 1973, emergency, Jan. 5, 1978, regular. | May 17, 1974 and Apr. 30, 1976. |
| Mississippi | Tunica | Tunica, town of | 280196-B | Jan. 28, 1974, emergency, Jan. 5, 1978, regular. | June 14, 1974 and Oct. 15, 1976. |
| Do. | Clay | West Point, city of | 280037-B | Feb. 1, 1974, emergency, Jan. 5, 1978, regular. | June 21, 1974 and Dec. 19, 1975. |
| Nebraska | Cass | Murray, village of | 310305-A | June 30, 1976, emergency, Jan. 5, 1978, regular. | Aug. 15, 1975. |
| North Carolina | Rockingham | Eden, city of | 370206-B | Apr. 19, 1973, emergency, Jan. 5, 1978, regular. | Oct. 12, 1973 and Feb. 7, 1975. |
| Do. | Edgecomb | Tarboro, town of | 370094-C | Feb. 15, 1974, emergency, Jan. 5, 1978, regular. | Feb. 15, 1974 and Feb. 28, 1975. |
| North Dakota | Mercer | Beulah, city of | 380066-B | Mar. 14, 1975, emergency, Jan. 5, 1978, regular. | Nov. 23, 1973 and Apr. 2, 1976. |
| Do. | Cass | Riverside, city of | 380316-A | Feb. 14, 1977, emergency, Jan. 5, 1978, regular. | Jan. 5, 1978. |
| New Jersey | Somerset | Warren, township of | 340446-A | Feb. 4, 1972, emergency, Jan. 5, 1978, regular. | Jan. 16, 1974. |
| New York | Chautauqua | Falconer, village of | 360138-A | July 7, 1975, emergency, Jan. 5, 1978, regular. | Feb. 22, 1974. |
| * | * | * | * | * | * |
| New York | Ontario | Gorham, town of | 360601-B | Aug. 1, 1973, emergency, Jan. 5, 1978, regular. | Aug. 2, 1974 and Feb. 13, 1976. |
| Do. | Chautauqua | Mayville, village of | 361059-C | June 12, 1975, emergency, Jan. 5, 1978, regular. | Aug. 23, 1974 and Mar. 26, 1976. |
| Do. | Allegany | Richburg, village of | 360032-B | May 21, 1976, emergency, Jan. 5, 1978, regular. | Aug. 9, 1974 and Jan. 23, 1976. |
| Do. | Suffolk | Sag Harbor, village of | 360807-B | Jan. 14, 1974, emergency, Jan. 5, 1978, regular. | May 3, 1974 and July 9, 1976. |
| Pennsylvania | Delaware | Concord, township of | 420410-A | Feb. 25, 1972, emergency, Jan. 5, 1978, regular. | Aug. 30, 1974. |
| Do. | Cameron | Lumber, township of | 421129-B | Mar. 6, 1974, emergency, Jan. 5, 1978, regular. | Sept. 20, 1974 and July 30, 1976. |
| Do. | Juniata | Port Royal, borough of | 420520-B | Mar. 30, 1973, emergency, Jan. 5, 1978, regular. | Oct. 5, 1973 and Apr. 23, 1976. |
| Do. | Montgomery | Whitpain, township of | 420713-B | Apr. 14, 1972, emergency, Jan. 5, 1978, regular. | July 26, 1974 and June 11, 1976. |
| Virginia | Loudoun | Unincorporated areas | 510090-B | Sept. 15, 1972, emergency, Jan. 5, 1978, regular. | Apr. 25, 1975 and Dec. 31, 1976. |
| Washington | Chelan | Chelan, city of | 530017-A | Apr. 16, 1975, emergency, Jan. 5, 1978, regular. | June 25, 1976. |

| State | County | Location | Community No. | Effective date of authorization of sale of flood insurance for area | Hazard area identified |
|---|---|---|---|---|---|
| Washington | Chelan | Leavenworth, city of | 530019-B | Sept. 3, 1974, emergency, Jan. 5, 1978, regular. | May 24, 1974 and June 4, 1976. |
| Do. | Pacific | Unincorporated areas | 530126-A | Jan. 17, 1974, emergency, Jan. 5, 1978, regular. | Oct. 25, 1974. |
| Do. | Okanogan | Tonasket, town of | 530123-B | Apr. 2, 1974, emergency, Jan. 5, 1978, regular. | May 24, 1974 and July 2, 1976. |
| Wisconsin | Marathon | Wausau, city of | 550258-A | Apr. 2, 1971, emergency,. | Jan. 5, 1978. |
| * | * | * * | * | * | * |
| California | Yuba | Marysville, city of | 060428-B | May 2, 1973, emergency, Jan. 19, 1978, regular. | Nov. 2, 1973 and Oct. 22, 1976. |
| Do | Marin | Novato, city of | 060178-A | Feb. 26, 1971, emergency, Jan. 19, 1978, regular. | June 28, 1974. |
| Colorado | Alamosa | Unincorporated areas | 080009 | June 6, 1973, emergency, Jan. 19, 1978, regular. | Aug. 2, 1974. |
| Do | Routt | Steamboat Springs, city of | 080159-A | Oct. 10, 1973, emergency, Jan. 19, 1978, regular. | Dec. 27, 1974. |
| Florida | Broward | Coral Springs, city of | 120033-A | Mar. 16, 1973, emergency, Jan. 19, 1978, regular. | Nov. 2, 1973. |
| Do | do | Margate, city of | 120047-B | Oct. 6, 1972, emergency, Jan. 19, 1978, regular. | Feb. 15, 1974. |
| Georgia | Houston | Perry, city of | 130110-A | Mar. 6, 1974, emergency, Jan. 19, 1978, regular. | May 31, 1974 and Sept. 26, 1975. |
| Do | Lowndes | Valdosta, city of | 130200-B | Dec. 17, 1973, emergency, Jan. 19, 1978, regular. | Mar. 29, 1974 and Mar. 26, 1976. |
| Michigan | Monroe | Frenchtown, township of | 260146-A | Jan. 19, 1973, emergency, Jan. 19, 1978, regular. | Mar. 5, 1976. |
| Missouri | St. Louis | Fenton, city of | 290350-A | Feb. 25, 1972, emergency, Jan. 19, 1978, regular. | May 17, 1974. |
| Do | do | Ferguson, city of | 290351-C | May 3, 1973, emergency, Jan. 19, 1978, regular. | Sept. 14, 1973 and June 18, 1976. |
| Do | Macon | Macon, city of | 290220-B | Feb. 7, 1974, emergency, Jan. 19, 1978, regular. | June 7, 1974 and Dec. 12, 1975. |
| New Jersey | Cumberland | Maurice River, township of | 340172-B | Apr. 14, 1972, emergency, Jan. 19, 1978, regular. | May 31, 1974 and July 16, 1976. |
| New York | Steuben | Urbana, town of | 360783-B | June 20, 1973, emergency, Jan. 19, 1978, regular. | May 10, 1974. |
| * | * | * * | * | * | * |
| Pennsylvania | St. Louis | Fenton, city of | 420783-B | Sept. 15, 1972, emergency, Jan. 19, 1978, regular. | Mar. 23, 1973 and Oct. 4, 1976. |
| Do | Delaware | Springfield, township of | 420434-A | Nov. 26, 1971, emergency, Jan. 19, 1978, regular. | Jan. 16, 1974. |
| Louisiana | St. James | Garmercy, town of | 220162-B | Feb. 4, 1974, emergency, Jan. 24, 1978, regular. | May 3, 1974 and Jan. 9, 1976. |
| Do | West Baton Rouge | Port Allen, city of | 220242-B | Apr. 30, 1973, emergency, Jan. 24, 1978, regular. | June 28, 1974. |
| Do | Avoyelles | Moreauville, village of | 220023-B | May 3, 1973, emergency, Jan. 24, 1978, regular. | June 28, 1974 and Oct. 24, 1975. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Connecticut | New Haven | East Haven, town of | 090076-B | Apr. 1, 1978, emergency, Feb. 1, 1978, regular. | June 28, 1974 and Aug. 27, 1976. |
| Illinois | Alexander | Cairo, city of | 170004-B | Nov. 5, 1971, emergency, Feb. 1, 1978, regular. | June 14, 1975. |
| Indiana | St. Joseph | South Bend, city of | 180231-B | Aug. 16, 1974, emergency, Feb. 1, 1978, regular. | Aug. 16, 1974. |
| Massachusetts | Hampton | Agawam, town of | 250133-A | June 25, 1973, emergency, Feb. 1, 1978, regular. | Feb. 8, 1974. |
| Maryland | Washington | Funkstown, town of | 240073-B | May 19, 1975, emergency, Feb. 1, 1978, regular. | Mar. 8, 1974 and Jan. 23, 1976. |
| Michigan | Berrien | St. Joseph, city of | 260044-B | Apr. 9, 1973, emergency, Feb. 1, 1978, regular. | May 24, 1974 and Mar. 5, 1976. |
| Minnesota | Carver | Unincorporated areas | 270049-A | Apr. 19, 1973, emergency, Feb. 1, 1978, regular. | Feb. 1, 1978. |
| Do | Hennepin | Dayton, city of | 270157-B | Sept. 25, 1973, emergency, Feb. 1, 1978, regular. | Do. |
| Mississippi | Monroe | Aberdeen, city of | 280115-B | Jan. 31, 1974, emergency, Feb. 1, 1978, regular. | Jan. 23, 1974 and June 18, 1976. |
| North Carolina | Gaston | Gastonia, city of | 370100-B | Nov. 26, 1973, emergency, Feb. 1, 1978, regular. | June 21, 1974 and Aug. 20, 1976. |
| New Jersey | Monmouth | Little Silver, borough of | 340305-B | Sept. 29, 1972, emergency, Feb. 1, 1978, regular. | Aug. 31, 1973 and Aug. 27, 1976. |
| New York | Westchester | Briarcliff Manor, village of | 360904-B | May 23, 1973, emergency, Feb. 1, 1978, regular. | June 28, 1974 and Apr. 9, 1976. |
| Do | Cattaraugus | East Randolph, village of | 360068-A | June 11, 1975, emergency, Feb. 1, 1978, regular. | Jan. 23, 1976. |
| Do | Cayuga | Fair Haven, village of | 360109-B | Apr. 20, 1973, emergency, Feb. 1, 1978, regular. | Feb. 22, 1974. |
| Do | Monroe | Hamlin, town of | 360418-C | Mar. 2, 1973, emergency, Feb. 1, 1978, regular. | Jan. 23, 1974 and May 14, 1976. |
| Do | Cattaraugus | Little Valley, village of | 360082-B | July 22, 1975, emergency, Feb. 1, 1978, regular. | May 31, 1974 and Apr. 30, 1976. |
| Do | Livingston | Livonia, town of | 360386-B | Apr. 17, 1973, emergency, Feb. 1, 1978, regular. | Mar. 8, 1974 and Apr. 30, 1976. |
| Do | Suffolk | Shelter Island, town of | 360809-B | Aug. 31, 1973, emergency, Feb. 1, 1978, regular. | May 3, 1974 and July 30, 1976. |
| Do | Oneida | Whitesboro, village of | 360566-B | Mar. 15, 1974, emergency, Feb. 1, 1978, regular. | Feb. 22, 1974 and May 21, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Niagara | Wilson, town of | 360514-B | May 21, 1973, emergency, Feb. 1, 1978, regular. | May 17, 1974 and July 23, 1976. |
| Ohio | Cuyahoga | Lakewood, city of | 390112-B | Mar. 30, 1973, emergency, Feb. 1, 1978, regular. | Nov. 16, 1973 and June 4, 1976. |
| Pennsylvania | Cameron | Emporium, borough of | 420246-B | May 15, 1974, emergency, Feb. 1, 1978, regular. | Mar. 29, 1974. |
| Do | Juniata | Fermanagh, township of | 420517-A | June 1, 1973, emergency, Feb. 1, 1978, regular. | Oct. 12, 1973. |
| Do | Montgomery | Lower Merion, township of | 420701-B | Dec. 10, 1971, emergency, Feb. 1, 1978, regular. | June 21, 1974 and May 28, 1976. |
| Do | Cambria | Lower Yoder, township of | 420233-B | Oct. 6, 1972, emergency, Feb. 1, 1978, regular. | Feb. 15, 1974. |
| Do | Juniata | Mifflin, borough of | 420518-B | Oct. 4, 1973, emergency, Feb. 1, 1978, regular. | Jan. 16, 1974 and Nov. 7, 1975. |
| Do | Lehigh | South Whitehall, township of | 420593-B | Jan. 26, 1973, emergency, Feb. 1, 1978, regular. | Jan. 16, 1974 and June 18, 1976. |
| Do | Bradford | Wysox, township of | 420977-B | Sept. 26, 1973, emergency, Feb. 1, 1978, regular. | July 26, 1974 and July 9, 1976. |
| Rhode Island | Kent | West Warwick, town of | 440007-A | Sept. 1, 1972, emergency, Feb. 1, 1978, regular. | April 13, 1973. |
| Tennessee | Williamson | Brentwood, city of | 470205-A | Mar. 23, 1973, emergency, Feb. 1, 1978, regular. | Nov. 30, 1973. |
| Texas | Tarrant | Haltom City, city of | 480599-A | Jan. 14, 1972, emergency, Feb. 1, 1978, regular. | June 28, 1974. |
| Washington | Multiple | Woodland, city of | 530035-B | June 23, 1972, emergency, Feb. 1, 1978, regular. | Nov. 2, 1973 and June 11, 1976. |
| Louisiana | Lafourche Parish | Thibodaux, city of | 220111-B | May 30, 1974, emergency, Feb. 7, 1978, regular. | Feb 12, 1976 and Jan. 2, 1976. |
| Colorado | Adams | Commerce, city of | 080006-C | Apr. 11, 1974, emergency, Feb. 15, 1978, regular. | June 28, 1974 and July 11, 1975. |
| Florida | Broward | Dania, city of | 120034-B | Sept. 8, 1972, emergency, Feb. 15, 1978, regular. | June 28, 1974. |
| Do | ....do | Tamarac, city of | 120058-B | June 2, 1972, emergency, Feb. 15, 1978, regular. | June 21,1974. |
| Georgia | Cobb | Acworth, city of | 130053-B | Mar. 14, 1974, emergency, Feb. 15, 1978, regular. | April 5, 1974 and Feb. 13, 1976. |
| Do | Fulton | Alpharetta, city of | 130084-B | Mar. 5, 1974, emergency, Feb. 15, 1978. | June 14, 1974 and Oct. 17, 1975. |
| Do | Richmond | Augusta, city of | 130159-A | Nov. 26, 1973, emergency, Feb. 15, 1978, regular. | May 24, 1974 and Aug. 20, 1976. |
| Do | Walker | Lafayette, city of | 130182-B | Dec. 19, 1973, emergency, Feb. 15, 1978, regular. | May 17, 1974 and Aug. 22, 1975. |
| Do | Cobb | Marietta, city of | 130226-B | Sept. 5, 1974, emergency, Feb. 15, 1978, regular. | June 21, 1974 and Jan. 7, 1977. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Clayton | Riverdale, city of | 130047-B | Dec. 12, 1973, emergency, Feb. 15, 1978, regular. | June 14, 1974 and Jan. 30, 1976. |
| Illinois | Stephenson | Unincorporated areas | 170639-B | Mar. 17, 1972, emergency, Feb. 15, 1978, regular. | Dec. 27, 1974. |
| Louisiana | Iberville | Rosedale, village of | 220087-B | Apr. 23, 1973, emergency, Feb. 15, 1978, regular. | Dec. 7, 1973 and Dec. 26, 1975. |
| Massachusetts | Essex | Newburyport, city of | 250097-B | Oct. 6, 1972, emergency, Feb. 15, 1978, regular. | July 26, 1974 and Oct. 22, 1976. |
| Michigan | Berrien | Grand Beach, village of | 260268-A | Mar. 9, 1973, emergency, Feb. 15, 1978, regular. | June 28, 1974. |
| Do | Ottawa | Grand Haven, city of | 260269-B | Aug. 28, 1973, emergency, Feb. 15, 1978, regular. | June 28, 1974 and Aug. 1, 1975. |
| Do | do | Spring Lake, township of | 260281-B | Sept. 4, 1973, emergency, Feb. 15, 1978, regular. | June 28, 1974 and May 21, 1976. |
| Do | Iosco | Tawas City, city of | 260102-B | July 23, 1973, emergency, Feb. 15, 1978, regular. | May 31, 1974 and June 18, 1976. |
| Nebraska | Cass | Nehawka, village of | 310032-B | Apr. 17, 1975, emergency, Feb. 15, 1978, regular. | Sept. 6, 1974 and Nov. 28, 1975. |
| Do | Sarpy | Springfield, city of | 310194-B | Nov. 2, 1973, regular, Feb. 15, 1978, regular. | May 3, 1974 and Nov. 28, 1975. |
| New Jersey | Cumberland | Downe, township of | 340167-B | Oct. 22, 1971, emergency, Feb. 15, 1978, regular. | Apr. 20, 1973 and June 25, 1976. |
| Do | Mercer | Hopewell, borough of | 340248-B | Feb. 22, 1974, emergency, Feb. 15, 1978, regular. | June 28, 1974 and Jan. 16, 1976 and Aug. 20, 1976. |
| Do | Bergen | Lodi, borough of | 340047-B | Apr. 21, 1972, emergency, Feb. 15, 1978, regular. | July 27, 1973 and Apr. 30, 1976. |
| Do | Somerset | Manville, borough of | 340437-B | Dec. 15, 1972, emergency, Feb. 15, 1978, regular. | Apr. 13, 1973 and Dec. 24, 1976. |
| New York | Ontario | Geneva, town of | 360600-B | Mar. 30, 1973, emergency, Feb. 15, 1978, regular. | July 26, 1974 and July 16, 1976. |
| Do | Suffolk | Lloyd Harbor, village of | 360799-B | Dec. 19, 1973, emergency, Feb. 15, 1978. regular. | Apr. 12, 1974. |
| Do | Oswego | Richland, town of | 360660-B | Mar. 21, 1974, emergency, Feb. 15, 1978 regular. | July 26, 1974 and June 4, 1976. |
| Oregon | Douglas | Myrtle Creek, city of | 410064-B | Jan. 14, 1972, emergency, Feb. 15, 1978, regular. | Oct. 12, 1973 and May 28, 1976. |
| Do | Polk | Unincorporated areas | 410186-A | Dec. 10, 1971, emergency, Feb. 15, 1978, regular. | Feb. 7, 1975. |
| Pennsylvania | Mifflin | Burnham, borough of | 420684-B | Feb. 9, 1973, emergency, Feb. 15, 1978, regular. | Aug. 31, 1973 and May 7, 1976. |
| Do | Indiana | Center, township of | 420496-B | Aug. 22, 1973, emergency, Feb. 15, 1978, regular. | Mar. 29, 1974 and May 21, 1976. |
| Do | Erie | Corry, city of | 420447-B | July 11, 1973, emergency, Feb. 15, 1978, regular. | Apr. 12, 1974 and Sept. 27, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | York | Fairview, township of | 420923-A | Sept. 8, 1972, emergency, Feb. 15, 1978, regular. | Feb. 22, 1974. |
| Do | Cumberland | Hampden, township of | 420360-A | Apr. 14, 1972, emergency, Feb. 15, 1978, regular. | May 3, 1974. |
| Do | Berks | Kenhorst, borough of | 420135-B | Dec. 29, 1972, emergency, Feb. 15, 1978, regular. | Nov. 5, 1976. |
| Do | Mifflin | Newton Hamilton, borough of | 420689-B | Jan. 30, 1974, emergency, Feb. 15, 1978, regular. | June 28, 1974 and Apr. 23, 1976. |
| Do | Montgomery | Plymouth, township of | 420955-B | Dec. 3, 1971, emergency, Feb. 15, 1978, regular. | June 28, 1974 and Apr. 25, 1975. |
| Do | Bucks | Sellersville, borough of | 420203-A | July 9, 1973, emergency, Feb. 15, 1978, regular. | Mar. 8, 1974. |
| Do | Cambria | Stonycreek, township of | 420241-A | Aug. 18, 1972, emergency, Feb. 15, 1978, regular. | Dec. 28, 1973. |
| Do | Crawford | Titusville, city of | 420354-B | July 23, 1973, emergency, Feb. 15, 1978, regular. | May 31, 1974 and Jan. 30, 1976. |
| Do | Mercer | Wheatland, borough of | 420681-B | Feb. 15, 1974, emergency, Feb. 15, 1978, regular. | July 19, 1974 and July 30, 1976. |
| Texas | Dallas | Farmer's Branch, city of | 480174-A | Feb. 25, 1972, emergency, Feb. 15, 1978, regular. | Apr. 12, 1974. |
| Wisconsin | Ashland | Unincorporated areas | 550004-A | Oct. 4, 1973, emergency, Feb. 15, 1978, regular. | Feb. 15, 1978. |
| West Virginia | Harrison | Clarksburg, city of | 540056-B | Sept. 18, 1973, emergency, Feb. 15, 1978, regular. | Dec. 28, 1973 and Mar. 26, 1976. |
| Do | Mason | Hartford, town of | 540247-A | Apr. 29, 1975, emergency, Feb. 15, 1978, regular. | Nov. 22, 1974. |
| Do | ....do | Mason, town of | 540248-B | May 21, 1975, emergency, Feb. 15, 1978, regular. | Nov. 15, 1974 and July 30, 1976. |
| Alabama | Geneva | Malvern, town of | 010087-A | Sept. 16, 1975, emergency, Feb. 24, 1978, regular. | Dec. 6, 1974. |
| Delaware | Sussex | Greenwood, town of | 100039-B | July 30, 1975, emergency, Feb. 24, 1978, regular. | May 24, 1974. |
| North Carolina | Pitt | Winterville, town of | 370193-B | Apr. 11, 1975, emergency, 1975, Feb. 24, 1978, regular. | June 7, 1974 and July 2, 1976. |
| New Jersey | Camden | Berlin, township of | 340126-C | Mar. 22, 1975, emergency, Feb. 24, 1978, regular. | June 7, 1974 and Apr. 16, 1976 and Mar. 4, 1977. |
| Do | ....do | Pine Hill, borough of | 340143-C | Mar. 11, 1975, emergency, Feb. 24, 1978, regular. | June 21, 1974 and June 25, 1976. |
| Pennsylvania | Beaver | Georgetown, borough of | 422316-A | Apr. 22, 1976, emergency, Feb. 24, 1978, regular. | Mar. 28, 1975. |
| California | San Joaquin | Lodi, city of | 060300-B | Mar. 24, 1972, emergency, Mar. 1, 1978, regular. | Apr. 5, 1974 and Oct. 3, 1975. |
| Florida | Palm Beach | Mangonia Park, town of | 120216-A | Aug. 5, 1975, emergency, Mar. 1, 1978, regular. | Jan. 16, 1974 and Feb. 13, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | do | Palm Springs, village of | 120223-B | Nov. 2, 1973, emergency, Mar. 1, 1978, regular. | Mar. 15, 1974 and June 11, 1976. |
| Iowa | Scott | Davenport, city of | 190242-A | July 25, 1973, emergency, Mar. 1, 1978, regular. | June 21, 1974. |
| Do | Lee | Keokuk, city of | 109185-B | Mar. 27, 1974, emergency, Mar. 1, 1978, regular. | Jan. 23, 1974 and Apr. 23, 1976. |
| Illinois | Kankakee | Bradley, village of | 170338-B | Oct. 29, 1974, emergency, Mar. 1, 1978, regular. | Mar. 1, 1974 and Apr. 16, 1976. |
| Kansas | Edwards | Kinsley, city of | 200092-B | May 9, 1973, emergency, Mar. 1, 1978, regular. | May 17, 1974 and Oct. 3, 1975. |
| Louisiana | Iberville | Grosse Tete, village of | 220084-B | Apr. 23, 1973, emergency, Mar. 1, 1978, regular. | Feb. 1, 1974 and Nov. 14, 1975. |
| Do | Catahoula | Jonesville, town of | 220049-B | May 2, 1973, emergency, Mar. 1, 1978, regular. | Dec. 17, 1973. |
| Massachusetts | Berkshire | Pittsfield, city of | 250037-B | Oct. 29, 1973, emergency, Mar. 1, 1978, regular. | May 10, 1974 and Jan. 7, 1977. |
| Michigan | Ottawa | Ferrysburg, city of | 260184-B | Apr. 30, 1973, emergency, Mar. 1, 1978, regular. | June 28, 1974 and Aug. 6, 1976. |
| Do | Berrien | Lincoln, township of | 260037-A | Mar. 16, 1973, emergency, Mar. 1, 1978, regular. | July 26, 1974 and Dec. 5, 1975. |
| Do | Oceana | Pentwater, township of | 260183-B | July 23, 1973, emergency, Mar. 1, 1978, regular. | June 21, 1974 and July 2, 1976. |
| Missouri | Lincoln | Foley, city of | 290210-B | Mar. 21, 1974, emergency, Mar. 1, 1978, regular. | Nov. 29, 1974 and June 4, 1976. |
| Nebraska | Cass | Plattsmouth, city of | 310033-B | Feb. 26, 1975, emergency, Mar. 1, 1978, regular. | May 10, 1974 and Apr. 9, 1976. |
| New Jersey | Union | Berkeley Heights, township of | 340459-A | Dec. 30, 1971, emergency, Mar. 1, 1978, regular. | May 24, 1974 and July 30, 1976. |
| Do | Somerset | Bernardsville, borough of | 340429 | Dec. 17, 1971, emergency, Mar. 1, 1978, regular. | Dec. 28, 1973. |
| New Mexico | McKinley | Gallup, city of | 350042-B | Aug. 6, 1973, emergency, Mar. 1, 1978, regular. | Mar. 1, 1974 and July 26, 1977. |
| New York | Nassau | Glen Cove, city of | 360465-A | Aug. 16, 1974, emergency, Mar. 1, 1978, regular. | Aug. 16, 1974 and June 11, 1976. |
| Do | Schenectady | Niskayuna, town of | 360739-B | Nov. 7, 1973, emergency, Mar. 1, 1978, regular. | Mar. 29, 1974 and July 23, 1976. |
| Do | Jefferson | Orleans, town of | 360345-B | June 6, 1973, emergency, Mar. 1, 1978, regular. | May 31, 1974 and July 16, 1976. |
| Do | Wayne | Palmyra, town of | 360974-B | Mar. 30, 1973, emergency, Mar, 1, 1978, regular. | Apr. 5, 1974 and Dec. 5, 1975. |
| Do | Chautauqua | Panama, village of | 360143-B | Aug. 28, 1975, emergency, Mar. 1, 1978, regular. | Aug. 9, 1974 and June 11, 1976. |
| Do | Suffolk | Riverhead, town of | 360805-B | Feb. 5, 1974, emergency, Mar, 1, 1978, regular. | July 26, 1974 and July 16, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Chautauqua | Sherman, village of | 361502-A | Dec. 26, 1975, emergency, Mar. 1, 1978, regular. | Jan. 3, 1975. |
| Do | Steuben | South Corning, village of | 360782-C | Apr. 5, 1973, emergency, Mar. 1, 1978, regular. | July 13, 1973 and Nov. 16, 1973 and July 16, 1976. |
| Do | Broome | Union, town of | 360056-A | July 11, 1973, emergency, Mar. 1, 1978, regular. | Feb. 6, 1976. |
| Ohio | Lorain | Sheffield Lake, city of | 390355-B | May 1, 1973, Mar. 1, emergency, 1978, regular. | May 31, 1974. |
| Oregon | Clackamas | Unincorporated areas | 415588 | Apr. 2, 1971, emergency, Mar. 1, 1978, regular. | Mar. 1, 1978. |
| Pennsylvania | Perry | Bloomfield, borough of | 420748-B | Feb. 22, 1974, emergency, Mar. 1, 1978, regular. | Apr. 12, 1974. |
| Do | Fayette | Connellsville, city of | 420459-B | July 23, 1973, emergency, Mar. 1, 1978, regular. | Nov. 30, 1973 and Apr. 30, 1976. |
| Do | Lancaster | Leacock, township of | 420958-A | Dec. 17, 1973, emergency, Mar. 1, 1978, regular. | June 7, 1974 and July 2, 1976. |
| Do | Montgomery | Lower Moreland, township of | 420702-B | Nov. 17, 1972, emergency, Mar. 1, 1978, regular. | Nov. 30, 1973 and July 23, 1976. |
| Do | Carbon | Parryville, borough of | 420254 | Dec. 12, 1973, emergency, Mar. 1, 1978, regular. | Mar. 1, 1978. |
| Do | Juniata | Turbett, township of | 420522-A | May 10, 1973, emergency, Mar. 1, 1978, regular. | Apr. 5, 1974. |
| Do | Delaware | Upper Darby, township of | 420440-A | Dec. 10, 1971, emergency, Mar. 1, 1978, emergency regular. | Jan. 16, 1974 and June 18, 1976. |
| Do | Montgomery | Upper Gwynedd, township of | 420956-A | Dec. 27, 1973, emergency, Mar. 1, 1978, regular. | June 14, 1974 and July 30, 1976. |
| Do | Bucks | Warminster, township of | 420990-A | Oct. 4, 1973, emergency, Mar. 1, 1978, regular. | Jan. 9, 1974. |
| Do | Lehigh | Whitehall, township of | 420595-A | Mar. 16, 1973, emergency, Mar. 1, 1978, regular. | Jan. 9, 1974 and Jan. 23, 1976. |
| Do | Blair | Williamsburg, borough of | 420165-B | Aug. 7, 1973, emergency, Mar. 1, 1978, regular. | Nov. 30, 1973 and May 21, 1976. |
| South Carolina | Sumter | Sumter, city of | 450184-B | Dec. 11, 1973, emergency, Mar. 1, 1978, regular. | June 21, 1974 and Apr. 16, 1976. |
| South Dakota | Brown | Frederick, town of | 460009-A | Mar. 24, 1976, emergency, Mar. 1, 1978, emergency regular. | Nov. 22, 1974. |
| Do | ....do | Groton, city of | 460179-A | Aug. 8, 1975, emergency, Mar. 1, 1978, regular. | July 11, 1975. |
| Texas | Wilson | Stockdale, city of | 480673-B | Aug. 26, 1977, emergency, Mar. 1, 1978, regular. | May 31, 1974 and Oct. 10, 1975. |
| Virginia | Campbell | Brookneal, town of | 510030-B | Jan. 15, 1974, emergency, Mar. 1, 1978, regular. | May 17, 1974. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Multiple | Saltville, town of | 510191-B | Jan. 15, 1974, emergency, Mar. 1, 1978, regular. | May 10, 1974 and Oct. 15, 1976. |
| Washington | Grays Harbor | Ocean Shores, city of | 530065-B | Feb. 12, 1974, emergency, Mar. 1, 1978, regular. | June 21, 1974 and June 4, 1976. |
| Do | Okanogan | Omak, city of | 530120-B | Apr. 9, 1974, emergency, Mar. 1, 1978, regular. | Nov. 30, 1973 and June 4, 1976. |
| Do | do | Riverside, town of | 530122-A | Apr. 24, 1971, emergency, Mar. 1, 1978, regular. | Nov. 8, 1974. |
| Wisconsin | Green Lake | Unincorporated areas | 550165-A | Mar. 10, 1972, emergency, Mar. 1, 1978, regular. | Jan 24, 1975. |
| West Virginia | Mingo | Kermit, town of | 540136-A | Dec. 1, 1972, emergency, Mar. 1, 1978, regular. | Jan 16, 1974. |
| California | Contra Costa | Martinez, city of | 065044-A | Dec. 31, 1970, emergency, Mar. 15, 1978, regular. | June 28, 1974. |
| Delaware | Kent | Unincorporated areas | 100001-A | Dec. 17, 1971, emergency, Mar. 15, 1978, regular. | June 27, 1975. |
| Maryland | Independent City | Baltimore, city of | 240087-A | Dec. 3, 1971, emergency, Mar. 15, 1978, regular. | June 28, 1974. |
| Missouri | Clay | Liberty, city of | 290096-A | May 29, 1973, emergency, Mar. 15, 1978, regular. | Mar. 15, 1978. |
| Mississippi | Leflore | Sidon, town of | 280106-B | Jan. 30, 1974, emergency, Mar. 15, 1978, regular. | Aug. 2, 1974. |
| Do | Carroll | Vaiden, town of | 280029-B | June 26, 1975, emergency, Mar. 15, 1978, regular. | June 7, 1974 and Feb. 20, 1976. |
| Ohio | Portage | Kent, city of | 390456-B | Mar. 2, 1973, emergency, Mar. 15, 1978, regular. | Oct. 26, 1973 and July 30, 1976. |
| Do | Lucas | Oregon, city of | 390361-B | Mar. 16, 1973, emergency, Mar. 15, 1978, regular. | Aug. 1, 1975 and Dec. 19, 1975. |
| South Carolina | Horry | Waccamaw Neck flood district | 450088 | June 16, 1972, emergency, Mar. 15, 1978, regular. | Mar. 15, 1978. |
| Texas | Wilson | Unincorporated areas | 480230-A | Jan. 10, 1974, emergency, Mar. 15, 1978, regular. | Mar. 1, 1978. |
| Virginia | Independent City | South Boston, city of | 510153-B | Dec. 13, 1973, emergency, Mar. 15, 1978, regular. | Dec. 7, 1973 and May 14, 1976. |
| Do | Roanoke | Vinton, town of | 510131-B | Mar. 6, 1974, emergency, Mar. 15, 1978, regular. | July 19, 1974 and May 21, 1976. |
| Vermont | Orleans | Orleans, village of | 500088-A | Sept. 29, 1975, emergency, Mar. 15, 1978, regular. | Aug. 9, 1974. |
| Wisconsin | Marinette | Marinette, city of | 550261-B | Apr. 6, 1973, emergency, Mar. 15, 1978, regular. | July 6, 1973 and Jan. 31, 1975. |
| Do | Wood | Unincorporated areas | 550513-A | Mar. 5, 1971, emergency, Mar. 15, 1978, regular. | Mar. 15, 1978. |
| Connecticut | Hartford | East Windsor, town of | 090027-B | Jan. 12, 1973, emergency, Apr. 3, 1978, regular. | Nov. 16, 1973 and Aug. 13, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Fairfield | Norwalk, city of | 090012-A | Mar. 10, 1972, emergency, Apr. 3, 1978, regular. | Oct. 25, 1974. |
| Georgia | Carroll | Carrollton, city of | 130208-B | Mar. 13, 1974, emergency, Apr. 3, 1978, regular. | May 24, 1974 and Jan. 23, 1976. |
| Kentucky | Campbell | California, city of | 210036-A | July 3, 1975, emergency, Apr. 3, 1978, regular. | Mar. 15, 1974. |
| Louisiana | Caldwell | Unincorporated areas | 220044-A | May 2, 1973, emergency, Apr. 3, 1978, regular. | Apr. 3, 1978. |
| Do | Concordia | do | 220053-A | Apr. 30, 1973, emergency, Apr. 3, 1978, regular. | Do. |
| Do | do | Ridgecrest, town of | 220056-B | Apr. 30, 1973, emergency, Apr. 3, 1978, regular. | May 24, 1974 and Dec. 5, 1975. |
| Do | Tensas | Unincorporated areas | 220215-A | Sept. 6, 1974, emergency, Apr. 3, 1978, regular. | Sept. 6, 1974. |
| Do | West Baton Rouge | do | 220239-A | Apr. 30, 1973, emergency, Apr. 3, 1978, regular. | Apr. 3, 1978. |
| Massachusetts | Barnstable | Barnstable, town of | 250001-A | Oct. 27, 1972, emergency, Apr. 3, 1978, regular. | Feb. 7, 1975. |
| Do | Norfolk | Canton, town of | 250235-A | Nov. 26, 1973, emergency, Apr. 3, 1978, regular. | Sept. 13, 1974. |
| Do | do | Milton, town of | 250245-B | Jan. 14, 1974, emergency, Apr. 3, 1978, regular. | June 28, 1974 and Oct. 22, 1976. |
| Do | Middlesex | North Reading, town of | 250209-A | Mar. 17, 1972, emergency, Apr. 3, 1978, regular. | Aug. 30, 1974. |
| Do | Hampshire | Northampton, city of | 250167-A | Apr. 7, 1972, emergency, Apr. 3, 1978, regular. | May 31, 1974. |
| Michigan | Berrien | Benton, township of | 260031-B | Apr. 19, 1973, emergency, Apr. 3, 1978, regular. | June 28, 1974 and Mar. 5, 1976. |
| Do | Van Buren | Covert, township of | 260259-B | Apr. 12, 1974, emergency, Apr. 3, 1978, regular. | Aug. 2, 1974 and July 9, 1976. |
| Do | Muskegon | Laketon, township of | 260159-B | June 25, 1973, emergency, Apr. 3, 1978, regular. | Aug. 2, 1974 and June 25, 1976. |
| Do | Huron | Lake, township of | 260254-A | Jan. 30, 1974, emergency, Apr. 3, 1978, regular. | Jan. 31, 1975. |
| Do | Monroe | Monroe, township of | 260154-A | Feb. 2, 1973, emergency, Apr. 3, 1978, regular. | Sept. 13, 1974. |
| Do | Oakland | Novi, city of | 260175-B | Mar. 11, 1974, emergency, Apr. 3, 1978, regular. | June 28, 1974 and Aug. 27, 1976. |
| Minnesota | Scott | Unincorporated areas | 270428-A | Apr. 14, 1972, emergency, Apr. 3, 1978, regular. | Dec. 20, 1974. |
| Missouri | Jackson | Lee's Summit, city of | 290174-B | Feb. 4, 1972, emergency, Apr. 3, 1978, regular. | June 21, 1974 and Dec. 5, 1975. |
| Do | Pike | Louisiana, city of | 290290-B | Feb. 1, 1974, emergency, Apr. 3, 1978, regular. | Feb. 28, 1974 and Jan. 9, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Mississippi | Hinds | Bolton, town of | 280216-B | July 30, 1974, emergency, Apr. 3, 1978, regular. | Apr. 22, 1977. |
| Do | Leflore | Itta Bena, city of | 280103-B | Jan. 17, 1974, emergency, Apr. 3, 1978, regular. | June 7, 1974. |
| Do | Jackson | Unincorporated areas | 285256-A | June 30, 1970, emergency, Apr. 3, 1978, regular. | Sept. 18, 1978. |
| Do | Lauderdale | Meridian, city of | 280096-A | Nov. 19, 1971, emergency, Apr. 3, 1978, regular. | June 28, 1974. |
| Do | Leflore | Morgan City, town of | 280104-B | Mar. 1, 1974, emergency, Apr. 3, 1978, regular. | Nov. 29, 1974 and Oct. 24, 1975. |
| Do | Carroll | North Carrollton, town of | 280028-B | June 16, 1975, emergency, Apr. 3, 1978, regular. | June 7, 1974 and July 16, 1976. |
| Do | Hines | Terry, town of | 280073-B | May 27, 1975, emergency, Apr. 3, 1978, regular. | Feb. 1, 1974 and Feb. 20, 1976. |
| Do | Lee | Tupelo, city of | 280100-B | Mar. 4, 1974, emergency, Apr. 3, 1978, regular. | June 14, 1974 and Aug. 27, 1976. |
| Nebraska | Thurston | Pender, village of | 310221-C | Sept. 20, 1973, emergency, Apr. 3, 1978, regular. | May 3, 1974 and July 23, 1976. |
| Do | Cass | Union, village of | 310035-B | Mar. 11, 1975, emergency, Apr. 3, 1978, regular. | Oct. 18, 1974 and Dec. 5, 1975. |
| North Carolina | Pasquotank | Elizabeth City, city of | 370185-B | June 20, 1973, emergency, Apr. 3, 1978, regular. | Nov. 9, 1973 and Oct. 3, 1975. |
| Do | Cleveland | Shelby, city of | 370064-B | Jan. 17, 1974, emergency, Apr. 3, 1978, regular. | Jan. 9, 1974 and July 23, 1976. |
| New Jersey | Somerset | Millstone, borough of | 340438-B | Oct. 29, 1973, emergency, Apr. 3, 1978, regular. | Mar. 22, 1974 and July 30, 1976. |
| Do | Bergen | North Arlington, borough of | 340055-B | July 3, 1975, emergency, Apr. 3, 1978, regular. | Mar. 29, 1974. |
| Do | Passaic | Prospect Park, borough of | 340406-B | Aug. 7, 1975, emergency, Apr. 3, 1978, regular. | May 3, 1974. |
| New York | Jefferson | Alexandria Bay, village of | 360327-B | June 21, 1973, emergency, Apr. 3, 1978, regular. | Feb. 22, 1974. |
| Do | Franklin | Malone, village of | 360272-B | Dec. 17, 1973, emergency, Apr. 3, 1978, regular. | Apr. 5, 1974 and June 11, 1976. |
| Ohio | Cuyahoga | Gates Mills, village of | 390593-B | June 4, 1973, emergency, Apr. 3, 1978, regular. | Nov. 9, 1973 and May 28, 1976. |
| Do | Erie | Huron, city of | 390154-B | Mar. 30, 1973, emergency, Apr. 3, 1978, regular. | Feb. 1, 1974 and Dec. 12, 1975. |
| Oregon | Curry | Unincorporated areas | 410052-B | Mar. 19, 1971, emergency, Apr. 3, 1978, regular. | Sept. 13, 1974. |
| Do | Tillamook | Nehalem, city of | 410200-B | Apr. 17, 1973, emergency, Apr. 3, 1978, regular. | Nov. 9, 1973 and Oct. 15, 1976. |
| Pennsylvania | Lawrence | Shenango, township of | 421029-B | Jan. 28, 1974, emergency, Apr. 3, 1978, regular. | June 14, 1974 and May 21, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Bradford | Sylvania, borough of | 420177-B | Feb. 5, 1974, emergency, Apr. 3, 1978, regular. | June 7, 1974. |
| Do | Bucks | Upper Southampton, township of | 420989-B | Oct. 4, 1973, emergency, Apr. 3, 1978, regular. | Jan. 16, 1974 and May 28, 1976. |
| Tennessee | Loudon | Loudon, city of | 470110-B | Dec. 17, 1973, emergency, Apr. 3, 1978, regular. | Feb. 1, 1974 and Oct. 8, 1976. |
| Virginia | Wythe | Wytheville, town of | 510181-B | Nov. 29, 1973, emergency, Apr. 3, 1978, regular. | June 28, 1974 and May 21, 1976. |
| Vermont | Orleans | Barton, town of | 500081-B | Feb. 18, 1972, emergency, Apr. 3, 1978, regular. | Nov. 15, 1974 and Aug. 13, 1976. |
| Do | do | Barton, village of | 500082-B | Aug. 16, 1976, emergency, Apr. 3, 1978, regular. | Nov. 8, 1974 and Apr. 16, 1976. |
| Do | Washington | Worcester, town of | 500278-A | July 25, 1975, emergency, Apr. 3, 1978, regular. | Jan. 31, 1975. |
| Washington | Snohomish | Everette, city of | 530164-A | Dec. 17, 1973, emergency, Apr. 3, 1978, regular. | June 21, 1974. |
| Wisconsin | Winnebago | Menasha, city of | 550510-B | Apr. 25, 1973, emergency, Apr. 3, 1978, regular. | Nov. 16, 1973 and May 28, 1976. |
| Do | Marinette | Niagara, village of | 550262-B | Apr. 10, 1973, emergency, Apr. 3, 1978, regular. | Feb. 1, 1974 and May 21, 1976. |
| Do | Douglas | Superior, city of | 550116-B | Nov. 21, 1973, emergency, Apr. 3, 1978, regular. | June 28, 1974 and Sept. 10, 1976. |
| Do | Manitowoc | Two Rivers, city of | 550243-B | Aug. 22, 1973, emergency, Apr. 3, 1978, regular. | Jan. 9, 1974 and June 4, 1976. |
| Pennsylvania | Mercer | Farrell, city of | 420673-B | Dec. 6, 1973, emergency, Apr. 17, 1978, regular. | June 28, 1974 and June 18, 1976. |
| Alabama | Lawrence | Courtland, town of | 010141-B | Mar. 11, 1974, emergency, Apr. 17, 1978, regular. | Mar. 8, 1974 and July 2, 1976. |
| Florida | Broward | Hillsboro Beach, town of | 120040-B | Feb. 5, 1974, emergency, Apr. 17, 1978, regular. | Jan. 9, 1974 and Jan 30, 1976. |
| Georgia | Dougherty | Unincorporated areas | 130074-A | Mar. 3, 1972, emergency, Apr. 17, 1978, regular. | Mar. 3, 1976. |
| Idaho | Blaine | Hailey, city of | 160022-C | May 28, 1974, emergency, Apr. 17, 1978, regular. | Dec. 7, 1973 and Oct. 29, 1976. |
| Do | do | Sun Valley, city of | 160024-C | Sept. 6, 1974, emergency, Apr. 17, 1978, regular. | Sept. 6, 1974 and Nov. 1, 1977. |
| Illinois | Cook | Harvey, city of | 170100-B | Jan. 12, 1973, emergency, Apr. 17, 1978, regular. | June 28, 1974 and Aug. 13, 1976. |
| Do | Kankakee | Kankakee, city of | 170339-B | May 29, 1973, emergency, Apr. 17, 1978, regular. | June 28, 1974 and Aug. 20, 1976. |
| Kansas | Miami | Paola, city of | 200224-B | Apr. 16, 1975, emergency, Apr. 16, 1978, regular. | Dec. 17, 1973 and July 23, 1976. |
| Maryland | Washington | Hagerstown, city of | 240074-B | Apr. 9, 1974, emergency, Apr. 17, 1978, regular. | May 10, 1974 and May 21, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Maine | Penobscot | Milford, town of | 230110-B | May 30, 1975, emergency, Apr. 17, 1978, regular. | May 3, 1974 and Oct. 15, 1976. |
| Do | do | Old Town, city of | 230112-A | June 25, 1974, emergency, Apr. 17, 1978, regular. | Aug. 2, 1974. |
| Minnesota | Goodhue | Unincorporated areas | 270140-A | Apr. 30, 1971, emergency, Apr. 17, 1978, regular. | Apr. 17, 1978. |
| Do | Hennepin | Maple Grove, city of | 270169-B | July 1, 1974, emergency, Apr. 17, 1978, regular. | Mar. 22, 1974. |
| Do | Nicollet | St. Peter, city of | 270317-B | Sept. 29, 1972, emergency, Apr. 17, 1978, regular. | June 21, 1974 and June 11, 1976. |
| Mississippi | Monroe | Amory, city of | 280116-B | Dec. 19, 1972, emergency, Apr. 17, 1978, regular. | Jan. 18, 1974 and Oct. 24, 1975 |
| Do | Sunflower | Moorhead, city of | 280166-B | May 24, 1973, emergency, Apr. 17, 1978, regular. | May 10, 1974. |
| North Carolina | Orange, Durham & Chatham | Chapel Hill, town of | 370180-C | Feb. 9, 1973. emergency, Apr. 17, 1978, regular. | June 21, 1974 and June 18, 1976. |
| Do | Halifax | Roanoke Rapids, city of | 370117-A | Mar. 6, 1974, emergency, Apr. 17, 1978, regular. | Mar. 8, 1974. |
| Do | New Hanover | Wilmington, city of | 370171-A | Jan. 16, 1974, emergency, Apr. 17, 1978, regular. | Mar. 1, 1974. |
| North Dakota | Cass | West Fargo, city of | 380024-B | Dec. 6, 1973, emergency, Apr. 17, 1978, regular. | June 7, 1974 and Aug. 29, 1975. |
| New Hampshire | Sullivan | Claremont, city of | 330154-B | Feb. 8, 1974, emergency, Apr. 17, 1978, regular. | Mar. 8, 1974 and Nov. 5, 1976. |
| New York | Cattaraugus | Alleghany, village of | 360967-B | Mar. 30, 1973, emergency, Apr. 17, 1978, regular. | Nov. 9, 1973 and Oct. 10, 1975. |
| Do | Ontario | Canandaigua, town of | 360598-B | June 15, 1973, emergency, Apr. 17, 1978, regular. | June 28, 1974 and Jan. 2, 1976. |
| Do | Alleghany | Cuba, village of | 360029-B | June 16, 1975, emergency, Apr. 17, 1978, regular. | May 17, 1974 and May 28, 1976. |
| Do | Steuben | Hammondsport, village of | 360775-B | July 18, 1978, emergency, Apr. 17, 1978, regular. | Dec. 28, 1973 and Aug. 8, 1975. |
| Do | Cattaraugus | Limestone, village of | 360081-B | July 1, 1975, emergency, Apr. 17, 1978, regular. | May 17, 1974 and Apr. 9, 1976. |
| Do | Herkimer | Mohawk, village of | 360314-B | Mar. 20, 1974, emergency, Apr. 17, 1978, regular. | Mar. 22, 1974 and Apr. 2, 1976. |
| Do | Clinton | Plattsburgh, city of | 360168-B | Apr. 12, 1973, emergency, Apr. 17, 1978, regular. | Jan. 16, 1974 and Jan. 23, 1976. |
| Do | Cattaraugus | Portville, town of | 360093-B | May 29, 1973, emergency, Apr. 17, 1978, regular. | Dec. 20, 1974 and Apr. 9, 1976. |
| Do | do | Portville, village of | 360094-B | Mar. 2, 1973, emergency, Apr. 17, 1978, regular. | May 25, 1973. |
| Do | do | Salamanca, city of | 360097-C | Feb. 16, 1973, emergency, Apr. 17, 1978, regular. | May 24, 1973 and May 31, 1974. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Niagara | Wilson, village of | 360978-B | Feb. 15, 1974, emergency, Apr. 17, 1978, regular. | Apr. 5, 1974. |
| Ohio | Mahoning | Craig Beach, village of | 390745-A | Apr. 29, 1976, emergency, Apr. 17, 1978, regular. | Apr. 18, 1975. |
| Oregon | Tillamook | Garibaldi, city of | 410280-A | Nov. 13, 1975, emergency, Apr. 17, 1978, regular. | Apr. 17, 1978. |
| Do | Clatsop | Hammond, town of | 410031-B | Aug. 6, 1974, emergency, apr. 17, 1978, Regular. | June 28, 1974 and Nov. 28, 1975. |
| Do | Lincoln | Lincoln City, city of | 410130-B | Dec. 22, 1972, emergency, Apr. 17, 1978, regular. | Nov. 8, 1974 and Mar. 4, 1977. |
| Pennsylvania | Butler | Butler, city of | 420212-B | July 5, 1973, emergency, Apr. 17, 1978, regular. | May 24, 1974 and Apr. 9, 1976. |
| Do | Lancaster | Elizabethtown, borough of | 420550-B | May 15, 1973, emergency, Apr. 17, 1978, regular. | Jan. 23, 1974 and Apr. 16, 1976. |
| Do | Westmoreland | Jeannette, city of | 420882-B | Oct. 1, 1971, emergency, Apr. 17, 1978, regular. | June 14, 1975 and July 9, 1976. |
| Do | Lehigh | Lower Milford, township of | 421039-A | Feb. 1, 1974, emergency, Apr. 17, 1978, regular. | Oct. 18, 1974. |
| Do | Schuylkill | McAdoo, borough of | 420776-A | June 6, 1973, emergency, Apr. 17, 1978, regular. | Apr. 17, 1978. |
| Do | Jefferson | Reynoldsville, borough of | 420513-B | Feb. 22, 1974, emergency, Apr. 17, 1978, regular. | Jan. 9, 1974 and June 11, 1976. |
| Do | Bucks | Riegelsville, borough of | 420201-B | Aug. 25, 1972, emergency, Apr. 17, 1978, regular. | Feb. 20, 1973 and May 14, 1976. |
| Do | Cameron | Shippen, township of | 421103-B | Mar. 11, 1974, emergency, Apr. 17, 1978, regular. | Nov. 8, 1974 and July 30, 1976. |
| Do | McKean | Smethport, borough of | 420672-B | June 29, 1973, emergency, Apr. 17, 1978, regular. | Dec. 28, 1973 and May 28, 1976. |
| Do | Chester | Tredyfrin, township of | 420291-A | Sept. 17, 1971, emergency, Apr. 17, 1978, regular. | Dec. 28, 1973. |
| Vermont | Rutland | Rutland, city of | 500101-C | Aug. 30, 1973, emergency, Apr. 17, 1978, regular. | Mar. 15, 1974 and Sept. 19, 1975. |
| Wisconsin | Brown | Unincorporated areas | 550020-A | Mar. 10, 1972, emergency, Apr. 17, 1978, regular. | Apr. 17, 1978. |
| California | Alameda | Emeryville, city of | 060005-B | July 23, 1975, emergency, Apr. 21, 1978, regular. | Apr. 21, 1978. |
| Do | Los Angeles | Gardena, city of | 060119-A | June 12, 1975, emergency, Apr. 21, 1978, regular. | Apr. 21, 1978. |
| Connecticut | New Haven | Guilford, town of | 090077-A | Oct. 20, 1972, emergency, May 1, 1978, regular. | Aug. 2, 1974. |
| Georgia | Mitchell | Camilla, city of | 130137-B | Nov. 26, 1973, emergency, May 1, 1978, regular. | May 17, 1974 and Jan. 16, 1976. |
| Do | Tift | Tifton, city of | 130171-B | Dec. 27, 1973, emergency, May 1, 1978, regular. | Jan. 17, 1975 and July 9, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Iowa | Plymouth | Le Mars, city of | 190225-B | Aug. 7, 1975, emergency, May 1, 1978, regular. | Jan. 16, 1974 and July 16, 1976. |
| Illinois | Multiple | Arlington Heights, village of | 170056-A | Jan. 28, 1972, emergency, May 1, 1978, regular. | Nov. 16, 1973. |
| Indiana | Spencer | Unincorporated areas | 180237-A | Aug. 18, 1972, emergency, May 1, 1978, regular. | Jan. 3, 1975. |
| Massachusetts | Norfolk | Randolph, town of | 250251-A | Oct. 15, 1971, emergency, May 1, 1978, regular. | June 21, 1974. |
| Do | Hampden | Westfield, city of | 250153-B | May 10, 1973, emergency, May 1, 1978, regular. | July 26, 1974 and Feb. 18, 1977. |
| Maryland | Washington | Unincorporated areas | 240070-A | June 18, 1973, emergency, May 1, 1978, regular. | Mar. 21, 1975. |
| Maine | Penobscot | Bradley, town of | 230103-B | Nov. 25, 1974, emergency, May 1, 1978, regular. | Sept. 20, 1974. |
| Michigan | Wayne | Ecorse, city of | 260223-B | Aug. 1, 1973, emergency, May 1, 1978, regular. | May 3, 1974. |
| Do | Berrien | Michiana, village of | 260275-B | Apr. 13, 1973, emergency, May 1, 1978, regular. | June 14, 1974 and June 18, 1976. |
| Do | Muskegon | Montagaue, City of | 260160-B | Apr. 12, 1974, emergency, May 1, 1978, regular. | June 14, 1974 and Aug. 1, 1975. |
| Do | Manistee | Onekama, township of | 260276-B | Nov. 23, 1973, emergency, May 1, 1978, regular. | June 28, 1974 and July 2, 1976. |
| Do | Wayne | Wyandotte, city of | 260246-B | Mar. 2, 1973, emergency, May 1, 1978, regular. | May 17, 1974. |
| Minnesota | Wright | Unincorporated areas | 270534-A | Oct. 6, 1972, emergency, May 1, 1978, regular. | May 1, 1978. |
| Mississippi | Claiborne | do | 280201-A | Feb. 14, 1974, emergency, May 1, 1978, regular. | Do |
| Do | Sunflower | Drew, city of | 280163-B | June 5, 1973, emergency, May 1, 1978, regular. | May 10, 1974 and July 23, 1976. |
| Do | do | Ruleville, town of | 280167-B | May 14, 1973, emergency, May 1, 1978, regular. | May 10, 1974. |
| North Carolina | Edgecombe | Rocky Mount, city of | 370092-B | Jan. 17, 1974, emergency, May 1, 1978, regular. | Mar. 1, 1974 and May 21, 1976. |
| New York | Orleans | Kendall, town of | 360643-B | Mar. 30, 1973, emergency, May 1, 1978, regular. | Apr. 12, 1974 and May 21, 1976. |
| Do | Nassau | Sea Cliff, village of | 360493-B | Sept. 17, 1973, emergency, May 1, 1978, regular. | Feb. 1, 1974 and Apr. 30, 1976. |
| Oregon | Tillamook | Manzanita, city of | 410199-A | Nov. 8, 1974, emergency, May 1, 1978, regular. | May 1, 1978. |
| Do | do | Tillamook, city of | 410202-B | Mar. 30, 1973, emergency, May 1, 1978, regular. | June 7, 1974 and July 30, 1976. |
| Pennsylvania | Allegheny | Carnegie, borough of | 420019-B | July 23, 1973, emergency, May 1, 1978, regular. | Feb. 8, 1974 and May 7, 1976. |

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|---|---|---|---|---|---|
| Do | do | Hampton, township of | 420978-B | Sept. 17, 1973, emergency, May 1, 1978, regular. | Mar. 15, 1974 and May 28, 1976. |
| Do | Perry | Juniata, township of | 421140-B | Mar. 26, 1974, emergency, May 1, 1978, regular. | Aug. 9, 1974. |
| Do | Montgomery | Lansdale, borough of | 420951-B | Dec. 19, 1973, emergency, May 1, 1978, regular. | June 28, 1974. |
| Do | Fayette | Uniontown, city of | 420466-B | May 4, 1973, emergency, May 1, 1978, regular. | June 14, 1974 and Oct. 10, 1975 |
| Texas | McClennan | Hewitt, city of | 480458-B | Mar. 25, 1977, emergency, May 1, 1978, regular. | Jan. 23, 1974 and Mar. 12, 1976 |
| Do | Upton | La Vernia, city of | 481050-A | Mar. 9, 1977, emergency, May 1, 1978, regular. | Aug. 6, 1976. |
| Do | Travis | Pflugerville, city of | 481028-B | June 25, 1976, emergency, May 1, 1978, regular. | May 2, 1975 |
| Do | Hardin | Silsbee, city of | 480285-B | June 7, 1974, emergency, May 1, 1978, regular. | June 7, 1974 and July 2, 1976. |
| Vermont | Windham | Wilmington, town of | 500142-B | May 25, 1973, emergency, May 1, 1978, regular. | May 31, 1974 and Mar. 4, 1977. |
| Wisconsin | Florence | Unincorporated areas | 550521-A | Nov. 26, 1973, emergency, May 1, 1978, regular. | Feb. 14, 1975 |
| Do | Dane | Waunakee, village of | 550093-B | May 29, 1975, emergency, May 1, 1978, regular. | Dec. 17, 1973 and June 11, 1976. |
| California | Los Angeles | Manhattan Beach, city of | 060138-A | Mar. 6, 1975, emergency, May 8, 1978, regular. | May 8, 1978. |
| Arkansas | Phillips | West Helena, city of | 050171-B | Apr. 9, 1974, emergency, May 15, 1978, regular. | Apr. 5, 1974 and May 21, 1976. |
| California | Riverside | Corona, city of | 060250-B | May 12, 1975, emergency, May 15, 1978, regular. | May 24, 1974 and Apr. 1, 1977. |
| Do | Santa Clara | Sunnyvale, city of | 060352-B | Feb. 26, 1971, emergency, May 15, 1978, regular. | May 31, 1974 and Dec. 5, 1975. |
| Florida | Palm Beach | Belle Glade, city of | 120194-B | Apr. 16, 1976, emergency, May 15, 1978, regular. | July 19, 1974. |
| Do | do | Briny Breezes, town of | 120197-B | June 14, 1976, emergency, May 15, 1978, regular. | Jan. 23, 1974 and Jan. 30, 1976. |
| Do | do | Cloud Lake, town of | 120198-B | Mar. 13, 1975, emergency, May 15, 1978, regular. | Dec. 6, 1974. |
| Do | do | Glen Ridge, town of | 120200-A | July 25, 1975, emergency, May 15, 1978, regular. | Do. |
| Do | do | Hypoloxo, town of | 120207-B | Aug. 30, 1974, emergency, May 15, 1978, regular. | Aug. 23, 1974. |
| Do | do | Pahokee, city of | 120219-A | Mar. 18, 1975, emergency, May 15, 1978, regular. | Sept. 5, 1975. |
| Do | do | Palm Beach, town of | 120220-B | June 7, 1974, emergency, May 15, 1978, regular. | Sept. 13, 1974 and Sept. 5, 1975. |

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|---|---|---|---|---|---|
| Do | do | South Palm Beach, town of | 120227-B | Sept. 16, 1974, emergency, May 15, 1978, regular. | Jan. 16, 1974 and Sept. 26, 1975. |
| Georgia | Polk | Cedartown, city of | 130153-B | Dec. 19, 1973, emergency, May 15, 1978, regular. | Apr. 4, 1974 and Jan. 23, 1976. |
| Kansas | McPherson | Lindsborg, city of | 200215-B | June 15, 1973, emergency, May 15, 1978, regular. | Dec. 17, 1973 and Apr. 23, 1976. |
| Do | Johnson | Merriam, city of | 200169-B | Apr. 14, 1975, emergency, May 15, 1978, regular. | June 7, 1974 and Nov. 7, 1975. |
| Do | do | Mission, city of | 200170-B | May 23, 1975, emergency, May 15, 1978, regular. | May 31, 1974 and Sept. 26, 1975. |
| Michigan | Berrien | Benton Harbor, city of | 260032-B | Jan. 19, 1973, emergency, May 15, 1978, regular. | May 24, 1974 and June 10, 1977. |
| Do | Ottawa | Park, township of | 260185-B | Aug. 16, 1974, emergency, May 15, 1978, regular. | Aug. 16, 1974 and June 4, 1976. |
| Do | Oceana | Pentwater, village of | 260277-B | Sept. 25, 1973, emergency, May 15, 1978, regular. | Sept. 13, 1974 and June 11, 1976. |
| Do | Ottawa | Port Sheldon, township of | 260278-B | Aug. 16, 1974, emergency, May 15, 1978, regular. | Aug. 16, 1974 and June 4, 1976. |
| Do | Tuscola | Wisner, township of | 260209-B | May 21, 1973, emergency, May 15, 1978, regular. | June 7, 1974 and July 23, 1976. |
| Minnesota | Hennepin | Plymouth, city of | 270179-B | Apr. 15, 1974, emergency, May 15, 1978, regular. | Feb. 8, 1974 and Mar. 19, 1976. |
| Missouri | Jefferson | Herculaneum, city of | 290192-B | Jan. 28, 1974, emergency, May 15, 1978, regular. | May 17, 1974 and Jan. 30, 1976. |
| Do | Platte | Northmoor, city of | 190293-B | Nov. 25, 1977, emergency, May 15, 1978, regular. | July 19, 1974 and Nov. 14, 1975. |
| Do | do | Parkville, city of | 290294-B | July 3, 1975, emergency, May 15, 1978, regular. | Jan. 16, 1974 and Apr. 16, 1976. |
| Do | do | Platte City, city of | 290295-B | May 22, 1975, emergency, May 15, 1978, regular. | Dec. 17, 1973 and June 11, 1976. |
| Mississippi | Sunflower | Iverness, town of | 280165-B | May 14, 1973, emergency, May 15, 1978, regular. | May 31, 1974. |
| North Carolina | Madison | Marshall, town of | 370154-B | Nov. 23, 1973, emergency, May 15, 1978, regular. | June 14, 1974 and May 7, 1976. |
| Do | Carteret | Newport, town of | 370049-B | Jan. 17, 1974, emergency, May 15, 1978, regular. | Mar. 1, 1974 and June 4, 1976. |
| Do | Rowan | Rockwell, town of | 370214-B | May 13, 1975, emergency, May 15, 1978, regular. | Mar. 8, 1974. |
| New Jersey | Burlington | Cinnaminson, township of | 340092-A | Nov. 19, 1971, emergency, May 15, 1978, regular. | May 11, 1973. |
| New York | Cattaraugus | Ellicottville, town of | 360069-B | May 28, 1975, emergency, May 15, 1978, regular. | May 31, 1974 and July 23, 1976. |
| Do | Broome | Endicott, village of | 360045-A | July 5, 1973, emergency, May 15, 1978, regular. | Oct. 1, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Oregon | Clatsop | Gearheart, city of | 410030-B | Apr. 11, 1974, emergency, May 15, 1978, regular. | Dec. 7, 1973 and Dec. 19, 1975. |
| Do | ...do | Warrenton, city of | 410033-B | July 16, 1975, emergency, May 15, 1978, regular. | June 28, 1974 and Oct. 15, 1976. |
| South Carolina | Horry | Atlantic Beach, town of | 450222-B | Oct. 28, 1976, emergency, May 15, 1978, regular. | Aug. 23, 1974. |
| Virginia | Botetourt | Fincastle, town of | 510020-B | Nov. 17, 1975, emergency, May 15, 1978, regular. | May 15, 1978. |
| Vermont | Rutland | Brandon, town of | 500090-B | July 7, 1975, emergency, May 15, 1978, regular. | Sept. 6, 1974 and Nov. 19, 1976. |
| Do | Lamoille | Morrisville, village of | 500065-B | Feb. 18, 1976, emergency, May 15, 1978, regular. | Feb. 1, 1974 and Sept. 17, 1976. |
| Do | Washington | Northfield, town of | 500118-B | July 30, 1975, emergency, May 15, 1978, regular. | May 3, 1974. |
| Do | ...do | Northfield, village of | 500117-B | Jan. 21, 1974, emergency, May 15, 1978, regular. | June 21, 1974 and Nov. 5, 1976. |
| Wisconsin | Racine | Burlington, city of | 550348-B | July 18, 1973, emergency, May 15, 1978, regular. | Oct. 5, 1973 and May 14, 1976. |
| Do | Waukesha | Butler, village of | 550536-B | Mar. 7, 1974, emergency, May 15, 1978, regular. | Oct. 18, 1974. |
| Do | Fond Du Lac | Campbellsport, village of | 550133-B | May 13, 1975, emergency, May 15, 1978, regular. | May 24, 1974. |
| Do | Manitowoc | Cleveland, village of | 550237-B | Sept. 7, 1973, emergency, May 15, 1978, regular. | June 7, 1974 and May 28, 1976. |
| West Virginia | Mason | Henderson, town of | 540251-A | May 27, 1975, emergency, May 15, 1978, regular. | Dec. 27, 1974. |
| Do | ...do | Point Pleasant, city of | 540250-A | Jan. 20, 1975, emergency, May 15, 1978, regular. | Feb. 7, 1975. |
| Wyoming | Johnson | Buffalo, city of | 560027-B | May 1, 1975, emergency, May 15, 1978, regular. | Apr. 5, 1974 and Apr. 2, 1976. |
| Do | Campbell | Gillette, city of | 560007-B | Apr. 15, 1975 emergency, May 15, 1978, regular. | Apr. 5, 1974 and Apr. 2, 1976. |
| Michigan | Delta | Brampton township of | 260386-A | May 16, 1978, regular | Oct. 10, 1975. |
| California | Los Angeles | Baldwin Park, city of | 060100-A | July 31, 1975, emergency, May 25, 1978, regular. | May 25, 1978. |
| Do | ...do | Covina, city of | 065024-B | Oct. 9, 1970, emergency, May 25, 1978, regular. | Do. |
| Do | Merced | Dos Palos, city of | 060443 | July 9, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Los Angeles | El Segundo, city of | 060118-A | Feb. 21, 1978 emergency, May 25, 1978, regular. | Do. |
| Do | ...do | La Puente, city of | 065039-A | Sept. 11, 1970, emergency, May 25, 1978, regular. | Do. |
| Do | Merced | Livingston, city of | 064450 | Sept. 10, 1975, emergency, May 25, 1978, regular. | Do. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Los Angeles | Rolling Hills, city of | 060151-B | July 25, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Tuolumne | Sonora, city of | 060412-A | Feb. 13, 1976, emergency, May 25, 1978, regular. | Do. |
| Colorado | Larimer | Berthoud, town of | 080296-A | Oct. 28, 1977, emergency, May 25, 1978, regular. | Do. |
| Do | Weld | La Salle, town of | 080186-A | July 19, 1974, emergency, May 25, 1978, regular. | Do. |
| Idaho | Kootenai | Spirit Lake, city of | 160084-A | May 28, 1975, emergency, May 25, 1978, regular. | Do. |
| Illinois | Piatt and Douglas | Atwood, village of | 170543-A | Mar. 3, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Kankakee and Iroquois | Chebanse, village of | 170288-A | June 27, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Grundy | Coal City, village of | 170258-A | Apr. 23, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | do | Diamond, village of | 170259-A | Mar. 7, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Cook | Evergreen Park, village of | 170733-A | Aug. 27, 1973, emergency, May 25, 1978, regular. | Do. |
| Do | Vermilion | Fairmount, village of | 170663 | Aug. 25, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Cook | Norridge, village of | 170131-A | Apr. 5, 1974, emergency, May 25, 1978, regular. | Do. |
| Do | Vermilion | Oakwood, village of | 170796-A | July 24, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Iroquois | Onarga, village of | 170295-A | Apr. 10, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Franklin | Sesser, city of | 170868-A | July 2, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Menard | Tallula, village of | 170803-A | June 3, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Grundy | Verona, village of | 170264-A | Aug. 26, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Macoupin | Virden, city of | 170435-B | July 7, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Franklin | West City, village of | 170872-A | Sept. 8, 1975, emergency, May 25, 1978, regular. | Mar. 28, 1975 and Sept. 15, 1978. |
| Indiana | White | Chalmers, town of | 180297 | Aug. 27, 1975, emergency, May 25, 1978, regular. | May 25, 1978. |
| Do | Whitley | Churubusco, town of | 180299-A | Sept. 2, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Montgomery | Darlington, town of | 180321-A | May 1, 1975, emergency, May 25, 1978, regular. | Do. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Bartholomew | Jonesville, town of | 180354-A | July 30, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | La Porte | Lacrosse, town of | 180145-A | July 22, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | White | Monon, town of | 180295-A | June 9, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | do | Monticello, city of | 180294-A | Mar. 22, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Morgan | Morgantown, town of | 180178-A | Mar. 22, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Wells | Ossian, town of | 180290-A | Apr. 14, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | do | Poneto, town of | 180291-A | May 13, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Vigo | Seelyville, town of | 180310 | Nov. 24, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Wells | Uniondale, town of | 189292 | Sept. 17, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | White | Wolcott, town of | 180296-A | July 28, 1975, emergency, May 25, 1978, regular. | Do. |
| Kansas | Jackson | Mayetta, city of | 200143 | Jan. 2, 1976, emergency, May 25, 1978 regular. | Do. |
| Louisiana | Pointe Coupee | Fordoche, village of | 220141 | Apr. 26, 1973, emergency, May 25, 1978, regular. | Do. |
| Do | do | Livonia, village of | 220142-A | do | Do. |
| Do | Iberia | Loreavuille, village of | 220081-A | May 10, 1973, emergency, May 25, 1978, regular. | Do. |
| Do | Pointe Coupee | Morganza, town of | 22-143-A | Apr. 23, 1973, emergency, May 25, 1978, regular. | Do. |
| Michigan | Cass | Dowagiac, city of | 260055-A | Aug. 11, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Oakland | Madison Heights, city of | 260174-A | Apr. 13, 1973, emergency, May 25, 1978, regular. | Do. |
| Do | do | Royal Oak, city of | 260178-A | June 25, 1973, emergency, May 25, 1978, regular. | Do. |
| Missouri | St. Louis | Country Club Hills, city of | 290746 | Nov. 8, 1974, emergency, May 25, 1978, regular. | Do. |
| Do | do | Normandy, Town of | 290371-A | Mar. 15, 1974, emergency, May 25, 1978, regular. | Do. |
| New Jersey | Burlington | Edgewater Park, township of | 340096-A | Dec. 10, 1974, emergency, May 25, 1978, regular. | May 26, 1978. |
| Do | Camden | Merchantville, borough of | 340569-A | Jan. 3, 1975, emergency, May 25, 1978, regular. | May 25, 1978. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Monmouth | Roosevelt, borough of | 340322-A | Feb. 12, 1975, emergency, May 25, 1978, regular. | Do. |
| New York | Erie | Farnham, village of | 361588-A | Feb. 17, 1977, emergency, May 25, 1978, regular. | Do. |
| Do | do | Kenmore, village of | 361590-A | Feb. 25, 1977, emergency, May 25, 1978, regular. | Do. |
| Do | Nassau | Lake Success, village of | 361582-A | Jan. 15, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Rockland | Nyack, village of | 360685-A | May 15, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Nassau | Plandome, village of | 360484-A | June 18, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Suffolk | Shoreham, village of | 361506-A | May 30, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Erie | Sloan, village of | 361589-A | Feb. 22, 1977, emergency, May 25, 1978, regular. | Do. |
| Ohio | Harrison | Cadiz, village of | 390258-A | July 28, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Erie | Castalia, village of | 390653-A | Jan. 26, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Ross | Clarksburg, village of | 390483-A | Dec. 12, 1975, emergency, May 25, 1978, regular. | Do |
| Do | Lucas | Harborview, village of | 390702 | Oct. 8, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Summit | Lakemore, village of | 390527-A | Aug. 8, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Hamilton | Lincoln Heights, city of | 390222-A | July 23, 1975, emergency, May 25, 1978, regular. | Do. |
| D0 | Jefferson | Smithfield, village of | 390725-A | Apr. 6, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Monroe | Woodsfield, village of | 390406-A | Aug. 6, 1975, emergency, May 25, 1978, regular. | Do. |
| Oklahoma | Muskogee | Braggs, town of | 400121 | Oct. 30, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Bryan | Caddo, town of | 400353 | Oct. 26, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Tillman | Frederick, city of | 400205-A | Dec. 26, 1974, emergency, May 26, 1978, regular. | Do. |
| Do | Greer | Granite, town of | 400066-A | Sept. 17, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Garfield | Hunter, town of | 400286 | June 28, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Rogers | Inola, town of | 400456-A | Apr. 5, 1976, emergency, May 25, 1978, regular. | Do. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Garfield | Kremlin, city of | 400293 | Oct. 27, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Muskogee | Oktaha, town of | 400126-A | Oct. 14, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Noble | Red Rock, city of | 400135-A | June 12, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Dewey | Taloga, town of | 400059-A | Feb. 21, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Sequoyah | Vian, town of | 400200-A | Aug. 26, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Muskogee | Warner, town of | 400130-A | Dec. 29, 1976, emergency, May 25, 1978, regular. | Do. |
| Oregon | Morrow | Boardman, city of | 410174-A | Oct. 22, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Linn | Waterloo, town of | 410148-A | May 30, 1975, emergency, May 25, 1978, regular. | Do. |
| Pennsylvania | Cambria | Cresson, borough of | 422644-A | Sept. 3, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Luzerne | Freeland, borough of | 422637-A | Aug. 22, 1974, emergency, May 25, 1978, regular. | Do. |
| Do | Allegheny | Homestead, borough of | 420044-A | Jan. 10, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | do | Mt. Oliver, borough of | 420055-A | Nov. 15, 1974, emergency, May 25, 1978, regular. | Do. |
| Do | Lebanon | Palmyra, borough of | 420578-A | Feb. 15, 1974, emergency, May 25, 1978, regular. | Do. |
| Do | Mercer | Sharpsville, borough of | 420682-A | Mar. 11, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Montgomery | Souderton, borough of | 421906-A | July 24, 1974, emergency, May 25, 1978, regular. | Do. |
| Do | Allegheny | Whitaker, borough of | 420087-A | July 24, 1975, emergency, May 25, 1978, regular. | Do. |
| Texas | Jones | Anson, city of | 480401-A | Mar. 7, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Callahan | Clyde, city of | 480721-A | July 15, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Hidalgo | Edcouch, city of | 480337-A | July 3, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | do | Elsa, city of | 480339-A | Oct. 29, 1974, emergency, May 25, 1978, regular. | Do. |
| Do | Eastland | Gorman, city of | 481103-A | Nov. 4, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Harris | Hedwig Village, city of | 480294-A | June 4, 1975, emergency, May 25, 1978, regular. | Do. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Navarro | Kerens, city of | 480955-A | Sept 8, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Travis | Manor, city of | 481027 | June 13, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Presidis | Marfa, city of | 481493-A | Dec. 5, 1977, emergency, May 25, 1978, regular. | Do. |
| Do | Montague | Saint Jo, city of | 480940-A | Aug. 11, 1976, emergency, May 25, 1978, regular. | Do. |
| Do | Montgomery | Shenandoah, town of | 481256-A | June 5, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Jones | Stamford, city of | 480403-A | Jan. 1, 1975, emergency, May 25, 1978, regular. | Do. |
| Do | Harris | West University Place, city of | 480318-A | Nov. 27, 1973, emergency, May 25, 1978, regular. | Do. |
| Do | Runnels | Winters, city of | 480550-A | July 2, 1975, emergency, May 25, 1978, regular. | Do. |
| Virginia | Hanover | Ashland, town of | 510075-A | Oct. 18, 1974, emergency, May 25, 1978, regular. | Do. |
| Do | Scott | Duffield, town of | 510240-A | July 23, 1975, emergency, May 25, 1978, regular. | Do. |
| Washington | Walla Walla | College Place, city of | 530195-A | June 18, 1976, emergency, May 25, 1978, regular. | Do. |
| Wisconsin | Grant | Livingston, village of | 550151-A | Aug. 28, 1975, emergency, May 25, 1978, regular. | Do. |
| West Virginia | Mercer | Bluefield, city of | 540285-A | Oct. 1, 1975, emergency, May 25, 1978, regular. | Do. |
| California | San Diego | Imperial Beach, city of | 060291-A | Jan. 28, 1974, emergency, June 1, 1978, Regular. | Apr. 5, 1974. |
| Colorado | Adams and Arapahoe | Aurora, city of | 080002-A | Aug. 20, 1971, emergency, June 1, 1978, regular. | July 26, 1974. |
| Do | Routt | Hayden, town of | 080157-B | Oct. 10, 1973, emergency, June 1, 1978, regular. | June 28, 1974 and May 21, 1976. |
| Connecticut | Fairfield | Stratford, town of | 090016-A | Aug. 18, 1972, emergency, June 1, 1978, regular. | Feb. 28, 1975. |
| Florida | Palm Beach | Boca Raton, city of | 120195-B | Jan. 21, 1972, emergency, June 1, 1978, regular. | Jan. 24, 1975 and Oct. 10, 1975. |
| Iowa | Scott | Bettendorf, city of | 190240-C | Feb. 4, 1972, emergency, June 1, 1978, regular. | Feb. 1, 1974, Aug. 15, 1975, and Apr. 16, 1976. |
| Illinois | Madison | Granite City, city of | 170443-A | July 27, 1973, emergency, June 1, 1978, regular. | Nov. 16, 1973. |
| Kansas | Atchison | Atchison, city of | 200010-B | Feb. 7, 1975, emergency, June 1, 1978, regular. | Feb. 8, 1974 and Dec. 12, 1975. |
| Kentucky | Bell | Pineville, city of | 210012-B | Nov. 21, 1973, emergency, June 1, 1978, regular. | Feb. 22, 1974 and Feb. 13, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Woodford | Unincorporated areas | 210230-A | Mar. 30, 1973, emergency, June 1, 1978, regular. | Oct. 18, 1974. |
| Louisiana | Caldwell | Columbia, town of | 220045-B | May 2, 1973, emergency, June 1, 1978, regular. | Feb. 1, 1974 and Jan. 9, 1976. |
| Do | Iberville | Unincorporated areas | 220083-B | Apr. 20, 1973, emergency, June 1, 1978, regular. | Oct. 18, 1974 and Apr. 15, 1977. |
| Do | Ascension | Sorrento, town of | 220016-B | Apr. 30, 1973, emergency, June 1, 1978, regular. | June 28, 1974 and Nov. 7, 1975. |
| Massachusetts | Worcester | Auburn, town of | 250292-B | Mar. 2, 1973, emergency, June 1, 1978, regular. | Aug. 16, 1974 and Dec. 10, 1976. |
| Do | Norfolk | Braintree, town of | 250233-B | Nov. 10, 1972, emergency, June 1, 1978, regular. | Aug. 2, 1974 and Dec. 17, 1976. |
| Do | Middlesex | Lexington, town of | 250198-B | July 31, 1975, emergency, June 1, 1978, regular. | June 28, 1974 and Dec. 1, 1976. |
| Do | do | Lincoln, town of | 250199-B | Dec. 24, 1975, emergency, June 1, 1978, regular. | Dec. 13, 1974 and Oct. 15, 1976. |
| Do | do | Newton, city of | 250208-A | Feb. 25, 1972, emergency, June 1, 1978, regular. | June 28, 1974. |
| Maryland | Frederick | Unincorporated areas | 240027-A | May 24, 1973, emergency, June 1, 1978, regular. | July 19, 1974. |
| Maine | Penobscot | Brewer, city of | 230104-B | Feb. 21, 1975, emergency, June 1, 1978, regular. | Mar. 29, 1974 and Mar. 5, 1976. |
| Michigan | Huron | Caseville, township of | 260257-A | Nov. 9, 1973, emergency, June 1, 1978, regular. | Jan. 17, 1975. |
| Do | Berrien | Chikaming, township of | 260258-B | Mar. 9, 1973, emergency, June 1, 1978, regular. | June 28, 1974 and July 16, 1976. |
| Do | St. Clair | Clay, township of | 260194-B | Dec. 22, 1972, emergency, June 1, 1978, regular. | June 1, 1978. |
| Do | Arenac | Sims, township of | 260015-B | May 7, 1973, emergency, June 1, 1978, regular. | June 21, 1974 and June 25, 1976. |
| Do | Ottawa | Spring Lake, village of | 260282-A | June 1, 1973, emergency, June 1, 1978, regular. | June 28, 1974 and Oct. 15, 1976. |
| Do | Arenac | Whitney, township of | 260018-B | May 25, 1973, emergency, June 1, 1978, regular. | June 28, 1974 and July 23, 1976. |
| Minnesota | Hennepin | Crystal, city of | 270156-B | May 13, 1974 emergency, June 1, 1978, regular. | Nov. 30, 1973 and June 4, 1976. |
| Missouri | Scott | Commerce, city of | 290410-B | Apr. 1, 1974, emergency, June 1, 1978, regular. | Nov. 8, 1974 and Dec. 26, 1975. |
| Do | Pemiscot | Holland, city of | 290574-A | June 23, 1976, emergency, June 1, 1978, regular. | June 27, 1975. |
| Do | St. Louis | Pagedale, city of | 290377-B | Mar. 13, 1974, emergency, June 1, 1978, regular. | Dec. 17, 1973 and June 11, 1976. |
| Do | do | University City, city of | 290390-B | Apr. 20, 1973, emergency, June 1, 1978, regular. | Sept. 14, 1973 and Feb. 4, 1977. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Mississippi | Adams | Natchez, city of | 280001-B | Jan. 28, 1974, emergency, June 1, 1978, regular. | Feb. 8, 1974 and June 25, 1976. |
| North Carolina | Watauga and Caldwell | Blowing Rock, town of | 370252-B | July 8, 1975, emergency, June 1, 1978, regular. | June 21, 1974. |
| Do | Nash | Unincorporated areas | 370278-A | Jan. 10, 1974, emergency, June 1, 1978, regular. | June 1, 1978. |
| Do | Craven | New Bern, city of | 370074-B | Dec. 11, 1973, emergency, June 1, 1978, regular. | Feb. 22, 1974 and June 4, 1976. |
| Do | Wake | Wendell, town of | 370245-B | Jan. 28, 1974, emergency, June 1, 1978, regular. | Mar. 8, 1974 and July 2, 1976. |
| North Dakota | Stark | Dickinson, city of | 380117-B | Mar. 5, 1974, emergency, June 1, 1978, regular. | Feb. 1, 1974 and Feb. 7, 1975. |
| New Jersey | Somerset | Branchburg, township of | 340431-B | June 2, 1972, emergency, June 1, 1978, regular. | Apr. 12, 1974 and Sept. 3, 1976. |
| Do | Burlington | Palmyra, borough of | 340110-B | Apr. 23, 1974, emergency, June 1, 1978, regular. | Mar. 15, 1974. |
| Do | Bergen | Rutherford, borough of | 340072-B | July 2, 1975, emergency, June 1, 1978, regular. | Apr. 12, 1974. |
| New York | Herkimer | Herkimer, village of | 360307-B | Feb. 12, 1975, emergency, June 1, 1978, regular. | May 10, 1974 and May 28, 1976. |
| Do | Chautauqua | Jamestown, city of | 360141-B | Jan. 19, 1973, emergency, June 1, 1978, regular. | Apr. 13, 1973 and July 30, 1976. |
| Do | Wayne | Ontario, town of | 360895-B | May 15, 1973, emergency, June 1, 1978, regular. | May 31, 1974 and Aug. 20, 1976. |
| Do | Orange | Port Jervis, city of | 360976-B | Dec. 26, 1973, emergency, June 1, 1978, regular. | June 28, 1974 and Nov. 19, 1976. |
| Do | Wayne | Sodus, town of | 360898-B | Aug. 16, 1974, emergency, June 1, 1978, regular. | Aug. 16, 1974 and Oct. 8, 1976. |
| Do | Ontario | West Bloomfield, town of | 360607-B | Apr. 19, 1973, emergency, June 1, 1978, regular. | May 10, 1974 and July 16, 1976. |
| Ohio | Trumbull | Niles, city of | 390540-B | Mar. 5, 1974, emergency, June 1, 1978, regular. | Mar. 1, 1974 and June 11, 1976. |
| Pennsylvania | Westmoreland | Derry, borough of | 420874-B | May 14, 1974, emergency, June 1, 1978, regular. | June 28, 1974 and Apr. 30, 1976. |
| Do | ....do | Derry, township of | 421205-A | May 14, 1974, emergency, June 1, 1978, regular. | Sept. 20, 1974 and July 30, 1976. |
| Do | McKean | Keating, township of | 420667-A | Aug. 31, 1973, emergency, June 1, 1978, regular. | July 26, 1974 and Oct. 15, 1976. |
| Do | Westmoreland | Sewickley, township of | 422193-B | Apr. 19, 1973, emergency, June 1, 1978, regular. | June 28, 1974 and July 9, 1976. |
| Do | Northampton | Walnutport, borough of | 420732-B | Jan. 28, 1974, emergency, June 1, 1978, regular. | Jan. 9, 1974. |
| South Carolina | Spartanburg | Spartanburg, city of | 450181-A | Jan. 14, 1974, emergency, June 1, 1978, regular. | June 7, 1974 and Apr. 9, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| South Dakota | Brown | Aberdeen, city of | 460007-A | Apr. 9, 1973, emergency, June 1, 1978, regular. | Oct. 5, 1973. |
| Texas | Collin | Allen, city of | 480131-B | July 15, 1975, emergency, June 1, 1978, regular. | Dec. 20, 1974 and June 25, 1976. |
| Utah | Davis | Syracuse, city of | 490051-A | Oct. 30, 1974, emergency, June 1, 1978, regular. | June 1, 1978. |
| Virginia | | Bedford, city of | 510015-B | Mar. 12, 1974, emergency, June 1, 1978, regular. | June 28, 1974 and May 14, 1976. |
| Vermont | Washington | Waitsfield, town of | 500120-B | June 20, 1975, emergency, June 1, 1978, regular. | June 28, 1974 and Sept. 10, 1976. |
| Wisconsin | Milwaukee | Glendale, city of | 550275-B | July 2, 1973, emergency, June 1, 1978, regular. | Dec. 17, 1973 and Aug. 1, 1975. |
| Do | ....do | Greenfield, city of | 550277-B | Mar. 9, 1973, emergency, June 1, 1978, regular. | June 15, 1973 and July 30, 1976. |
| Missouri | Gasconade | Owensville, city of | 290143-A | Aug. 1, 1975, emergency, June 3, 1978, regular. | June 1, 1978. |
| Arkansas | Greene | Paragould, city of | 050085-B | June 27, 1973, emergency, June 15, 1978, regular. | Sept. 7, 1973 and Aug. 22, 1975. |
| Colorado | Arapahoe | Columbine Valley, town of | 080014-B | May 18, 1973, emergency, June 15, 1978, regular. | Feb. 1, 1974 and Apr. 23, 1976. |
| Do | Adams | Thornton, city of | 080007-B | July 31, 1975, emergency, June 15, 1978, regular. | Nov. 1, 1974 and Oct. 1, 1976. |
| Connecticut | Middlesex | Cromwell, town of | 090123-B | Nov. 15, 1973, emergency, June 15, 1978, regular. | Mar. 22, 1974 and Dec. 10, 1976. |
| Do | Hartford | Glastonbury, town of | 090124-B | Dec. 15, 1972, emergency, June 15, 1978, regular. | Apr. 20, 1973 and Nov. 19, 1976. |
| Do | New London | Norwich, city of | 090102-B | Apr. 12, 1973, emergency, June 15, 1978, regular. | May 31, 1974 and Jan. 21, 1977. |
| Delaware | New Castle | Newport, town of | 100054-B | May 28, 1974, emergency, June 15, 1978, regular. | Dec. 20, 1974 and Dec. 12, 1975. |
| Florida | Broward | Lauderhill, city of | 120044-B | Oct. 27, 1972, emergency, June 15, 1978, regular. | Feb. 8, 1974 and Jan. 30, 1976. |
| Georgia | Clayton | Unincorporated areas | 130041-A | Apr. 28, 1972, emergency, June 15, 1978, regular. | Oct. 31, 1975. |
| Do | Catoosa | Ringgold, city of | 130029-B | Feb. 5, 1974, emergency, June 15, 1978, regular. | Mar. 22, 1974 and Apr. 30, 1976. |
| Iowa | Pottawattami | Council Bluffs, city of | 190235-B | Apr. 11, 1973, emergency, June 15, 1978, regular. | June 28, 1974 and July 23, 1976. |
| Idaho | Blaine | Ketchum, city of | 160023-B | May 9, 1974, emergency, June 15, 1978, regular. | Feb. 15, 1974 and June 11, 1976. |
| Illinois | Cook | Glenwood, village of | 170097-B | July 9, 1973, emergency, June 15, 1978, regular. | May 10, 1974 and June 11, 1976. |
| Indiana | Monroe | Bloomington, city of | 180169-B | July 28, 1972, emergency, June 15, 1978, regular. | June 21, 1974 and June 25, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Kentucky | Henderson | Henderson, city of | 210109-B | Aug. 7, 1973, emergency, June 15, 1978, regular. | Feb. 15, 1974 and July 9, 1976. |
| Louisiana | Concordia | Vidalia, town of | 220057-B | Apr. 30, 1973, emergency, June 15, 1978, regular. | Jan. 16, 1974 and Nov. 14, 1975. |
| Massachusetts | Middlesex | Acton, town of | 250176-B | Mar. 24, 1972, emergency, June 15, 1978, regular. | July 26, 1974 and Nov. 12, 1976. |
| Maryland | Frederick | Frederick, city of | 240030-B | May 24, 1973, emergency, June 15, 1978, regular. | Oct. 18, 1974 and Feb. 20, 1976. |
| Maine | Penobscot | Bangor, city of | 230102-B | Apr. 3, 1975, emergency, June 15, 1978, regular. | Mar. 29, 1974 and Oct. 31, 1974. |
| Michigan | St. Clair | St. Clair, city of | 260279-B | June 12, 1973, emergency, June 15, 1978, regular. | June 28, 1974 and June 11, 1976. |
| Missouri | Stoddard | Advance, city of | 290420-B | Aug. 9, 1974, emergency, June 15, 1978, regular. | Mar. 1, 1974 and Oct. 31, 1975. |
| Mississippi | Harrison | Unincorporate areas | 285255 | July 17, 1970, emergency, June 15, 1978, regular. | July 1, 1974. |
| Do | Winston | Louisville, city of | 280185-B | Feb. 11, 1974, emergency, June 15, 1978, regular. | June 28, 1974 and July 2, 1976. |
| Do | Claiborne | Port Gibson, town of | 280033-B | Apr. 16, 1975, emergency, June 15, 1978, regular. | Feb. 1, 1974 and July 23, 1976. |
| New Jersey | Bergen | Lyndhurst, township of | 340048-B | July 2, 1975, emergency, June 15, 1978, regular. | July 26, 1974. |
| Do | Monmouth | Marlboro, township of | 340310-A | Aug. 25, 1972, emergency, June 15, 1978, regular. | Dec. 28, 1973. |
| New York | Washington | Fort Edward, village of | 361436-B | Mar. 15, 1974, emergency, June 15, 1978, regular. | Apr. 12, 1974 and July 9, 1976. |
| Oregon | Umatilla | Unincorporated areas | 410204-A | Feb. 4, 1972, emergency, June 15, 1978, regular. | June 15, 1978. |
| Pennsylvania | Luzerne | Exeter, township of | 420606-A | Jan. 19, 1973, emergency, June 15, 1978, regular. | June 28, 1974 and May 21, 1976. |
| Tennessee | McMinn | Athens, city of | 470211-A | Mar. 15, 1974, emergency, June 15, 1978, regular. | Feb. 1, 1974. |
| Do | Hamblen | Morristown, city of | 470070-B | Apr. 26, 1974, emergency, June 15, 1978, regular. | Mar 1, 1974 and July 2, 1976. |
| Texas | Hildalgo | La Villa, city of | 480342-B | June 26, 1975, emergency, June 15, 1978, regular. | Jan. 23, 1974 and June 4, 1976. |
| Virginia | Botetourt | Unincorporated areas | 510018-A | Sept. 6, 1974, emergency, June 15, 1978, regular. | Sept. 6, 1974. |
| Do | Smyth | Chilhowie, town of | 510185-B | Jan. 15, 1974, emergency, June 15, 1978, regular. | May 10, 1974 and Oct. 15, 1976. |
| Do | Rockingham | Elkton, town of | 510137-B | Jan. 20, 1975, emergency, June 15, 1978, regular. | June 28, 1974. |
| Vermont | Washington | Barre, town of | 500273-B | June 23, 1975, emergency, June 15, 1978, regular. | Aug. 30, 1974 and Aug. 13, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Grand Isle | South Hero, town of | 500226-B | July 10, 1975, emergency, June 15, 1978, regular. | Oct. 18, 1974 and Aug. 27, 1976. |
| Do | Franklin | St. Albans, city of | 500058-B | Dec. 28, 1973, emergency, June 15, 1978, regular. | May 17, 1974 and Aug. 13, 1976. |
| Wisconsin | Crawford | Gays Mills, village of | 550071-B | Apr. 12, 1973, emergency, June 15, 1978, regular. | Oct. 5, 1973 and Apr. 23, 1976. |
| Do | Dane | McFarland, village of | 550086-B | Apr. 17, 1975, emergency, June 15, 1978, regular. | Dec. 17, 1973 and Dec. 5, 1975 |
| Do | do | Monona, city of | 550088-B | Mar. 25, 1975, emergency, June 15, 1978, regular. | Nov. 30, 1973 and Apr. 16, 1976 |
| Do | do | Stoughton, city of | 550091-B | Apr. 15, 1975, emergency, June 15, 1978, regular. | Dec. 17, 1973 and May 28, 1976. |
| Arkansas | Ouachita | Bearden, city of | 050162-B | Apr. 28, 1975, emergency, June 20, 1978, regular. | June 7, 1974 and Sept. 26, 1975. |
| Nebraska | Halls | Alda, village of | 310242-A | June 1, 1977, emergency, June 20, 1978, regular. | June 25, 1976. |
| Do | Hall | Cairo, town of | 310101-B | July 24, 1975, emergency, June 20, 1978, regular. | May 24, 1974 and Dec. 12, 1975. |
| Kansas | Sedgwick | Mount Hope, city of | 200325-B | Aug. 26, 1975, emergency, June 27, 1978, regular. | Oct. 18, 1974 and Nov. 14, 1975. |
| Louisiana | Morehouse | Mer Rouge, village of | 220128-B | May 3, 1973, emergency, June 27, 1978, regular. | May 17, 1974 and Nov. 28, 1975. |
| Missouri | St. Louis | Dellwood, city of | 290346-A | July 19, 1974, emergency, June 27, 1978, regular. | Aug. 13, 1976. |
| Virginia | | Emporia, city of | 510047 | Feb. 5, 1974, emergency, June 28, 1978, regular. | July 23, 1976. |
| Alabama | Pickens | Reform, town of | 010221-B | July 31, 1974, emergency, July 3, 1978, regular. | Dec. 27, 1974. |
| California | Orange | Seal Beach, city of | 060233-B | Dec. 18, 1970, emergency, July 3, 1978, regular. | June 21, 1974 and Apr. 9, 1976. |
| Do | El Dorado | South Lake Tahoe, city of | 065060-B | Jan. 28, 1972, emergency, July 3, 1978, regular. | July 19, 1974 and Oct. 10, 1975. |
| Colorado | Mesa | Unincorporated areas | 080115-A | July 26, 1973, emergency, July 3, 1978, regular. | Oct. 18, 1974. |
| Do | El Paso | Palmer Lake, town of | 080065-B | Aug. 16, 1973, emergency, July 3, 1978, regular. | Nov. 16, 1973 and Nov. 19, 1976. |
| Do | Las Animas | Trinidad, city of | 080107-B | Oct. 15, 1971, emergency, July 3, 1978, regular. | June 28, 1974. |
| Connecticut | New Haven | North Branford, town of | 090085-B | Oct. 20, 1972, emergency, July 3, 1978, regular. | June 21, 1974 and Nov. 5, 1976. |
| Do | Middlesex | Old Saybrook, town of | 090069-A | Mar. 31, 1974, emergency, July 3, 1978, regular. | July 26, 1974. |
| Do | do | Portland, town of | 090130-B | Oct. 31, 1973, emergency, July 3, 1978, regular. | Mar. 15, 1974 and Dec. 24, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Connecticut | Litchfield | Winchester, town of | 090132-B | Oct. 27, 1972, emergency, July 17, 1978, regular. | Aug. 2, 1974. |
| Kansas | Sumner | Belle Plaine, city of | 200466-A | July 25, 1975, emergency, July 17, 1978, regular. | Mar. 26, 1976. |
| Do | Neosho | Erie, city of | 200242-B | Apr. 4, 1975, emergency, July 17, 1978, regular. | Jan. 23, 1974 and Apr. 2, 1976. |
| Kentucky | Jefferson | Louisville, city of | 210122-B | Apr. 16, 1971, emergency, July 17, 1978, regular. | Oct. 15, 1976. |
| Louisana | Rapides | Alexandria, city of | 220146-B | May 7, 1973, emergency, July 17, 1978, regular. | Aug. 2, 1974 and Dec. 26, 1975. |
| Michigan | Gogebic | Ironwood, city of | 260081-B | Sept. 13, 1973, emergency, July 17, 1978, regular. | May 31, 1974 and Mar. 19, 1976. |
| Minnesota | St. Louis | Floodwood, city of | 270423-B | June 3, 1974, emergency, July 17, 1978, regular. | Mar. 29, 1974 and June 4, 1976. |
| Mississippi | Sunflower | Sunflower, town of | 280168-B | May 14, 1973, emergency, July 17, 1978, regular. | May 17, 1974. |
| North Carolina | Wake | Cary, town of | 370238-A | July 1, 1975, emergency, July 17, 1978, regular. | July 17, 1978. |
| Do | New Hanover | Unincorporated areas | 370168-A | June 23, 1972, emergency, July 17, 1978, regular. | July 17, 1978. |
| New Jersey | Camden | Collingswood, borough of | 340131-B | Apr. 9, 1973, emergency, July 17, 1978, regular. | Nov. 23, 1973 and Jan. 7, 1977. |
| Do | Union | Roselle, borough of | 340472-A | Dec. 17, 1971, emergency, July 17, 1978, regular. | July 17, 1978. |
| New York | Cattaraugus | Franklinville, town of | 360072-A | Nov. 28, 1975, emergency, July 17, 1978, regular. | Nov. 5, 1976. |
| Do | do | Great Valley, town of | 360076-B | Aug. 13, 1975, emergency, July 17, 1978, regular. | June 28, 1974 and June 25, 1976. |
| Do | do | Mentz, town of | 360115-B | Apr. 18, 1973, emergency, July 17, 1978, regular. | May 3, 1974 and Oct. 17, 1975. |
| Do | Onondaga | Van Buren, town of | 360596-B | Mar. 16, 1973, emergency, July 17, 1978, regular. | May 3, 1974 and Oct. 11, 1976. |
| Do | Schuyler | Watkins Glen, village of | 360750-B | Dec. 17, 1973, emergency, July 17, 1978, regular. | Aug. 2, 1974 and July 9, 1976. |
| Do | Allegany | Wellsville, village of | 360036-B | May 10, 1973, emergency, July 17, 1978, regular. | Nov. 9, 1973 and Oct. 17, 1975. |
| Ohio | Summit | Stow, city of | 390532-B | Nov. 12, 1973, emergency, July 17, 1978, regular. | Mar. 1, 1974 and June 18, 1976 |
| Pennsylvania | Bucks | Bensalem, township of | 420181-B | Dec. 15, 1972, emergency, July 17, 1978, regular. | Apr. 5, 1974 and Apr. 15, 1977. |
| Do | Franklin | Chambersburg, borough of | 420469-B | Feb. 2, 1973, emergency, July 17, 1978, regular. | Dec. 28, 1973 and June 11, 1976. |
| Do | Northumberland | Mount Carmel, borough of | 420738-B | Dec. 17, 1973, emergency, July 17, 1978, regular. | Jan 14, 1977. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Grafton | Hanover, city of | 330056-B | Aug. 6, 1973, emergency, July 3, 1978, regular. | May 31, 1974 and Oct. 29, 1976. |
| Do | Merrimack | Pittsfield, town of | 330120-B | Jan. 27, 1976, emergency, July 3, 1978, regular. | Mar. 15, 1974 and Apr. 9, 1976. |
| New Jersey | Somerset | Far Hills, borough of | 340433-A | Jan. 7, 1972 emergency, July 3, 1978, regular. | Sept. 7, 1973. |
| New York | Cattaraugus | Franklinville, village of | 360073-B | Feb. 18, 1977, emergency, July 3, 1978, regular. | May 31, 1974. |
| Oregon | Clatsop | Unincorporated areas | 410027-A | Feb. 7, 1974, emergency, July 3, 1978, regular. | Dec. 20, 1974. |
| Pennsylvania | Northampton | Bethlehem, city of | 420718-B | Sept. 1, 1972, emergency, July 3, 1978, regular. | June 15, 1973 and Sept. 19, 1975. |
| Do | Butler | Butler, township of | 421138-B | Mar. 29, 1973, emergency, July 3, 1978, regular. | Oct. 18, 1974. |
| Do | Montgomery | Upper Providence, township of | 420709-A | Jan. 21, 1972, emergency, July 3, 1978, regular. | Jan. 9, 1974. |
| South Carolina | Horry | Grand Strand flood district | 450107 | July 3, 1978, emergency, July 3, 1979, regular. | July 3, 1978. |
| Vermont | Bennington | Stamford, town of | 500020-B | June 10, 1975, emergency, July 3, 1978, regular. | May 31, 1974 and Dec. 3, 1976. |
| West Virginia | Mason | New Haven, town of | 540249-A | Apr. 16, 1975, emergency, July 3, 1978, regular. | Nov. 15, 1974. |
| Maine | Penobscot | Bradford, town of | 230373-A | June 30, 1975, emergency, July 4, 1978, regular. | Jan. 3, 1975. |
| Washington | Yakima | Sunnyside, city of | 530227-B | Jan. 15, 1974, emergency, July 4, 1978, regular. | Aug. 2, 1974 and Jan. 16, 1976. |
| Illinois | Cook | Worth, village of | 170177-B | Feb 18, 1975, emergency, July 7, 1978, regular. | Apr. 5, 1974 and Mar. 19, 1976. |
| Ohio | Ashtabula | Rock Creek, village of | 390665-B | Aug. 7, 1975, emergency, July 7, 1978, regular. | Apr. 5, 1974. |
| Wisconsin | Milwaukee | St. Francis, city of | 550281-B | Sept. 12, 1975, emergency, July 7, 1978, regular. | June 7, 1974 and Apr. 4, 1975. |
| Iowa | Black Hawk | Raymond, city of | 190024-B | July 2, 1975, emergency, July 11, 1978, regular. | Mar. 22, 1974 and Jan. 16, 1976. |
| Kansas | Sedgwick | Colwich, city of | 200484-A | Jan. 14, 1976, emergency, July 11, 1978, regular. | Sept. 26, 1975. |
| Nebraska | Cheyenne | Gurley, village of | 310490 | July 14, 1978, emergency, July 14, 1978, regular. | July 14, 1978. |
| Alabama | Pickens | Aliceville, city of | 010180-A | Feb. 8, 1974, emergency, July 17, 1978, regular. | Apr. 11, 1975. |
| Do | Morgan | Hartselle, city of | 010178-B | Feb. 11, 1971, emergency, July 17, 1978, regular. | May 10, 1974 and July 2, 1976. |
| Arizona | Cochise | Willcox, city of | 040018-B | May 19, 1972, emergency, July 17, 1978, regular. | May 24, 1974. |
| Colorado | Boulder | Boulder, city of | 080024-B | Apr. 16, 1971, emergency, July 17, 1978, regular. | June 14, 1974 and Mar. 5, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | New Haven | Seymour, town of | 090088-B | Dec. 18, 1974, emergency, July 3, 1978, regular. | July 26, 1974 and Jan. 7, 1977. |
| Florida | Indiana River | Unincorporated areas | 120119-A | July 14, 1972, emergency, July 3, 1978, regular. | Dec. 20, 1974. |
| Illinois | St. Clair | Fairview Heights, city of | 170895-B | Jan. 14, 1975, emergency, July 3, 1978, regular. | Apr. 2, 1976. |
| Kentucky | Lee | Beattyville, city of | 210136-B | Sept. 17, 1973, emergency, July 3, 1978, regular. | May 17, 1974 and Feb. 27, 1976. |
| Louisiana | Iberia | Unincorporated areas | 220078-B | Apr. 27, 1973, emergency, July 3, 1978, regular. | June 28, 1977. |
| Do | St. Landry | Melville, town of | 220172-B | May 31, 1973, emergency, July 31, 1978, regular. | Apr. 12, 1974 and Jan 23, 1976. |
| Do | ....do | Patterson, town of | 220197-A | Apr. 16, 1973, emergency, July 31, 1978, regular. | Aug. 6, 1976. |
| Massachusetts | Bristol | Berkeley, town of | 250050-B | Feb. 19, 1974, emergency, July 31, 1978, regular. | July 26, 1974 and Oct. 1, 1976. |
| Maine | Penobscot | Eddington, town of | 230382-B | Feb. 9, 1976, emergency, July 31, 1978, regular. | Jan. 24, 1975 and Sept. 17, 1976. |
| Do | ....do | Orono, town of | 230113-B | Apr. 3, 1975, emergency, July 31, 1978, regular. | Dec. 13, 1974 and Oct. 15, 1976. |
| Michigan | Macomb | Chesterfield, town of | 260120-B | Nov. 24, 1972, emergency, July 3, 1978, regular. | June 28, 1974 and July 16, 1976. |
| Do | St. Clair | East China, township of | 260197-B | Feb. 9, 1973, emergency, July 3, 1978, regular. | Apr. 12, 1974 and June 4, 1976. |
| Missouri | St. Louis | Olivette, city of | 290374-B | Feb. 19, 1974, emergency, July 3, 1978, regular. | Feb. 22, 1974 and Oct. 22, 1976. |
| Mississippi | Carroll | Unincorporated areas | 280191-A | Jan. 28, 1974, emergency, July 3, 1978, regular. | July 3, 1978. |
| Do | Humphreys | Isola, town of | 280190-B | Jan. 14, 1974, emergency, July 3, 1978, regular. | June 21, 1974 and May 28, 1976. |
| North Carolina | Rowan | East Spencer, town of | 370211-B | Mar. 31, 1975, emergency, July 3, 1978, regular. | June 7, 1974 and July 9, 1976. |
| Do | Wake | Garner, town of | 370240-B | Nov. 29, 1974, emergency, July 3, 1978, regular. | July 19, 1974 and Dec. 26, 1975. |
| Do | Pitt | Greenville, city of | 370191-A | Jan. 15, 1974, emergency, July 3, 1978, regular. | June 14, 1974. |
| Do | Rowan | Landis, town of | 370213-B | Mar. 28, 1975, emergency, July 3, 1978, regular. | June 7, 1974 and Mar. 26, 1976. |
| Do | Wake | Wake Forest, town of | 370244-C | Mar. 15, 1974, emergency, July 3, 1978, regular. | Mar. 15, 1974 and Aug. 27, 1976 and Dec. 24, 1976. |
| Do | Wake | Zebulon, town of | 370246-B | Aug. 7, 1978, emergency, July 3, 1978, regular. | Mar. 8, 1974 and Aug. 20, 1976. |
| New Hampshire | Merrimack | Epson, town of | 330112-B | Nov. 11, 1976, emergency, July 3, 1978, regular. | Mar. 15, 1974 and Nov. 12, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Westmoreland | Unity, township of | 420964-B | Dec. 26, 1973, emergency, July 17, 1978, regular. | July 19, 1974 and May 14, 1976. |
| Texas | Travis | West Lake Hills, city of | 481030-A | Mar. 10, 1976, emergency, July 17, 1978, regular. | Feb. 7, 1975. |
| Virginia | Amherst | Unincorporated areas | 510010-A | Mar. 1, 1974, emergency, July 17, 1978, regular. | Nov. 22, 1974. |
| Do | Appomattox | do | 510011-A | Feb. 11, 1974, emergency, July 17, 1978, regular. | Aug. 2, 1974. |
| Do | Tazewell | Bluefield, town of | 510161-B | July 30, 1973, emergency, July 17, 1978, regular. | Aug. 9, 1974 and May 28, 1976. |
| Do | Buckingham | Unincorporated areas | 510026 | Jan. 14, 1975, emergency, July 17, 1978, regular. | Nov. 1, 1974. |
| Do | Frederick | do | 510063-B | Nov. 5, 1973, emergency, July 17, 1978, regular. | Nov. 8, 1974 and May 28, 1976. |
| Do | Brunswick | Lawrenceville, town of | 510023-B | May 28, 1974, emergency, July 17, 1978, regular. | May 24, 1974. |
| Vermont | Chittenden | Huntington, town of | 500036-B | Apr. 21, 1976, emergency, July 17, 1978, regular. | July 26, 1974 and May 14, 1976. |
| Do | Orange | Williamstown, town of | 500080-B | June 23, 1975, emergency, July 17, 1978, regular. | June 28, 1974. |
| Washington | Douglas | Unincorporated areas | 530036-A | Mar. 20, 1974, emergency, July 17, 1978, regular. | Jan. 17, 1975. |
| Do | Whitman | Endicott, town of | 530208-A | May 1, 1975, emergency, July 17, 1978, regular. | Nov. 22, 1974. |
| Do | do | Palouse, city of | 530211-B | July 8, 1975, emergency, July 17, 1978, regular. | May 24, 1974 and Dec. 26, 1975. |
| Do | Garfield | Pomeroy, city of | 530048-A | Feb. 15, 1974, emergency, July 17, 1978, regular. | Apr. 12, 1974 and Jan. 16, 1976. |
| Do | Whitman | Rosalia, town of | 530213-B | Aug. 1, 1975, emergency, July 17, 1978, regular. | May 24, 1974 and May 14, 1976. |
| Do | Yakima | Toppenish, city of | 530228-B | Apr. 4, 1975, emergency, July 17, 1978, regular. | June 7, 1974 and Feb. 20 1978. |
| Do | do | Wapato, city of | 530230-B | Mar. 7, 1975, emergency, July 17, 1978, regular. | May 24, 1974 and Jan. 2, 1976. |
| Wisconsin | Clark | Neillsville, city of | 550053-B | Jan. 30, 1974, emergency, July 17, 1978, regular. | Jan. 16, 1974 and May 28, 1976. |
| Do | Sheboygan | Unincorporated areas | 550424-A | Apr. 4, 1973, emergency, July 17, 1978, regular. | July 17, 1978. |
| Wyoming | Natrona | Evansville, town of | 560050-A | June 2, 1975, emergency, July 17, 1978, regular. | Sept. 19, 1975. |
| Do | Sweetwater | Green River, town of | 560050-B | May 8, 1975, emergency, July 17, 1978, regular. | Aug. 16, 1974 and Mar. 26, 1976. |
| Do | Fremont | Hudson, town of | 560019-A | Sept. 6, 1974, emergency, July 17, 1978, regular. | Sept. 6, 1974 and Apr. 2, 1976. |

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|---|---|---|---|---|---|
| Do | Hot Springs | Thermopolis, town of | 560026-B | Aug. 2, 1974, emergency, July 17, 1978, regular. | Apr. 12, 1974 and Jan. 23, 1976. |
| California | Orange | La Palma, city of | 060225-A | July 6, 1976, emergency, July 21, 1978, regular. | July 21, 1978. |
| Indiana | Johnson | Bargersville, town of | 180112-A | July 6, 1976, emergency, July 21, 1978, regular. | Do. |
| | Shelby | Morristown, town of | 180393-A | Apr. 1, 1976 emergency, July 21, 1978, regular. | Do. |
| Do | Madison | Summitville, town of | 180157-A | May 5, 1975, emergency, July 21, 1978, regular. | Do. |
| Do | Boone | Thornton, town of | 180014-A | Apr. 29, 1975, emergency, July 21, 1978, regular. | Do. |
| Michigan | Genesee | Gains, village of | 260294-A | May 24, 1974, emergency, July 21, 1978, regular. | Do. |
| New Hampshire | Chesire | Rindge, town of | 330189-A | Oct. 15, 1977, emergency, July 21, 1978, regular. | Do. |
| Ohio | Mahoning | Poland, village of | 390370-A | May 23, 1975, emergency, July 21, 1978, regular. | Do. |
| Oregon | Linn | Halsey, city of | 410139-A | Dec. 31, 1975, emergency, July 21, 1978, regular. | Do. |
| Pennsylvania | Huntingdon | Broad Top City, borough of | 420483 | Feb. 4, 1976, emergency, July 21, 1978, regular. | Do. |
| Do | Luzerne | Hazleton, city of | 421203 | May 15, 1974, emergency, July 21, 1978, regular. | Do. |
| Do | do | Hughestown, borough of | 422626 | July 30, 1975, emergency, July 21, 1978, regular. | Do. |
| Do | Cambria | Loretto, borough of | 421431 | July 25, 1975, emergency, July 21, 1978, regular. | Do. |
| Do | Bedford | New Paris, borough of | 421326 | May 12, 1975, emergency, July 21, 1978, regular. | Do. |
| Texas | Reagon | Big Lake, city of | 480534-A | June 23, 1975, emergency, July 21, 1978, regular. | Do. |
| Do | Hildalgo | San Juan, city of | 480348-A | July 2, 1975, emergency, July 21, 1978, regular. | Do. |
| Utah | Davis | Clinton City, city of | 490042-A | Jan. 3, 1975, emergency, July 21, 1978, regular. | Do. |
| Vermont | Waltham | Waltham, town of | 500173-A | Aug. 12, 1975, emergency, July 21, 1978, regular. | Feb. 7, 1975. |
| Kansas | Doniphan | Elwood, city of | 200080-A | July 7, 1975, emergency, July 28, 1978, regular. | July 28, 1978. |
| Missouri | St. Charles | Wentzville, city of | 290320-B | Apr. 18, 1975, emergency, July 28, 1978, regular. | Do. |
| Ohio | Van Wert and Paulding | Scott, village of | 390857-A | Apr. 10, 1978, emergency, July 28, 1978, regular. | Do. |
| Pennsylvania | Luzerne | Jeddo, borough of | 422269 | Apr. 17, 1975, emergency, July 31, 1978, regular. | Do. |

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|---|---|---|---|---|---|
| Do | Berks | Mt. Penn, borough of | 420143 | July 25, 1975, emergency, July 31, 1978, regular. | Do. |
| Do | Dauphin | Penbrook, borough of | 420391 | Dec. 19, 1975, emergency, July 31, 1978, regular. | Do. |
| Do | Lawrence | South New Castle, borough of | 422467 | Feb. 18, 1976, emergency, July 31, 1978, regular. | Do. |
| Do | Luzerne | West Hazleton, borough of | 421821-A | June 6, 1974, emergency, July 31, 1978, regular. | Do. |
| Do | ....do | Yatesville, borough of | 420634 | May 1, 1973, emergency, July 31, 1978, regular. | Do. |
| California | Alameda | Alameda, city of | 060002 | June 26, 1975, emergency, Aug. 1, 1978, regular. | May 24, 1974. |
| Do | San Diego | San Marcos, city of | 060296-C | Jan. 7, 1972, emergency, Aug. 1, 1978, regular. | May 24, 1974 and Dec. 13, 1974 and Apr. 23, 1976. |
| Do | Orange | Yorba Linda, city of | 060238-B | May 13, 1975, emergency, Aug. 1, 1978, regular. | Aug. 9, 1974 and Aug. 6, 1976. |
| Colorado | Arapahoe | Cherry Hill Village, city of | 080013-B | Jan. 23, 1974, emergency, Aug. 1, 1978, regular. | May 10, 1974 and Jan. 31, 1975. |
| Delaware | Sussex | Milton, town of | 100045-B | Sept. 17, 1974, emergency, Aug. 1, 1978, regular. | Sept. 13, 1974 and Dec. 12, 1975. |
| Iowa | Blackhawk | Gilbertville, city of | 190021-A | Apr. 17, 1975, emergency, Aug. 1, 1978, regular. | Mar. 22, 1974 and Feb. 6, 1976. |
| Do | Hamilton | Webster city, city of | 190137-B | Aug. 23, 1974, emergency, Aug. 1, 1978, regular. | Aug. 23, 1974 and Oct. 3, 1975. |
| Idaho | Washington | Bellvue, city of | 160021-B | May 29, 1975, emergency, Aug. 1, 1978, regular. | Nov. 23, 1973 and Apr. 2, 1976. |
| Illinois | Dupage | Glendale Heights, village of | 170206-B | Mar. 2, 1973, emergency, Aug. 1, 1978, regular. | June 28, 1974 and May 28, 1976. |
| Kansas | Doniphan | Unincorporated areas | 200078-A | June 25, 1975, emergency, Aug. 1, 1978, regular. | June 3, 1977. |
| Do | McPherson | Marquette, city of | 200216-B | Sept. 10, 1975, emergency, Aug. 1, 1978, regular. | Dec. 17, 1973. |
| Do | Rice | Sterling, city of | 200297-B | May 23, 1975, emergency, Aug. 1, 1978, regular. | Mar. 8, 1974. |
| Kentucky | Jessamine | Unincorporated areas | 210125-A | Apr. 16, 1973, emergency, Aug. 1, 1978, regular. | Dec. 6, 1974. |
| Do | Jefferson | Shively, city of | 210124-B | Aug. 13, 1971, emergency, Aug. 1, 1978, regular. | May 17, 1974 and Aug. 27, 1976. |
| Louisiana | Concordia | Clayton, village of | 220054-B | Apr. 30, 1973, emergency, Aug. 1, 1978, regular. | Feb 1, 1974 and Dec. 19, 1975. |
| Massachusetts | Essex | Andover, town of | 250076-A | Feb. 18, 1972, emergency, Aug. 1, 1978, regular. | July 26, 1974. |
| Maryland | Carroll | Unincorporated areas | 240015-A | Dec. 22, 1972, emergency, Aug. 1, 1978, regular. | Apr. 4, 1975. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Michigan | St. Clair | China, township of | 260203-B | Aug. 16, 1974, emergency, Aug. 1, 1978, regular. | Aug. 16, 1974 and Mar. 25, 1977. |
| Do | Bay | Hampton, township of | 260023-B | Mar. 30, 1978, emergency, Aug. 1, 1978, regular. | Aug. 2, 1974 and July 16, 1976. |
| Do | Menominee | Menominee, city of | 260138-B | May 1, 1973, emergency, Aug. 1, 1978, regular. | June 7, 1974 and July 2, 1976. |
| Missouri | Buchanan | Unincorporated areas | 290040-A | Dec. 17, 1973, emergency, Aug. 1, 1978, regular. | Aug. 1, 1978, |
| Do | Texas | Cabool, city of | 290439-B | Sept. 8, 1972, emergency, Aug. 1, 1978, regular. | May 3, 1974 and Dec. 26, 1975. |
| Do | St. Louis | Creve Coeur, city of | 290344-B | Mar. 27, 1974, emergency, Aug. 1, 1978, regular. | Feb. 1, 1974 and Oct. 15, 1976. |
| Do | Multiple | Hannibal, city of | 290223-B | Aug. 13, 1971, emergency, Aug. 1, 1978, regular. | June 21, 1974 and Apr. 9, 1976. |
| Nebraska | Hall | Doniphan, village of | 310102-B | Jan. 14, 1976, emergency, Aug. 1, 1978, regular. | Jan. 24, 1975. |
| North Carolina | Wake | Knightdale, town of | 370241-B | July 24, 1975, emergency, Aug. 1, 1978, regular. | Apr. 12, 1974. |
| North Dakota | Benson | Esmond, city of | 380167 | Dec. 26, 1975, emergency, Aug. 1, 1978, regular. | Aug. 1, 1978. |
| New Jersey | Union | Union, township of | 340477-A | June 2, 1972, emergency, Aug. 1, 1978, regular. | May 11, 1973. |
| New York | Livingston | Avon, village of | 360379-C | Dec. 10, 1973, emergency, Aug. 1, 1978, regular. | May 10, 1974 and May 28, 1976. |
| Do | do | Geneseo, town of | 360384-A | Apr. 25, 1973, emergency, Aug. 1, 1978, regular. | Dec. 28, 1973. |
| Do | do | Mount Morris, town of | 360387-B | Apr. 17, 1973, emergency, Aug. 1, 1978, regular. | May 17, 1974 and Apr. 16, 1976. |
| Do | do | Mount Morris, village of | 360969-C | do | Nov. 16, 1973 and Aug. 5, 1977. |
| Do | Nassau | Oyster Bay, town of | 360483-B | Sept. 5, 1973, emergency, Aug. 1, 1978, regular. | Nov. 29, 1974 and Sept. 12, 1975. |
| Do | Monroe | Parma, town of | 360425-B | Mar. 9, 1973, emergency, Aug. 1, 1978, regular. | Nov. 9, 1973 and Apr. 16, 1976. |
| Do | Cattaraugus | Randolph, village of | 360096-B | Sept. 26, 975, emergency, Aug. 1, 1978, regular. | Nov. 22, 1974 and Feb. 27, 1976. |
| Ohio | Cuyahoga | Cleveland, city of | 390104-B | July 20, 1973, emergency, Aug. 1, 1978, regular. | June 7, 1974 and June 18, 1976. |
| Do | Adams | Manchester, village of | 390002-B | Oct. 25, 1974, emergency, Aug. 1, 1978, regular. | Apr. 5, 1974. |
| Do | Warren | Morrow, village of | 390561-B | Mar. 13, 1975, emergency, Aug. 1, 1978, regular. | May 24, 1974. |
| Do. | Trumbull | Newton Falls, city of | 390539-A | Mar. 23, 1973, emergency, Aug. 1, 1978, regular. | Aug. 8, 1975. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Oregon | Clatsop | Astoria, city of | 410028-B | Oct. 16, 1974, emergency, Aug. 1, 1978, regular. | June 28, 1974 and Apr. 9, 1976. |
| Do | Tillamook | Bay City, city of | 410197-B | June 11,1974, emergency, Aug. 1, 1978, regular. | June 14, 1974. |
| Do | do | Unincorporated areas | 410196-A | Dec. 29, 1972, emergency, Aug. 1, 1978, regular. | Aug. 1, 1978. |
| Pennsylvania | Columbia | Benton, township of | 421037-B | Sept. 10, 1973, emergency, Aug. 1, 1978, regular. | June 28, 1974 and June 4, 1976. |
| Do | Montour | Derry, township of | 421135-A | Mar. 12, 1974, emergency, Aug. 1, 1978, regular. | Jan. 24, 1975. |
| Do | Centre | Haines, township of | 420261-B | Mar. 30, 1973, emergency, Aug. 1, 1978, regular. | Aug. 9, 1974. |
| Do | Juniata | Walker, township of | 420523-A | Aug. 30, 1973, emergency, Aug. 1, 1978, regular. | May 10, 1974. |
| Puerto Rico | Puerto Rico | Puerto Rico | 720000-A | July 16, 1971, emergency, Aug. 1, 1978, regular. | Aug. 1, 1978. |
| Rhode Island | Providence | North Smithfield, town of | 440021-B | May 6, 1975, emergency, Aug. 1, 1978, regular. | June 14, 1974 and Aug. 27, 1976. |
| South Dakota | Meade | Unincorporatated areas | 460054-A | Apr. 12, 1973, emergency, Aug. 1, regular. | Aug. 1, 1978. |
| Texas | Tarrant | Forest Hill, city of | 480595-A | Feb. 19, 1974, emergency, Aug. 1, 1978, regular. | Jan. 23, 1974. |
| Virginia | Campbell | Altavista, town of | 510029-B | do | June 7, 1974 and Apr. 23, 1976. |
| Do | do | Buena Vista, city of | 510027-A | July 23, 1973, emergency, Aug. 1, 1978, regular. | Nov. 12, 1976. |
| Do | Halifax | Unincorporated areas | 510188-A | Apr. 4, 1973, emergency, Aug. 1, 1978, regular. | Dec. 6, 1974. |
| Do | do | Lexington, city of | 510089-B | May 14, 1975, emergency, Aug. 1, 1978, regular. | Aug. 1, 1978. |
| Do | Nelson | Unincorporated areas | 510102-A | Oct. 4, 1973, emergency, Aug. 1, 1978, regular. | Nov. 22, 1974. |
| Do | Giles | Pembroke, town of | 510069-B | Jan. 21, 1974, emergency Aug. 1, 1978, regular. | May 31, 1974 and Apr. 30, 1976. |
| Do | Shenandoah | Unincorporated areas | 510147-B | Mar. 30, 1973, emergency, Aug. 1, 1978, regular. | Dec. 20, 1974 and Aug. 6, 1976. |
| Vermont | Chittenden | Winooski, city of | 500044-B | Mar. 21, 1974, emergency, Aug. 1, 1978, regular. | Feb. 1, 1974. |
| Washington | Whitman | Albion, town of | 530206-B | Apr. 9, 1974, emergency, Aug. 1, 1978, regular. | May 24, 1974 and Mar. 19, 1976. |
| Do | do | Colfax, city of | 530207 | Jan. 23, 1975, emergency Aug. 1, 1978, regular. | Apr. 5, 1974. |
| Do | do | Garfield, town of | 530209-B | May 7, 1975, emergency, Aug. 1, 1978, regular. | June 14, 1974 and Jan. 2, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | do | Uniontown, town of | 530216-A | Nov. 12, 1975, emergency, Aug. 1, 1978, regular. | Nov. 22, 1974. |
| Wisconsin | Ozaukee | Thiensville, city of | 550318-B | Mar. 26, 1974, emergency, Aug. 1, 1978, regular. | May 24, 1974 and Apr. 23, 1976. |
| West Virginia | Monongalia | Star City, town of | 540273-A | Apr. 18, 1975, emergency, Aug. 1, 1978, regular. | Nov. 22, 1974. |
| Do | do | Westover, city of | 540274-A | Jan. 27, 1975, emergency, Aug. 1, 1978, regular. | Do. |
| Do | Greenbrier | White Sulphur Springs, city of | 540045-B | Nov. 20, 1974, emergency, Aug. 1, 1978, regular. | May 31, 1974 and Sept. 12, 1975. |
| California | Imperial | Brawley, city of | 060066- | Aug. 4, 1978, emergency, Aug. 4, 1978, regular. | June 18, 1976. |
| Do | do | El Centro, city of | 060670 | do | Aug. 4, 1978. |
| Arkansas | Chicot | Lake Village, city of | 050028-B | Mar. 27, 1974, emergency, Aug. 8, 1978, regular. | May 3, 1974 and Feb. 27, 1976. |
| California | Orange | Westminister, city of | 060237-B | Sept. 6, 1974. emergency, Aug. 8, 1978, regular. | June 14, 1974 and July 2, 1976. |
| Iowa | Pottawattamie | Carter Lake, city of | 190492-A | Dec. 27, 1977, emergency, Aug. 8, 1978, regular. | Sept. 19, 1975. |
| New Mexico | San Juan | Bloomfield, city of | 350066-B | June 19, 1975, emergency, Aug. 8, 1978, regular. | May 17, 1974 and Feb. 27, 1976. |
| Oklahoma | Coal | Coalgate, city of | 400047-B | June 24, 1975, emergency, Aug. 8, 1978, regular. | Dec. 28, 1973 and Jan. 30, 1976. |
| Do | Muskogee | Wainwright, town of | 400129-A | Mar. 9, 1976, emergency, Aug. 8, 1978, regular. | Dec. 13, 1974. |
| Texas | Erath | Dublin, city of | 480219-B | Sept. 10, 1975, emergency, Aug. 8, 1978, regular. | Aug. 30, 1974 and Dec. 19, 1975. |
| Do | Kaufman | Forney, city of | 480410-B | Apr. 8, 1975, emergency, Aug. 8, 1978, regular. | Feb. 1, 1974 and Apr. 16, 1976. |
| Do | Navarro | Frost, city of | 480954-A | July 9, 1976, emergency, Aug. 8, 1978, regular. | July 18, 1975. |
| Do | Kaufman | Kaufman, city of | 480407-B | May 16, 1975, emergency, Aug. 8, 1978, regular. | Mar. 22, 1974 and Apr. 23, 1976. |
| Do | do | Mabank, city of | 480414-B | Feb. 22, 1977, emergency, Aug. 8, 1978, regular. | May 17, 1977. |
| Washington | Snohomish | Edmonds, city of | 530163-B | Apr. 30, 1974, emergency, Aug. 8, 1978, regular. | July 26, 1974 and Jan. 16, 1976. |
| Illinois | Cook | Maywood, village of | 170124-B | July 22, 1975, emergency, Aug. 11, 1978, regular. | Feb. 1, 1974. |
| Do | do | River Forest, village of | 170151-B | July 29, 1974, emergency, Aug. 11, regular. | June 21, 1974 and June 4, 1976. |
| Minnesota | Dakota | Eagan, city of | 270103-B | July 11, 1975, emergency, Aug. 11, 1978, regular. | Nov. 30, 1973 and Jan. 7, 1977. |
| New Jersey | Monmouth | Neptune City, borough of | 340316-B | Apr. 15, 1975, emergency, Aug. 11, 1978, regular. | June 28, 1974 and June 11, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Ocean | Pine Beach, borough of | 340385-B | Apr. 14, 1975, emergency, Aug. 11, 1978, regular. | June 28, 1974 and Mar. 19, 1976. |
| Do | Bergen | Wood-Ridge, borough of | 340083-B | Sept. 7, 1973, emergency, Aug. 11, 1978, regular. | Sept. 7, 1973. |
| New York | Suffolk | Dering Harbor, village of | 361524-A | Oct. 29, 1976, emergency, Aug. 11, 1978, regular. | Dec. 20, 1974 and Aug. 6, 1976. |
| Do | Rensselaer | Nassau, village of | 360675-B | May 13, 1977, emergency, Aug. 11, 1978, regular. | Mar. 22, 1974 and Mar. 5, 1976 and Aug. 27, 1976. |
| Do | Nassau | Plandome Heights, village of | 360485-A | July 16, 1975, emergency, Aug. 11, 1978, regular. | Oct. 29, 1976. |
| Ohio | Mahoning | Sebring, village of | 390371-B | Nov. 26, 1976, emergency, Aug. 11, 1978, regular. | Aug. 8, 1975 and June 3, 1977. |
| Wisconsin | Milwaukee | Shorewood, village of | 550282-B | Aug. 15, 1974, emergency, Aug. 11, 1978, regular. | Dec. 17, 1973 and Apr. 16, 1976. |
| Alabama | Pickens | Carrollton, town of | 010181-B | Aug. 19, 1974, Aug 15, 1978, emergency, regular. | Aug. 23, 1974. |
| Do | ....do | Gordo, town of | 010220 | Aug. 6, 1974, Aug. 15, 1978, emergency, regular. | Feb. 14, 1975. |
| Do | Autauga | Prattville, city of | 010002-B | June 18, 1974, Aug. 15, 1978, emergency, regular. | May 3, 1974 and Jan. 2, 1976. |
| Colorado | Douglas | Castle Rock, town of | 080050-B | Apr. 22, 1975, Aug. 15, 1978, emergency, regular. | Mar. 29, 1974. |
| Connecticut | Fairfield | Fairfield, town of | 090007-A | Apr. 7, 1972, Aug. 15, 1978, emergency, regular. | Aug. 2, 1974. |
| Delaware | Sussex | Henlopen Acres, town of | 100053-B | Sept. 6, 1974, Aug. 15, 1978, emergency, regular. | Sept. 6, 1974 and Jan. 2, 1976. |
| Florida | Palm Beach | North Palm Beach, village of | 120217-B | Aug. 29, 1973, Aug. 15, 1978, emergency, regular. | Dec. 6, 1974 and Dec. 19, 1975. |
| Do | Martin | Sewall's Point, town of | 120164-B | July 26, 1973, Aug. 15, 1978, emergency, regular. | Mar. 15, 1974 and Nov. 28, 1975. |
| Do | ....do | Stuart, city of | 120165-B | May 14, 1973, Aug. 15, 1978, emergency, regular. | May 24, 1974 and Dec. 10, 1976. |
| Idaho | Benewah | Tensed, city of | 160017-B | Aug. 26, 1975, Aug. 15, 1978, emergency, regular. | Sept. 6, 1974 and Jan. 23, 1976. |
| Indiana | Noble | Unincorporated areas | 180183-A | Feb. 2, 1973, Aug. 15, 1978, emergency, regular. | Aug. 15, 1978. |
| Do | Washington | Salem, city of | 180279-A | May 5, 1972, Aug. 15, 1978, emergency, regular. | Nov. 23, 1973 and May 28, 1976. |
| Do | St. Joseph | Unincorporated | 180224-A | Oct. 22, 1971, Aug. 15, 1978, emergency, regular. | Dec. 27, 1974. |
| Kansas | Wilson | Neodesha, city of | 200359-A | Oct. 15, 1974, Aug. 15, 1978, emergency, regular. | Jan. 9, 1974 and Aug. 29, 1975. |
| Kentucky | Harlan | Unincorporated areas | 210098-A | Jan. 12, 1973, emergency, Aug. 15, 1978, regular. | Nov. 29, 1974. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Louisiana | St. Mary | Morgan City, city of | 220196-A | Mar. 23, 1973, emergency, Aug. 15, 1978 regular. | Oct. 5, 1973. |
| Michigan | Bay | Merritt, township of | 260024-B | Mar. 30, 1973, emergency, Aug. 15, 1978, regular. | Dec. 10, 1976. |
| Missouri | Lincoln | Old Monroe, city of | 290211-A | June 13, 1974, emergency, Aug. 15, 1978, regular. | Nov. 8, 1974. |
| North Carolina | Mecklenburg | Charlotte, city of | 370159-A | Apr. 12, 1973, emergency, Aug. 15, 1978, regular. | June 28, 1974. |
| Do | Wake | Raleigh, city of | 370243-A | Aug. 31, 1973, emergency, Aug. 15, 1978, regular. | Do. |
| New Jersey | Camden | Cherry Hill, township of | 340129-A | Jan. 14, 1972, emergency, Aug. 15, 1978, regular. | Feb. 21, 1975. |
| New Mexico | Quay | Tucumcari, city of | 350048-B | Sept. 13, 1973, emergency, Aug. 15, 1978, regular. | June 28, 1974 and Jan. 17, 1978. |
| New York | Livingston | Avon, town of | 360380-B | May 17, 1973, emergency, Aug. 15, 1978, regular. | May 24, 1974 and June 4, 1976. |
| Do | Jefferson | Ellisburg, town of | 360334-B | May 29, 1973, emergency, Aug. 15, 1978, regular. | Apr. 5, 1974 and Feb. 6, 1976. |
| Do | Cattaraugus | Ischua, town of | 360079-B | Feb. 15, 1977, emergency, Aug. 15, 1978, regular. | May 31, 1974 and May 21, 1976. |
| Do | Monroe | Spencerport, village of | 360433-A | Aug. 31, 1973, emergency, Aug. 15, 1978, regular. | Feb. 1, 1974 and June 18, 1976. |
| Ohio | Trumbull | Hubbard, city of | 390537-A | June 9, 1975, emergency, Aug. 15, 1978, regular. | Apr. 12, 1974 and May 21, 1976. |
| Do | Lorain | Lorain, city of | 390351-B | June 11, 1973, emergency, Aug. 15, 1978, regular. | May 17, 1974 and June 4, 1976. |
| Do | Stark | Louisville, city of | 390516-B | Aug. 1, 1975, emergency, Aug. 15, 1978, regular. | May 17, 1974 and May 21, 1976. |
| Do | Fayette | Washington Courthouse, city of | 390166-B | Mar. 12, 1975, emergency, Aug. 15, 1978, regular. | Nov. 23, 1974. |
| Oklahoma | Hughes | Holdenville, city of | 400244-A | Nov. 29, 1976, emergency, Aug. 15, 1978, regular. | July 2, 1976. |
| Pennsylvania | Allegheny | Baldwin, borough of | 420007-A | Nov. 19, 1973, emergency, Aug. 15, 1978, regular. | Dec. 17, 1976. |
| Do | Bucks | Durham, township of | 420186-B | Sept. 8, 1972, emergency, Aug. 15, 1978, regular. | Apr. 13, 1973 and May 21, 1976. |
| Do | Mifflin | Granville, township of | 421134-B | Mar. 12, 1974, emergency, Aug. 15, 1978, regular. | Aug. 30, 1974 and Sept. 26, 1975. |
| Do | Montgomery | Hatfield, borough of | 420698-A | June 2, 1972, emergency, Aug. 15, 1978, regular. | July 30, 1976. |
| Do | Mifflin | Lewistown, borough of | 420687-B | Nov. 17, 1972, emergency, Aug. 15, 1978, regular. | July 20, 1973 and Oct. 10, 1975. |
| Do | Lawrence | New Castle, city of | 420568-B | Aug. 31, 1973, emergency, Aug. 15, 1978, regular. | June 21, 1974 and Dec. 10, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Chester | North Coventry, township of | 420283-A | Jan. 26, 1973, emergency, Aug. 15, 1978, regular. | Nov. 30, 1973. |
| Do | Cameron | Portage township of | 421132-A | Mar. 8, 1974, emergency, Aug. 15, 1978., regular. | Jan. 17, 1975. |
| Do | Bucks | Wrightstown, township of | 421045-B | Feb. 5, 1974., emergency, Aug. 15, 1978, regular. | May 31, 1974 and July 30, 1976. |
| Tennessee | Loudon | Unincorporated areas | 470107-A | May 30, 1973, emergency, Aug. 15, 1978, regular. | Aug. 15, 1978. |
| Texas | Bexar | Alamo Heights, city of | 480036-B | Oct. 6, 1972, emergency, Aug. 15, 1978, regular. | May 10, 1974 and Dec. 6, 1974. |
| Do | Gonzales | Unincorporated areas | 480253-A | Nov. 8, 1973, emergency, Aug. 15, 1978, regular. | Mar. 8, 1974. |
| Do | Jackson | do | 480379—A | June 25, 1971, emergency, Aug. 15, 1978, regular. | Oct. 25, 1974. |
| Virginia | Fluvanna | do | 510058—A | Oct. 4, 1973, emergency, Aug. 15, 1978, regular. | Dec. 13, 1974. |
| Do | Mecklenburg | do | 510189—A | Nov. 7, 1973, emergency, Aug. 15, 1978, regular. | Feb. 7, 1975. |
| Do | Prince William | Quantico, town of | 510232-B | Mar. 19, 1975, emergency, Aug. 15, 1978, regular. | Nov. 1, 1974 and May 21, 1976. |
| Wisconsin | Douglas | Lake Nebagamon, village of | 550112-B | June 5, 1975, emergency, Aug. 15, 1978, regular. | June 7, 1974 and July 9, 1976. |
| Do | do | Solon Springs, village of | 550115-B | July 24, 1975, emergency, Aug. 15, 1978, regular. | June 7, 1974 and Jan 2. 1976. |
| West Virginia | Mason | Leon, town of | 540113-B | July 16, 1975, emergency, Aug. 15, 1978, regular. | Sept. 6, 1974 and July 16, 1976. |
| Wyoming | Matrona | Unincorporated areas | 560036-A | June 20, 1973, emergency, Aug. 15, 1978, regular. | Aug 15, 1978. |
| Arkansas | Dallas | Carthage, city of | 050062-B | Feb. 4, 1976, emergency, Aug. 22, 1978, regular. | Mar. 8, 1974 and Oct. 10, 1975. |
| Louisiana | Iberia | New Iberia, city of | 220082-B | Apr. 27, 1973, emergency, Aug. 22, 1978, regular. | May 17, 1974 and June 27, 1975. |
| New Mexico | Lea | Eunice, city of | 350028-B | Aug. 18, 1975, emergency, Aug. 22, 1978, regular. | Aug. 30, 1974 and Dec. 12, 1975. |
| Texas | Navarro | Dawson, city of | 480953-A | July 9, 1976, emergency, Aug. 22, 1978, regular. | July 11, 1975. |
| Do | Dallas and Ellis | Ferris, city of | 481076-B | July 5, 1974, emergency, Aug. 22, 1978, regular. | Feb. 1, 1974 and June 18, 1976. |
| Idaho | Clearwater | Pierce, city of | 160048-B | Jan. 3, 1975, emergency, Aug. 29, 1978, regular. | June 21, 1974. |
| Utah | Davis | North Salt Lake City, city of | 490048-B | May 30, 1975, emergency, Aug. 29, 1978, regular.. | June 28, 1974 and Aug. 13, 1976. |
| Do | do | Woods Cross, city of | 490054-B | June 12, 1975, emergency, Aug. 29, 1978, regular. | Dec. 28, 1973. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Colorado | San Juan | Unincorporated areas | 080267-A | Oct. 25, 1974, emergency, Sept. 1, 1978, regular. | Sept. 1, 1978. |
| California | Alameda | Berkeley, city of | 060004-A | Oct. 22, 1971, emergency, Sept. 1, 1978, regular. | Dec. 7, 1973. |
| Do | Lake | Lakeport, city of | 065038—A | Aug. 27, 1971, emergency, Sept. 1, 1978, regular. | Nov. 19, 1976. |
| Do | Orange | Newport Beach, city of | 060227-B | May 12, 1972, emergency, Sept. 1, 1978 regular. | Mar. 15, 1974 and July 9, 1976. |
| Do | San Juan | Silverton, town of | 080165-B | Nov. 7, 1974, emergency, Sept. 1, 1978, regular. | June 14, 1974 and May 28, 1976. |
| Deleware | Sussex | Millsboro, town of | 100043-B | May 28, 1974, emergency, Sept. 1, 1978, regular. | June 21, 1974. |
| Kansas | Barion | Ellinwood, city of | 200018-B | July 29, 1975, emergency, Sept. 1, 1978, regular. | Mar. 15, 1974 and Oct. 24, 1975. |
| Do | Bourbon | Fort Scott, city of | 200023-B | Dec. 3, 1974, emergency, Sept. 1, 1978, regular. | Jan. 9, 1974 and Dec. 12, 1975. |
| Do | Harvey | Halstead, city of | 200131-B | April 3, 1975, emergency, Sept. 1, 1978, regular. | June 7, 1974 and Jan. 23, 1976. |
| Louisiana | Franklin | Winnsboro, town of | 220074-B | May 2, 1973, emergency, Sept. 1, 1978, regular. | Dec. 17, 1973 and Mar. 26, 1976. |
| Maryland | Garrett | Accident, town of | 240093-B | May 19, 1975, emergency. Sept. 1, 1978, regular. | April 15, 1977. |
| Do | Allegany | Cumberland, city of | 240003-B | Jan. 23, 1974, emergency, Sept. 1, 1978, regular. | July 26, 1974 and Feb. 27, 1976. |
| Michigan | Bay | Bay City, city of | 260020-B | March 30, 1973, emergency, Sept. 1, 1978, regular. | May 3, 1974 and June 4, 1976. |
| Do | Monroe | Erie, township of | 260145-C | Jan. 26, 1973, emergency, Sept. 1, 1978, regular. | June 28, 1975 and Aug. 22, 1975 and May 14, 1976. |
| Do | Bay | Essexville, city of | 260021-B | March 30, 1973, emergency, Sept. 1, 1978, regular. | June 7, 1974 and Dec. 31, 1976. |
| Do | Macomb | New Baltimore, city of | 260125-B | Jan. 12, 1973, emergency, Sept. 1, 1978, regular. | April 12, 1974 and June 18, 1976. |
| Do | Iosco | Oscoda, township of | 260101-B | May 15, 1973, emergency, Sept. 1, 1978, regular. | Aug. 2, 1974 and Aug. 6, 1976. |
| Do | Bay | Pinconning, township of | 260025-B | March 17, 1975, emergency, Sept. 1, 1978, regular. | June 7, 1974 and July 9, 1976. |
| Minnesota | Ramsey | New Brighton, city of | 270380-B | Apr. 5, 1974, emergency, Sept. 1, 1978, regular. | May 31, 1974. |
| Missouri | St. Louis | Bridgeton, city of | 290339-B | Dec. 10, 1973, emergency, Sept. 1, 1978, regular. | Feb. 8, 1974 and Dec. 13, 1974. |
| Do | Clay | Mosby, city of | 290098-B | Sept. 6, 1974, emergency, Sept. 1, 1978, regular. | Oct. 18, 1974 and Dec. 5, 1975. |
| Mississippi | Bolivar | Cleveland, city of | 280016-B | May 18, 1973, emergency, Sept. 1, 1978, regular. | May 10, 1974 and Aug. 27, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| New Jersey | Somerset | Bernards, townships of | 340428-A | Feb. 4, 1972, emergency, Sept. 1, 1978, regular. | Jan. 9, 1974. |
| Do | Morris | Boonton, township of | 340336-B | Feb. 11, 1972, emergency, Sept. 1, 1978, regular. | May 31, 1974 and Jan. 9, 1976. |
| Do | Camden | Lawnside, borough of | 340502-B | Jan. 15, 1974, emergency, Sept. 1, 1978, regular. | Nov 12, 1976. |
| Do | do | Mount Ephraim, borough of | 340140-B | Apr. 15, 1975, emergency, Sept. 1, 1978, regular. | June 21, 1974 and June 4, 1976. |
| Do | do | Voorhees, town of | 340538-A | Aug. 2, 1974, emergency, Sept. 1, 1978, regular. | Feb. 21, 1975. |
| New Mexico | Hildalgo | Lordsburg, city of | 350026-B | Mar. 19, 1974, emergency, Sept. 1, 1978, regular. | Aug. 30, 1974 and Dec. 12, 1976. |
| New York | Nassau | Lattingtown, village of | 360474-B | Nov. 20, 1974, emergency, Sept. 1, 1978, regular. | May 17, 1974 and July 16, 1976. |
| Do | Rensselaer | Petersburg, town of | 361165-B | Nov. 13, 1975, emergency, Sept. 1, 1978, regular. | Dec. 27, 1974. |
| Do | Dutchess | Wappingers Falls, village of | 360223-B | Apr. 18, 1975, emergency, Sept. 1, 1978, regular. | May 31, 1974. |
| Ohio | Sandusky | Lindsey, village of | 390494-B | June 20, 1975, emergency, Sept. 1, 1978, regular. | Mar. 15, 1974 and May 21, 1976. |
| Do | Hamilton, Warren and Clerm | Loveland, city of | 390068-B | Nov. 15, 1974, emergency, Sept. 1, 1978, regular. | Feb. 1, 1974 and May 28, 1976. |
| Do | Erie | Milan, village of | 390155-B | July 23, 1976, emergency, Sept. 1, 1978, regular. | Apr. 12, 1974 and May 21, 1976. |
| Do | Franklin | Reynoldsburg, city of | 390177-B | Aug. 15, 1973, emergency, Sept. 1, 1978, regular. | Nov. 23, 1973 and June 18, 1976. |
| Do | Warren | South Lebanon, village of | 390563-B | Jan. 23, 1975, emergency, Sept. 1, 1978, regular. | May 24, 1974. |
| Oregon | Clatsop | Cannon Beach, city of | 410029-B | Mar. 3, 1974, emergency, Sept. 1, 1978, regular. | June 21, 1974 and Nov. 28, 1975. |
| Pennsylvania | Allegheny | Etna, borough of | 421062-B | Mar. 27, 1974, emergency, Sept. 1, 1978, regular. | July 26, 1974 and Oct. 24, 1976. |
| Do | Tioga | Gains, township of | 421005-B | Jan. 15, 1974, emergency, Sept. 1, 1978, regular. | June 14, 1974 and July 30, 1976. |
| Do | do | Jackson, township of | 420820-B | July 27, 1973, emergency, Sept. 1, 1978, regular. | Dec. 28, 1973 and Dec. 17, 1976. |
| Do | Franklin | Lurgan, township of | 421652-A | Oct. 28, 1975, emergency, Sept. 1, 1978, regular. | Nov. 1, 1974. |
| Do | Bedford | Mann, township of | 421346-A | Aug. 26, 1975, emergency, Sept. 1, 1978, regular. | Jan. 17, 1975. |
| Rhode Island | Kent | Coventry, town of | 440004-A | Nov. 21, 1978, emergency, Sept. 1, 1978, regular. | Sept. 1, 1978. |
| Do | Providence | Johnston, town of | 440018-B | Aug. 1, 1975, emergency, Sept. 1, 1978, regular. | Nov. 22, 1977. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| South Carolina | Florence | Scranton, town of | 450083-B | Oct. 2, 1975, emergency, Sept. 1, 1978, regular. | May 24, 1974 and May 28, 1976. |
| Texas | Dallas | Rowlett, city of | 480185-B | June 10, 1975, emergency, Sept. 1, 1978, regular. | July 19, 1974 and Apr. 8, 1977. |
| Do | do | Sachse, city of | 480186-B | July 25, 1975, emergency, Sept. 1, 1978, regular. | Feb. 22, 1974 and July 2, 1976. |
| Virginia | Franklin | Boones Mill, town of | 510062-B | Jan. 21, 1975, emergency, Sept. 1, 1978, regular. | Aug. 16, 1974 and May 28, 1976. |
| Do | | Clifton Forge, city of | 510038-B | Feb. 1, 1974, emergency, Sept. 1, 1978, regular. | Feb. 8, 1974 and May 21, 1976. |
| Do | Multiple | Farmville, town of | 510118-B | Nov. 9, 1973, emergency, Sept. 1, 1978, regular. | Apr. 5, 1974 and Nov. 28, 1975. |
| Do | | Lynchburg, city of | 510093-B | Sept. 18, 1973, emergency, Sept. 1, 1978, regular. | Aug. 9, 1974 and Aug. 6, 1976. |
| Do | Prince William | Occoquan, town of | 510124-B | Sept. 27, 1973, emergency, Sept. 1, 1978, regular. | July 19, 1974. |
| Do | Patrick | Stuart, town of | 510111-B | Aug. 6, 1974, emergency, Sept. 1, 1978, regular. | May 31, 1974 and Apr. 23, 1976. |
| Vermont | Windsor | Ludlow, village of | 500294-B | Oct. 11, 1974, emergency, Sept. 1, 1978, regular. | Nov. 15, 1974 and July 30, 1976. |
| Do | Rutland | Pawlet, town of | 500097-B | June 11, 1975, emergency, Sept. 1, 1978, regular. | June 28, 1974 and Mar. 4, 1977. |
| Do | do | Shrewsbury, town of | 500102-B | June 25, 1975, emergency, Sept. 1, 1978, regular. | June 28, 1974 and Dec. 10, 1976. |
| Wisconsin | Dane | De Forest, village of | 550082-B | Apr. 16, 1975, emergency, Sept. 1, 1978, regular. | Dec. 7, 1973 and May 21, 1976. |
| Do | Rusk | Ladysmith, city of | 550435-B | Feb. 14, 1974, emergency, Sept. 1, 1978, regular. | June 28, 1974. |
| Do | Taylor | Medford, city of | 550435-B | Mar. 8, 1974, emergency, Sept. 1, 1978, regular. | Dec. 28, 1973. |
| Do | Kenosha | Silver Lake, village of | 550210-B | Mar. 20, 1974, emergency, Sept. 1, 1978, regular. | Dec. 28, 1973 and July 30, 1976. |
| Wyoming | Fremont | Lander, city of | 560020-C | Aug. 23, 1974, emergency, Sept. 1, 1978, regular. | May 3, 1974 and May 7, 1976 and Aug. 30, 1977. |
| Do | Sheridan | Sheridan, city of | 560044-B | Nov. 29, 1974, emergency, Sept. 1, 1978, regular. | Jan. 16, 1974 and Oct. 1, 1976. |
| Arkansas | Lonoke | Ward, city of | 050372-A | Sept. 8, 1975, emergency, Sept. 5, 1978, regular. | Apr. 18, 1975. |
| Kansas | Reno | Hutchinson, city of | 200283-B | Jan. 19, 1973, emergency, Sept. 5, 1978, regular. | June 28, 1974 and Dec. 5, 1975. |
| Utah | Emery | Emery, town of | 490060 | Mar. 21, 1975, emergency, Sept. 11, 1978, regular. | Feb. 7, 1975. |
| Missouri | Cass | Archie, city of | 290061-B | Aug. 18, 1976, emergency, Sept. 12, 1978, regular. | June 7, 1974 and Dec. 12, 1975. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Oklahoma | Cotton | Randlett, town of | 400318-A | Dec. 16, 1976, emergency, Sept. 12, 1978, regular. | Aug. 13, 1976. |
| Oregon | Umatilla | Milton-Freewater, city of | 410210-B | Apr. 16, 1975, emergency, Sept. 12, 1978, regular. | Nov. 16, 1973 and May 28, 1976. |
| Utah | Davis | South Weber, city of | 490049-B | Nov. 8, 1974, emergency, Sept. 12, 1978, regular. | July 26, 1974 and Apr. 2, 1976. |
| Alabama | Cullman | Hanceville, town of | 010059-B | Mar. 12, 1974, emergency, Sept. 15, 1978, regular. | Apr. 12, 1974 and Dec. 19, 1975. |
| California | Sacramento | Sacramento, city of | 060266-B | Mar. 17, 1972, emergency, Sept. 15, 1978, regular. | Jan. 10, 1975 and Dec. 27, 1977. |
| Colorado | Adams | Northglenn, city of | 080257-B | Jan 22, 1975. emergency, Sept. 15, 1978, regular. | Aug. 22, 1975. |
| Do | San Miguel | Telluride, town of | 080168-B | May 27, 1975. emergency, Sept. 15, 1978, regular. | June 28, 1974 and Jan. 2, 1976. |
| Connecticut | New Haven | Madison, town of | 090079-A | July 19, 1973, emergency, Sept. 15, 1978, regular. | May 31, 1974. |
| Do | do | Wallingford, town of | 090090-A | June 25, 1973, emergency, Sept. 15, 1978, regular. | Aug. 2, 1974. |
| Florida | Orange | Belle Isle, city of | 120181-B | July 3, 1975, emergency, Sept. 15, 1978, regular. | July 19, 1974 and Jan. 30, 1976. |
| Do | Palm Beach | Lake Park, town of | 120212-B | Aug. 20, 1973, emergency, Sept. 15, 1978, regular. | Nov. 23, 1973 and Jan. 30, 1976. |
| Georgia | Clarke | Athens, city of | 130040-B | Dec. 5, 1973, emergency, Sept. 15, 1978, regular. | Apr. 12, 1974 and Feb. 13, 1976. |
| Do | Multiple | College Park, city of | 130086-B | Oct. 22, 1971, emergency, Sept. 15, 1978, regular. | May 31, 1974 and Sept. 12, 1975. |
| Do | Floyd | Rome, city of | 130081-A | Dec. 19, 1973, emergency, Sept. 15, 1978, regular. | May 17, 1974 and Jan. 30, 1976. |
| Idaho | Bannock | Inkom, city of | 160010-B | July 16, 1978, emergency, Sept. 15, 1978, regular. | Sept. 13, 1974 and Dec. 19, 1975. |
| Illinois | Cook | Franklin Park, village of | 170094-B | Apr. 11, 1973, emergency, Sept. 15, 1978, regular. | Nov. 2, 1973 and Mar. 19, 1976. |
| Do | do | Schiller, village of | 170159-B | May 4, 1973, emergency, Sept. 15, 1978, regular. | Nov. 9, 1973 and Apr. 9, 1976. |
| Do | do | Wheeling, village of | 170173-B | Dec. 15, 1972, emergency, Sept. 15, 1978, regular. | Aug. 27, 1976 and Dec. 24, 1976. |
| Kansas | Allen | Iola, city of | 200003-B | Apr. 1, 1975, emergency, Sept. 15, 1978, regular. | Dec. 17, 1973 and Mar. 7, 1975. |
| Do | Harvey | Sedgwick, city of | 200134-B | Dec. 12, 1974, emergency, Sept. 15, 1978, regular. | June 7, 1974 and Nov. 7, 1975. |
| Louisiana | St. Mary | Franklin, city of | 220195-B | Apr. 23, 1973, emergency, Sept. 15, 1978, regular. | Mar. 22, 1974 and Aug. 6, 1976. |
| Massachusetts | Middlesex | Boxborough, town of | 250184-B | Apr. 11, 1975, emergency, Sept. 15, 1978, regular. | Sept. 20, 1974 and Dec. 17, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Hampden | East Longmeadow, town of | 250138-B | Mar. 3, 1975, emergency, Sept. 15, 1978, regular. | June 14, 1974 and Aug. 20, 1976. |
| Do | Barnstable | Mashpee, town of | 250009-A | Nov. 24, 1972, emergency, Sept. 15, 1978, regular. | Aug. 2, 1974. |
| Maine | Piscataquis | Abbot, town of | 230406-A | Apr. 21, 1976, emergency, Sept. 15, 1978, regular. | Feb. 14, 1975. |
| Michigan | Wayne | Southgate, city of | 260242-B | May 14, 1973, emergency, Sept. 15, 1978, regular. | Apr. 12, 1974 and Apr. 18, 1975. |
| Minnesota | Anoka | Circle Pines, city of | 270009-A | Apr. 15, 1974, emergency, Sept. 15, 1978, regular. | July 30, 1976. |
| Do | Ramsey | North St. Paul, city of | 270382-B | May 9, 1974, emergency, Sept. 15, 1978, regular. | Mar. 29, 1974 and Oct. 8, 1976. |
| Missouri | Lawrence | Aurora, city of | 290199-B | Dec. 3, 1974, emergency, Sept. 15, 1978, regular. | May 10, 1974 and Nov. 28, 1975. |
| Do | Jackson | Blue Springs, city of | 290169-B | Oct. 18, 1974, emergency, Sept. 15, 1978, regular. | June 28, 1974 and May 21, 1976. |
| Do | do | Buckner, city of | 290170-B | Mar. 29, 1976, emergency, Sept. 15, 1978, regular. | Dec. 21, 1973 and Nov. 7, 1975. |
| Do | | | | , 197emergency, Sept. 15, 1978, regular. | |
| Do | New Madrid | Gideon, city of | 290250-B | Jan. 7, 1975, emergency, Sept. 15, 1978, regular. | Mar. 29, 1974. |
| Do | Jackson | Raytown, city of | 290176-B | Feb. 27, 1975. emergency, Sept. 15, 1978, regular. | Dec. 21, 1973 and Sept. 17, 1976. |
| Do | St. Charles | Unincorporated areas | 290315-A | Aug. 6, 1971, emergency, Sept. 15, 1978, regular. | Sept. 15, 1978. |
| Do | St. Louis | do | 290327-A | Sept. 3, 1971, emergency, Sept. 15, 1978, regular. | Sept. 15, 1978. |
| Nebraska | Cass | Cedar Creek, village of | 310030-A | Apr. 15, 1975, emergency, Sept. 15, 1978, regular. | Sept. 15, 1978. |
| North Carolina | Rowan | Granite Quarry, town of | 370212-B | May 1, 1975 emergency, Sept. 15, 1978, regular. | Mar. 8, 1974 and Apr. 2, 1976. |
| North Dakota | Ward | Burlington, city of | 380141-A | Jan. 30, 1975, emergency, Sept. 15, 1978, regular. | Apr. 16, 1976. |
| New Jersey | Burlington | Moorestown, township of | 340105-A | Feb. 11, 1973, emergency, Sept. 15, 1978, regular. | Mar. 16, 1973. |
| New York | Monroe | Wheatland, town of | 360438-B | Mar. 30, 1973, emergency, Sept. 15, 1978, regular. | Feb. 22, 1974 and Oct. 15, 1976. |
| Texas | McLennan | Bellmead, city of | 480457-B | Sept. 3, 1974, emergency, Sept. 15, 1978, regular. | Mar. 15, 1974 and Mar. 12, 1976. |
| Do | do | Beverly Hills, city of | 480925-A | Sept. 28, 1977. emergency, Sept. 15, 1978, regular. | Nov. 12, 1976. |
| Virginia | Rockingham | Grottoes, town of | 510138-B | June 17, 1975, emergency, Sept. 15, 1978, regular. | June 28, 1974 and Apr. 30, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Giles | Narrows, town of | 510068-B | Dec. 6, 1973, emergency, Sept. 15, 1978, regular. | Feb. 1, 1974 and Feb. 27, 1976. |
| Wisconsin | Lafayette | Darlington, city of | 550228-B | Aug. 18, 1972, emergency, Sept. 15, 1978, regular. | Oct. 26, 1973 and May 28, 1976. |
| Do | Manitowoc | Unincorporated areas | 550236-A | July 18, 1973, emergency, Sept. 15, 1978, regular. | Feb. 7, 1975. |
| Do | Waukesha | Menonomee Falls, village of | 550483-B | Nov. 12, 1973, emergency, Sept. 15, 1978, regular. | Sept. 13, 1974 and Aug. 27, 1976. |
| Wyoming | Lincoln | Kemmerer, town of | 560035-B | Aug. 15, 1978, emergency, Sept. 15, 1978, regular. | Mar. 29, 1974 and Dec. 17, 1976. |
| Do | Washakie | Worland, city of | 560056-B | Apr. 30, 1975, emergency, Sept. 15, 1978, regular. | May 3, 1974 and Mar. 5, 1976. |
| Oklahoma | Okmulgee | Beggs, city of | 400345-B | Oct. 8, 1976, emergency, Sept. 19, 1978, regular. | Apr. 9, 1976 and Apr. 1, 1977. |
| Pennsylvania | Allegheny | Richland, township of | 421199-B | Dec. 24, 1974, emergency, Sept. 21, 1978, regular. | Aug. 2, 1974 and May 28, 1976. |
| Florida | Marion | Ocala, city of | 120330-C | Sept. 19, 1974, emergency, Sept. 22, 1978, regular. | Feb. 14, 1975 and Oct. 24, 1975 and Feb. 11, 1977. |
| Illinois | Cook | East Hazel Crest, village of | 170085-B | June 28, 1974, emergency, Sept. 22, 1978, regular. | Mar. 22, 1974 and July 23, 1976. |
| Do | ....do | Forest Park, village of | 170092-B | Apr. 16, 1974, emergency, Sept. 22, 1978, regular. | Apr. 5, 1974. |
| New York | Rockland | New Square, village of | 360684-A | Mar. 15, 1976, emergency, Sept. 22, 1978, regular. | Sept. 22, 1978. |
| Ohio | Lucas | Holland, village of | 390659-B | Mar. 13, 1975, emergency, Sept. 22, 1978, regular. | Apr. 12, 1974 and May 21, 1976. |
| Do | Lorain | Kipton, village of | 390743-A | Apr. 21, 1976, emergency, Sept. 22, 1978, regular. | Apr. 18, 1975. |
| Pennsylvania | Delaware | Lower Chichester, township of | 421604-b | Oct. 9, 1974, emergency, Sept. 22, 1978, regular. | May 31, 1974. |
| Do | ....do | Millbourne, borough of | 422408-B | Aug. 7, 1975, emergency, Sept. 22, 1978, regular. | Jan. 24, 1975. |
| Do | Allegheny | Pine, township of | 421094-B | May 12, 1975, emergency, Sept. 22, 1978, regular. | Aug. 2, 1974 and July 2, 1976. |
| Michigan | Oakland | Oak Park, city of | 260323-A | Jan. 16, 1975, emergency, Sept. 28, 1978, regular. | Sept. 28, 1978. |
| Pennsylvania | Adams | Biglerville, borough of | 422649-A | Mar. 8, 1977, emergency, Sept. 28, 1978, regular. | Sept. 28, 1978. |
| Wisconsin | Milwaukee | West Milwaukee, village of | 550561 | Nov. 1, 1974, emergency, Sept. 28, 1978, regular. | Sept. 28, 1978. |
| Alabama | Mobile | Satsuma, city of | 010172-B | Oct. 3, 1975, emergency, Sept. 29, 1978, regular. | May 3, 1974 and Jan. 9, 1976. |
| Arkansas | Pulaski | Jacksonville, city | 050180-B | Nov. 26, 1973, emergency, Sept. 29, 1978, regular. | Feb. 1, 1974 and Oct. 10, 1975. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Arizona | Cochise | Douglas, city of | 040015-B | Jan. 16, 1974, emergency, Sept. 29, 1978, regular. | June 28, 1974 and Jan 23, 1976. |
| California | Los Angeles | Avalon, city of | 060098-A | Mar. 29, 1978, emergency, Sept. 29, 1978, regular. | Oct. 8, 1976. |
| Do | do | Carson, city of | 060107-A | Nov. 26, 1974, emergency, Sept. 29, 1978, regular. | July 19, 1974 and Jan. 14, 1977. |
| Do | Riverside | Hemet, city of | 060253-A | Nov. 2, emergency, Sept. 29, 1978, regular. | May 24, 1974. |
| Do | Stanislaus | Newman, city of | 060388-A | Nov. 11, 1974, emergency, Sept. 29, 1978, regular. | Feb. 7, 1975. |
| Do | San Bernardino | Unincorporated areas | 060270-A | Jan. 29, 1971, emergency, Sept. 29, 1978, regular. | Sept. 29, 1978. |
| Do | Ventura | Thousand Oaks, city of | 060422-A | Nov. 13, 1970, emergency, Sept. 29, 1978, regular. | June 7, 1974. |
| Colorado | La Plata | Bayfield, town of | 080098-B | June 27, 1975, emergency, Sept. 29, 1978, regular. | Oct. 18, 1974 and June 11, 1976. |
| Do | San Miguel | Unincorporated areas | 080166-A | June 1, 1977, emergency, Sept. 29, 1978, regular. | Sept. 29, 1978. |
| Connecticut | New Haven | Milford, city of | 090082-B | Jan. 14, 1972, emergency, Sept. 29, 1978, regular. | Aug. 2, 1977. |
| Do | Fairfield | Shelton, city of | 090014-A | Aug. 31, 1973, emergency, Sept. 29, 1978, regular. | May 24, 1974. |
| Do | Hartford | Windsor, town of | 090041-B | June 15, 1973, emergency, Sept. 29, 1978, regular. | Oct. 5, 1973, and Apr. 15, 1977. |
| Florida | Orange | Apopka, city of | 120180-B | June 17, 1975, emergency, Sept. 29, 1978, regular. | July 19, 1974 and Mar. 5, 1976. |
| Do | do | Edgewood, city of | 120183-B | Jan. 1, 1975, emergency, Sept. 29, 1978, regular. | July 19, 1974 and Sept. 10, 1976. |
| Do | do | Winter Garden, city of | 120187-B | May 12, 1975, emergency, Sept. 29, 1978, regular. | July 19, 1974 and Mar. 26, 1976. |
| Iowa | Johnson | Coralville, city of | 190169-B | Aug. 23, 1974, emergency, Sept. 29, 1978, regular. | June 14, 1974 and May 14, 1976. |
| Do | Clayton | Elkader, city of | 190073-B | Oct. 3, 1974, emergency, Sept. 29, 1978, regular. | Feb. 8, 1974 and Jan. 23, 1976. |
| Do | Chickasaw | Nashua, city of | 190068-B | Dec. 19, 1974, emergency, Sept. 29, 1978, regular. | May 24, 1974 and Apr. 16, 1976. |
| Illinois | Kankakee | Bourbonnais, village of | 170337-A | July 24, 1975, emergency, Sept. 29, 1978, regular. | Nov. 12, 1976. |
| Do | Dekalb | Dekalb, city of | 170182-A | Feb. 25, 1972, emergency. | June 28, 1974. |
| Do | Cook | East Chicago Heights, village of | 170084-C | Apr. 11, 1975, emergency, Sept. 29, 1978, regular. | April 15 1974 and June 11, 1976. |
| Do | Lake | Fox Lake, village of | 170362-C | Mar. 9, 1973, emergency, Sept. 29, 1978, regular. | June 21, 1974-Dec. 3, 1976 and Mar. 18, 1977. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Jackson | Murphysboro, city of | 170302-B | Apr. 11, 1974, emergency, Sept. 29, 1978, regular. | Apr. 12, 1974 and Apr. 16, 1976. |
| Do | Cook | Robbins, village of | 170154-B | July 19, 1974, emergency, Sept. 29, 1978, regular. | Apr. 12, 1974 and June 4, 1976. |
| Do | Du Page | Warrenville, city of | 170218-B | June 6, 1975, emergency, Sept. 29, 1978, regular. | May 24, 1974 and Oct. 24, 1975. |
| Kansas | Dickinson | Abileen, city of | 200074-B | June 24, 1974, emergency, Sept. 29, 1978, regular. | Jan. 9, 1974 and Dec. 12, 1975. |
| Do | Thomas | Colby, city of | 200350-A | Aug. 28, 1974, emergency, Sept. 29, 1978, regular. | Feb. 15, 1974. |
| Do | Wyandotte | Edwardsville, city of | 200362-B | May 13, 1975, emergency, Sept. 29, 1978, regular. | Apr. 5, 1974 and June 18, 1976. |
| Do | Geary | Junction City, city of | 200112-B | Apr. 15, 1975, emergency, Sept. 29, 1978, regular. | Feb. 1, 1974. |
| Do | Pawnee | Larned, city of | 200259-B | Aug. 5, 1974, emergency, Sept. 29, 1978, regular. | Feb. 1, 1974. |
| Do | Johnson | Mission Hills, city of | 200171-B | May 7, 1975, emergency, Sept. 29, 1978, regular. | June 7, 1974 and Oct. 24, 1975. |
| Do | Sumner and Sedgwick | Mulvane, city of | 200326-B | Mar. 4, 1975, emergency, Sept. 29, 1978, regular. | June 28, 1974 and Nov. 21, 1975. |
| Do | Johnson | Prairie Village, city of | 200175-B | Mar. 26, 1975, emergency, Sept. 29, 1975, regular. | June 14, 1974 and Oct. 10, 1975. |
| Kentucky | Boyd | Ashland, city of | 210017-B | Mar. 19, 1975, emergency, Sept. 29, 1978, regular. | June 14, 1974 and Mar. 19, 1976. |
| Louisiana | Calcasieu | Calcasieu Parish | 220037-A | Dec. 31, 1971, emergency, Sept. 29, 1978, regular. | Sept. 13, 1974. |
| Massachusetts | Bristol | Attleboro, city of | 250049-B | Aug. 16, 1974, emergency, Sept. 29, 1978, regular. | Aug. 16, 1974 and Dec. 10, 1976. |
| Do | Hampden | Chicopee, city of | 250137-A | Jan. 14, 1974, emergency, Sept. 29, 1978, regular. | Apr. 12,1974. |
| Do | Norfolk | Sharon, town of | 250252-B | Aug. 20, 1975, emergency, Sept. 29, 1978, regular. | Oct. 18, 1974 and Nov. 19, 1976. |
| Michigan | Genesee | Davidson, city of | 260074-B | July 30, 1974, emergency, Sept. 29, 1978, regular. | May 17, 1974. |
| Do | ....do | Goodrich, village of | 260397-B | May 25, 1976, emergency, Sept. 29, 1978, regular. | July 29, 1977. |
| Minnesota | Anoka | Columbia Heights, city of | 270010-B | May 28, 1974, emergency, Sep. 29, 1978, regular. | May 10, 1974 and June 4, 1976. |
| Do | Le Sueur | Le Sueur, city of | 270248-B | Feb. 1, 1974, emergency, Sept. 29, 1978, regular. | Nov. 2, 1973 and Apr. 2, 1976. |
| Do | Hennepin | Mound, city of | 270176-B | Apr. 16, 1974, emergency, Sept. 29, 1978, regular. | June 7, 1974 and May 7, 1976. |
| Do | Scott | Prior Lake, city of | 270432-B | Feb. 2, 1974, emergency, Sept. 29, 1978, regular. | July 26, 1974 and Aug. 15, 1975. |

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|---|---|---|---|---|---|
| Do | Goodhue | Red Wing, city of | 270146-B | July 5, 1974, emergency, Sept. 29, 1978, regular. | Mar. 8, 1974 and June 11, 1976. |
| Do | Roseau | Roseau, city of | 270414-B | Apr. 26, 1974, emergency, Sept. 29, 1978, regular. | Mar. 8, 1974. |
| Do | Scott | Shakopee, city of | 270434-C | May 7, 1974, emergency, Sept. 29, 1978, regular. | June 7, 1974, May 28, 1976 and Mar. 11, 1977. |
| Do | Wabasha | Wabasha, city of | 270490-B | July 17, 1974, emergency, Sept. 29, 1978, regular. | Mar. 8, 1974 and June 11, 1976. |
| Do | Wilkin | Wilkin County | 270519-A | June 6, 1973, emergency, Sept. 29, 1978, regular. | Sept. 29, 1978. |
| Missouri | St. Louis | Bellefontaine Neighbors, city of | 290330-B | Dec. 10, 1973, emergency, Sept. 29, 1978, regular. | June 14, 1974 and Oct. 24, 1975. |
| Do | Pemiscot | Hayti, city of | 290276-B | Feb. 14, 1975, emergency, Sept. 29, 1978, regular. | Apr. 12, 1974 and June 25, 1976. |
| Do | Jackson | Jackson County | 290492-A | June 19, 1974, emergency, Sept. 29, 1978, regular. | Feb. 21. 1975. |
| Do | Clay, Jackson Platte | Kansas City, city of | 290173-A | June 11, 1971, emergency, Sept. 29, 1978, regular. | Nov. 8, 1974. |
| Do | Jackson | Levasy, city of | 290175-B | Feb. 13, 1975, emergency, Sept. 29, 1978, regular. | Dec. 20, 1975 and Dec. 25, 1975. |
| Do | Buchanan | Lewis & Clark, village of | 290481-A | May 4, 1974, emergency, Sept. 29, 1978, regular. | Oct. 25, 1974. |
| Do | St. Louis | Mackenzie, village of | 290365-B | May 5, 1973, emergency, Sept. 29, 1978, regular. | Oct. 5, 1973 and June 11, 1976. |
| Do | do | Webster Groves, city of | 290394-B | Jan. 23, 1974, emergency, Sept. 29, 1978, regular. | Mar. 15, 1974 and Aug. 20, 1976. |
| Mississippi | Lafayette | Oxford, city of | 280094-B | Aug. 30, 1973, emergency, Sept. 29, 1978, regular. | June 7, 1974 and Feb. 27, 1976. |
| Do | Tate | Senatobia, city of | 280171-B | Mar. 4, 1974, emergency, Sept. 29, 1978, regular. | Feb. 1, 1974 and Feb. 6, 1976. |
| Nebraska | Custer | Broken Bow, city of | 310051-B | Mar. 31, 1975, emergency, Sept. 29, 1978, regular. | Jan. 23, 1974 and Sept. 26, 1950. |
| Do | York | York, city of | 310237-B | July 25, 1974, emergency, Sept. 29, 1978, regular. | May 24, 1974 and Jan. 9, 1976. |
| North Carolina | Transylvania | Brevard, city of | 370231-B | Jan. 17, 1974, emergency, Sept. 29, 1978, regular. | June 14, 1974 and Aug. 20, 1976. |
| Do | Rockingham | Reidsville, city of | 370209-B | Sept. 6, 1974, emergency, Sept. 29, 1978, regular. | Aug. 1, 1975 and July 2, 1976. |
| Do | Rowan | Spencer, town of | 370216-B | Apr. 7, 1975, emergency, Sept. 29, 1978, regular. | Mar. 1, 1974 and Apr. 23, 1976. |
| New Jersey | Mercer | Washington, township of | 340255-B | May 28, 1974, emergency, Sept. 29, 1978, regular. | May 17, 1974 and July 9, 1976. |
| New Mexico | San Juan | Farmington, city of | 350067-B | Aug. 30, 1974, emergency, Sept. 29, 1978, regular. | May 24, 1974 and Dec. 19, 1975. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| New York | Westchester | Ardsley, village of | 360902-B | Dec. 30, 1971, emergency, Sept. 29, 1978, regular. | Apr. 13, 1973 and Mar. 26, 1976. |
| Do | Onondaga | Manlius, village of | 360977-A | Jan. 23, 1974, emergency, Sept. 29, 1978, regular. | Aug. 2, 1974. |
| Do | Erie | Marilla , town of | 360250-B | July 18, 1975, emergency, Sept. 29, 1978, emergency, regular. | May 17, 1974 and Apr. 23, 1976. |
| Do | Otsego | Oneonta, city of | 360667-B | Feb. 2, 1973, emergency, Sept. 29, 1978, regular. | Jan. 16, 1974. |
| Do | Monroe | Perinton, town of | 360428-B | Aug. 13, 1973, emergency, Sept. 29, 1978, regular. | Apr. 5, 1974. |
| Do | do | Pittsford, town of | 360429-B | May 5, 1973, emergency, Sept. 29, 1978, regular. | Dec. 28, 1973 and Oct. 24, 1975. |
| Do | Ulster | Plattekill, town of | 361221 | Feb. 4, 1976, emergency, Sept. 29, 1978, regular. | Dec. 6, 1974. |
| Do | Cattaraugus | South Dayton, village of | 360099-B | Sept. 25, 1978, emergency, Sept. 29, 1978, regular. | June 18, 1974 and June 18, 1976. |
| Do | Orleans | Yates, town of | 360645-B | June 12, 1973, emergency, Sept. 29, 1978, regular. | June 28, 1974 and July 16, 1976. |
| Ohio | Ross | Bainbridge, village of | 390481-B | July 24, 1975, emergency, Sept. 29, 1978, regular. | Mar. 29, 1974, Apr. 18, 1975 and Nov. 14, 1975. |
| Do | Highland | Highland, village of | 390268 | Oct. 20, 1975, emergency, Sept. 29, 1978, regular. | Dec. 20, 1974. |
| Do | Meigs | Middleport, village of | 390388-A | Aug. 28, 1974, emergency, Sept. 29, 1978, regular. | May 31, 1974 and May 21, 1976. |
| Do | Clermont | Neville, village of | 390641-B | Mar. 6, 1974, emergency, Sept. 29, 1978, regular. | Nov. 23, 1973 |
| Do | Delaware | Shawnee Hills, village of | 390151-A | May 12, 1976, emergency, Sept, 29, 1978, regular. | Feb. 8, 1974 and July 23, 1976. |
| Do | Trumbull | Trumbull County | 390535-B | Mar. 16, 1973, emergency, Sept. 29, 1978 regular. | Sept. 29, 1978. |
| Do | Columbiana | Wellsville, city of | 390088-C | Feb. 27, 1975, emergency, Sept. 29, 1978, regular. | Nov. 6, 1974. |
| Do | Delaware and Franklin | Westerville, city of | 390179-A | Mar. 30, 1973, emergency, Sept. 29, 1978, regular. | Nov. 02, 1973 and Aug. 20, 1976. |
| Do | Clinton | Wilmington, city of | 39075-B | Oct. 17, 1974, emergency, Sept. 29, 1978, regular. | May 17, 1974 and May 21, 1976. |
| Oklahoma | Mayes | Locust Grove, town of | 400116-A | May 9, 1975, emergency, Sept. 29, 1978, regular. | Apr. 12, 1974. |
| Oregon | Douglas | Glendale, city of | 410063-B | Feb. 18, 1975, emergency, Sept. 29, 1978, regular. | Dec. 28, 1973 and Apr. 23, 1976. |
| Do | Union | Island City, city of | 410220-B | Apr. 1, 1975, emergency, Sept. 29, 1978, regular. | Aug. 30, 1974 and Dec. 5, 1975. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | do | North Powder, city of | 410221-B | May 12, 1975, emergency, Sept. 29, 1978, regular. | Aug. 30, 1974. |
| Do | Tillamook | Rockaway, city of | 410201-B | Nov. 11, 1974, emergency, Sept. 29, 1978, regular. | June 14, 1974 and May 21, 1976. |
| Do | Douglas | Yoncalla, city of | 410069-A | July 21, 1975, emergency, Sept. 29, 1978, regular. | Apr. 5, 1974 and Nov. 14, 1975. |
| Pennsylvania | Westmoreland | Allegheny, town of | 420869-B | July 27, 1973, emergency, Sept. 29, 1978, regular. | Aug. 2, 1974 and June 18, 1976. |
| Do | Luzerne | Bear Creek, township of | 421136-B | Mar. 12, 1974, emergency, Sept. 29, 1978, regular. | Dec. 20, 1974 and July 23, 1976. |
| Do | Allegheny | Ben Avon Heights, borough of | 420011 | May 7, 1976, emergency, Sept. 29, 1978, regular. | Jan. 31, 1975. |
| Do | Bucks | Bristol, township of | 420984-A | Nov. 10, 1972, emergency, Sept. 29, 1978, regular. | July 20, 1973 and Feb. 10, 1978. |
| Do | Westmoreland | Delmont, borough of | 422117 | February 17, 1976, emergency, Sept. 29, 1978, regular. | Nov. 22, 1974. |
| Do | Bucks | Doylestown, township of | 420185 | Dec. 22, 1972, emergency, Sept. 29, 1978, regular. | Oct. 18, 1974. |
| Do | Monroe | East Stroudsburg, borough of | 420691-B | Mar. 26, 1974, emergency, Sept. 29, 1978, regular. | May 24, 1974 and June 4, 1976. |
| Do | Erie | Fairview, township of | 420450-A | Sept. 10, 1973, emergency, Sept. 29, 1978, regular. | Nov. 15, 1974. |
| Do | Venango | Franklin, city of | 420836-C | Apr. 19, 1973, emergency, Sept. 29, 1978, regular. | Sept. 14, 1973 and May 31, 1974. |
| Do | Allegheny | Harrison, township of | 420041-B | Apr. 18, 1973, emergency, Sept. 29, 1973, regular. | Nov. 2, 1973 and June 4, 1976. |
| Do | Westmoreland | Hempfield, township of | 420878-B | Apr. 16, 1973, emergency, Sept. 29, 1978, regular. | July 26, 1974 and Aug. 6, 1976. |
| Do | Huntingdon | Huntingdon, borough of | 420486-B | Apr. 16, 1973, emergency, Sept. 29, 1978, regular. | Dec. 6, 1974 and May 7, 1976. |
| Do | Elk | Johnsonburg, borough of | 420443-B | Feb. 2, 1973, emergency, Sept. 29, 1973, regular. | June 29, 1973 and May 14, 1976. |
| Do | Erie | Lawrence Park, township of | 420451-B | June 1, 1973, emergency, Sept. 19, 1978, regular. | May 31, 1974. |
| Do | Carbon | Mahoning, township of | 421041-A | Feb. 1, 1974, emergency, Sept. 29, 1978, regular. | July 26, 1974 and Oct. 8, 1976. |
| Do | Westmoreland | New Kensington, city of | 420891-B | June 14, 1973, emergency, Sept. 29, 1978, regular. | Mar. 1, 1974 and May 14, 1976. |
| Do | do | North Huntingdon, township of | 420893-B | Feb. 2, 1973, emergency, Sept. 29, 1978, regular. | Sept. 14, 1973. |
| Do | Allegheny | Pleasant Hills, borough of | 420064 | Jan. 16, 1976, emergency, Sept. 29, 1978, regular. | Nov. 19, 1976. |
| Do | Bucks | Plumstead, township of | 420199-B | Feb. 25, 1973, emergency, Sept. 29, 1978, regular. | Aug. 24, 1973 and July 9, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Berks | Reading, city of | 420145-B | Oct. 29, 1971, emergency, Sept. 29, 1978, regular. | Dec. 28, 1973 and July 16, 1976. |
| Do | Elk | Ridgway, township of | 420445-A | May 15, 1973, emergency, Sept. 29, 1978, regular. | Sept. 12, 1975. |
| Do | Allegheny | Sharpsburg, borough of | 420073-B | Sept. 4, 1973, emergency, Sept. 29, 1978, regular. | Dec. 28, 1973 and June 4, 1976. |
| Do | Bucks | Warrington, township of | 420208-B | Aug. 18, 1972, emergency, Sept. 29, 1978, regular. | June 28, 1974 and Aug. 13, 1976. |
| Do | do | Warwick, township of | 420209-B | Feb. 18, 1972, emergency, Sept. 29, 1978, regular. | July 26, 1974 and July 30, 1976. |
| Do | Allegheny | West Elizabeth, borough of | 420083-B | Jan. 26, 1973, emergency, Sept. 29, 1978, regular. | Nov. 30, 1973 and July 23, 1976. |
| Do | do | Wilkins, township of | 420090-B | Mar. 16, 1973, emergency, Sept. 29, 1978, regular. | May 10, 1974 and June 25, 1976. |
| South Carolina | Chesterfield | Cheraw, town of | 450050-A | Mar. 21, 1974, emergency, Sept. 29, 1978, regular. | Aug. 1, 1975. |
| Do | Georgetown | Georgetown, city of | 450087-B | Mar. 12, 1971, emergency, Sept. 29, 1978, regular. | June 7, 1974 and Mar. 28, 1975. |
| Do | Greenville | Mauldin, city of | 450198-B | Aug. 16, 1974, emergency, Sept. 29, 1978, regular. | Aug. 16, 1974 and Aug. 6, 1976. |
| Do | do | Simpsonville, city of | 450092-B | Jan. 23, 1974, emergency, Sept. 29, 1978, regular. | May 17, 1974 and Apr. 30, 1976. |
| Texas | Hardin | Hardin County | 480284-A | Nov. 12, 1973, emergency, Sept. 29, 1978, regular. | Sept. 29, 1978. |
| Do | Kerr | Kerrville, city of | 480420-C | Feb. 5, 1975, emergency, Sept. 29, 1978, regular. | June 28, 1974 and Nov. 5, 1976. |
| Do | Travis | Rollingwood, city of | 481029 | Feb. 3, 1975, emergency, Sept. 29, 1978, regular. | Feb. 7, 1975. |
| Utah | Davis | Bountiful, city of | 490039-A | July 19, 1973, emergency, Sept. 29, 1978, regular. | Oct. 26, 1973. |
| Do | Carbon | Sunnyside, city of | 490205-A | June 16, 1975, emergency, Sept. 29, 1978, regular. | Apr. 2, 1976. |
| Virginia | Bedford | Bedford County | 510016-A | Jan. 16, 1974, emergency, Sept. 29, 1978, regular. | Apr. 25, 1975. |
| Do | Scott | Clinchport, town of | 510143-B | Mar. 11, 1974, emergency, Sept. 29, 1978, regular. | Mar. 8, 1974 and June 25, 1976. |
| Do | Fluvanna | Columbia, town of | 510059-B | June 14, 1973, emergency, Sept. 29, 1978, regular. | Dec. 28, 1973 and May 14, 1976. |
| Do | Independent City | Galax, city of | 510066-A | Feb. 1, 1974, emergency, Sept. 29, 1978, regular. | Aug. 2, 1974 and Mar. 19, 1976. |
| Do | Greensville | Greensville County | 510073-A | Feb. 25, 1974, emergency, Sept. 29, 1978, regular. | Dec. 20, 1974. |
| Do | Prince William | Manassas Park, city of | 510123-B | Aug. 9, 1974, emergency, Sept. 29, 1978, regular. | Mar. 11, 1977. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Pulaski | Pulaski County | 510125-A | Sept. 27, 1973, emergency, Sept. 29, 1978, regular. | Oct. 18, 1974. |
| Vermont | Orange | Brookfield, town of | 500236-B | Sept. 29,1978,emergency, Sept. 29, 1978, regular. | Dec. 13, 1974. |
| Do | Washington | Moretown, town of | 500116-B | July 29, 1975, emergency, Sept. 29, 1978, regular. | May 31, 1974. |
| Do | Rutland | Rutland, town of | 500267-B | June 23, 1975, emergency, Sept. 29, 1978, regular. | Feb. 7, 1975. |
| Washington | King | King County | 530071-A | Oct. 13, 1972, emergency, Sept. 29, 1978, regular. | Jan. 17, 1975. |
| Do | Whitman | Oakesdale, town of | 530210-A | Aug. 6, 1975, emergency, Sept. 29, 1978, regular. | Dec. 27, 1974. |
| Wisconsin | Dane | Dane County | 550077-A | Oct. 20, 1972, emergency, Sept. 29, 1978, regular. | Feb. 7, 1975. |
| Do | Jefferson | Jefferson County | 550191-A | Apr. 2, 1971, emergency, Sept. 29, 1978, regular. | Sept. 29, 1978. |
| Do | Milwaukee | Oak Creek, city of | 550279-B | Aug. 20, 1973, emergency, Sept. 29, 1978, regular. | Mar. 22, 1974 and Aug. 6, 1976. |
| Do | Vernon | Vernon County | 550450-A | Sept. 1, 1972, emergency, Sept. 29, 1978, regular. | Jan. 3, 1975. |
| West Virginia | Braxton | Flatwoods, town of | 540235-A | July 3, 1975, emergency, Sept. 29, 1978, regular. | Feb. 18, 1977. |
| Do | Greenbrier | Lewisburg, city of | 540281-A | Feb. 18, 1975, emergency, Sept. 29, 1978, regular. | Mar. 25, 1977. |
| Wyoming | Lincoln | Diamondville, town of | 560034-B | Apr. 8, 1977, emergency, Sept. 29, 1978, regular. | May 20, 1977. |
| Pennsylvania | Luzerne | Wilkes-Barre, city of | 420631-B | Dec. 10, 1971, emergency, Sept. 29, 1978, regular. | Apr. 12, 1974 and Nov. 14, 1975. |
| Oklahoma | Noble | Perry, city of | 400134-B | June 25, 1975, emergency, Oct. 10, 1978, regular. | July 26, 1974 and Feb. 13, 1976. |
| New Jersey | Camden | Audubon, borough of | 340121-B | July 3, 1975, emergency, Oct. 13, 1978, regular. | Mar. 29, 1974 and Feb. 6, 1976. |
| New York | Rensselaer | Grafton, town of | 361150-B | Oct. 1, 1975, emergency, Oct. 13, 1978, regular. | Nov. 1, 1974 and July 23, 1976. |
| Pennsylvania | Centre | Halfmoon, township of | 421463-A | Apr. 30, 1975, emergency, Oct. 13, 1978, regular. | Jan. 24, 1975. |
| Do | Cambria | Westmont, borough of | 421139-A | Mar. 29, 1974, emergency, Oct. 13, 1978, regular. | Nov. 15, 1974. |
| Arkansas | Pulaski | Sherwood, city of | 050235-B | Feb. 15, 1974, emergency, Oct. 17, 1978, regular. | May 17, 1974 and Jan. 16, 1976. |
| California | Riverside | Banning, city of | 060246-B | May 19, 1975, emergency, Oct. 17, 1978, regular. | Mar. 15, 1974 and Feb. 25, 1977. |
| Do | ....do | Beaumont, city of | 060247-B | June 25, 1975, emergency, Oct. 17, 1978, regular. | Apr. 5, 1974 and Jan. 2, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | Ventura | Fillmore, city of | 060415-B | May 14, 1974, emergency, Oct. 17, 1978, regular. | Jan. 23, 1974 and Dec. 19, 1975. |
| Do | Lake | Unincorporated areas | 060090-A | Feb. 19, 1971, emergency, Oct. 17, 1978, regular. | Jan. 10, 1975. |
| Do | Ventura | Ojai, city of | 060416-B | June 18, 1975, emergency, Oct. 17, 1978, regular. | May 3, 1974 and Nov. 28, 1975. |
| Do | San Mateo | Portola Valley, town of | 065052-B | Mar. 5, 1971, emergency, Oct. 17, 1978, regular. | June 21, 1974 and Feb. 13, 1976. |
| Do | Solano | Vallejo, city of | 060374-B | Mar. 19, 1971, emergency, Oct. 17, 1978, regular. | July 19, 1974 and Dec. 12, 1975. |
| Colorado | Boulder and Weld | Erie, town of | 080181-B | July 22, 1975, emergency, Oct. 17, 1978, regular. | June 28, 1974 and Nov. 28, 1975. |
| Illinois | St. Clair | Cahokia, village of | 170620-B | Oct. 4, 1973, emergency, Oct. 17, 1978, regular. | Mar. 29, 1974. |
| Do | Dupage | Lombard, village of | 170212-B | Dec. 29, 1972, emergency, Oct. 17, 1978, regular. | July 19, 1974 and Aug. 29, 1975. |
| Do | Winnebago | Loves Park, city of | 170722-B | Feb. 23, 1973, emergency, Oct. 17, 1978, regular. | June 28, 1974 and Apr. 2, 1976. |
| Do | Cook | Rolling Meadows, city of | 170155-B | May 25, 1973, emergency, Oct. 17, 1978, regular. | Feb. 1, 1974 and May 28, 1976. |
| Massachusetts | Hampshire | Goshen, town of | 250161-B | July 28, 1975, emergency, Oct. 17, 1978, regular. | Aug. 16, 1974 and June 25, 1976. |
| Do | Middlesex | Wakefield, town of | 250221-A | Mar. 26, 1974, emergency, Oct. 17, 1978, regular. | Aug. 2, 1974. |
| Minnesota | Hennepin | Orono, city of | 270178-C | Feb. 24, 1975, emergency, Oct. 17, 1978, regular. | Aug. 16, 1974, Oct. 17, 1975, and Jan. 23, 1976. |
| North Carolina | Cumberland | Fayetteville, city of | 370077-B | July 26, 1973, emergency, Oct. 17, 1978, regular. | Nov. 2, 1973 and Oct. 24, 1975. |
| New York | Westchester | Irvington, village of | 360914-A | Jan. 10, 1974, emergency, Oct. 17, 1978, regular. | June 28, 1974 and Jan. 16, 1976. |
| Do | ....do | Mount Vernon, city of | 360920-B | Apr. 22, 1975, emergency, Oct. 17, 1978, regular. | June 28, 1974 and Nov. 28, 1975. |
| Do | Wayne | Williamson, town of | 360900-B | Mar. 23, 1973, emergency, Oct. 17, 1978, regular. | June 28, 1974, Feb. 27, 1976, and Oct. 8, 1976. |
| Ohio | Sandusky and Huron | Bellevue, city of | 390487-B | Oct. 21, 1974, emergency, Oct. 17, 1978, regular. | Mar. 15, 1974 and Apr. 30, 1976. |
| Do | Ottawa | Unincorporated areas | 390432-A | Apr. 25, 1973, emergency, Oct. 17, 1978, regular. | Oct. 17, 1978. |
| Pennsylvania | Northampton | Easton, city of | 425383-B | June 18, 1971, emergency, Oct. 17, 1978, regular. | Feb. 9, 1973. |
| Do | Westmoreland | Greensburg, city of | 420877-B | May 24, 1973, emergency, Oct. 17, 1978, regular. | Dec. 28, 1973 and June 18, 1976. |
| DO | Northampton | Moore, township of | 420983-B | Jan. 28, 1974, emergency, Oct. 17, 1978, regular. | Aug. 2, 1974 and July 16, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| DO | Mercer | Sharon, city of | 420678-B | Nov. 19, 1973, emergency, Oct. 17, 1978, regular. | Aug. 2, 1974 and July 30, 1976. |
| Do | Bucks | Upper Makefield, township of | 420207-A | Dec. 3, 1971, emergency, Oct. 17, 1978, regular. | June 22, 1973. |
| South Dakota | Brookings | Brookings, city of | 460004-B | Apr. 16, 1974, emergency, Oct. 17, 1978, regular. | Mar. 22, 1974 and Oct. 8, 1976. |
| Tennessee | Coffee | Manchester, city of | 470035-A | Aug. 3, 1973, emergency, Oct. 17, 1978, regular. | May 24, 1974. |
| Virginia | Campbell | Unincorporated areas | 510028-A | Dec. 27, 1973, emergency, Oct. 17, 1978, regular. | Nov. 22, 1974. |
| Do | Montgomery | Unicorporated areas | 510099-A | February 19, 1974, emergency, Oct. 17, 1978, regular. | Apr. 18, 1975. |
| Do | Roanoke | Unincorporated areas | 510190-A | Oct. 11, 1973, emergency, Oct. 17, 1978, regular. | Sept. 13, 1974. |
| Do | Wythe | Unincorporated areas | 510180 | Mar. 15, 1974, emergency, Oct. 17, 1978, regular. | Aug. 15, 1975. |
| Maine | Aroostook | Mars Hill, town of | 230026-B | Apr. 24, 1975, emergency, Oct. 24, 1978, regular. | June 21, 1974 and Nov. 21, 1975. |
| Do | ....do | New Sweden, town of | 230433-A | Aug. 18, 1975, emergency, Oct. 24, 1978, regular. | Feb. 21, 1975. |
| Oklahoma | Craig | Bluejacket, town of | 400262-A | Nov. 3, 1976, emergency, Oct. 24, 1978, regular. | Apr. 16, 1976. |
| Texas | Navarro | Blooming Grove, city of | 480952-A | July 9, 1976, emergency, Oct. 24, 1978, regular. | July 18, 1975. |
| Do | Henderson | Chandler, city of | 480326-B | Mar. 5, 1976, emergency, Oct. 24, 1978, regular. | June 28, 1974 and Apr. 23, 1976. |
| Do | Austin | Wallis, city of | 480018-B | June 25, 1975, emergency, Oct. 24, 1978, regular. | May 24, 1974 and Apr. 16, 1976. |
| Utah | Weber | Roy, city of | 490223-B | Jan. 16, 1976, emergency, Oct. 24, 1978, regular. | Feb. 7, 1975. |
| California | Los Angeles | Lawndale, city of | 060134 | June 30, 1975, emergency, Oct. 30, 1978, regular. | Oct. 30, 1975. |
| Pennsylvania | Allegheny | Baldwin, Township of | 422650 | Mar. 18, 1977, emergency, Oct. 30, 1978, regular. | Do. |
| Do | Cambria | Brownstown, Borough of | 422654 | Mar. 29, 1978, emergency, Oct. 30, 1978, regular. | Do. |
| Do | Allegheny | Chalfant, borough of | 420021 | Apr. 13, 1976, emergency, Oct. 30, 1978, regular. | Do. |
| Do | Washington | East Washington, borough of | 422134 | Dec. 3, 1974, emergency, Oct. 30, 1978, regular. | Do. |
| Arkansas | Baxter | Gassville, city of | 050243-A | Jan. 26, 1976, emergency, Oct. 31, 1978, regular. | Feb. 21, 1975. |
| Maine | Oxford | Sweden, town of | 230341-A | July 22, 1975, emergency, Oct. 31, 1978, regular. | Jan. 17, 1975. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Oklahoma | Lincoln | Davenport, town of | 400365-A | June 30, 1976, emergency, Oct. 31, 1978, regular. | Aug. 22, 1975 and May 24, 1977. |
| Texas | Eastland | Rising Star, city of | 480795-A | Sept. 2, 1976, emergency, Oct. 31, 1978, regular. | Sept. 26, 1975. |
| Alabama | Baldwin | Foley, town of | 010007-A | Mar. 22, 1979, emergency. | Nov. 26, 1976. |
| Do | Sumter | Unincorporated areas | 010194 | do | Apr. 7, 1978. |
| California | Solano | Unincorporated areas | 060631 | Mar. 23, 1979, emergency. | Feb. 14, 1978. |
| Georgia | Gwinnett and Walton | Loganville, city of | 130326 | Mar. 22, 1979, emergency. | Apr. 4, 1975. |
| Illinois | Lake | Mettawa, village of | 170381-A | Mar. 20, 1979, emergency. | Oct. 18, 1974 and July 23, 1976. |
| Montana | Treasure | Unincorporated areas | 300170 | Mar. 22, 1979, emergency. | |
| North Carolina | Avery | Elk Park, town of | 370382 | Mar. 23, 1979, emergency. | July 2, 1976. |
| Washington | King | Redmond, city of | 530087-B | Oct. 15, 1974, emergency, Feb. 1, 1979, regular, Feb. 15, 1979, suspension, Mar. 22, 1979, reinstatement. | Mar. 22, 1974 and July 9, 1979. |
| Colorado | Clear Creek | Georgetown, town of | 080035-A | Apr. 9, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspension, Mar. 23, 1979, reinstatement. | Sept. 29, 1978. |
| Florida | Flagler | Bunnell, town of | 120086 | Mar. 26, 1979, emergency. | July 11, 1975. |
| Iowa | Jones | Unincorporated areas | 190919-A | do | Apr. 22, 1977. |
| North Carolina | Martin | Hamilton, town of | 370334 | do | May 5, 1978. |
| Ohio | Butler | Millville, village of | 390041-A | do | June 7, 1974 and May 7, 1976. |
| Oklahoma | Jefferson | Ryan, town of | 400439 | do | Nov. 5, 1976. |
| Texas | Haskell | Unincorporated areas | 480851 | do | |
| Iowa | Madison | Patterson, city of | 190451 | Mar. 27, 1979, emergency. | Oct. 1, 1976. |
| Utah | Wayne | Torrey, town of | 490186 | Mar. 22, 1979, emergency. | Nov. 12, 1976. |
| Montana | Cascade | Belt, city of | 300009-A | May 13, 1975, emergency, Feb. 23, 1979, withdrawn. | Mar. 15, 1974 and Sept. 19, 1975. |
| California | Sacramento | Unincorporated areas | 060262-A | Mar. 15, 1979, suspension withdrawn. | Jan. 10, 1975. |
| Illinois | DuPage | Addison, village of | 170198-B | do | Oct. 26, 1973 and Feb. 6, 1976. |
| Do | Cook | Schaumburg, village of | 170158-B | do | Dec. 6, 1974 and Oct. 24, 1975. |
| Do | DuPage | Winfield, village of | 170223-B | do | May 10, 1974 and Oct. 17, 1975. |
| Indiana | Hamilton | Fishers, town of | 180423-A | do | June 30, 1976. |
| Do | Lake | Griffith, town of | 185175-B | do | Apr. 18, 1972. |
| Do | Floyd | New Albany, city of | 180062-B | do | Feb. 14, 1974 and Jan. 30, 1976. |
| Kansas | Douglas | Lecompton, city of | 200091-B | do | Jan. 23, 1974 and June 4, 1976. |
| Minnesota | Anoka | Anoka, city of | 275227-A | do | Nov. 30, 1973. |
| Do | Mower | Austin, city of | 275228-A | do | May 14, 1971. |
| Do | Wilkin | Breckenridge, city of | 275232-A | do | Sept. 20, 1970. |
| Do | Blue Earth | Mankato, city of | 275242-A | do | Dec. 22, 1972. |
| New Jersey | Monmough | Allenhurst, borough of | 340283-B | do | Aug. 24, 1973 and Apr. 30, 1976. |

| State | County | Location | Community No. | Effective dates of authorization/cancellation of sale of flood insurance in community | Special flood hazard area identified |
|---|---|---|---|---|---|
| Do | do | Avon-by-the-Sea, borough of | 340287-B | do | Feb. 1, 1974. |
| Do | do | Lock Arbour, village of | 340306-B | do | Nov. 30, 1973 and Apr. 16, 1976. |
| Ohio | Butler | Fairfield, city of | 390038-B | do | Mar. 1, 1974 and Dec. 27, 1974. |
| Do | Warren | Lebanon, city of | 390557-D | do | May 10, 1974 and July 23, 1976. |
| Do | Mahoning | Unincorporated areas | 390367-B | do | Dec. 20, 1974 and Nov. 11, 1977. |
| Oregon | Lincoln | Waldport, city of | 410134-B | do | Mar. 22, 1974 and Apr. 16, 1976. |
| Pennsylvania | Bucks | Buckingham, township of | 420985-B | do | June 28, 1974 and July 23, 1976. |
| Do | Cumberland | Shippensburg, borough of | 420369-B | do | Oct. 22, 1976. |
| South Dakota | Minnehaha | Sioux Falls, city of | 460060-B | do | June 28, 1974. |
| Tennessee | Hamilton | Red Bank, city of | 470076-A | do | Mar. 15, 1979. |
| Washington | Okanogan | Unincorporated areas | 530117-A | do | Do. |
| Wisconsin | Grant | do | 555557-A | do | May 25, 1973. |
| Do | Crawford | Lynxville, village of | 555563-A | do | Mar. 16, 1973. |
| Do | Ozaukee | Mequon, city of | 555564-B | do | Mar. 15, 1979. |
| Ohio | Warren | Mason, city of | 390559-B | do | June 14, 1974. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 26, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI-5305]

[FR Doc. 79-9747 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### 24 CFR Part 1917

### Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the City of Gloucester, Camden County, N.J.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Gloucester, Camden County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Gloucester, New Jersey.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Gloucester, are available for review at Gloucester City Municipal Building, 512 Monmouth Street, Gloucester, New Jersey.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Gloucester, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Delaware River | Whitman Bridge* | 10 |
| Newton Creek | Interstate 676* | 10 |
| South Branch Newton Creek. | North-South Freeway* | 10 |
| Little Timber Creek | Broadway* | 10 |

*Centerline.

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4719]

[FR Doc. 79–9910 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

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## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the Borough of Pemberton, Burlington County, N.J.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of Pemberton, Burlington County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required is either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Pemberton, New Jersey.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Pemberton, are available for review at Borough Hall, 114 Hanover Street, Pemberton, New Jersey.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Pemberton, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| North Branch Rancocas Creek. | Hanover Street—100 feet* .... | 36 |
| Budds Run ..... | Confluence with North Branch Rancocas Creek. | 35 |
| | Hanover Street—100 feet* .... | 40 |

*Upstream of centerline.

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 31, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4533]

[FR Doc. 79–9911 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

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## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the Township of Stafford, Ocean County, N.J.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Township of Stafford, Ocean County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Stafford, New Jersey.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Stafford, are available for review at Township Hall, 775 East Bay Avenue, Manahawkin, New Jersey.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Stafford, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| Manahawin Bay ..... | At intersection of Mill Creek Road and Benjamin Boulevard. | 8 |
| | At intersection of Morton Drive and Charles Boulevard. | 8 |
| | At crossing of Beach Avenue over Cider Mill Creek. | 8 |

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective Jannuary 28, 1969 (33 FR 17804, November 28, 1968), as amended;

42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–4758]

[FR Doc. 79–9912 Filed 4–3–79; 8:45 am]

BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Township of Leet, Allegheny County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Township of Leet, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Leet, Allegheny County, Pennsylvania.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Leet, Allegheny County, Pennsylvania, are available for review at the Leet Township Building, 198 Ambridge Avenue, Fair Oaks, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Leet, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| Big Sewickley Creek ... | Downstream Corporate Limits. | 711 |
| | Approximately 2,900 feet above downstream Corporate Limits. | 711 |
| | Short Street (extended) ..... | 717 |
| | Intersection of Heely Street and Eckert Street. | 719 |
| | Intersection of Willow Street and Heely Street. | 720 |
| | Frank Street (extended)..... | 722 |
| | Upstream Corporate Limits .... | 726 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI–4572]

[FR Doc. 79–9913 Filed 4–3–79; 8:45 am]

BILLING CODE 4210–01–M

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Borough of Catawissa, Columbia County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100–year) flood elevations are listed below for selected locations in the Borough of Catawissa, Columbia County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Catawissa, Columbia County, Pennsylvania.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Catawissa, Columbia County, Pennsylvania, are available for review at the Borough Building, Catawissa, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Catawissa, Columbia County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910,

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Susquehanna River | Downstream Corporate Limits. | 473 |
| | State Route 42 (Upstream) | 474 |
| | Upstream Corporate Limits (extended). | 475 |
| Catawissa Creek | Downstream Corporate Limits. | 474 |
| | State Route 42 | 476 |
| | Dam (Upstream) | 477 |
| Tributary No. 1 to Catawissa Creek. | Confluence with Catawissa Creek. | 476 |
| | State Route 42 Culvert | 481 |
| | Upstream Corporate Limits | 485 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4788]

[FR Doc. 79–9914 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Township of Catawissa, Columbia County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Township of Catawissa, Columbia County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Catawissa, Columbia County, Pennsylvania.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Catawissa, Columbia County, Pennsylvania, are available for review at the Municipal Building, Catawissa, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Catawissa, Columbia County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Susquehanna River | Conrail (centerline) | 476 |
| | State Route 487 (centerline) | 479 |
| Roaring Creek | Downstream Corporate Limits. | 653 |
| | Covered Bridge No. 12 (Upstream). | 692 |
| | Upstream Corporate Limits | 711 |
| Catawissa Creek | Downstream Corporate Limits. | 478 |
| | Covered Bridge No. 40 | 482 |
| | Upstream Corporate Limits | 503 |
| Tributary No. 1 to Catawissa Creek. | Downstream Corporate Limits. | 485 |
| | Private Bridge | 588 |
| | Legislative Route 19087 | 708 |
| | Steel Culvert | 765 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4779]

[FR Doc. 79–9915 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Duquesne, Allegheny County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Duquesne, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Duquesne, Allegheny County, Pennsylvania.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Duquesne, Allegheny County, Pennsylvania, are available for review at the Duquesne City Hall, 12 South Second Street, Duquesne, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Duquesne, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to

the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Monongahela River..... | Downstream Corporate Limit | 740 |
| | Port Perry Bridge..... | 740 |
| | ConRail Bridge..... | 740 |
| | Grant Avenue Extension..... | 741 |
| | At a point 1 mile downstream of McKeesport-Duquesne Bridge. | 742 |
| | McKeesport-Duquesne Bridge. | 742 |
| | Upstream Corporate Limits .... | 743 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4781]

[FR Doc. 79–9916 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Borough of Sewickley, Allegheny County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of Sewickley, Allegheny County Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Sewickley, Allegheny County, Pennsylvania.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Sewickley, Allegheny County, Pennsylvania, are available for review at the Municipal Building, Sewickley, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451, Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Sewickley, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ohio River..... | Downstream Corporate Limits. | 715 |
| | Upstream Corporate Limits .... | 716 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4731]

[FR. Doc. 79–9917, Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Borough of White Oak, Allegheny County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Borough of White Oak, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of White Oak, Allegheny County, Pennsylvania.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of White Oak, Allegheny County, Pennsylvania, are available for review at the office of the Borough Secretary, White Oak, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of

White Oak, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Youghiogheny River | Downstream Corporate Limits (River Mile 4.71). | 750 |
| | Upstream Corporate Limits (River Mile 5.87). | 752 |
| Long Run | Rippel Road (Upstream) | 792 |
| | Lincolnway Road (Upstream). | 819 |
| | Confluence of Jacks Run | 819 |
| | Lincolnway Road (Upstream). | 831 |
| | Oakview Drive (Upstream) | 835 |
| | Mystic Hills Road (Upstream) | 846 |
| | Private Drive (Upstream) located approximately 2,100' upstream of Mystic Hills Road Crossing. | 866 |
| | Rankin Road (Upstream) | 876 |
| | Coulterville Road (Upstream). | 899 |
| | Upstream Corporate Limits | 911 |
| Jacks Run | At confluence with Long Run. | 819 |
| | Splash Dam (Upstream) located 500' above mouth. | 825 |
| | Splash Dam (Upstream) located 1,225' above mouth. | 830 |
| | Private Drive (Upstream) located approximately 3,075' above mouth. | 844 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4784]

[FR Doc. 9918 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–10**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Township of Williams, Northampton County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Township of Williams, Northampton County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Williams, Northampton County, Pennsylvania.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Williams, Northampton County, Pennsylvania, are available for review at the Williams Municipal Building, Williams, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Williams, Northampton County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed critieria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Lehigh River | Downstream Corporate Limits. | 204 |
| | Upstream Corporate Limits | 209 |
| Delaware River | Downstream Corporate Limits. | 163 |
| | 16,800 feet above downstream Corporate Limits. | 174 |
| | 28,000 feet above downstream Corporate Limits. | 180 |
| | Upstream Corporate Limits | 188 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4829]

[FR Doc. 79–9919 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Waller, Waller County, Tex.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Waller, Waller County, Texas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect

in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Waller, Waller County, Texas.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Waller, Waller County, Texas, are available for review at Waller City Hall, Waller, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Waller, Waller County, Texas.

This final rule is issued in accordance with section 110 of the Flood disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period on ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tributary No. 1 at Mile 8.18 of Mound Creek. | Downstream Corporate Limits. | 235 |
| | Washington Street (Upstream). | 242 |
| | Southern Pacific Railroad (Upstream). | 247 |
| | Taylor Street (Upstream) | 247 |
| | Field Store Road (Upstream). | 251 |
| | Dam (Downstream) | 251 |
| | Dam (Upstream) | 253 |
| Tributary No. 2 at Mile 9.39 of Mound Creek. | Upstream Corporate Limits | 264 |
| | Washington Street (Upstream). | 240 |
| | Southern Pacific Railroad (Upstream). | 242 |
| | Waller Street (Upstream) | 243 |
| | Daugherty Street Extended (Upstream). | 246 |
| | Mayer Road (Upstream) | 254 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–4786]

[FR Doc. 79–9920 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## 24 CFR Part 1917

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the City of Lehi, Utah County, Utah

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Lehi, Utah County, Utah.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Lehi, Utah.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lehi, are available for review at City Hall, 51 North Center, Lehi, Utah.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lehi, Utah.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Dry Creek | 300 West—80 feet* | 4,560 |
| | 200 West—50 feet* | 4,563 |
| | 400 North—50 feet* | 4,564 |
| | 100 West—70 feet* | 4,566 |
| | 500 North—90 feet* | 4,567 |
| | 600 North—90 feet* | 4,570 |
| | U.S. Highway 91—40 feet* | 4,581 |
| | Union Pacific Railroad Culvert—30 feet*. | 4,587 |
| | Interstate 15—50 feet* | 4,593 |
| | Frontage Road—50 feet* | 4,594 |
| Waste Ditch Diversion. | Denver and Rio Grande Railroad—50 feet*. | 4,551 |
| | 400 West—50 feet* | 4,557 |
| | 300 West—70 feet* | 4,564 |
| | 200 West—30 feet* | 4,567 |
| | 600 North—50 feet* | 4,569 |
| | U.S. Highway 91—50 feet* | 4,581 |

| Source of flooding | Location | Depth in feet above ground |
|---|---|---|
| Dry Creek | At intersection of 200 East and 960 North (Shallow Flooding). | 1 |
| | At intersection of 200 East and Union Pacific Railroad (Shallow Flooding). | 1 |

*Upstream from centerline.

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has

been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI-4671]

[FR Doc. 79-9921 Filed 4-3-79; 8:45 am]

**BILLING CODE 4210-01-M**

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**24 CFR Part 1917**

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the Town of Vader, Lewis County, Wash.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Vader, Lewis County, Washington.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Vader, Washington.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Vader, are available for review at Town Hall, Vader, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Vader, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Olequa Creek | Northern Pacific Railroad Bridge—50 feet*. | 104 |
| | Vader Road (State Bridge 506/104)—50 feet*. | 116 |
| McMurphy Creek | Northern Pacific Railroad Culvert (Upstream side). | 147 |
| | East Culver (Second crossing)—30 feet*. | 154 |

*Upstream of centerline.

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI-4787]

[FR Doc. 79-9922 Filed 4-3-79; 8:45 am]

**BILLING CODE 4210-01-M**

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**24 CFR Part 1917**

## Appeals from Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the Town of Winlock, Lewis County, Wash.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Winlock, Lewis County, Washington.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Winlock, Washington.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Winlock, are available for review at Town Hall, Winlock, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Winlock, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

| Source of Flood | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Olequa Creek | Winlock-Vader Road—50 feet*. | 271 |
| | Walnut Avenue—70 feet* | 279 |
| | Fir Street—70 feet* | 282 |

* Upstream of centerline

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional

review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–9923]

[FR Doc. 79–9923 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

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**[24 CFR Part 1917]**

## Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the City of Laramie, Albany County, Wyo.; Correction

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Correction of final rule.

**SUMMARY:** This document corrects a final rule on base (100-year) flood elevations that appeared on page 7660 of the **Federal Register** of February 7, 1979.

**EFFECTIVE DATE:** February 7, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following correction is made:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Laramie River..... | Interstate Highway 80—at centerline. | 7141 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4627]

[FR Doc. 79–9924 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

# Proposed Rules

Federal Register
Vol. 44, No. 66
Wednesday, April 4, 1979

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.

## DEPARTMENT OF AGRICULTURE

### Federal Grain Inspection Service

### [7 CFR Parts 800, 802, 803]

### Grain Standards

**AGENCY:** Federal Grain Inspection Service, USDA.

**ACTION:** Extension of comment period.

**SUMMARY:** At page 11920 of the **Federal Register** for Friday, March 2, 1979 (44 FR 11920), the Federal Grain Inspection Service (FGIS) proposed regulations to implement the United States Grain Standards Act, as amended in 1976 and 1977. Requests have been received to extend the comment period beyond May 1, 1979, the cut-off date previously set. Because of the length and complexity of the proposed regulations, it has been decided to extend the comment period until June 18, 1979.

**DATES:** Written comments on the text of the proposed regulations should be submitted by June 18, 1979.

**ADDRESS:** Written comments or requests for additional copies of the proposed regulations should be sent in duplicate to the Compliance Division, Room 2405 Auditors Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250, where all comments will be available for public inspection during normal business hours. An approved draft impact analysis is also available from the Compliance Division.

**FOR FURTHER INFORMATION CONTACT:** Leslie E. Malone, Assistant Deputy Administrator, Program Operations (Staff), USDA, FGIS, Room 1627–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250, telephone (202) 447–9166.

Done at Washington, D.C. on: March 30, 1979.

L. E. Bartelt,
*Administrator.*

[FR Doc. 79–10388 Filed 4–3–79; 8:45 am]

BILLING CODE 3410–01–M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [7 CFR Ch. IX]

### Melons Grown in South Texas; Decision on Proposed Marketing Agreement and Order; Correction

In FR Doc. 79–8783, appearing at page 17511 in the issue for Thursday, March 22, 1979, make the following corrections:

1. On page 17513, under the section labeled *.5 Melons*, change the first words in the third, sixth and eighth lines of the section from "melons", "varities", and *"Sitrullaus"* to read "melons", "varieties" and "Citrullaus " respectively.

2. Also on page 17513, under the section labeled *.18 Part and subpart.*, capitalize the word "handling" in the second line.

[Docket No. AO–382]

BILLING CODE 1505–010–M

## Commodity Credit Corporation

### [7 CFR Part 1491]

### CCC Intermediate Credit Export Sales Program for Breeding Animals (GSM–201)

**AGENCY:** Commodity Credit Corporation, Department of Agriculture.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In accordance with Section 4 of the Food for Peace Act of 1966, as amended by the Agricultural Trade Act of 1978, the Commodity Credit Corporation is proposing an Intermediate Export Credit Sales Program (GSM–201) to finance export sales of breeding animals, including the cost of freight from the United States to the importing country, for periods in excess of three years but not more than ten years. GSM–201 is intended to increase farm income and create a more favorable balance of trade for the United Stated by expanding international markets for United States breeding animals which could, in turn, lead to expansion of grain and feed sales abroad.

**DATE:** Comments must be received on or before June 4, 1979.

**ADDRESS:** Mail or deliver comments to Office of the General Sales Manager, Commercial Export Programs, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** L. T. McElvain—(202) 447–3224.

**SUPPLEMENTARY INFORMATION:** Under the GSM–201 program, CCC may enter into financing agreements with exporters of U.S. breeding animals who sell to importers on intermediate creidt terms that are in excess of three years but no more than ten years. Pursuant to financing agreements, CCC would purchase the exporter's account receivable by paying the exporter the export value of the breeding animals. The export financing must be secured by a U.S. bank letter of credit or a foreign bank letter of credit approved by CCC and provide for payment to CCC in U.S. dollars.

The purpose of the GSM–201 program is to enhance the export of U.S. breeding animals in order to develop and expand livestock sectors in importing countries. The development or expansion of livestock sectors abroad would, in turn, lead to the long-term expansion of markets for U.S. exports of grain and feed.

The decision to utilize this GSM–201 program was arrived at after thorough consideration of the following three alternatives: First, no action be taken to implement the intermediate credit program for breeding animals authorized in the Agricultural Trade Act of 1978; second, development of an intermediate credit program which permits the financing of the cost of export sales exlusive of transportation charges; and, third, development of an intermediate credit program which permits the financing of the entire cost of the export sales including transportation charges.

The first alternative contemplates reliance on credit facilities and government programs now available to exporters—CCC Export Credit Sales Program (GSM–5), EX–IM Bank, the World Bank and private financing. These facilities and programs, however, are not entirely adequate to meet the needs of importing countries or to permit the United States to meet foreign competition from exporters of breeding animals. Except for the World Bank which offers eight to ten year terms, but

not with the objective of increasing U.S. breeding animal exports, the other facilitites and programs offer credit terms of only up to three years. Other countries, however, offer lengthy repayment periods and even concessional rates of interest in some cases. Accordingly, the first alternative was rejected because it would not increase export sales of breeding animals beyond present levels which had fallen considerably below the levels of past years.

There is a need for an intermediate credit program to finance the exportation of breeding animals largely because of the length of time required by an importer to realize a return on investments in breeding animals. Thus, intermediate credit financing (3 to 10 years) would likely provide greater incentive for a number of countries to increase their purchase of breeding animals over what they would purchase under the GSM–5, EX–IM Bank or private financing. An intermediate credit program for breeding animals would also provide a better means to meet credit competition from non-U.S. exporters.

The second and third alternatives would establish an intermediate creidt program for breeding animals on three to ten year terms at commercial rates of interest. They differ in that the second alternative would not include transportation charges in the financing whereas the third alternative would include such charges. Transportation expenses can represent a significant cost for importers of breeding animals and their ability to finance such expenses will influence the effectiveness of the intermediate credit program for breeding animals. Disregarding any budget constraints, if the second alternative was adopted, the Department estimates that roughly $9 million in export sales of breeding animals would be financed. On the other hand the Department estimates that roughly $20 million for the cost of the breeding animals and $5 million for transportation costs may be financed under the third alternative. Thus, more breeding animals would be exported under the third alternative. The outlays, mentioned above, however, would be repaid to CCC, including interest at commercial rates, and there would be no cost to CCC under the program unless there was a default in the program. An irrevocable letter of credit in favor of CCC would be required which would minimize the risk of such default.

The public is invited to submit written comments regarding the proposed rule. Each person submitting comments regarding the proposed rule shall include his or her name and address and give reasons for any suggested changes in the proposed rule. Copies of all written communications received and an approved Draft Impact Analysis will be available for examination by interested persons in room 4079, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, during regular business hours.

### Proposed Rule

Accordingly, it is proposed to amend Subchapter C of Chapter XIV of Title 7 of the CFR by adding a new Part 1491 CCC Intermediate Credit Export Sales Program for Breeding Animals and a new Subpart thereunder as follows:

## PART 1491—CCC INTERMEDIATE CREDIT EXPORT SALES PROGRAM FOR BREEDING ANIMALS

### Subpart A—Financing of Export Sales of Breeding Animals Under CCC Intermediate Credit Export Sales Program (GSM–201)

**General**

Sec.

1491.1 General statement.
1491.2 Definition of terms.

**Financing Export Sales**

1491.3 General.
1491.4 Submission of requests for sale registrations.
1491.5 Acceptance of sale registrations.
1491.6 Amendments to financing agreement.
1491.7 Expiration of period(s) for delivery.

**Documents Required for Financing**

1491.8 Documents required after delivery.
1491.9 Evidence of export.

**Entry Into Country of Destination**

1491.10 Failure to enter.
1491.11 Liquidated damages.

**Bank Obligations and Payment**

1491.12 Coverage of bank obligations.
1491.13 CCC drafts.
1491.14 Interest charges.
1491.15 Advance payment.
1491.16 Liability for payment.

**Miscellaneous Provisions**

1491.17 Assignment.
1491.18 Covenant against contingent fees.
1491.19 Officials not to benefit.
1491.20 Exporter's records and accounts.
1491.21 Communications.

Supplement I—Beef Breeding Cattle
Supplement II—Dairy Breeding Cattle
Supplement III—Breeding Swine

**Authority:** Sec. 4(b), 80 Stat. 1537, as amended by sec. 101, 92 Stat. 1685 (7 U.S.C. 1707a); sec. 5(f), 62 Stat. 1070, as amended (7 U.S.C. 714c).

### Subpart A—Financing of Export Sales of Breeding Animals Under CCC Intermediate Export Credit Sales Program (GSM–201)

**General**

**§ 1491.1 General statement.**

(a) This subpart contains the regulations governing the Commodity Credit Corporation's intermediate credit program for financing the export sales of breeding animals (GSM–201).

(b) The financing period shall be in excess of three years but not more than ten years.

(c) Subject to the terms and conditions set forth in this Subpart A, CCC will purchase for cash the exporter's account receivable arising from the export sale, after delivery of the breeding animals.

(d) GSM–201 will be administered by the Office of the General Sales Manager, U.S. Department of Agriculture.

(e) The provisions of Pub. L. 83–664 (Cargo Preference Act) are not applicable to shipments of breeding animals financed under GSM–201.

(f) CCC may require an initial payment from the foreign importer prior to delivery of the breeding animals.

(g) Payment to CCC shall be in dollars with interest equal, as nearly as practicable, to the rate charged by CCC for financing under CCC's short-term Export Credit Sales Program.

(h) CCC shall, wherever feasible, obtain commitments from purchasers that they will not resell or transship to other nations breeding animals financed under GSM–201.

**§ 1491.2 Definition of terms.**

As used in this Subpart A and in the forms and documents related thereto, the following terms shall have the meanings assigned to them in this section:

(a) "Account receivable" means the contractual obligation of the foreign importer to the exporter for the export value of the commodity delivered for which the exporter is extending credit to the importer. The account receivable shall be evidenced by documents, in form and substance satisfactory to CCC, establishing the contractual obligation between the exporter and the foreign importer. The account receivable shall provide for (1) payment of principal and interest in U.S. dollars in the United States, (2) interest in accordance with § 1491.14 and (3) acceleration of payment thereunder in accordance with these regulations.

(b) "Agency or branch bank" means an agency or branch of a foreign bank, supervised by New York State banking authorities or the banking authorities of any other State providing similar

supervision, and approved by the Controller, CCC.

(c) "Assistant Sales Manager" means the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S.D.A., or his designee.

(d) "Bank obligation" means an obligation, in accordance with § 1491.12, and acceptable to CCC, of a U.S. bank, a branch bank, or a foreign bank, to pay to CCC in U.S. dollars the amount of the account receivable, plus interest in accordance with § 1491.14.

(e) "Breeding animals" means U.S. breeding animals, including, but not limited to, cattle, swine, sheep, and poultry.

(f) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(g) "Date of delivery" means the onboard date of an ocean bill of lading, or the date of an airway bill, or if exported by rail or truck, the date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of the importing country.

(h) "Date of sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the foreign buyer under which a firm dollar and cent price has been established or a mechanism to establish the price has been agreed upon.

(i) "Eligible destination" means the country which is named in the financing agreement and which meets the licensing requirements of the U.S. Department of Commerce.

(j) "Eligible exporter" or "exporter" means a peron (1) who is engaged in the business of buying or selling commodities and for this purpose maintains a bonda fide business office in the United States, its territories or possessions, and has someone on whom service of judicial process may be had within the Unted States, (2) who is financially responsible, and (3) who is not suspended or debarred from contracting or participating in any program financed by CCC on the date of issuance of the financing agreement.

(k) "Export value" means the net amount of the exporter's sale price to be financed under the financing agreement basis f.o.b. plus freight cost if export sale is made basis c&f or c.i.f., less any payments made to the exporter, and less any discounts, credits or allowances by the exporter. The export value shall not include marine and war risk insurance for c.i.f. sales.

(l) "Financing agreement" means the exporter's request for a sale registration as approved by the Assistant Sales Manager, including the terms and conditions of the regulations in this Subpart in effect on the date of approval.

(m) "Financing period" means the number of years and months over which payment is to be made which shall be in excess of three years but not more than ten years. Such period shall start on the date of delivery or the weighted average delivery date of the breeding animals to be exported under the financing agreement and shall expire on the expiration of the bank obligation or the specified period over which payment is to be made, whichever occurs first.

(n) "Foreign bank" means a bank which is not a U.S. bank or agency or branch bank, but includes a foreign branch of a U.S. bank.

(o) "Foreign importer" or "importer" means the buyer who purchases the breeding animals to be exported under a financing agreement and executes the documents evidencing the account receivable which is assigned to CCC.

(p) "Freight cost" means the cost of freight from United States points of export to designated points of entry in the country shown in the financing agreement.

(q) "GSM–201" means the regulations contained in this Subpart A, and supplements thereto, setting forth the terms and conditions governing the CCC Intermediate Credit Export Sales Program For Breeding Animals.

(r) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(s) "Point of export" means the U.S. port, U.S. port, U.S. airport, or U.S. border point where the breeding animals are inspected by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture and exported from the United States.

(t) "Port value" means the net amount of the exporter's sale price of the breeding animals, basis f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. airports, if shipped by air.

(u) "Producer" means the person holding legal title to the breeding animal at time of birth and who has had continuous ownership of such animal until sold for export under an approved financing agreement.

(v) "Sale" means a contract to sell on credit breeding animals to be financed under GSM–201.

(w) "United States" means the 50 States, the District of Columbia, and Puerto Rico.

(x) "U.S. bank" means a bank organized under the laws of the United States, a State, or the Distict of Columbia.

(y) "USDA announcement" means an announcement published by the U.S. Department of Agriculture (USDA).

(z) "Vice President, CCC" means the Vice President who is the General Sales Manager, Office of the General Sales Manager.

**Financing Export Sales**

**§ 1491.3 General.**

(a) No export sale may be financed under this Subpart unless the Assistant Sales Manager determines that the sale will: develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of U.S. agricultural commodities without displacing normal commercial sales or improve the capability of the importing nation to purchase and use, on a long-term basis, U.S. agricultural commodities.

(b) Financing under this subpart may be made available to meet credit competition for agricultural export sales but may not be used to encourage credit competiton or for the purpose of foreign aid or debt rescheduling.

**§ 1491.4 Submission of requests for sale registrations.**

(a) An eligible exporter shall submit a request for a sale registration for financing to the office specified in § 1491.21.

(b) Requests for sale registrations shall be in writing. If such a request is made by telephone, it must be confirmed by letter or wire.

(c) The total amount requested to be registered under a sale shall not exceed the export value of the sale.

(d) Requests for sale registration shall incorporate by reference all terms and conditions of GSM–201.

(e) The following information shall be included in the exporter's request for a sale registration:

(1) The name, class, grade, or quality of the breeding animals as required by the applicable supplements to these regulations, and the number of breeding animals to be exported.

(2) The country of destination.

(3) The port value of the breeding animals to be exported.

(4) The freight cost if sale is made c&f or c.i.f. basis.

(5) The export value.

(6) The date of sale and exporter's sale number.

(7) The date of delivery or period for delivery.

(8) The financing period.

(9) Whether the bank obligation assuring payment of the account receivable will be issued by a U.S. bank, branch bank, or foreign bank. If it will be issued by a foreign bank, its name and address.

(10) The name and address of the foreign importer.

(11) Any additional information required by the applicable supplements to these regulations and as determined by CCC.

**§ 1491.5 Acceptance of sale registrations.**

(a) Upon receiving a request for a sale registration complying with the applicable provisions of this subpart, the Assistant Sales Manager shall determine whether the registration of the sale shall be approved. If approved, the exporter will be notified in writing of the financing agreement number which will constitute notice that the sale is registered and eligible for financing.

(b) CCC reserves the right to reject any and all requests for sale registration.

(c) The approved registration of a sale shall create a financing agreement between the exporter and CCC which shall consist of the exporter's request for the sale registration, the approved sale registration, and the applicable terms and conditions of this subpart, including amendments and supplemental announcements and supplements hereunder, which are in effect on the date of approval of the sale registration.

(d) The financing agreement may contain such terms and conditions, not inconsistent with this Subpart, as are deemed necessary in the interest of CCC and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

(e) An exporter shall promptly notify the Assistant Sales Manager when he is unable to fulfill his obligations under any sale registered with CCC.

**§ 1491.6 Amendments fo financing agreement.**

The financing agreement may be amended provided such amendment is in conformity with GSM–201 at the time of amendment and is determined to be in the interst of CCC. Amendments may include extension of the period for delivery and change in the interest rate.

**§ 1491.7 Expiration of period(s) for delivery.**

(a) Unless delivery by the exporter to the importer is made within such period as may be provided in the financing agreement or any amendment thereof, or under paragraph (b) of this section, the financing agreement will no longer be valid.

(b) If the Assistant Sales Manager determines that delay in delivery was due solely to causes without the fault or negligence of the exporter, the period for delivery may be extended by the Assistant Sales Manager by the period of such delay.

**Documents Required for Financing**

**§ 1491.8 Documents required after delivery.**

(a) CCC will purchase an exporter's account receivable only if the documents specified in paragraphs (b) through (e) of this section and any documentation and certifications required by any supplements to these regulations are received by CCC at the office specified in § 1491.21 (b) within forty-five days, or any extension thereof granted by the Treasurer or Assistant Treasurer, CCC, after date of delivery of the breeding animals.

(b) The exporter shall submit a "Combined Application for Disbursement, Assignment of Account Receivable and Certification" which shall include:

(1) A written application for disbursement, showing with respect to breeding animals delivered (i) the financing agreement number, (ii) the port value to be financed, and (iii) the freight cost if sale is made c&f or c.i.f. basis.

(2) An assignement of the account receivable arising from the export sale, in form and substance acceptance to CCC.

(3) The exporter's certification that (i) he has entered into a contract to sell breeding animals; (ii) the date of sale, the agreed upon price, the class, grade, quality, quantity of the breeding animals, and the payment terms and interest are in accordance with the financing agreement; (iii) he has in his files documents evidencing the export sale contract and the obligation of the importer to him for the financed portion of the export sale and will retain and furnish them to CCC on demand until 3 years after the end of the financing period; (iv) breeding animals of the class, grade, quality, and quantity called for in the exporter's sale as registered with CCC have been delivered to the foreign importer; and (v) he knows of no defenses to the account receivable assigned to CCC.

(c) A copy of the sales invoice to the foreign importer showing (1) the port value of the breeding animals and (2) freight cost if sale is made c&f or c.i.f. basis.

(d) A copy of the document evidencing export provided for in § 1491.9 and, if the consignee is other than the foreign importer named in the financing agreement, such additional information as CCC may request to show that export was made in accordance with the instructions of, or the export sale contract with, the foreign importer.

(e) A bank obligation or bank obligations in accordance with § 1491.12 and paragraph (h) of this section, naming CCC as beneficiary, in form and substance acceptable to CCC, covering the amount of the application for disbursement, citing the financing agreement number, and providing for the payment of interest in accordance with § 1491.14.

(f) On receipt of the documents described in paragraphs (b) through (e) of this section and any documentation and certifications required by any supplements to these regulations, CCC will pay promptly to the exporter the amount of the account receivable or the dollar amount of sales registered in accordance with § 1491.5, whichever is the lesser.

(g) If an acceptable application for disbursement and the supporting documents described in paragraphs (b) through (e) of this section have not been received by CCC within 45 days from the date of the delivery, or any extension thereof granted by the Treasurer or Assistant Treasurer, CCC, the financing agreement shall be void.

(h) If for any reason a draft drawn under a foreign bank obligation is dishonored or if the issuing bank is insolvent, in bankruptcy, in receivership or in liquidation, or has made an assignment for the benefit of creditors, or for any other reason discontinues or suspends payment to depositors or creditors, or otherwise ceases to operate on an unrestricted basis, any balance due on the account receivable assured by the obligation issued by such bank shall, at the option of CCC, become immediately due and payable. CCC may permit the substitution of another acceptable foreign bank obligation covering such balance due if advised in accordance with § 1491.12.

**§ 1491.9 Evidence of export.**

(a) If the breeding animals are exported by rail or truck, the exporter shall furnish to CCC one copy of the bill of lading covering the breeding animals exported, certified by the exporter as being a true copy, and an authenticated landing certificate or similar document issued by an official of the government of the country to which the breeding

animals are exported, showing the quantity, the place and date of entry, and the name and address of both the exporter and the importer.

(b) If the breeding animals are exported by ocean carrier, the exporter shall furnish to CCC one non-negotiable copy or photo copy or other duplicate copy of either (1) an on-board ocean bill of lading or (2) an ocean bill of lading with an onboard endorsement, dated and signed or initialed on behalf of the carrier. The bill of lading must be certified by the exporter as being a true copy and must show the quantity, the date and place of loading of the breeding animals, the name of the vessel, the destination of the breeding animals and the name and address of both the exporter and the importer.

(c) If the commodity is exported by aircraft, the exporter shall furnish to CCC one non-negotiable copy of an airway bill, dated and signed or initialed on behalf of the carrier. The airway bill must be certified by the exporter as being a true copy and must show the date and place of loading of the breeding animals, the name of the airline, the destination of the breeding animals and the name and address of both the exporter and the importer.

(d) If the exporter is unable to supply documentary evidence of export as specified in this section, he shall submit such other documentary evidence as may be acceptable to CCC.

**Entry Into Country of Destination**

**§ 1491.10 Failure to enter.**

If the exporter fails to enter or cause the entry of the breeding animals into the country of destination, the financing agreement may be terminated by the Assistant Sales Manager, and if full payment under the bank obligation or account receivable has not yet been received, the bank obligation and the account receivable shall, at the option of CCC, become due and payable and liquidated damages shall be payable in accordance with § 1491.11. The remedy herein provided shall not be exclusive of other rights available to the Federal Government if the breeding animals enter a country other than that specified in the financing agreement.

**§ 1491.11 Liquidated damages.**

Failure of the exporter to enter or cause the entry of breeding animals financed under GSM–201 into the country of destination shall constitute a breach of the financing agreement which will result in serious and substantial damage to CCC and to its program. Since it will be difficult, if not impossible, to prove the exact amount of such damage, the exporter shall pay to CCC promptly on demand, as reasonable compensation and not as a penalty, liquidated damages in lieu of probable actual damages for failure to enter or cause the entry of the breeding animals into the country of destination, 5 percent of the amount financed under the financing agreement for such breeding animals. Liquidated damages shall not be assessed if the Assistant Sales Manager determines that failure to enter or cause the entry of the breeding animals into the country of destination was due to loss or injury of the breeding animals or act of God or government or public enemy.

**Bank Obligations and Payment**

**§ 1491.12 Coverage of bank obligations.**

(a) The bank obligation shall be in the form of an irrevocable letter of credit issued by a U.S. bank, a branch bank, or a foreign bank. CCC will not accept any bank obligation issued by an agency bank. If the bank obligation is issued by a foreign bank, the bank obligation must be advised by a U.S. bank, a branch bank, or an agency bank.

(b) The bank obligation shall provide for payment under the terms and conditions of the financing agreement.

(c) Any bank obligation which provides for a bank acceptance of a time draft by CCC (banker's acceptance) shall not be acceptable to CCC.

(d) CCC will consent to cancellation or reduction of a bank obligation to the extent of any payment it receives from other sources of amounts otherwise payable under such bank obligation.

(e) Collection of purchased accounts receivable will be effected through the issuance by CCC of sight drafts against the bank obligations, but this method of collection shall not be exclusive of any other collection procedures or rights available to CCC.

**§ 1491.13 CCC drafts.**

CCC will draw one draft for each payment due under bank obligations. If the draft is dishonored, the U.S. bank, branch bank, or agency bank shall return the dishonored draft together with its statement of the reason for nonpayment.

**§ 1491.14 Interest charges.**

The account receivable purchased by CCC and the related bank obligation(s) shall bear interest as specified in this section. Rates of interest applicable to financing agreements shall be published in a USDA announcement. The interest rate applicable for an account receivable covered by a bank obligation issued by a U.S. bank or branch bank shall be lower than the interest rate for an account receivable covered by a foreign bank obligation. The interest rate applicable will be the rate in effect on the date CCC receives the sale registration request under § 1491.4. Interest shall accrue on the account receivable from the date of delivery or the weighted average delivery date of the breeding animals delivered under the financing agreement to the date of payment, or to the date of expiration of the financing period, or to the date of expiration of the bank obligation, whichever occurs first, and shall be payable as specified in the financing agreement. Thereafter, interest shall accrue on any unpaid part of both the principal and interest due as of such expiration date.

**§ 1491.15 Advance payment.**

If, before expiration of the financing period, the exporter or the U.S. bank or the agency or branch bank accepts payment from or on behalf of the foreign importer of any part of the account receivable, it shall be remitted promptly to CCC. Such prepayment shall be applied first to interest on the unpaid balance of the account receivable to the date CCC receives such prepayment and then to the principal.

**§ 1491.16 Liability for payment.**

If the exporter has fulfilled all his obligations under the sales contract within the coverage of the bank obligation(s) submitted in accordance with § 1491.8, CCC will look to the obligating bank or banks and the foreign importer, rather than to the exporter for payment of all amounts due at maturity of the account receivable and of the bank obligation(s) but the exporter shall remain liable for any loss arising from breach of any contractual obligation, certification or warranty made by it pursuant to the financing agreement, any amounts not covered by the bank obligation which are owing to CCC, and any remittance or refund required by § 1491.15, and § 1491.18, together with interest thereon at the rate specified in the documents evidencing the account receivable, as well as for any liquidated damages provided for in § 1491.11. The liability of the bank and the importer under their respective obligations shall be several.

**Miscellaneous Provisions**

**§ 1491.17 Assignment.**

The exporter shall not assign any claim or rights or any amounts payable under the financing agreement, in whole or in part, without written approval of

the Vice President, CCC, or the Controller, CCC.

**§ 1491.18 Covenant against contingent fees.**

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the financing agreement on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right, without limitation on any other rights it may have, to cancel the financing agreement without liability to CCC. Should the financing agreement be cancelled, CCC will promptly consent to the reduction or cancellation of related bank obligations except for amounts outstanding under such financing agreement. Such amounts shall, on demand, be refunded to CCC by the exporter.

**§ 1491.19 Officials not to benefit.**

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the financing agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the financing agreement if made with a corporation for its general benefit.

**§ 1491.20 Exporter's records and accounts.**

CCC shall have access to and the right to examine any directly pertinent books, documents, papers and records of the exporter involving transactions related to the financed export credit sale until the expiration of three years after the end of the financing period.

**§ 1491.21 Communications.**

(a) Unless otherwise provided, written requests, notifications, or communications by the applicant pertaining to the financing agreement shall be addressed to the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) Forward documents for financing to: United States Department of Agriculture, Commodity Credit Corporation, P.O. Box 2415, Washington, D.C. 20013.

**Supplement I—Beef Breeding Cattle**

Sec.

A. Additional definitions.
B. Additional information for sale registrations.
C. Additional documents required after delivery.
D. Miscellaneous (identification, quality, certification).
E. Dual purpose breeds (standards applicable).
Exhibit I—Females (general breed and health requirements).
Exhibit II—Bulls (general breed and health requirements).
Appendix I—Performance Testing.
Appendix II—Specification for Official U.S. Standards for Grades.
F. Footnotes to Supplement I.

**A. Additional Definitions**

1. "Port value" of beef breeding cattle to be exported under the financing agreement, shall not exceed, unless otherwise approved by the Assistant Sales Manager, the amounts as specified by OGSM which is published in a USDA announcement and is in effect at the time of the sale registration. Higher port values will be allowed (a) for registered bulls if performance has been superior to the performance records specified in Exhibit II to this supplement and (b) for registered and nonregistered females if performance has been superior to the performance records specified in Exhibit I to this supplement.

2. "Bred female" means either a bred heifer or bred cow as set forth in Exhibit I, Option B, which has been certified to as pregnant at the time of inspection.

3. "Breeder" means the person holding legal title to the female animal at the time she was bred to qualify such animal hereunder as a bred female.

4. "Eligible animal" means an animal which meets all the following requirements:

(a) The animal must be the progeny of a nationally recognized beef cattle breed (Exhibits I and II);

(b) The animal must have been owned by a person who had continuous title to such animal for a period of at least 90 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal.

(c) The animal must, at the time of export, be individually identified by an eartag, a legible ear tattoo, or a firebrand and ranch holding brand acceptable to USDA testing authority as an authentic identification symbol for such animal. The term "identification number" as used herein shall also include ear tattoo and firebrand and ranch holding brand symbol.

(d) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for bulls.

5. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered or otherwise classified as a purebred animal of that breed. Such animal must be marked with a legible tattoo or brand which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association.

6. "Nonregistered animal" means an eligible animal, whether or not purebred, which is predominately of the color characteristics and body conformation of the beef breed stated in the contract between the exporter and the importer. (See Exhibits I and II.)

7. "Dual Purpose Breeds" means milking shorthorns or red polls.

**B. Additional Information for Sale Registrations**

In addition to the information required by § 1488.4(d) (1) through (11), the request for a sale registration for financing export credit sales of beef breeding cattle shall include the following:

1. A general description by breed of the animals to be exported, separately describing the animals under the following classes:

(a) Registered bulls;
(b) Registered bred females;
(c) Registered unbred females;
(d) Nonregistered bred females; and
(e) Nonregistered unbred females.

2. A statement that such animals will conform to the general specification requirements set forth in Exhibit I or II, as applicable to the class of animals to be exported.

**C. Additional Documents Required After Delivery**

In addition to the documents specified in §§ 1488.8 (b) through (e), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. Separate animal identification lists for registered animals and for nonregistered animals, containing the following information:

(a) Identification number;

(b) For each registered animal, shown separately opposite the identification number, the port value and freight cost as specified in the sales invoice;

(c) For nonregistered animals, shown for each lot group by identification number, the average port value and freight cost per animal based on the sales invoice for such nonregistered animals.

2. Performance records for animals for which a higher maximum port value has been approved by the Assistant Sales Manager for Commercial Export Programs as provided in paragraph A.1.

3. A certification by the exporter that the documents specified in paragraph D. of this Supplement have been furnished to the importer.

**D. Miscellaneous**

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. The certificates issued by an agent of the Agricultural Marketing Service (AMS), U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the identification numbers and stating that the service bull was a registered bull of the same beef cattle breed as the female to which bred. (See Exbihit I.)

3. The certificate issued or endorsed by Veterinary Services, Animal and Plant Health Inspection Service, listing the identification number(s) and showing that such animal has been inspected for compliance with "Health" requirements. (See Exhibit I or II.)

4. The certificate issued by the Agricultural Marketing Service listing the identification number(s) for each animal showing for such animal compliance with breed, age, weight, and conformation grade, for the class, as shown in Exbihit I or II, as applicable.

5. Certificates issued by a veterinarian accredited by the Animal and Plant Health Inspection Service, showing that bred females, sold as such, were examined and found to be with calf at time of inspection.

6. A semen certification by a veterinarian accredited by the Animal and Plant Health Inspection Service, for bulls over one year of age, except that for Santa Gertrudis and Brahman cattle the certification shall be for bulls over 18 months of age.

**E. Dual Purpose Breeds**

When dual purpose breeds are eligible for financing under the provisions of both Supplement I and Supplement II GSM-201, the exporter has the option of qualifying such animals under the provisions of either supplement. Such option must be stated in the request for a sale registration filed pursuant to § 1491.4 of this subpart and in accordance with paragraph B of this Supplement I. In the event such dual purpose breeds are approved for export hereunder, the provisions of this Supplement I shall apply.

**Exhibit I to Supplement I**

USDA Approved Beef Breeding Cattle Export Specifications—Females, Option A (to be specified by purchaser):

1. Registered. (*1*)

**Breed**

a. Angus
b. Hereford.
c. Polled Hereford.
d. Charolais.
e. Santa Gertrudis.
f. Shorthorn.
g. Polled Shorthorn.
h. Brahman.
i. Milking Shorthorn. (*2*)
j. Red Poll. (*2*)
k. Brangus.
l. Maine-Anjou.
m. Chianina.
n. Limousin.
o. Red Angus.
p. Murray Grey.
q. Scotch Highland.
r. Simmental.
s. Beefmaster.
t. Devon.
u. Other beef cattle breeds having a registry Association in the U.S.

2. Nonregistered.(*3*) Specify predominant breed from above. Option B (to be specified by purchaser):

**Age** (*4*)

1. Calf—(7 to 12 months).
2. Yearling Open—(12 to 18 months).
3. Heifer Open (18 to 24 months).
4. Bred Heifer—(18 to 36 months).
5. Bred Cow—(24 to 48 months).
6. Mature Cow—(24 to 48 months). (*5*)

General Requirements:

A. Health. (*6*) 1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier, or is an official vaccinate under 30 months of age.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected, and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks and rigworm or freed from the same.

B. Minimum Weight. (*7*)

1. Calf—(7 to 12 months), 400 pounds.
2. Yearling Open—(12 to 18 months), 500 pounds.
3. Heifer Open—(18 to 24 months), 600 pounds.
4. Bred Heifer—(18 to 24 months), 700 pounds; (24 to 36 months), 800 pounds.
5. Bred Cow—(24 to 36 months), 800 pounds; (36 to 48 months), 950 pounds.
6. Mature Cow—(24 to 36 months), 800 pounds; (36 to 48 months), 950 pounds. (*5*)

C. Minimum Conformation: Choice. (*7*)

All nonregistered females must be dehorned or naturally polled unless otherwise specified in the request for a sale registration. Horn stubs in excess of one inch will not be acceptable on dehorned cattle.

D. Performance Records. (*8*) (Optional, unless specified.) (See attached Appendix I to Exhibits I and II.)

1. Minimum adjusted daily gain to weaning 1.6 pounds/day.
2. Minimum adjusted daily gain to weaning of offspring 1.6 pounds/day (if appropriate).

E. Statement of Service or Other Requirement.

1. Bred females must have been bred to a registered bull of the same breed and the calf from a registered bred female must be eligible for registration. (*9*)

2. Bred females must be at least two months but no more than six months pregnant at time of inspection when being shipped by vessel. If shipped by air, bred females must be at least two months pregnant but may be up to eight months pregnant with veterinarian approval. (*10*)

3. Mature cows not qualifying as "bred cows", to be eligible for financing hereunder, must be lactating and have their offspring not in excess of approximately five months of age at side at time of inspection by AMS. Such calves, though not eligible for financing, may be supplied along with the parent cow if facilities for their care and safe transportation to destination point are adequate.

**Exhibit II to Supplement I**

USDA Approved Beef Breeding Cattle Export Specifications—Bulls, Option A (to be specified by purchaser):

**Breed** (*1*)

1. Angus
2. Hereford.
3. Polled Hereford.
4. Charolais.
5. Santa Gertrudis.
6. Shorthorn.
7. Polled Shorthorn.
8. Brahman.
9. Milking Shorthorn. (*2*)
10. Red Poll. (*2*)
11. Brangus.
12. Maine-Anjou.
13. Chianina.
14. Limousin.
15. Red Angus.
16. Murray Grey.
17. Scotch Highland.
18. Simmental.
19. Beefmaster.
20. Devon.
21. Other beef cattle breeds having a registry Association in the U.S. Option B (to be specified by purchaser):

**Age** (*4*)

1. Bull Calf—(7 to 12 months).
2. Yearling Bull—(12 to 18 months).
3. Bull—(18 to 24 months).
4. Mature Bull—(24 to 48 months).

General Requirements:

A. Health. (*6*) 1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected, and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks, and ringworm or freed from the same.

B. Minimum Weight.(*7*)

1. 7 to 12 months, 470 pounds.
2. 12 to 18 months, 790 pounds.
3. 18 to 24 months, 1100 pounds.
4. Over 24 months, 1350 pounds.

C. Minimum Conformation: Prime.(*7*)

D. Performance Records (*8*) (optional, unless specified). (See attached Appendix I to Exhibits I and II.)

1. Minimum adjusted daily gain to weaning, 1.9 pounds per day.

E. A semen check indicating at least 60 percent sperm motility must be supplied for bulls over one year of age, (*11*) except that for Santa Gertrudis and Brahman cattle the certification shall be for bulls over 18 months of age.

**Appendix I to Exhibits I and II—Performance Testing**

Performance testing is known by several names in the United States, but practically all organizations evaluate similar characteristics in beef cattle. The principal factors used in evaluating performance are growth rate and conformation, but not necessarily both. Animals which are tested are weighed at birth and again at weaning. The weaning weight is adjusted to an equivalent of 205 days of age and is also adjusted depending on the age of the dam. This is done to make weights of calves from first-calf heifers comparable to weights of calves from older cows.

The adjusted daily gain from birth to weaning is indicative not only of inherited gaining ability but also of the milking ability of the dam.

**Appendix II to Exhibits I and II—Specifications for Official United States Standards for Grades of Feeder Cattle (Steers, Heifers, and Cows) (*12*)**

**Prime**

Cattle which possess typical minimum qualifications for the Prime grade are very thickly muscled throughout. They are wide through the chest with well sprung ribs and are moderately wide and thick through the crops, back and loin. The rounds tend to be thick and the twist is moderately deep.

**Choice**

Cattle which possess typical minimum qualifications for the Choice grade are thickly muscled throughout. They are moderately wide through the chest with a moderate spring of ribs and are slightly wide and thick through the crops, back and loin. The rounds are slightly thick and the twist is slightly deep.

**F. Footnotes to Supplement I**

(*1*) Animals must be officially registered with the appropriate national breed association and be so certified by AMS agent.

(*2*) Dual purpose breeds (see paragraph E, Supplement I).

(*3*) Nonregistered animals will be certified for breed by the AMS agent.

(*4*) Certification by AMS agent.

(*5*) See paragraph E3 of Exhibit I.

(*6*) Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

(*7*) Certification furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA. Conformation grade to be based on the muscling requirements of the official USDA Feeder Cattle Standards. (See Appendix II attached.)

(*8*) Official State records or National Breed Association records, or Performance Registry International records.

(*9*) Must be certified to by the breeder of the female at time of sale to exporter.

(*10*) Certification of pregnancy shall be issued by an accredited veterinarian.

(*11*) Certification must be issued by an accredited veterinarian.

(*12*) Adapted from Service and Regulatory Announcement AMS 183, issued March 1965. A copy of this publication and charts picturing the grades of feeder cattle may be obtained upon request from the Livestock, Poultry, Grain and Seed Division, AMS, USDA, Washington, D.C. 20250.

**Supplement II—Dairy Breeding Cattle**

Sec.

A. Additional definitions.

B. Additional information for sale registrations.

C. Additional documents required after delivery.

D. Miscellaneous (identification, quality, certification).

E. Dual purpose breeds (standards applicable).

Exhibit I—Females (general breed and health requirements). Appendix to Exhibit I.

Exhibit II—Bulls (general breed and health requirements). Appendix to Exhibit II.

F. Footnotes to Supplement II.

**A. Additional Definitions**

1. "Port value" of dairy breeding cattle to be exported under the financing agreement, shall not exceed, unless otherwise approved by the Assistant Sales Manager, the amount as specified by OGSM which is published in a USDA announcement and is in effect at the time of the sale registration. Higher port values will be allowed (a) for registered bulls if such animal has a superior performance index as set out in paragraph D.2. of Exhibit II to this supplement and (b) for registered and nonregistered females if such animal has a superior performance index as set out in paragraph D.3 of Exhibit I to this supplement.

2. "Bred female" means either a bred heifer or bred cow as set forth in Exhibit I, Option B, which has been certified to as pregnant at the time of inspection.

3. "Breeder" means the person holding legal title to the female animal at the time she was bred to qualify such animal hereunder as a bred female.

4. "Eligible animal" means an animal which meets all the following requirements:

(a) The animal must be the progeny of a nationally recognized dairy cattle breed (Exhibits I and II);

(b) The animal must have been owned by a person who had continuous title to such animal for a period of at least 90 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(c) The animal must, at the time of export, be individually identified by an eartag, a legible ear tattoo, or a firebrand and ranch holding brand symbol acceptable to USDA testing authority as an authentic identification symbol for such animal. The term "identification number(s)" as used herein shall also include ear tattoo and firebrand and ranch holding brand symbol.

(d) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for bulls.

5. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered or otherwise classified as a purebred animal of that breed. Such animal must be marked with a legible tattoo or brand which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association.

6. "Nonregistered animal" means an eligible animal, whether or not purebred, which is predominately of the color characteristics and body conformation of the dairy breed stated in the contract between the exporter and the importer. (See Exhibits I and II.)

7. "Dual purpose breeds" means, for dairy breeding cattle, milking shorthorns, or red polls.

**B. Additional Information for Sale Registrations**

In addition to the information required by Section 4(d) (1) through (11), the request for a sale registration for financing export credit sales of dairy breeding cattle shall include the following:

1. A general description by breed of the animals to be exported, separately describing the animals under the following classes:

(a) Registered bulls;

(b) Registered bred females;

(c) Registered unbred females;

(d) Nonregistered bred females; and

(e) Nonregistered unbred females.

2. A statement that such animals will conform to the general specification requirements set forth in Exhibits I or II, as applicable to the class of animals to be exported.

**C. Additional Documents Required after Delivery**

In addition to the documents specified in Section 8 (b) through (e), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. Separate identification lists for each group of animals described in paragraphs A.1. (a), (b), (c), (d), and (e) of this supplement, containing the following information:

(a) Identification number;

(b) For each registered animal or nonregistered mature cow with a Superior performance index, shown separately opposite the identification number, the port value and freight cost as specified in the sales invoice;

(c) For nonregistered females other than mature cows with a Superior performance index, shown for each lot group by identification list, the average port value and freight cost per animal based on the sales invoice for such nonregistered animals.

2. Production Performance index records as follows:

(a) For registered bulls the applicable Acceptable or Superior performance index records of Sire and Dam as described in paragraph D.1. or D.2. of Exhibit II;

(b) For registered females if applicable, the Superior performance index records of Sire and Dam as described in paragraph D.2. of Exhibit I;

(c) For registered or nonregistered mature cows if applicable, the Superior performance index records of Sire and Dam as described in paragraph D.3. of Exhibit I.

3. A certification by the exporter that the documents specified in paragraph D. of this Supplement have been furnished to the importer.

**D. Miscellaneous**

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter.

1. The certificates issued by an agent of the Agricultural Marketing Service, U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and correspoonding registration certificate number(s) for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the identification number and stating that the service bull was a registered bull of the same dairy cattle breed as the female to which bred. (See Exhibit I.)

3. The certificates issued or endorsed by Veterinary Service, Animal and Plant Health Inspection Service, listing the identification number(s) and showing that such animal has been inspected for compliance with "Health" requirements. (See Exhibit I or II.)

4. The certificates issued by the Agricultural Marketing Service listing the identification number(s) for each animal showing for such animal compliance with breed, age, weight, and conformation specifications, for the class, as shown in Exhibit I or II, as applicable.

5. Certificates issued by a veterinarian accredited by the Animal and Plant Health Inspection Service, showing that bred females, sold as such, were examined and found to be with calf at time of inspection.

6. A semen certification by a veterinarian accredited by the Animal and Plant Health Inspection Service, for bulls over one year of age.

**E. Dual Purpose Breeds**

When dual purpose breeds are eligible for financing under the provisions of both Supplement I and Supplement II to GSM–201, as revised, the exporter has the option of qualifying such animals under the provisions of either supplement. Such option must be stated in the request for a sale registration filed pursuant to § 1491.4 of this subpart and in accordance with paragraph B of this Supplement II. In the event such dual purpose breeds are approved for export hereunder, the provisions of this Supplement II shall apply with the exception that the Assistant Sales Manager is authorized, at the request of the applicant, to establish a minimum weight schedule and DHIR Milk Production Breed Average.

**Exhibit I to Supplement II**

USDA Approved Dairy Cattle Export Specifications—Females, Option A (to be specified by purchaser).

1. Registered. (*1*)

*Breed*

a. Ayrshire.
b. Brown Swiss.
c. Guernsey.
d. Holstein.
e. Jersey.
f. Milking Shorthorn. (*2*)
g. Red Poll. (*2*)

2. Nonregistered. (*3*) Specify predominant breed from above. OPTION B (to be specified by purchaser).

*Age (4)*

1. Calf—(6 to 12 months).
2. Yearling Open—(12 to 18 months).
3. Heifer Open—(18 to 30 months).
4. Bred Heifer—(18 to 30 months).
5. Mature Cow—(24 to 48 months).

General Requirements:

A. Health. (*5*)

1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier, or is an official vaccinate under 24 months of age.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected, and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks and ringworm or freed from the same.

6. Mature cows must be physically examined at time of inspection for the presence of mastitis by manipulating and stripping the udder and found not to have evidence of such infection. The exporter, at his option, may require the person from whom he purchases a mature cow to supply additional evidence of non-mastitis infection as he sees fit.

B. Minimum Weights. (*6*)

1. Registered Animals.

| Age* (in months) | Holstein and Brown Swiss | Guernsey and Ayrshire | Jersey |
|---|---|---|---|
| a. 6 | 360 | 295 | 260 |
| b. 8 | 470 | 385 | 340 |
| c. 10 | 565 | 455 | 410 |
| d. 12 | 640 | 525 | 470 |
| e. 14 | 710 | 585 | 520 |
| f. 16 | 775 | 635 | 555 |
| g. 18 | 835 | 685 | 600 |
| h. 20 | 900 | 745 | 645 |
| i. 22 | 970 | 790 | 695 |
| j. 24 | 1,015 | 845 | 735 |
| k. 26 | 1,045 | 870 | 760 |
| l. 28 | 1,070 | 895 | 780 |
| m. 30 | 1,090 | 910 | 790 |
| n. 36 and over | 1,180 | 990 | 865 |

*Minimum weights for ages between the ages shown shall be determined proportionately.

2. Nonregistered Animals.

| Class | Holstein and Brown Swiss | Guernsey and Ayrshire | Jersey |
|---|---|---|---|
| a. Calf | 360 | 295 | 260 |
| b. Yearling Open | 640 | 525 | 470 |
| c. Heifer Open | 835 | 685 | 600 |
| d. Heifer Bred | 835 | 685 | 600 |
| e. Mature Cow | 1,015 | 845 | 735 |

C. Minimum conformation. (*6*)

All animals must meet the minimum body conformation specifications as described in Appendix to this Exhibit I.

D. Production Performance Index. (*7*)

1. Acceptable. An acceptable performance index for Registered or Nonregistered Females will be considered to exist if such animals meet the minimum conformation of Item C above.

2. Superior. A Superior performance index for a Registered Female will be considered to exist if:

(a) Sire has a Plus (+) USDA Predicted Difference (*8*) equal to two percent of DHI breed average as shown in Item E below, or in the event the Sire does not have a

summary, his Sire has a predicted difference (+500 pounds) (8) and

(b) Dam has a DHI or DHIR record (9) equal to 10 percent above the DHI breed average as shown in Item E below.

3. Superior. A Superior performance index for a Registered or Nonregistered Mature Cow will be considered to exist if such animal has a DHI production record (9) 15 percent above the DHI breed average as shown in Item E below.

E. DHI Milk Production Breed Average (Mature Equivalent).

The following breed averages are applicable to these specifications.

| Breed | Pounds | | | |
|---|---|---|---|---|
| | Breed average | 2 percent of breed average | 10 percent of breed average | 15 percent of breed average |
| Ayrshire | 12,051 | 241 | 1,205 | 1,808 |
| Brown Swiss | 13,500 | 270 | 1,350 | 2,025 |
| Guernsey | 10,932 | 219 | 1,093 | 1,640 |
| Holstein | 16,174 | 323 | 1,617 | 2,426 |
| Jersey | 10,426 | 209 | 1,042 | 1,564 |

*F. Statement of Service*

1. Bred females must have been bred to a registered bull of the same breed. (10)

2. Bred females must be at least two months pregnant but no more than six months pregnant at time of inspection when being shipped by vessel. If shipped by air, bred females must be at least two months pregnant but may be up to eight months pregnant with veterinarian approval. (11)

**Appendix to Exhibit I—Minimum Body Conformation Specification for Females**

In addition to meeting weight for the breed as specified in Exhibit I, the animal shall possess femininity, normal breed conformation, quality and body capacity. She shall have the general appearance of thrift and vitality with eyes bright and ears alert. The feet and legs shall be well formed with the legs straight, strong and well set. The mammary system if sufficiently developed, shall be strongly attached, well balanced and of fine texture. The teats shall be of acceptable size. There shall be no evidence of lameness or other serious body defects. She shall possess normal dairy character by showing a lack of obvious excess fatty condition for the age class. Females officially classified by the respective breed association as "Good Plus" (or equivalent) or higher shall be acceptable if found at time of inspection not to have developed a physicial defect in conflict with the above-stated conditions.

**Exhibit II**

USDA Approved Dairy Cattle Export Specifications—Bulls, Option A (to be specified by purchaser):

*Breed (1)*

a. Ayrshire.
b. Brown Swiss.
c. Guernsey.
d. Holstein.
e. Jersey.
f. Milking Shorthorn. (2)
g. Red Poll. (2)

Option B (to be specified by purchaser):

*Age (4)*

a. Calf—(6 to 12 months).
b. Yearling—(12 to 18 months).
c. Young Bull—(18 to 24 months).
d. Mature Bull—(24 to 48 months).

General Requirements:

A. Health. (5)

1. Tested negative for tuberculosis and brucellosis within 30 days of loading aboard export carrier.

2. Animals come from farms that have not been under quarantine for any communicable disease during the past year.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals have been inspected, and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks and ringworms or freed from the same.

B. Minimum Weight. (6)

| Age* (in months) | Holstein and Brown Swiss | Guernsey and Ayrshire | Jersey |
|---|---|---|---|
| a. 6 | 450 | 370 | 315 |
| b. 8 | 585 | 480 | 410 |
| c. 10 | 710 | 555 | 490 |
| d. 12 | 820 | 655 | 565 |
| e. 14 | 930 | 755 | 645 |
| f. 16 | 1,040 | 840 | 745 |
| g. 18 | 1,155 | 920 | 815 |
| h. 21 | 1,320 | 1,065 | 950 |
| i. 24 | 1,455 | 1,210 | 1,050 |
| j. 27 | 1,570 | 1,310 | 1,140 |
| k. 30 | 1,670 | 1,395 | 1,215 |
| l.36 and over | 1,840 | 1,545 | 1,350 |

*Minimum weights for ages between the ages shown shall be determined proportionately.

C. Minimum Conformation. (8)

All animals must meet the minimum body conformation as described in Appendix to Exhibit II.

D. Production Performance Index. (7)

1. Acceptable. An Acceptable performance index for a Registered Bull will be considered to exist if:

(a) Sire has a Plus (+) USDA Predicted Difference, (8) and

(b) Dam has a DHI or DHIR record (9) 10 percent above the DHIR breed average as shown in Item E below.

2. Superior. A Superior performance index for a Registered Bull will be considered to exist if:

(a) Sire has a Plus (+) USDA Predicted Difference (8) equal to two percent of DHIR breed average as shown in Item E below, and

(b) Dam has a DHI or DHIR record (9) 20 percent above the DHIR breed average as shown in Item E below.

E. DHIR Milk Production Breed Averages (Mature Equivalent).

The following breed averages are applicable to these specifications:

| Breed | Pounds | | | |
|---|---|---|---|---|
| | Breed average | 2 percent of breed average | 10 pct of breed average | 20 percent of breed average |
| Ayrshire | 14,963 | 299 | 1,496 | 2,992 |
| Brown Swiss | 14,836 | 297 | 1,483 | 2,967 |
| Guernsey | 11,902 | 238 | 1,190 | 2,380 |
| Holstein | 16,861 | 337 | 1,686 | 3,372 |
| Jersey | 11,215 | 224 | 1,121 | 2,243 |

F. A semen check indicating at least 60 percent sperm motility must be supplied for bulls over one year of age. (*12*)

**Appendix to Exhibit II—Minimum Body Conformation Specifications for Bulls**

In addition to meeting the minimum weight for the breed as specified in Exhibit II, the animal shall possess masculinity, normal breed conformation, quality and body capacity. He shall have the general appearance of thrift and vitality with eyes bright and ears alert. The feet and legs shall be well formed with the legs straight, strong, and well set. There shall be no evidence of lameness or other serious body defects. He shall possess normal dairy character by showing a lack of obvious excess fatty condition for the age class. Bulls officially classified by the respective breed association as "Good Plus" (or equivalent) or higher shall be acceptable if found at time of inspection not to have developed a physical defect in conflict with the above-stated conditions.

**F. Footnotes to Supplement II**

(*1*) Animals must be officially registered with the appropriate national breed association and be so certified by AMS agent.

(*2*) Dual purpose breeds (see paragraph E, Supplement II).

(*3*) Nonregistered animals will be certified for breed by the AMS agent.

(*4*) Certification by AMS agent.

(*5*) Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

(*6*) Certification or endorsement furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA. Conformation specifications to be based on standards as set out in Appendix to Exhibit I or II attached. Weights may be determined by weighing or by estimates using a girth measurement tape.

(*7*) DHI or DHIR milk production records mature equivalent based on 305-day, two times day milking.

(*8*) Source: USDA-DHI Sire Summary Records—Animal and Plant Health Inspection Service.

(*9*) Source: Breed Association or Dairy Records Processing Center Serving the DHI Association where tested.

(*10*) Must be certified to by the breeder of the female at the time of sale to exporter.

(*11*) Certification of pregnancy shall be issued by an accredited veterinarian.

(*12*) Certification must be issued by an accredited veterinarian.

**Supplement III—Breeding Swine**

Sec.

A. Additional definitions.
B. Additional information for sale registrations.
C. Additional documents required after delivery.
D. Miscellaneous.
Exhibit I—Females.
Exhibit II—Boars.
Appendix I—Health Requirements.
Appendix II—Specifications for Official U.S. Standards for Grades.

F. Footnotes to Supplement III.

**A. Additional Definitions**

1. "Port value" of breeding swine to be exported under the financing agreement, shall not exceed, unless otherwise approved by the Assistant Sales Manager, the amount as specified by OGSM which is published in a USDA announcement and is in effect at the time of the sale registration.

2. "Bred female" means a bred gilt as set forth in Exhibit I, Option B, and must be accompanied by a breeding certificate provided by the breeder.

3. "Breeder" means the person holding legal title to the female animal at the time she was bred to qualify such animal hereunder as a bred female.

4. "Registered animal" means an eligible animal which the appropriate national breed association has offically registered, declared eligible for registry or otherwise classified as a purebred animal of that breed and meets the following requirements:

(a) The animal must have been owned by a person who had continuous title to such animal for a period of at least 60 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(b) The animal must, at the time of export, have at least one eartag acceptable to USDA as an authentic identifying symbol for such animal and must be marked with a legible ear notch which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association;

(c) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for boars.

5. "Non-purebred animal" means a hybrid animal or an animal from a new breed produced in herds where the parents and paternal and maternal grandparents are recorded on an appropriate certificate and certified to by the producer. Each such ancestor must have an identification number and the parent or grandparent of the animal to be exported cannot be an animal registered with a national breed association. In addition, a non-purebred animal must meet the following requirements:

(a) The exporter must have been the producer of the animal or the parents or grandparents of the animal must have been owned by the exporter at the time the animal was born.

(b) The animal, at time of export, must have at least one ear tag acceptable to USDA as an authentic identifying symbol for such animal and must be marked with legible ear notches which correspond with the number shown on the official certificate recorded by the producer for such animal.

(c) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for boars.

**B. Additional Information for Sale Registrations**

In addition to the information required by Section 4(d) (1) through (11), the request for a sale registration for financing export credit sales of breeding swine shall include the following:

1. A list of the animals to be exported including the identification number, breed, and price under the following classes:

(a) Boars.

(b) Bred females.

(c) Unbred females.

2. If applicable, a statement of justification for prices over the maximum limits specified in a USDA announcement.

3. A statement that such animals will conform to the general specification requirements set forth in Exhibit I or II, as applicable to the class of animals to be exported.

**C. Additional Documents Required After Delivery**

In addition to the documents specified in Section 8(b) through (e), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

An animal identification list containing the following information:

1. Identification number.

2. For each animal, shown separately opposite the identification number, the port value and freight cost as specified in the sales invoice.

**D. Miscellaneous**

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. For registered animals, the certificates issued by an agent of the Agricultural Marketing Service (AMS), U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II).

2. For non-purebred animals, the certificate issued by an agent of AMS, USDA will include the producer's official certification of the animal(s) to be exported, a list of the identification number(s) for each animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer (See Exhibit I or II).

3. For registered animals, a certification by the breeder of females sold as "bred females" showing the identification number of both the female and boar and stating that the service boar was a registered boar of the same breed. In addition the breeder will certify that the bred female has missed at least one heat period since last service. It will also be certified by the breeder that the bred females will not be more than three months pregnant at time of departure from point of exit.

4. For non-purebred animals, a certification by the breeder of femals sold as "bred female" showing the identification numbers

of both the female and boar and stating that the service boar was a duly certified boar of a hybrid or new breed group. In addition the breeder will certify that the bred female has missed at least one heat period since last service. It will also be certified by the breeder that the bred females will not be more than three months pregnant at time of departure from point of exit.

5. The certificate issued or endorsed by Veterinary Services, Animal and Plant Health Inspection Service, listing the identification number and showing that such animal has been inspected for compliance with "Health" requirements. (See Appendix I to Exhibits I and II.)

6. For registered animals, the certificates issued by the Agricultural Marketing Service listing the identification number for each animal and showing for such animal compliance with breed registration, number of teats, and USDA grade, for the class, as shown in Exhibit I or II, as applicable.

7. For non-purebred animals, the certificates issued by AMS listing the identification number for each animal and showing for such animal compliance with ancestry specifications, number of teats and USDA grade, for the class, as shown in Exhibit I or II, as applicable.

8. The certificates signed by the breeder listing, for each animal, the individual identification number, breed, and age and a statement that the animal was from a litter of at least seven pigs.

**Exhibit I to Supplement III**

USDA Approved Breeding Swine Export Specifications—Females, Option A (to be specified by purchaser):

1. Registered Females.(*1*)

**Breed**

a. Poland China.
b. Chester White.
c. Yorkshire.
d. Hampshire.
e. Berkshire.
f. Duroc.
g. Tamworth.
h. Landrace.
i. Hereford.
j. Spotted Swine.

2. Non-Purebred Females.(*2*)

Option B (to be specified by purchaser):

Age(*3*)

1. Unbred female—10 weeks–7 months.(*4*)
2. Bred female—7–14 months.

General Requirements:

A. Health. (See Appendix I)

B. Minimum USDA Grade—U.S. No. 2.(*5*)

C. Eligible females must be out of a litter of at least seven pigs.(*3*) Also, they must have at least six functional teats on each side of the underline with no inverted nipples.(*5*)

D. Statement of Service or Other Requirements.

Registered bred females must have been bred to a registered boar of the same breed and non-purebred females must have been bred to a duly certified boar of a hybrid or new breed group. All bred females shall have missed at least one heat period since last service and be not more than three months pregnant at time of departure from point of exits.(*3*)

**Exhibit II to Supplement III**

USDA Approved Breeding Swine Export Specifications—Boars, Option A (to be specified by purchaser):

1. Registered Boars.(*1*)

**Breed**

(a) Poland China.
(b) Chester White.
(c) Yorkshire.
(d) Hampshire.
(e) Berkshire.
(f) Duroc.
(g) Tamworth.
(h) Landrace.
(i) Hereford.
(j) Spotted Swine.

2. Non-Purebred Boars.(*2*)

Option B (to be specified by purchaser):

Age(*3*)

1. Boar pigs—10–16 weeks.(*7*)
2. Boars—4–8 months.
3. Boars—8–12 months.

General Requirements:

A. Health. (See Appendix I).

B. Minimum USDA grade—U.S. No. 1.(*5*)

C. Eligible boars must be from a litter of at least seven pigs.(*3*)

**Appendix I to Exhibits I and II**

*Health Requirements*(*6*)

Swine financed for export under the CCC Export Credit Sales Program shall be certified by the appropriate USDA inspectors as follows:

1. U.S. is free of foot-and-mouth disease, African swine fever, Teschen disease and vesicular exanthema.

2. The swine originate from a free area(*9*) where hog cholera is not known to exist according to Title 9, Part 76, of U.S. Department of Agriculture regulations.

3. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, lice, and ticks or freed from the same.

Export inspection and certification requirements of the U.S. Department of Agriculture must be met.

**Appendix II to Exhibits I and II**

**Specifications for Official United States Standards for Grades of Feeder Pigs:**

*U.S. NO. 1*

Feeder pigs in this grade near the borderline of the U.S. No. 2 grade are long and have thick muscling throughout. Thickness of muscling is particularly evident in thick and full hams and shoulders. The hams and shoulders are thicker than the back, which is well-rounded. They usually present a well-balanced appearance.

*U.S. NO. 2*

Feeder pigs in this grade near the borderline of the U.S. No. 3 grade are moderately long and have moderately thick muscling throughout. Thickness of muscling is particularly evident in moderately thick and full hams and shoulders. The back usually appears slightly full and well-rounded. They usually present a well-balanced appearance.

**F. Footnotes to Supplement III**

(1) All animals for delivery under these specifications must be certified by AMS agent as officially registered with the appropriate national breed association.

(2) All animals for delivery under these specifications must be certified by the producer as produced in herds where the parents and-maternal and paternal grandparents are recorded on an appropriate certificate by the producer.

(3) Certification by breeder.

(4) Female pigs in this class must weigh at least 60 pounds. Certification furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA.

(5) Certification furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA, grade to be based on the official U.S. standards for grades of feeder pigs (See Appendix II).

(6) Certification by Livestock, Poultry, Grain and Seed Division, AMS, USDA.

(7) Boar pigs must weigh at least 60 pounds. Certification furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA.

(8) Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

(9) Free area means a radius of five miles within which no cholera has occurred within 3 months.

Signed at Washington, D.C., on March 29, 1979.

**Fred Welz,**

*Acting Vice President, Commodity Credit Corporation, and Acting General Sales Manager, Office of the General Sales Manager.*

[FR Doc. 79-10403 Filed 4-3-79; 8:45 am]

BILLING CODE 3410-05-M

## TENNESSEE VALLEY AUTHORITY

## [18 CFR Part 308]

## Contract Disputes

*Correction*

In FR Doc. 79–8872, published at page 17715, Friday, March 23, 1979, make the following corrections:

1. On page 17716, in the first column, the telephone number in the sixth line reading "(615) 632–2241" should be corrected to read "(615) 755–2624";

2. On page 17717, in the third column, in § 308.13(b), the last word in the ninth line reading "not" should read "no";

3. On page 17719, in the first column, in § 308.34, the third word in the fifth line reading "may" should read "any"; and

4. On page 17719, in the third column, in § 308.38, the first word of the last line reading "trail" should read "trial".

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

### [20 CFR Parts 404 and 416]

### Federal Old-Age, Survivors, and Disability Insurance Supplemental Security Income for The Aged, Blind, and Disabled

**AGENCY:** Social Security Administration, HEW.

**ACTION:** Proposed rule.

**SUMMARY:** We propose to revise our regulations on determinations, the administrative review process, reopenings, and representation of parties under titles II and XVI of the Social Security Act. These regulations deal with the rules on (1) initial determinations; (2) the administrative review process, including reconsideration, hearing, and Appeals Council review; (3) the reopening and revision of final determinations or decisions; (4) the representation of a person by someone else in dealing with us; and (5) payment procedures for title II.

We have rewritten and reorganized the existing regulations to make them clearer and easier for the public to use. Although no substantive changes have been made in the existing regulations, several provisions have been added to reflect current practice and several provisions have been clarified. We have added a provision concerning the requirement that a person advise us in writing when an attorney has been designated to act as his or her representative. We have also added in the title II payment regulations, a provision to reflect the current law that subjects title II benefit payments to legal process brought to enforce a child support or alimony obligation. Both the title II and title XVI regulations have been clarified to indicate when an Appeals Council action is subject to judicial review. Also, in both the title II and title XVI regulations, we have used the term "administrative law judge" to refer to persons who conduct hearings. The current regulations use the term "presiding officer". Finally, we have made a conforming change in the title II regulation governing the time in which a person may request that a determination or a decision on a revision of an earnings record be reopened.

**DATES:** Your comments will be considered if we receive them no later than June 4, 1979.

**ADDRESSES:** Send your written comments to: Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive can be seen 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:** (1) On Determinations, Administrative Review Process and Reopenings—Philip Berge, Legal Assistant, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7452; or (2) on Payment Procedures and Representation of Parties—Jack Schanberger, same address, telephone (301) 594–6785.

**SUPPLEMENTARY INFORMATION:** These regulations are being revised and reorganized as part of HEW's Operation Common Sense, which is a Department-wide effort to review, simplify, and improve HEW's regulations. The regulations presented here carry out Sections 205, 206, 1102, 1631(c), and 1631(d)(2) of the Social Security Act.

#### Determinations, the Administrative Review Process, and Reopenings

The current regulations on determinations, the administrative review process, and reopenings of title II claims are in Subpart J of Part 404 in Title 20 of the Code of Federal Regulations. Corresponding title XVI regulations are in Subpart N of Part 416 in Title 20. These regulations describe (1) initial determinations, (2) the administrative review process, and (3) the procedures that must be followed and the conditions that must be met to have a reconsideration, hearing, Appeals Council review, or judicial review. They also explain the conditions under which a determination or decision may be reopened and revised.

To clarify when a decision may be reviewed by a Federal district court, the proposed regulations state that if the Appeals Council dismisses a request for administrative review, the action is binding on the parties and not subject to further review. The effect of a dismissal and the circumstances under which a dismissal may occur are explained in proposed §§ 404.953, 404.954, 416.1453 and 416.1454. We are also proposing a change in the title II regulation that states when a determination or a decision on a revision of an earnings record may be reopened. The proposed § 404.966 changes the time period for requesting reopening from 6 months to 60 days. The change is proposed to conform the time period to the other time periods for requesting administrative review.

We have kept these regulations on determinations, the administrative review process, and reopenings in Subpart J of Part 404 and Subpart N of Part 416. However, we have reorganized the rules within those subparts to make them easier to use.

The provisions of Subpart J that govern the procedures for determining and reviewing whether a person meets the requirements for entitlement to hospital insurance benefits and supplementary medical insurance benefits as described in 42 C.F.R. Part 405 have been removed from the proposed regulations. Although the provisions are removed, they are not terminated and will continue to apply to the Health Care Financing Administration until new regulations are published.

#### Representation of Parties

The current regulations on the representation of parties in proceedings under title II of the Social Security Act are in Subpart J of Part 404 in Title 20 of the Code of Federal Regulations. The corresponding regulations for title XVI are in Subpart O of Part 416. These regulations concern the right of a person to appoint a representative to deal with us, the role of a representative, fees payable to a representative, and the conduct of a representative. In addition, the rules in Subpart J of Part 404 state that we may pay the representative's fee out of title II benefits due for past months if the representative is an attorney. Except for this procedure, the two subparts are substantially the same.

We have rewritten the rules on representation that are now in Subpart J and moved them to a new Subpart R of Part 404. This makes these rules easier to locate and gives them the same organization as the Part 416 representation rules which stand alone in Subpart O. The provisions of Subpart J that govern the representation of parties in matters concerning entitlement to hospital insurance benefits and supplementary medical insurance benefits have been removed from the proposed new Subpart R. Although the provisions are removed, they are not terminated and will continue to apply until new regulations

are published by the Health Care Financing Administration.

The only change we have made in the proposed rules is to add the requirement that a person submit to us a written notice that an attorney has been appointed as his or her representative. Under the current regulations, written notice is only required if the representative is not an attorney. The change is made to reflect our current practice and to assure that we have the name and address of any person designated to act as a representative. The purpose of this requirement is to protect confidential personal information from unauthorized disclosure, while facilitating its release to designated representatives. These requirements are stated in proposed §§ 404.1707 and 416.1507.

**Title II Payment Procedures**

Existing regulations on certain title II payment procedures are located in several sections of Subpart J of Part 404 in Title 20 of the Code of Federal Regulations. The rules in these sections explain how we certify title II benefit payments after making a favorable determination or decision, how in certain cases we expedite the payment of benefits, when we may make joint payments to members of a family, when we may delay certifying payments, and what our policy is on the assignment or transfer of benefit payments. We have rewritten these rules and placed them in a new Subpart S. A new provision has been added to reflect a change in the law that subjects title II benefit payments to legal process brought to enforce a child support or alimony obligation.

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

Dated: December 21, 1978.

**Stanford G. Ross,**

*Commissioner of Social Security.*

Approved: March 29, 1979.

**Joseph A. Califano, Jr.,**

*Secretary of Health, Education, and Welfare.*

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Subpart J of Part 404 is revised to read as follows:

**Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions**

**Introduction, Definitions, and Initial Determinations**

Sec.

404.900 Introduction.
404.901 Definitions.
404.902 Administrative actions that are initial determinations.
404.903 Administrative actions that are not initial determinations.
404.904 Notice of the initial determination.
404.905 Effect of an initial determination.

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404.907 Reconsideration—general.
404.908 Parties to a reconsideration.
404.909 How to request reconsideration.
404.914 Notice of another person's request for reconsideration.
404.915 Reconsidered determination.
404.916 Effect of a reconsidered determination.
404.917 Notice of a reconsidered determination.

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404.920 How to request expedited appeals process.
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404.938 Presenting written statements and oral arguments.
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404.944 Hearings held by the Appeals Council.
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**Appeals Council Review**

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404.950 How to request Appeals Council review.
404.951 Appeals Council initiates review.
404.952 Cases the Appeals Council will review.
404.953 Dismissal by Appeals Council.
404.954 Effect of dismissal of request for Appeals Council review.
404.955 Notice of Appeals Council review.
404.956 Obtaining evidence from Appeals Council.
404.957 Filing briefs with the Appeals Council.
404.958 Procedures before Appeals Council on review.
404.959 Case remanded by Appeals Council.
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404.961 Decision of Appeals Council.
404.962 Effect of Appeals Council's decision or refusal to review.

**Reopening and Revising Determinations and Decisions**

404.963 Reopening and revising determinations and decisions.
404.964 Conditions for reopening.
404.965 Good cause for reopening.
404.966 Finality of determinations and decisions on revision of an earnings record.
404.967 Finality of determinations and decisions to suspend benefit payments for entire taxable year because of earnings.
404.968 Notice of revised determination or decision.
404.969 Effect of revised determination or decision.
404.970 Time and place to request a hearing on revised determination or decision.
404.971 Finality of findings when later claim is filed on same earnings record.

**Authority:** Secs. 205, 221, and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 68 Stat. 1081, 49 Stat. 647, 67 Stat. 631, (42 U.S.C. 405, 421, and 1302.).

## Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

**Introduction, Definitions, and Initial Determinations**

### § 404.900 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title II of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review

after you have taken all the necessary administrative steps. The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

(1) *Initial determinction.* This is a determination we make about your entitlement or your continuing entitlement to benefits or about any other matter, as discussed in § 404.902, that gives you a right to further review.

(2) *Reconsideration.* If you are dissatisfied with an initial determination, you may ask us to reconsider it. Generally, you must request a reconsideration before you may request a hearing.

(3) *Hearing.* If you are dissatisfied with the reconsideration determination, you may request a hearing before an administrative law judge.

(4) *Appeals Council review.* If you are dissatisfied with the decision of the administrative law judge, you may request that the Appeals Council review the decision.

(5) *Federal court review.* When you have completed the steps of the administrative review process listed in paragraphs (a)(1) through (a)(4) of this section, we will have made our final decision. If you are dissatisfied with our final decision, you may request judicial review by filing an action in a Federal district court.

(6) *Expedited appeals process.* At some time after your initial determination has been reviewed, if you have no dispute with our findings of fact and our application and interpretation of the controlling laws, but you believe that a part of the law is unconstitutional, you may use the expedited appeals process. This process permits you to go directly to a Federal district court so that the constitutional issue may be resolved.

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, nonadversary manner. In each step of the review process, you may present any information you feel is helpful to your case. We will consider it and all the information in our records. You may present the information yourself or have someone represent you, including an attorney. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review, unless you can show us that there was good cause for your failure to make a timely request for administrative review.

**§ 404.901 Definitions.**

As used in this subpart:

"Date you receive notice" means 5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.

"Decision" refers to the decision made by an administrative law judge or the Appeals Council.

"Determination" refers to the initial determination or to the reconsidered determination.

"Remand" means to return a case for further review.

"Vacate" means to set aside a previous action.

"Waive" means to give up a right knowingly and voluntarily.

"We" refers to the Social Security Administration.

"You" refers to any person claiming a right to old age, disability, dependents' and survivors' insurance benefits.

**§ 404.902 Administrative actions that are initial determinations.**

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, disability, dependents' and survivors' insurance programs, initial determinations include, but are not limited to, determination about—

(a) Your entitlement and your continuing entitlement to benefits;

(b) Your reentitlement to benefits;

(c) The amount of your benefit;

(d) A recomputation of your benefit;

(e) A reduction in your disability benefits because you also receive benefits under a workmen's compensation law;

(f) A deduction from your benefits on account of work;

(g) A deduction from your disability benefits because you refuse to accept rehabilitation services;

(h) Termination of your benefits;

(i) Penalty deductions imposed because you failed to report certain events;

(j) Any overpayment or underpayment of your benefits;

(k) Whether an overpayment of benefits must be repaid to us;

(l) How an underpayment of benefits due a deceased person will be paid;

(m) The establishment or termination of a period of disability;

(n) A revision of your earnings record;

(o) Whether the payment of your benefits will be made, on your behalf, to a representative payee, unless you are under age 18 or legally incompetent; and

(p) Who will act as your payee if we determine that representative payment will be made.

**§ 404.903 Administrative actions that are not initial determinations.**

Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by this subpart, and they are not subject to judicial review. These actions include, but are not limited to, an action—

(a) Suspending benefits pending an investigation and determination of any factual issue relating to a deduction on account of work;

(b) Suspending benefits pending an investigation to determine if your disability has ceased;

(c) Denying a request to be made a representative payee;

(d) Certifying two or more family members for joint payment of benefits;

(e) Withholding less than the full amount of your monthly benefit to recover an overpayment;

(f) Determining the fee that may be charged or received by a person who has represented you in connection with a proceeding before us;

(g) Disqualifying or suspending a person from acting as your representative in a proceeding before us (See § 404.1745);

(h) Compromising, suspending or terminating collection of an overpayment under the Federal Claims Collection Act;

(i) Extending or not extending the time to file a report of earnings;

(j) Denying your request to use the expedited appeals process;

(k) Denying your request to reopen a determination or a decision; and

(l) Withholding temporarily benefits based on a wage earner's estimate of earnings to avoid creating an overpayment.

**§ 404.904 Notice of the initial determination.**

We shall mail a written notice of the initial determination to you at your last known address. The reasons for the initial determination and the effect of the initial determination will be stated in the notice. The notice also informs you of the right to a reconsideration or to a hearing. We will not mail a notice if the beneficiary's entitlement to benefits has ended because of his or her death.

**§ 404.905 Effect of an initial determination.**

An initial determination is binding and is subject to review only if you request a reconsideration or a hearing within the stated time period, or we revise the initial determination.

**Reconsideration**

**§ 404.907 Reconsideration—general.**

Reconsideration is the first step in the administrative review process that we provide if you are dissatisfied with the initial determination. However, if the initial determination is that your blindness or disability has ceased due to medical reasons, and you have a right to a hearing on the same issue in connection with a claim for supplemental security income benefits, you may request a hearing right after the initial determination. If you are dissatisfied with our reconsidered determination, you may request a hearing.

**§ 404.908 Parties to a reconsideration.**

(a) *Who may request a reconsideration.* If you are dissatisfied with our initial determination, you may request that we reconsider the determination. In addition, a person who shows in writing that his or her rights may be adversely affected by our determination may request a reconsideration.

(b) *Who may participate in a reconsideration.* After a request for the reconsideration, you and any person who shows in writing that his or her rights are adversely affected by our determination will be parties to the reconsideration.

**§ 404.909 How to request reconsideration.**

(a) We shall reconsider an initial determination if you or any other party to the reconsideration files a written request—

(1) Within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in paragraph (b) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

(b) *Extension of time to request a reconsideration.* (1) If you want a reconsideration of the initial determination but do not request one in time, you may ask us for more time to request a reconsideration. Your request for an extension of time must be in writing and must give the reasons why the request for reconsideration was not filed within the stated time period. If you show us that you had good cause for missing the deadline, we will give you more time to request a reconsideration.

(2) In determining whether you have shown that you had good cause for missing a deadline to request review we consider—

(i) What circumstances kept you from making the request on time;

(ii) Whether our action misled you;

(iii) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions.

(iii) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions.

(3) Examples of circumstances where good cause may exist include, but are not limited, to the following situations:

(i) You were seriously ill and were prevented from contacting us in person, in writing, or through a friend, relative, or other person.

(ii) There was a death or serious illness in your immediate family.

(iii) Important records were destroyed or damaged by fire or other accidental cause.

(iv) You were trying very hard to find necessary information to support your claim but did not find the information within the stated time periods.

(v) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested reconsideration or a hearing, or within 30 days of receiving the explanation you filed a civil suit.

(vi) We gave you incorrect or imcomplete information about when and how to request administrative review or to file a civil suit.

(vii) You did not receive notice of the determination or decision.

(viii) You sent the request to another Government agency in good faith within the time limit and the request did not reach us until after the time period had expired.

**§ 404.914 Notice of another person's request for reconsideration.**

If any other person files a request for reconsideration of the initial determination in your case, we shall notify you at your last known address before we reconsider the initial determination. We shall also give you an opportunity to present any evidence you think helpful to the reconsidered determination.

**§ 404.915 Reconsidered determination.**

After you or another person requests a reconsideration, we shall review the evidence considered in making the initial determination and any other evidence we receive. We shall make our determination based on this evidence.

**§ 404.916 Effect of a reconsidered determination.**

The reconsidered determination is binding and subject to further review only if—

(a) You or any other party to the reconsideration requests a hearing within the stated time period and a decision is made;

(b) The expedited appeals process is used; or

(c) The reconsidered determination is revised.

**§ 404.917 Notice of a reconsidered determination.**

We shall mail a written notice of our reconsidered determination to you at your last known address. We shall state the reasons for the determination and tell you and any other parties of the right to a hearing. If it is appropriate, we will also tell you and any other parties how to use the expeditied appeals process.

**Expedited Appeals Process**

**§ 404.918 Expedited appeals process—general.**

By using the expedited appeals process you may go directly to a Federal district court without first completing the administrative review process that is generally required before the court will hear your case.

**§ 404.919 When the expedited appeals process may be used.**

You may use the expedited appeals process if all of the following requirements are met:

(a) We have made an initial and a reconsidered determination; an administrative law judge has made a hearing decision; or Appeals Council review has been requested, but a final decision has not been issued.

(b) You are a party to the reconsidered determination or the hearing decision.

(c) You have submitted a written request for the expedited appeals process.

(d) You have claimed, and we agree, that the only factor preventing a favorable determination or decision is a provision in the law that you believe is unconstitutional.

(e) If you are not the only party, all parties to the determination or decision

agree to request the expedited appeals process.

**§ 404.920 How to request the expedited appeals process.**

(a) *Time of filing request.* You may request the expedited appeals process—

(1) Within 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in § 404.921);

(2) At any time after you have filed a timely request for a hearing but before you receive notice of the administrative law judge's decision;

(3) Within 60 days after the date you receive a notice of the administrative law judge's decision or dismissal (or within the extended time period if we extend the time as provide in § 404.921); or

(4) At any time after you have filed a timely request for Appeals Council review, but before you receive notice of the Appeals Council's action.

(b) *Place of filing request.* You may file a written request for the expedited appeals process at one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

**§ 404.921 Extension of time to request expedited appeals process.**

If you want to use the expedited appeals process but do not request it within the stated time period, you may ask for more time to submit your request. Your request for an extension of time must be in writing and must give the reasons why the request for the expedited appeals process was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 404.909(b)(2) and (3).

**§ 404.922 Agreement in expedited appeals process.**

If you meet all the requirements necessary for the use of the expedited appeals process, our authorized representative shall prepare an agreement. The agreement must be signed by you, by every other party to the determination or decision and by our authorized representative. The agreement must provide that—

(a) The facts in your claim are not in dispute;

(b) The sole issue in dispute is your belief that a provision of the Act that applies to your case is unconstitutional;

(c) Except for your belief that a provison of the Act is unconstitutional, you agree with our interpretation of the law;

(d) If the provision of the Act that you believe is unconstitutional were not applied to your case, your claim would be allowed; and

(e) Our determination or the decision is final for the purpose of seeking judicial review.

**§ 404.923 Effect of an expedited appeals process agreement.**

After an expedited appeals process agreement is signed, you will not need to complete the remaining steps of the administrative review process. Instead, you may file an action in a Federal district court within 60 days after the date the agreement is signed by our autorized representative.

**§ 404.924 Expedited appeals process that does not result in agreement.**

If you do not meet all of the requirements necessary to use the expedited appeals process, we shall tell you that your request to use this process is denied and that your request will be considered as a request for a hearing or Appeals Council review, whichever is appropriate.

**Hearings**

**§ 404.925 Hearing-general.**

If you are dissatisfied with the reconsidered determination, you may request a hearing. The Director of the Bureau of Hearings and Appeals shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, he or she may assign your case to another administrative law judge. At the hearing you may appear in person, submit new evidence, examine the evidence used in making the initial and reconsidered determinations, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at the hearing, the administrative law judge will make a decision based on the evidence that is in the file and any new evidence that may have been submitted for consideration.

**§ 404.926 Availability of a hearing.**

(a) You may request a hearing if we have made—

(1) A reconsidered determination;

(2) A revised determination of an initial or reconsidered determination; or

(3) An initial determination that your blindness or disability has ceased due to medical reasons, and you have a right to a hearing on the same issue in connection with a claim for supplemental security income benefits.

(b) We will hold a hearing only if you or another party to the hearing file a written request for a hearing.

**§ 404.927 Parties to a hearing.**

(a) *Who may request a hearing.* You may request a hearing if a hearing is available under § 404.926. In addition, a person who shows in writing that his or her rights may be adversely affected by the decision may request a hearing.

(b) *Who may participate in a hearing.* After a request for a hearing is made, you, the parties to the initial, reconsidered, or revised determination, and any other person who shows in writing that his or her rights may be adversely affected by the hearing, are parties to the hearing. In addition, any other person may be made a party to the hearing if his or her rights may be adversely affected by the decision, and the administrative law judge notifies the person to appear at the hearing or to present evidence supporting his or her interest.

**§ 404.928 How to request a hearing.**

(a) *Written request.* You may request a hearing by filing a written request. You should include in your request—

(1) The name and social security number of the wage earner;

(2) The reasons you disagree with the previous determination;

(3) A statement of additional evidence to be submitted and the date you will submit it; and

(4) The name and address of any designated representative.

*When and where to file.* The request must be filed—

(1) Within 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in paragraph (c) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the Philippines, or an office of the Railroad Retirement Board for persons having 10 or more years of service in the railroad industry.

(c) *Extension of time to request a hearing.* If you have a right to a hearing but do not request one in time, you may ask for more time to make your request. The request for an extension of time must be in writing and it must give the reasons why the request for a hearing was not filed within the stated time period. You may file your request for an extension of time with the administrative law judge. If you show

that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, the standards explained in § 404.909(b) (2) and (3) are used.

**§ 404.929 Submitting evidence before a hearing.**

If possible, the evidence or a summary of evidence you wish to have considered at the hearing should be submitted to the administrative law judge with the request for hearing or within 10 days after filing the request. Each party shall make every effort to be sure that all material evidence is received by the administrative law judge or is available at the time and place set for the hearing.

**§ 404.930 Time and place for a hearing.**

(a) The administrative law judge sets the time and place for the hearing. He or she may change the time and place, if it is necessary. After sending the parties reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies the parties of a hearing decision.

(b) If you object to the time or place of the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objection and the time or place you want the hearing to be held. The administrative law judge may change the time or place for the hearing if you show good cause for the change.

**§ 404.931 Notice of a hearing.**

After the administrative law judge sets the time and place for the hearing, notice of the hearing will be mailed to you at your last known address or given to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 10 days before the hearing. It will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings.

**§ 404.932 Objections to the issues.**

If you object to the issues to be decided upon at the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objections. The administrative law judge shall make a decision on your objections either in writing or at the hearing.

**§ 404.933 Disqualification of the administrative law judge.**

An administrative law judge shall not conduct a hearing if he or she is prejudiced or partial with respect to any party or has any interest in the matter pending for decision. If you object to the administrative law judge who will conduct the hearing, you must notify the administrative law judge at your earliest opportunity. The administrative law judge shall consider your objections and shall decide whether to proceed with the hearing or withdraw. If he or she withdraws, the Director of the Bureau of Hearings and Appeals will appoint another administrative law judge to conduct the hearing. If the administrative law judge does not withdraw, you may, after the hearing, present your objections to the Appeals Council as reasons why the hearing decision should be revised or a new hearing held before another administrative law judge.

**§ 404.934 Prehearing case review.**

(a) *General.* After a hearing is requested but before it is held, we may, for the purposes of a prehearing case review, forward the case to the component of our office (including a State agency) that issued the determination being reviewed. That component will decide whether the determination may be revised. A revised determination may be wholly or partially favorable to you. A prehearing case review will not delay the scheduling of a hearing unless you agree to continue the review and delay the hearing. If the prehearing case review is not completed before the date of the hearing, the case will be sent to the administrative law judge unless a favorable revised determination is in process or you and the other parties to the hearing agree in writing to delay the hearing until the review is completed.

(b) *When a prehearing case review may be conducted.* We may conduct a prehearing case review if—

(1) Additional evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulation; or

(4) There is an error in the file or some other indication that the prior determination may be revised.

(c) *Notice of a prehearing revised determination.* If we revise the determination in a prehearing case review, we shall mail written notice of the revised determination to you and the other parties at your last known addresses. We shall state the basis for the revised determination and advise you of your right to request a hearing on the revised determination within 60 days after the date you receive this notice.

(d) *Revised determination wholly favorable.* If the revised determination is wholly favorable to you, we shall tell you in the notice that the administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to continue must be made in writing within 30 days after the date the notice of the revised determination is mailed.

(e) *Revised determination partially favorable.* If the revised determination is partially favorable to you, we shall tell you in the notice what was not favorable. We shall also tell you that the hearing you requested will be held unless you, the parties to the revised determination and the parties to the request for the hearing tell us that all parties agree to dismiss the hearing request.

**Hearing Procedures**

**§ 404.935 Hearing procedures-general.**

A hearing is open to the parties and to other persons the administrative law judge considers necessary and proper. At the hearing, the administrative law judge questions you and the other witnesses and accepts as evidence any documents that are material to the issues. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she believes that there is material evidence missing at the hearing. The administrative law judge may also reopen the hearing at any time before he or she mails a notice of the decision in order to receive new and material evidence. The administrative law judge may decide when the evidence will be presented and when the issues will be discussed.

**§ 404.936 Issues before the administrative law judge.**

(a) *General.* The issues before the administrative law judge include all the issues brought out in the initial, reconsidered or revised determination that were not decided entirely in your favor. However, if evidence presented before or during the hearing causes the administrative law judge to question a fully favorable determination, he or she will consider it an issue at the hearing.

(b) *New issues.* (1) *General.* The administrative law judge may consider a new issue at the hearing if he or she notifies you and all the parties about the new issue any time after receiving the hearing request and before mailing notice of the hearing decision. The

administrative law judge or any party may raise a new issue; an issue may be raised even though it arose after the request for a hearing and even though it has not been considered in an initial or reconsidered determination. However, it may not be raised if it involves a claim that is within the jurisdiction of a State agency under a Federal-State agreement concerning the determination of disability.

(2) *Notice of a new issue.* The administrative law judge shall notify you and any other party if he or she will consider any new issue. Notice of the time and place of the hearing on any new issues will be given in the manner described in § 404.931, unless you have indicated in writing that you do not wish to receive the notice.

**§ 404.937 Deciding a case without an oral hearing.**

(a) *Decision wholly favorable.* If the evidence the administrative law judge has collected supports a finding in favor of you and all the parties on every issue, he or she may issue a hearing decision without holding an oral hearing. However, the notice of the decision will inform you that you have the right to an oral hearing and that you have a right to examine the evidence on which the decision is based.

(b) *No oral evidence.* (1) The administrative law judge may decide a case on the record and not conduct an oral hearing if—

(i) You and all the parties indicate in writing that you do not wish to appear before the administrative law judge at an oral hearing; or

(ii) You live outside the United States and you do not inform us that you want to appear and there are no other parties who wish to appear.

(2) When an oral hearing is not held, the administrative law judge shall make a record of the material evidence. The record will include the applications, written statements, certificates, reports, affidavits, and other documents that were used in making the determination under review and any additional evidence you or any other party to the hearing present in writing. The decision of the administrative law judge must be based on this record.

(c) *Case remanded for a revised determination.* (1) The administrative law judge may remand a case to the appropriate component of our office for a revised determination if there is reason to believe that the revised determination would be fully favorable to you. This could happen if the administrative law judge receives new and material evidence or if there is a change in the law that permits the favorable determination.

(2) Unless you request the remand, the administrative law judge shall notify you that your case has been remanded and tell you that if you object, you must notify him or her of your objections within 10 days of the date the case is remanded or we will assume that you agree to the remand. If you object to the remand, the administrative law judge will consider the objection and rule on it in writing.

**§ 404.938 Presenting written statements and oral arguments.**

You or a person you designate to act as your representative may appear before the administrative law judge to state your case, to present a written summary of your case, or to enter written statements about the facts and law material to your case in the record. If there are other parties to the hearing, they must receive a copy of your written statements.

**§ 404.939 Presenting evidence at a hearing.**

(a) *The right to appear and present evidence.* Any party to a hearing has the right to appear before the administrative law judge, either personally or by means of a designated representative, to present evidence and to state his or her position.

(b) *Waiver of the right to appear.* You may send the administrative law judge a waiver or a written statement indicating that you do not wish to appear at the hearing. You may withdraw this waiver any time before a notice of the hearing decision is mailed to you. Even if all of the parties waive their right to appear at a hearing, the administrative law judge may notify them of a time and a place for an oral hearing, if he or she believes that a personal appearance and testimony by you or any other party is necessary to decide the case.

(c) *What evidence is admissible at a hearing.* The administrative law judge may receive evidence at the hearing even though the evidence would not be admissible in court under the rules of evidence used by the court.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge or a member of the Appeals Council may, on his or her own initiative or at the request of a party, issue subpoenas for the appearance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to an issue at the hearing.

(2) Parties to a hearing who wish to subpoena documents or witnesses must send a written request for the issuance of a subpoena to the administrative law judge or to one of our offices at least 5 days before the hearing date. The written request must give the names of the witnesses or documents to be produced; describe the address or location of the witnesses or documents with sufficient detail to find them; state the important facts that the witness or document is expected to prove; and indicate whether these facts could be proven without issuing a subpoena.

(3) We will pay the cost of issuing the subpoena.

(4) We will pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(e) *Witnesses at a hearing.* Witnesses at a hearing testify under oath or affirmation, unless the administrative law judge finds an important reason to excuse them from taking an oath or affirmation. The administrative law judge may ask the witnesses any questions material to the issues and shall allow the parties or their designated representatives to do so.

(f) *Collateral estoppel—issues previously decided.* An issue at your hearing may be a fact that has already been decided in one of our previous determinations or decisions in a claim involving the same parties, but arising under a different title of the Act or under the Federal Coal Mine Health and Safety Act. If this happens, the administrative law judge will not consider the issue again, but will accept the factual finding made in the previous determination or decision unless there are reasons to believe that it was wrong.

**§ 404.940 When a record of a hearing is made.**

The administrative law judge shall make a complete record of the hearing proceedings. The record will be prepared as a typed copy of the proceedings if—

(a) The case is certified to the Appeals Council without a decision by the administrative law judge;

(b) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(c) An administrative law judge or the Appeals Council asks for a written record of the proceedings.

**§ 404.941 Consolidated hearings.**

(a) *General.* (1) A consolidated hearing may be held if—

(i) You have requested a hearing to decide your benefit rights under title II of the Act and you have also requested a hearing to decide your rights under another law we administer; and

(ii) One or more of the issues to be considered at the hearing you requested are the same issues that are involved in another claim you have pending before us.

(2) If the administrative law judge decides to hold the hearing on both claims, he or she decides both claims, even if we have not yet made an initial or reconsidered determination on the other claim.

(b) *Record, evidence, and decision.* There will be a single record at a consolidated hearing. This means that the evidence introduced in one case becomes evidence in the other(s). The administrative law judge may make either a single or consolidated decision.

**§ 404.942 The administrative law judge's decision.**

(a) *General.* The administrative law judge shall issue a written decision that gives the findings of fact and the reasons for the decision. The administrative law judge shall mail a copy of the decision to all the parties at their last known addresses. The Appeals Council may also receive a copy of the decision.

(b) Recommended decisions when a court has remanded a case to the Appeals Council. If a Federal district court remands a case to the Appeals Council for another hearing, the Appeals Council may send the case to an administrative law judge to hold the hearing and recommend a decision to the Appeals Council. The administrative law judge shall mail a copy of the recommended decision to all of the parties and certify the recommended decision to the Appeals Council.

**§ 404.943 The effect of the administrative law judge's decision.**

The decision of the administrative law judge is binding on all parties to the hearing and subject to review only if—

(a) You or another party request a review of the decision by the Appeals Council within the stated time period, and the Appeals Council reviews your case;

(b) You or another party requests a review of the decision by the Appeals Council within the stated time period, the Appeals Council denies your request for review, and you seek judicial review of your case by filing an action in a Federal district court;

(c) The decision is revised by an administrative law judge or the Appeals Council under the procedures explained in § 404.963;

(d) The expedited appeals process is used; or

(e) The decision is a recommended decision directed to the Appeals Council.

**§ 404.944 Hearings held by the Appeals Council.**

The Appeals Council may assume responsibility for holding a hearing if you have requested a hearing and the request is pending before an administrative law judge. If the Appeals Council holds a hearing, it shall conduct the hearing according to the rules for hearings before an administrative law judge. Notice shall be mailed to you and all the parties at your last known addresses telling you that the Appeals Council has assumed responsibility for your case.

**§ 404.945 Dismissal of a request for a hearing.**

An administrative law judge may dismiss a request for a hearing and not conduct a hearing under any of the following conditions:

(a) At any time before notice of the hearing decision is mailed, you or the party or parties that requested the hearing ask to withdraw the request. This request may be submitted in writing to the administrative law judge or made orally at the hearing.

(b) Neither you nor the person you designate to act as your representative appears at the time and place set for the hearing and—

(1) The reasons for this failure to appear have not been presented to the administrative law judge; or

(2) Within 10 days after the administrative law judge mails you a notice asking why you did not appear, you do not give a good reason for the failure to appear.

(c) The administrative law judge decides that there is cause to dismiss a hearing request entirely or to refuse to consider any one or more of the issues because—

(1) The doctrine of *res judicata* applies in that we have made a previous determination or decision under this subpart about your rights on the same facts and on the same issue or issues, and this previous determination or decision has become final;

(2) The person requesting a hearing has no right to it under § 404.926;

(3) You did not request a hearing within the stated time period and we have not extended the time for requesting a hearing under § 404.928(c); or

(4) You die, there are no other parties, and we have no information to show that another person may be adversely affected by the determinaion that was to be reviewed at the hearing. However, dismissal of the hearing request will be vacated if, within 60 days after the date of the dismissal, another person submits a written request for a hearing on the claim and shows that he or she may be adversely affected by the determination that was to be reviewed at the hearing.

**§ 404.946 Notice of dismissal of a hearing request.**

We shall send a written notice of the dismissal of the hearing request to you and any other party or parties at your last known addresses. The notice will state that there is a right to request that the Appeals Council vacate the dismissal action.

**§ 404.947 Effect of dismissal of a hearing request.**

A dismissal of a request for a hearing is binding, unless it is vacated by an administrative law judge or the Appeals Council. An administrative law judge or the Appeals Council may vacate any dismissal of a hearing request if, within 60 days after the date you receive the dismissal notice, you request that the dismissal be vacated and show good cause why the hearing request should not have been dismissed. The Appeals Council itself may decide within 60 days after the notice of dismissal is mailed to vacate the dismissal. The Appeals Council shall advise you in writing of any action it takes.

**§ 404.948 Prehearing and posthearing conference.**

The administrative law judge may decide on his or her own, or at the request of any party to the hearing, to hold a prehearing or posthearing conference to facilitate the hearing or the hearing decision. The administrative law judge shall tell the parties of the time, place and purpose of the conference at least seven days before the conference date, unless the parties have indicated in writing that they do not wish to receive a written notice of the conference. At the conference, the administrative law judge may consider matters in addition to those stated in the notice, if the parties consent in writing. A record of the conference will be made. The administrative law judge shall issue an order stating all agreements and actions resulting from the conference. If the parties do not object, the agreements and actions become part of the hearing record and are binding on all parties.

Appeals Council Review

**§ 404.949 Appeals Council—general.**

If you or any other party is dissatisfied with the hearing decision or dismissal, you may request that the Appeals Council review the decision or vacate the dismissal. The Appeals Council may deny or dismiss your request for review of the hearing decision, remand your case to an administrative law judge, or review your case and issue a decision. The Appeals Council may vacate the dismissal of your request for a hearing. The Appeals Council shall notify you and all the parties at your last known addresses of the action it takes.

**§ 404.950 How to request Appeals Council review.**

(a) *Time and place to request Appeals Council review.* You may request Appels Council review by filing a written request. Any documents or other evidence you wish to have considered by the Appeals Council should be submitted with your request for review. You may file your request—

(1) Within 60 days after the date you receive notice of the hearing decision (or within the extended time period if we extend the time as provided in paragraph (b) of this section);

(2) At one of our offices, the Veterans Administration Regional Office in the Phillippines, or an office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry.

(b) *Extension of time to request review.* You or any party to a hearing decision may ask that the time for filing a request for the review be extended. The request for an extension of time must be in writing. It must be filed with the Appeals Council, and it must give the reasons why the request for review was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, the standards explained in § 404.909(b)(2) and (3) are used.

**§ 404.951 Appeals Council initiates review.**

Anytime within 60 days after the date of a hearing decision, the Appeals Council itself may decide to review the action that was taken. If the Appeals Council does review the hearing decision, written notice of the action will be sent to you and all parties at your last known addresses.

**§ 404.952 Cases the Appeals Council will review.**

(a) The Appeals Council will review a case if—

(1) There appears to be an abuse of discretion by the administrative law judge;

(2) There is an error of law;

(3) The action, findings or conclusions of the administrative law judge are not supported by substantial evidence; or

(4) There is a broad policy or procedural issue that may affect the general public interest.

(b) If new and material evidence is submitted with the request for review, the Appeals Council shall evaluate the entire record. It will then review the case if it finds that the administrative law judge's action, findings, or conclusion is contrary to the weight of the evidence currently in the record.

**§ 404.953 Dismissal by Appeals Council.**

In deciding whether to review a case, the Appeals Council will consider the hearing decision or dismissal and any new and material evidence you submit with your request for Appeals Council review. The Appeals Council may dismiss your request for review if you did not file your request within the stated period of time and the time for filing has not been extended. The Appeals Council may also dismiss any proceedings before it if—

(a) You and any other party to the proceedings files a written request for dismissal; or

(b) You or any other party to the proceedings dies and dismissal will not adversely affect any other person who wishes to continue the action.

**§ 404.954 Effect of dismissal of request for Appeals Council review.**

The effect of dismissal of a request for Appeals Council review is binding and not subject to further review.

**§ 404.955 Notice of Appeals Council review.**

When the Appeals Council decides to review a case, it shall mail a notice to the parties stating the reasons for the review and the issues to be considered.

**§ 404.956 Obtaining evidence from Appeals Council.**

You may request and receive copies or a statement of the documents or other written evidence upon which the hearing decision or dismissal was based and a copy or summary of the transcript of oral evidence. However, you will be asked to pay for these copies unless you show good cause why you should not pay.

**§ 404.957 Filing briefs with the Appeals Council.**

Upon request, the Appeals Council shall give you and all other parties a reasonable opportunity to file briefs or other written statements about the facts and law relevant to the case. A copy of each brief or statement should be filed for each party.

**§ 404.958 Procedures before Appeals Council on review.**

(a) *Limitation of issues.* The Appeals Council may limit the issues it considers if it notifies you and the other parties of the issues it will review.

(b) *Evidence.* The Appeals Council will consider the evidence in the hearing record and any additional evidence it believes is material to an issue being considered. If the Appeals Council decides that more evidence is needed, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Appeals Council decides that it can obtain the information more quickly, it may do so unless it will adversely affect your rights.

(c) *Oral argument.* You may request to appear before the Appeals Council to present oral argument. The Appeals Council will grant your request if it decides that your case raises an important question of law or policy or that oral argument would facilitate a proper decision. If your request to appear is granted, the Appeals Council will tell you the time and place of the oral argument at least 10 days before the scheduled date.

**§ 404.959 Case remanded by Appeals Council.**

(a) *When the Appeals Council may remand a case.* The Appeals Council may remand a case to an administrative law judge so that he or she may hold a hearing and issue a decision. The Appeals Council will remand a case in which additional evidence is needed, unless it can obtain the information more quickly without adversely affecting your rights.

(b) *Action by administrative law judge on remand.* The administrative law judge shall take any action that is ordered by the Appeals Council and may take additional action that is not inconsistent with the Appeals Council's remand order. When gathering evidence and holding a hearing in response to a remand order, the administrative law judge will follow the rules controlling these activities.

**§ 404.960 Case remanded by Federal court.**

(a) *General.* When a Federal court remands a case to the Appeals Council for further consideration, the Appeals Council may review it and make a decision, or it may remand the case to an administrative law judge with instructions to take action and return the case to the Appeals Council with a recommended decision. The administrative law judge will gather evidence or hold a hearing as directed by the Appeals Council's remand order and will follow the rules controlling these activities. The administrative law judge, after taking the ordered action, will certify the case to the Appeals Council with a recommended decision.

(b) *Notice.* When the administrative law judge certifies a case to the Appeals Council, a notice is sent to all the parties at their last known addresses. The notice tells them that the case has been returned to the Appeals Council, explains the rules for submitting evidence to the Appeals Council, and includes a copy of the recommended decision.

(c) *Filing briefs with and obtaining evidence from the Appeals Council.* (1) You may submit briefs or other written statements about the facts and law relevant to your case to the Appeals Council within 10 days of the date that the recommended decision is mailed to you. However, within that 10-day period, you may ask for additional time to submit evidence to the Appeals Council. Upon request, the Appeals Council will allow 10 additional days. If you show good cause, the Appeals Council may extend this 10 day period, as appropriate.

(2) All other rules for filing briefs with and obtaining evidence from the Appeals Council follow the procedures explained in this subpart.

(d) *Procedures before the Appeals Council after certification.* (1) When an administrative law judge certifies a case to the Appeals Council, the Appeals Council will conduct its proceedings after certification according to the procedures explained in this subpart.

(2) If the Appeals Council thinks that more evidence is required, it may again remand the case to the administrative law judge for further inquiry into the issues, rehearing, receipt of evidence, and another initial hearing decision or a recommended decision. However, if the Appeals Council decides that it can get the additional evidence more quickly, it will take appropriate action.

**§ 404.961 Decision of Appeals Council.**

After it has reviewed all the evidence in the hearing record and any additional evidence received, the Appeals Council will make a decision or return the case to an administrative law judge. The decision may affirm, modify or reverse the hearing decision or recommended decision. A copy of the Appeals Council's decision will be mailed to you and any other parties at your last known addresses.

**§ 404.962 Effect of Appeals Council's decision or refusal to review.**

The Appeals Council may deny a party's request for review or it may decide to review a case and make a decision. The Appeals Council's decision, or the decision of the administrative law judge if the request for a review is denied, is binding and subject to further review only if you or another party file an action in Federal district court, or the decision is revised.

**Reopening and Revising Determinations and Decisions**

**§ 404.963 Reopening and revising determinations and decisions.**

(a) *General.* Generally, if you are dissatisfied with a determination or decision made in the administrative review process, but do not request further review within the stated time period, you lose your right to further review. However, a determination or a decision made in your case may be reopened and revised. After we reopen your case, we may revise the earlier determination or decision. If we revise the earlier determination or decision, you may request a hearing on the revised decision.

(b) *Procedure for reopening and revision.* You may ask that a determination or a decision to which you were a party be revised. The conditions under which we will reopen a previous determination or decision are explained in § 404.964. Also, a component of our office, an administrative law judge, or the Appeals Council may, under the conditions explained in § 404.964, revise a previous determination or decision. If this action is taken, you will be notified of it in writing. You will also receive written notice of any revision. If you are dissatisfied with a revised decision, you may request a hearing.

**§ 404.964 Conditions for reopening.**

A determination, revised determination, decision, or revised decision may be reopened—

(a) Within 12 months of the date of the notice of the initial determination, for any reason;

(b) Within four years of the date of the notice of the initial determination if we find good cause, as defined in § 404.965, to reopen the case; or

(c) At any time if—

(1) The determination or decision was obtained by fraud or similar fault;

(2) Another person files a claim on the same earnings record and allowance of the claim adversely affects your claim;

(3) A person previously determined to be dead, and on whose earnings record your entitlement is based, is later found to be alive;

(4) Your claim was denied because you did not prove that the insured person died, and the death is later established by reason of an unexplained absence from his or her residence for a period of 7 years;

(5) The Railroad Retirement Board has awarded duplicate benefits on the same earnings record;

(6) The determination or decision or revised decision either—

(i) Denies the person on whose earnings record your claim is based gratuitous wage credits for military or naval service because another Federal agency (other than the Veterans Administration) has erroneously certified that it has awarded benefits based on the service; or

(ii) Credits the earnings record of the person on which your claim is based with gratuitous wage credits and another Federal agency (other than the Veterans Administration) certifies that it has awarded a benefit based on the period of service for which the wage credits were granted;

(7) The determination or decision was that the claimant did not have insured status, but earnings for the appropriate period of time were later credited to his or her earnings record;

(8) The determination or decision is wholly or partially unfavorable to a party, but only to correct clerical error or an error that appears on the face of the evidence that was considered when the determination or decision was made; or

(9) The determination or decision is that you are entitled to monthly benefits or to a lump sum death payment based on the earnings of a deceased person, and it is later established that you were finally convicted by a court of competent jurisdiction of the felonious and intentional homicide of the deceased person.

**§ 404.965 Good cause for reopening.**

(a) We will find that there is good cause to reopen a determination or decision if—

(1) New and material evidence is furnished;

(2) A clerical error in the computation or recomputation of benefits is made; is made or

(3) The evidence that was considered in making the determination or decision clearly shows on its face that an error was made.

(b) We will not find good cause to reopen your case if the only reason for reopening is a change of legal interpretation or adminstrative ruling upon which the determination or decision was made.

**§ 404.966 Finality of determinations and decisions on revision of an earnings record.**

A determination or a decision on a revision of an earnings record may be reopened only within the time period and under the conditions provided in section 205(c)(4) or (5) of the Act, or within 60 days after the date you receive notice of the determination or decision, whichever is later.

**§ 404.967 Finally of determinations and decisions to suspend benefit payments for entire taxable year because of earnings.**

A determination or decision to suspend benefit payments for an entire taxable year because of earnings may be reopened only within the time period and under the conditions provided in section 203(h)(1)(B) of the Act.

**§ 404.968 Notice of revised determination or decision.**

(a) When a determination or decision is revised, notice of the revision will be mailed to you and to you and to any other parties to the determination or decision at your last known addresses. The notice will state the basis for the revised determination or decision and the effect of the revision. The notice will also inform you of the right to a hearing.

(b) If an adminstrative law judge or the Appeals Council proposes to revise a decision, and the revision would be based on evidence not included in the record on which the prior decision was based, you and any other parties to the decision will be notified of the proposed action and of your right to request that a hearing be held before any further action is taken. If a revised decision is issued by an administrative law judge, you and any other party may request that it be reviewed by the Appeals Council, or the Appeals Council may review the decision on its own initiative.

**§ 404.969 Effect of revised determination or decision.**

A revised determination or decision is binding and subject to further review only if—

(a) You or a party to the revised determination or decision file a written request for a hearing;

(b) The Appeals Council reviews the revised decision; or

(c) The revised determination of decision is further revised.

**§ 404.970 Time and place to request a hearing on revised determination or decision.**

You or another party to the revised determination or decision may request a hearing on the revision by filing a request in writing at one of our offices within 60 days after the date you receive notice of the revision. A hearing then may be held on the revision according to the rules of this subpart.

**§ 404.971 Finality of findings when later claim is filed on same earnings record.**

If two people claim benefits on the same earnings records, findings of fact made in a determination on the first claim may be revised in determining or deciding the second claim, even though the time limit for revising the findings made in the first claim has passed. However, a finding in connection with a claim that a person was fully or currently insured at the time of filing an application, at the time of death, or any other pertinent time, may be revised only under the conditions stated in § 404.964.

2. A new Subpart R is added to Part 404 to read as follows:

**Subpart R—Representation of Parties**

Sec.

404.1700 Introduction.
404.1703 Definitions.
404.1705 Who may be your representative.
404.1707 Appointing a representative.
404.1710 Authority of a representative.
404.1715 Notice or request to a representative.
404.1720 Fee for a representative's services.
404.1725 Request for approval of a fee.
404.1728 Proceedings before a State or Federal Court.
404.1730 Payment of fees.
404.1735 Services in a proceeding under title II of the Social Security Act.
404.1740 Rules governing representatives.
404.1745 What happens to a representative who breaks the rules.
404.1750 Notice of charges against a representative.
404.1755 Withdrawing charges against a representative.
404.1760 Referring charges to our Bureau of Hearings and Appeals.
404.1765 Hearing on charges.
404.1770 Decision by hearing officer.
404.1775 Requesting review of the hearing officer's decision.
404.1780 Appeals Council's review of hearing officer's decision.
404.1785 Evidence permitted on review.
404.1790 Appeals Council's decision.
404.1795 When the Appeals Council will dismiss a request for review.
404.1797 Reinstatement after suspension—period of suspension expired.
404.1799 Reinstatement after suspension or disqualification—period of suspension not expired.

**Authority:** Secs. 205, 206, and 1102 of the Social Security Act, 53 Stat. 1368, 53 Stat. 1372, 49 Stat. 647; (42 U.S.C. 405, 406, and 1302).

**Subpart R—Representation of Parties**

**§ 404.1700 Introduction.**

When you are a party to an initial or reconsidered determination, a hearing decision, or a review of a hearing decision under Subpart J of this Part, you may appoint someone to represent you in your dealings with us. This subpart explains, among other things—

(a) Who may be your representative and what his or her qualifications must be;

(b) How you appoint a representative;

(c) The payment of fees to a representative;

(d) Our rules that representatives must follow; and

(e) What happens to a representative who breaks the rules.

**§ 404.1703 Definitions.**

As was used in this subpart—

"Past-due benefits" means the total amount of benefits payable under title II of the Act to all beneficiaries that has accumulated because of a favorable determination, up to but not including the month the determination is made.

"Representative" means an attorney who meets all of the requirements of § 404.1705(a), or a person other than an attorney who meets all of the requirements of § 404.1705(b), and who may represent you in dealings with us.

"We, our, or us" refers to the Social Security Administration.

"You or your" refers to any person claiming a right to old-age, disability, dependents', or survivors' benefits under title II of the Social Security Act.

**§ 404.1705 Who may be your representative.**

(a) *Attorney.* You may appoint as your representative in dealings with us, any attorney in good standing who—

(1) has the right to practice law before a court of a State, Territory, District, or island possession of the United States, or before the Supreme Court or a lower Federal court of the United States;

(2) Has not been disqualified or suspended from acting as a representative in dealing with us; and

(3) Is not prohibited by any law from acting as a representative.

(b) *Person other than attorney.* You may appoint any person who is not an attorney to be your representative in dealings with us if he or she—

(1) Is generally known to have a good character and reputation;

(2) Is capable of giving valuable help to you in connection with your claim;

(3) Is not disqualified or suspended from acting as a representative in dealings with us; and

(4) Is not prohibited by any law from acting as a representative.

**§ 404.1707 Appointing a representative.**

We will recognize a person as your representative if the following things are done:

(a) You give a written, signed notice to the person stating that you want the person to be your representative in dealings with us.

(b) That person signs the notice, agreeing to be your representative, if the person is not an attorney. (An attorney does not have to sign a notice of appointment.)

(c) You file the notice at one of our offices if you have initially filed a claim or have requested reconsideration; with an administrative law judge if you requested a hearing; or with the Appeals Council if you have requested a review of the administrative law judge's decision.

**§ 404.1710 Authority of a representative.**

(a) *What a representative may do.* Your representative may, on behalf of you—

(1) Obtain information about your claim to the same extent that you are able to do;

(2) Submit evidence;

(3) Make statements about facts and law; and

(4) Make any request or give any notice about the proceedings before us.

(b) *What a representative may not do.* A representative may not file an application on behalf of a claimant for rights or benefits under title II of the Act unless authorized to do so under § 404.603.

**§ 404.1715 Notice or request to a representative.**

(a) On behalf of you, we may send to your representative—

(1) A notice of any administrative action, determination, or decision; or

(2) A request for information or evidence.

(b) If we send the notice or request to your representative, it will have the same force and effect as if it had been sent to you.

**§ 404.1720 Fee for a representative's service.**

(a) *General.* A representative may charge and receive a fee for his or her services as a representative only as provided in paragraph (b) of this section.

(b) *Charging and receiving a fee.* (1) The representative must file a written request with us in order to charge or receive a fee for his or her services.

(2) We decide the amount of the fee, if any, a representative may charge or receive.

(3) A representative shall not charge or receive any fee unless we have approved it, and he or she shall not charge or receive any fee that is more than the amount we approve. This rule applies whether the fee is charged to or received from you or from someone else.

(4) If the representative is an attorney, we may pay him or her the amount of the fee, subject to the limitations described in § 404.1730(b)(1), from past-due benefits. If the representative is not an attorney, we assume no responsibility for the payment of any fee that we have authorized.

(c) *Notice of fee determination.* We shall mail both to you and your representative at your last known addresses a written notice of what we decide about the fee. We shall state in the notice—

(1) The amount of the fee that is authorized;

(2) Why we made that decision;

(3) That we are not responsible for paying the fee, except when we may pay an attorney from past-due benefits; and

(4) That within 30 days of the date of the notice, either you or your representative may request us to review the fee determination.

(d) *Review of fee determination.*—(1) *Request filed on time.* We will review the decision we made about a fee if either you or your or your representative files a written request for the review at one of our offices within 30 days after the date of the notice of the fee determination. Either you or your representative, whoever requests the review, shall send a copy of the request to the other person. An authorized official of the Social Security Administration who did not take part in the fee determination being questioned will review the determination. This determination is not subject to futher review. The official shall send a written notice of the decision made on review both to you and to your representative at your last known addresses.

(2) *Request not filed on time.* (i) If you or your representative requests a review of the decision we made about a fee, but do so more than 30 days after the date of the notice of the fee determination, whoever makes the request shall state in writing why it was not filed within the 30-day period. We will review the determination if we decide that there was good cause for not filing the request on time.

(ii) Some examples of good cause follow:

(A) Either you or your representative was seriously ill and the illness prevented you or your representative from contacting us in person or in writing.

(B) There was a death or serious illness in your family or in the family of your representative.

(C) Material records were destroyed by fire or other accidental cause.

(D) We gave you or your representative incorrect or incomplete information about the right to request review.

(E) You or your representative did not timely receive notice of the fee determination.

(F) You or your representative sent the request to another government agency in good faith within the 30-day period, and the request did not reach us until after the period had ended.

(3) *Payment of fees.* We assume no responsibility for the payment of a fee based on a revised determination if the request for administrative review was not filed on time.

**§ 404.1725 Request for approval of a fee.**

(a) *Filing a request.* In order for your representative to obtain approval of a fee for services he or she performed in dealings with us, he or she shall file a written request with one of our offices. This should be done after the proceedings in which he or she was a representative are completed. The request must contain—

(1) The dates the representative's services began and ended;

(2) A list of the services he or she gave and the amount of time he or she spent on each type of service;

(3) The amount of the fee he or she wants to charge for the services;

(4) The amount of fee the representative wants to request or charge for his or her services in the same matter before any State or Federal court;

(5) The amount of and a list of any expenses the representative incurred for

which he or she has been paid or expects to be paid;

(6) A description of the special qualifications which enabled the representative, if he or she is not an attorney, to give valuable help in connection with your claim; and

(7) A statement showing that the representative sent a copy of the request for approval of a fee to you.

(b) *Evaluating a request for approval of a fee.* (1) When we evaluate a representative's request for approval of a fee, we consider the purpose of the social security program, which is to provide a measure of economic security for the beneficiaries of the program, together with—

(i) The extent and type of services the representative performed;

(ii) The complexity of the case;

(iii) The level of skill and competence required of the representative in giving the services;

(iv) The amount of time the representative spent on the case;

(v) The results the representative achieved;

(vi) The level of review to which the claim was taken and the level of the review at which the representative became your representative; and

(vii) The amount of fee the representative requests for his or her services, including any amount authorized or requested before, but not including the amount of any expenses he or she incurred.

(2) Although we consider the amount of benefits, if any, that are payable, we do not base the amount of fee we authorize on the amount of the benefit alone, but on a consideration of all the factors listed in this section. The benefits payable in any claim are determined by specific provisions of law and are unrelated to the efforts of the representative.

**§ 404.1728 Proceedings before a State or Federal court.**

(a) *Representation of a party in court proceedings.* We shall not consider any service the representative gave you in any proceeding before a State of Federal court to be services as a representative in dealings with us. However, if the representative also has given service to you in the same connection in any dealings with us, he or she must specify what, if any, portion of the fee he or she wants to charge is for services performed in dealings with us. If the representative charges any fee for those services, he or she must file the request and furnish all of the information required by § 404.1725.

(b) *Attoney fee allowed by a Federal court.* If a Federal court in any proceeding under title II of the Act makes a judgment in favor of a claimant who was represented before the court by an attorney, and the court, under Section 206(b) of the Act, allows to the attorney as part of its judgment a fee not in excess of 25 percent of the total of past-due benefits to which the claimant is entitled by reason of the judgment, we may pay the attorney the amount of the fee out of, but not in addition to, the amount of the past-due benefits payable.

We will not certify for direct payment any other fee your representative may request.

**§ 404.1730 Payment of fees.**

(a) *Fees allowed by a Federal court.* We will pay a representative, who is an attorney, out of the claimant's past-due benefits the amount of fee allowed by a Federal court in a proceeding under title II of the Act. The payment we certify to the attorney is subject to the limitations described in paragraph (b)(1) of this section.

(b) *Fees we may authorize.*—(1) *Attorneys.* Except as provided in paragraph (c) of this section, if we make a determination in favor of a claimant who was represented by an attorney, and as a result of the determination past-due benefits are payable, we will pay the attorney out of the past-due benefits the smallest of—

(i) Twenty-five percent of the total of the past-due benefits;

(ii) The amount of the fee that we set; or

(iii) The amount agreed upon between the attorney and the claimant represented.

(2) *Persons other than attorneys.* If the representative is not an attorney, we assume no responsibility for the payment of any fee that we have authorized. We will not deduct the fee from any benefits payable to the claimant represented.

(c) *Time limit for filing request for approval of attorney fee.* (1) In order to receive direct payment of a fee from a claimant's past-due benefits, an attorney should file a request for approval of a fee, or written notice of the intent to file a request, at one of our offices within 60 days of the date the notice of the favorable determination is mailed.

(2)(i) If no request is filed within 60 days of the date the notice of the favorable determination is mailed, we will mail a written notice to the attorney and to the claimant, at their last known addresses. The notice will inform the attorney that unless a written request for approval of a fee under § 404.1725, or a written request for an extension of time, is filed within 20 days from the date of the notice we will pay all the past-due benefits to the claimant.

(ii) The attorney must send the claimant a copy of any request made to us for an extension of time. If the request is not filed within 20 days of the date of the notice, or by the last day of any extension we approved, we will pay all past-due benefits. Any fee the attorney charges after that time must be approved by us, but the collection of any approved fee is a matter between the attorney and the claimant represented.

**§ 404.1735 Services in a proceeding under title II of the Act.**

Services provided a claimant in any dealing with us under title II of the Act consist of services performed for that claimant in connection with any claim he or she may have before the Secretary of Health, Education, and Welfare under title II of the Act. These services include any in connection with any asserted right a claimant may have calling for an initial or reconsidered determination by us, and a decision or action by an administrative law judge or by the Appeals Council.

**§ 404.1740 Rules governing representatives.**

No attorney or other person representing a claimant shall—

(a) With intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten by word, circular, letter, or advertisement, either oral or written, any claimant or prospective claimant or beneficiary regarding benefits, or other initial or continued right under the Act;

(b) Knowingly charge or collect, or make any agreement to charge or collect, directly or indirectly, any fee in any amount in excess of that allowed by us or by the court as described in § 404.1728(b);

(c) Knowingly make or participate in the making or presentation of any false statement, representation, or claim about any material fact affecting the rights of any person under title II of the Act; or

(d) Divulge, except as may be authorized by regulations prescribed by us, any information we furnish or disclose about the claim or prospective claim of another person.

**§ 404.1745 What happens to a representative who breaks the rules.**

Our Deputy Commissioner or the Director (or Deputy Director) of our Bureau of Retirement and Survivors Insurance may begin proceedings to suspend or disqualify a person from

acting as a representative in dealings with us if it appears that he or she—

(a) Has violated any of the rules in § 404.1740;

(b) Has been convicted of a violation under section 206 of the Act;

(c) Has otherwise refused to comply with our rules and regulations on representing claimants in dealings with us.

**§ 404.1750 Notice of charges against a representative.**

(a) The Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance will prepare a notice containing a statement of charges that constitutes the basis for the proceeding against the representative.

(b) We will send this notice to the representative either by certified or registered mail, to his or her last known address, or by personal delivery.

(c) We will advise the representative to file an answer, within 30 days from the date of the notice, or from the date the notice was delivered personally, stating why he or she should not be suspended or disqualifed from acting as a representative in dealings with us.

(d) The Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, may extend the 30-day period for good cause.

(e) The representative must—

(1) Answer the notice in writing under oath (or affirmation); and

(2) File it with the Social Security Administration, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235, within the 30-day time period.

(f) If the representative does not file an answer within the 30-day time period, he or she does not have the right to present evidence, except as may be provided in § 404.1765(f).

**§ 404.1755 Withdrawing charges against a representative.**

We may withdraw charges against a representative. We will do this if the representative files an answer, or we obtain evidence, that satisfies us that there is reasonable doubt about whether he or she should be suspended or disqualifed from acting as a representative in dealings with us. If we withdraw the charges, we shall notify the representative by mail at his or her last known address.

**§ 404.1760 Referring charges to the Bureau of Hearings and Appeals.**

If we do not take action to withdraw the charges against the representative before 15 days have passed after the time within which he or she has filed an answer, we shall send the record of the evidence in support of the charges to the Bureau of Hearings and Appeals. We will ask that they hold a hearing and make a decision on the charges.

**§ 404.1765 Hearing on charges.**

(a) *Hearing officer.* (1) When the Bureau of Hearings and Appeals receives the notice of charges against the representative, the record of evidence, and the request for a hearing, the Director or his delegate shall name an administrative law judge, designated to act as a hearing officer, to hold a hearing on the charges.

(2) No hearing officer shall hold a hearing in a case in which he or she is prejudiced or partial about any party, or has any interest in the matter.

(3) If the representative or any party to the hearing objects to the hearing officer who has been named to hold the hearing, we must be notified at the earliest opportunity. The hearing officer shall consider the objection(s) and either proceed with the hearing or withdraw from it.

(4) If the hearing officer withdraws from the hearing, another one will be named.

(5) If the hearing officer does not withdraw, the representative or any other person objecting may, after the hearing, present his or her objections to the Appeals Council explaining why he or she believes the hearing officer's decision should be revised or a new hearing held by another administrative law judge designated to act as a hearing officer.

(b) *Time and place of hearing.* The hearing officer shall mail the representative a written notice of the hearing, at his or her last known address, at least 20 days before the date set for the hearing. The hearing officer shall send a copy of the notice to the Deputy Commissioner, or to the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance.

(c) *Change of time and place for hearing.* (1) The hearing officer may change the time and place for the hearing. This may be done either on his or her own, or at the request of the representative or the other party to the hearing.

(2) The hearing officer may adjourn or postpone the hearing.

(3) The hearing officer may reopen the hearing for the receipt of additional evidence at any time before mailing notice of the decision.

(4) The hearing officer shall give the representative and the other party to the hearing reasonable notice of any change in the time or place for the hearing, or of an adjournment or reopening of the hearing.

(d) *Parties.* The representative against whom charges have been made is a party to the hearing. The Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, also is a party to the hearing.

(e) *Subpoenas.* (1) The representative or the other party to the hearing may request the hearing officer or the Appeals Council to issue a subpoena for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to any matter being considered at the hearing. The hearing officer may, on his or her own, issue subpoenas for the same purposes when the action is reasonably necessry for the full presentation of the facts.

(2) The representative or the other party who wants a subpoena issued shall file a written request with the hearing officer. This must be done at least 5 days before the date set for the hearing. The request must name the documents to be produced, and describe the address or location in enough detail to permit the witnesses or documents to be found.

(3) The representative or the other party who wants a subpoena issued shall state in the request for a subpoena the material facts that he or she expects to establish by the witness or document, and whether the facts could be established by the use of other evidence which could be obtained without use of a subpoena.

(4) We will pay the cost of the issuance and the fees and mileage of any witness subpoenaed, as provided in section 205(d) of the Act.

(f) *Conduct of the hearing.* (1) The hearing officer shall make the hearing open to the representative, to the other party, and to any persons the parties or the hearing officer consider necessary or proper. The hearing officer shall inquire fully into the matters being considered, hear the testimony of witnesses, and accept any documents that are material.

(2) If the representative did not file an answer to the charges, he or she has no right to present evidence at the hearing. The hearing officer may make or recommend a decision on the basis of the record, or permit the representative to present a statement about the sufficiency of the evidence or the validity of the proceedings upon which the suspension or disqualification, if it occurred, would be based.

(3) If the representative did not file an answer to the charges, and if the hearing officer believes that there is material evidence available that was not presented at the hearing, the hearing officer may at any time before mailing notice of the hearing decisions reopen the hearing to accept the additional evidence.

(4) The hearing officer has the right to decide the order in which the evidence and the allegations will be presented and the conduct of the hearing.

(g) *Evidence.* The hearing officer may accept evidence at the hearing, even though it is not admissible under the rules of evidence that apply to Federal court procedure.

(h) *Witnesses.* Witnesses who testify at the hearing shall do so under oath or affirmation. Either the Representative or a person representing him or her may question the witnesses. The other party and that party's representative must also be allowed to question the witnesses. The hearing officer may also ask questions as considered necessary, and shall rule upon any objection made by either party about whether any question is proper.

(i) *Oral and written summation.* (1) The hearing officer shall give the representative and the other party a reasonable time to present oral summation and to file briefs or other written statements about proposed findings of fact and conclusions of law if the parties request it.

(2) The party that files briefs or other written statements shall provide enough copies so that they may be made available to any other party to the hearing who requests a copy and to any other party named by the Appeals Council.

(j) *Record of hearing.* In all cases, the hearing officer shall have a complete record of the proceedings at the hearing made and transcribed.

(k) *Representation.* The representative, as the person charged, may appear in person and may be represented by an attorney or other representative.

(l) *Failure to appear.* If the representative or the other party to the hearing fails to appear after being notified of the time and place, the hearing officer may hold the hearing anyway so that the party present may offer evidence to sustain or rebut the charges. The hearing officer shall give the party who failed to appear an opportunity to show good cause for failure to appear. If the party fails to show good cause, he or she is considered to have waived the right to be present at the hearing. If the party shows good cause, the hearing officer may hold a supplemental hearing.

(m) *Dismissal of charges.* The hearing officer may dismiss the charges in the event of the death of the representative.

(n) *Cost of transcript.* If the representative or the other party to a hearing requests a copy of the transcript of the hearing, the hearing officer will have it prepared and sent to the party upon payment of the cost, unless the payment is waived for good cause.

**§ 404.1770 Decision by hearing officer.**

(a) *General.* (1) After the close of the hearing, the hearing officer shall issue a decision or certify the case to the Appeals Council. The decision must be in writing, will contain findings of fact and conclusions of law, and be based upon the evidence of record. (2) If the hearing officer finds that the charges against the representative have been sustained, he or she shall either—

(i) Suspend the representative for a specified period of not less than 1 year, nor more than 5 years, from the date of the decision; or

(ii) Disqualify the representative from acting as a representative in dealings with us until he or she may be reinstated under § 404.1799.

(3) The hearing officer shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance. The notice will inform the parties of the right to request the Appeals Council to review the decision.

(b) *Effect of hearing officer's decision.* (1) The hearing officer's decision is final and binding unless reversed or modified by the Appeals Council upon review.

(2) If the final decision is that a person is disqualified from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us until authorized to do so under the provisions of § 404.1799.

(3) If the final decision is that a person is suspended for a specified period of time from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us during the period of suspension unless authorized to do so under the provisions of § 404.1799.

**§ 404.1775 Requesting review of the hearing officer's decision.**

(a) *General.* After the hearing officer issues a decision, either the representative or the other party to the hearing may ask the Appeals Council to review the decision.

(b) *Time and place of filing request for review.* The party requesting review shall file the request for review in writing with the Appeals Council within 30 days from the date the hearing officer mailed the notice. The party requesting review shall certify that a copy of the request for review and of any documents that are submitted have been mailed to the opposing party.

**§ 404.1780 Appeals Council's review of hearing officer's decision.**

(a) Upon request, the Appeals Council shall give the parties a reasonable time to file briefs or other written statements as to fact and law, and to appear before the Appeals Council to present oral argument.

(b) If a party files a brief or other written statement with the Appeals Council, he or she shall send a copy to the opposing party and certify that the copy has been sent.

**§ 404.1785 Evidence permitted on review.**

(a) *General.* Generally, the Appeals Council will not consider evidence in addition to that introduced at the hearing. However, if the Appeals Council believes that the evidence offered is material to an issue it is considering, the evidence will be considered.

(b) *Individual charged filed an answer.* (1 ) When the Appeals Council believes that additional material evidence is available, and the representative has filed an answer to the charges, the Appeals Council shall require that the evidence be obtained. The Appeals Council may name an administrative law judge or a member of the Appeals Council to receive the evidence.

(2) Before additional evidence is admitted into the record, the Appeals Council shall mail a notice to the parties, telling them that evidence about certain issues will be obtained unless the notice is waived. The Appeals Council shall give each party a reasonable opportunity to comment on the evidence and to present other evidence that is material to an issue it is considering.

(c) *Individual charged did not file an answer.* If the representative did not file an answer to the charges, the Appeals Council will not permit the introduction of evidence that was not considered at the hearing.

**§ 404.1790 Appeals Council's decision.**

(a) The Appeals Council shall base its decision upon the evidence in the

hearing record and any other evidence it may permit on review. The Appeals Council shall either—

(1) Affirm, reverse, or modify the hearing officer's decision; or

(2) Return a case to the hearing officer when the Appeals Council considers it appropriate.

(b) The Appeals Council, in changing a hearing officer's decision to suspend a representative for a specified period, shall in no event reduce the period of suspension to less than 1 year. In modifying a hearing officer's decision to disqualify a representative, the Appeals Council shall in no event impose a period of suspension of less than 1 year.

(c) If the Appeals Council affirms or changes a hearing officer's decision, the period of suspension or the disqualification is effective from the date of the Appeals Council's decision.

(d) If the hearing officer did not impose a period of suspension or a disqualification, and the Appeals Council decides to impose one or the other, the suspension or disqualification is effective from the date of the Appeals Council's decision.

(e) The Appeals Council shall make its decision in writing and shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance.

**§ 404.1795 When the Appeals Council will dismiss a request for review.**

The Appeals Council may dismiss a request for the review of any proceeding to suspend or disqualify a representative in any of the following circumstances:

(a) *Upon request of party.* The Appeals Council may dismiss a request for review upon written request of the party or parties who filed the request: *Provided,* There is not another party who objects to the dismissal.

(b) *Death of party.* The Appeals Council may dismiss a request for review in the event of the death of the representative.

(c) *Request for review not timely filed.* The Appeals Council will dismiss a request for review if a party failed to file a request for review within the 30-day time period and the Appeals Council does not extend the time for good cause.

**§ 404.1797 Reinstatement after suspension—period of suspension expired.**

We shall automatically allow a person to serve again as a representative in dealings with us at the end of any suspension.

**§ 404.1799 Reinstatement after suspension or disqualification—period of suspension not expired.**

(a) After a person has been suspended or has been disqualified, and more than 1 year has passed, he or she may ask the Appeals Council for permission to serve as a representative again.

(b) The suspended or disqualified person shall submit any evidence he or she wishes to have considered along with the request to be allowed to serve as a representative again.

(c) The Appeals Council shall notify the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, of the receipt of the request and give that person 30 days in which to present a written report of any experiences with the suspended or disqualified person since that person was suspended or disqualified. The Appeals Council shall make available to the suspended or disqualified person a copy of the report.

(d) The Appeals Council shall not grant the request unless it is reasonably satisifed that the person will in the future act according to the provisions of section 206(a) of the Act, and to our rules and regulations.

(e) The Appeals Council shall mail a notice of its decision on the request to the suspended or disqualified person. It shall also mail a copy to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance.

(f) If the Appeals Council decides not to grant the request, it shall not consider another request before the end of 1 year from the date of the notice of the previous denial.

3. A new Subpart S is added to Part 404 to read as follows:

**Subpart S—Payment Procedures**

Sec.

404.1800 Introduction.
404.1805 Paying benefits.
404.1810 Expediting benefit payments.
404.1815 Withholding certification or payments.
404.1820 Transfer or assignment of payments.
404.1825 Joint payments to a family.

Authority: Secs. 205, 207 and 1102 of the Social Security Act; 53 Stat. 1368, 49 Stat. 624, 49 Stat. 647; (42 U.S.C. 405, 407 and 1302).

## Subpart S—Payment Procedures

**§ 404.1800 Introduction.**

After we have determined that you are entitled to benefits under title II of the Act, we begin paying those benefits to you as soon as possible. This subpart explains—

(a) What we must do so that your benefits begin promptly;

(b) When and how you may request that payment of benefits be expedited;

(c) When we may cause your benefits to be withheld;

(d) Our obligation not to assign or transfer your benefits to someone; and

(e) When we will use one check to pay benefits to two or more persons in a family.

**§ 404.1805 Paying benefits.**

(a) As soon as possible after determining that you are entitled to benefits, we certify to the Secretary of the Treasury, who is the Managing Trustee of the Trust Funds,—

(1) Your name and address, or the name and address of the person to be paid if someone receives your benefits on your behalf as a representative payee;

(2) The amount of the payment or payments to be made from the appropriate Trust Fund; and

(3) The time at which the payment or payments should be made.

(b) Under certain circumstances when you have had railroad employment, we will certify the information to the Railroad Retirement Board.

**§ 404.1810 Expediting benefit payments.**

(a) *General.* We have established special procedures to expedite the payment of benefits in certain initial and subsequent claims. This section tells how you may request an expedited payment and when we will be able to hasten your payments by means of this process.

(b) *Applicability of section.* (1) This section applies to monthly benefits payable under title II of the Act, except as indicated in paragraph (b)(2) of this section; and to those cases where we certify information to the Railroad Retirement Board.

(2) This section does not apply—

(i) If an initial determination has been made and a request for a reconsideration, a hearing, a review by the Appeals Council, or review by a Federal court is pending on any issue of entitlement to or payment of a benefit;

(ii) To any benefit for which a check has been cashed; or

(iii) To any benefit based on an alleged disability.

(c) *Request for payment.* (1) You shall submit to us a written request for payment of benefits in accordance with paragraph (c)(2) or (c)(3) of this section. Paragraph (c)(2) of this section applies if you were receiving payments regularly and you then fail to receive payment for one or more months. Paragraph (c)(3) of

this section applies if we have not made a determination about your entitlement to benefits, or if we have suspended or withheld payment due, for example, to excess earnings or recovery of an overpayment.

(2) If you received a regular monthly benefit in the month before the month in which a payment was allegedly due, you may make a written request for payment any time 30 days after the 15th day of the month in which the payment was allegedly due. If you request is made before the end of the 30-day period, we will consider it to have been made at the end of the period.

(3)(i) If you did not receive a regular monthly benefit in the month before the month in which a payment was allegedly due, you may make a written request for payment any time 90 days after the later of—

(A) The date on which the benefit is alleged to have been due; or

(B) The date on which you furnished us the last information we requested from you.

(ii) If you request is made before the end of the 90-day period we will consider it to have been made at the end of the period.

(d) *Certification for payment.* If we find that benefits are due, we shall certify the benefits for payment in sufficient time to permit the payment to be made within 15 days after the request for expedited payment is made, or considered to have been made, as provided in paragraph (c) of this section.

(e) *Preliminary certification for payment.* If we determine that there is evidence, although additional evidence may be required for a final decision, that a monthly benefit due to you in a particular month was not paid, we may make preliminary certification of payment even though the 30-day or 90-day periods described in paragraph (c) of this section have not elapsed.

**§ 404.1815 Withholding certification or payments.**

We may withhold certification to the Managing Trustee, or, if we have already made certification, we may notify the Managing Trustee to withhold payments. We may do this if there is a question about the validity of the payment or payments to be made under a determination or decision, and if one of the following conditions exists:

(a) We are conducting a reconsideration, hearing, or review, or you have filed a civil action in a Federal district court concerning the determination or decision.

(b) An application or request is pending concerning the payment of benefits or a lump sum to another person, and the application or request is inconsistent, in whole or in part, with the payment or payments under the determination or decision. However, we will not withhold certification or payment unless there is sufficient evidence to raise a reasonable question about the validity of the payment or payments under the determination or decision, and we will immediately pay any part of the total payment amount which is not in question. Your acceptance of any payment or payments will not affect your rights to reconsideration, hearing, or review, about any additional payment or payments you may claim.

**§ 404.1820 Transfer or assignment of payments.**

(a) *General.* We shall not certify payment to—

(1) Any person designated as your assignee or transferee; or

(2) Any person claiming payment because of an execution, levy, attachment, garnishment, or other legal process, or because of any bankruptcy or insolvency proceeding against or affecting you.

(b) *Enforcement of a child support or alimony obligation.* If you have a legal obligation to provide child support or make alimony payments and legal process is issued to enforce this obligation, the provisions of paragraph (a) of this section do not apply.

**§ 404.1825 Joint payments to a family.**

(a) *Two or more beneficiaries in same family.* If an amount is payable under title II of the Act for any month to two or more persons who are members of the same family, we may certify any two or more of the individuals for joint payment of the total benefits payable to them for the month.

(b) *Joint payee dies before cashing a check.* (1) If a check has been issued for joint payment to an individual and spouse residing in the same household, and one of the joint payees dies before the check has been cashed, we may authorize the surviving payee to cash the check. We make the authorization by placing on the face of the check a stamped legend signed by an official of the Social Security Administration or the Treasury Disbursing Office redesignating the survivor as the payee of the check.

(2) If the uncashed check represents benefits for a month after the month of death, we will not authorize the surviving payee to cash the check unless the proceeds of the check are necessary to meet the ordinary and necessary living expenses of the surviving payee.

(c) *Adjustment or recovery of overpayment.* If a check representing payment of benefits to an individual and spouse residing in the same household is cashed by the surviving payee under the authorization in paragraph (b) of this section, and the amount of the check exceeds the amount to which the surviving payee is entitled, we shall make appropriate adjustment or recovery of the excess amount.

4. Subpart N of Part 416 is revised to read as follows:

**Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions**

**Introduction, Definitions, and Initial Determinations.**

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**Authority:** Secs. 1102, 1631(c), and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478, (42 U.S.C. 1302, 1383, and 1383b.)

## Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

### Introduction, Definitions, and Initial Determinations

### § 416.1400 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title XVI of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have taken all the necessary administrative steps. The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

(1) *Initial determination.* This is a determination we make about your eligibility or your continuing eligibility for benefits or about any other matter, as discussed in § 416.1402, that gives you a right to further review.

(2) *Reconsideration.* If you are dissatisfied with an initial determination, you may ask us to reconsider it. Generally, you must request a reconsideration before you may request a hearing.

(3) *Hearing.* If you are dissatisfied with the reconsideration determination, you may request a hearing before an administrative law judge.

(4) *Appeals Council review.* If you are dissatisfied with the decision of the administrative law judge, you may request that the Appeals Council review the decision.

(5) *Federal court review.* When you have completed the steps of the administrative review process listed in paragraphs (a)(1) through (a)(4) of this section, we will have made our final decision. If you are dissatisfied with our final decision, you may request judicial review by filing an action in a Federal district court.

(6) *Expedited appeals process.* At some time after your initial determination has been reviewed, if you have no dispute with our findings of fact and our application and interpretation of the controlling laws, but you believe that a part of the law is unconstitutional, you may use the expedited appeals process. This process permits you to go directly to a Federal district court so that the constitutional issue may be resolved.

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, nonadversary manner. In each step of the review process, you may present any information you feel is helpful and important to your case. We will consider it and all the information in our records. You may present the information yourself or have someone represent you, including an attorney. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review, unless you can show us that there was good cause for your failure to make a timely request for administrative review.

### § 416.1401 Definitions.

As used in this subpart:

"Date you receive notice" means 5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.

"Decision" refers to the decision made by an administrative law judge or the Appeals Council.

"Determination" refers to the initial determination or to the reconsidered determination.

"Remand" means to return a case for further review.

"Vacate" means to set aside a previous action.

"Waive" means to give up a right knowingly and voluntarily.

"We" refers to the Social Security Administration.

"You" refers to any person or the eligible spouse of any person claiming or receiving supplemental security income benefits.

### § 416.1402 Administrative actions that are initial determinations.

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. Initial determinations regarding supplemental security income benefits include, but are not limited to, determinations about—

(a) Your eligibility for, or the amount of, your supplemental security income benefits;

(b) Suspension, reduction, or termination of your supplemental security income benefits;

(c) Whether an overpayment of benefits must be repaid to us;

(d) Whether payments will be made, on your behalf, to a representative payee, unless you are under age 18, legally incompetent, or determined to be a drug addict or alcoholic;

(e) Who will act as your payee if we determine that representative payment will be made;

(f) Imposing penalties for failing to report important information; and

(g) Your drug addiction or alcoholism.

**§ 416.1403 Administrative actions that are not initial determinations.**

(a) Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by this subpart and they are not subject to judicial review. These include, but are not limited to, an action about—

(1) Presumptive disability or presumptive blindness;

(2) Your eligibility for, or the amount of, emergency cash advances;

(3) Denial of a request to be made a representative payee;

(4) Denial of a request to use the expedited appeals process;

(5) Denial of a request to reopen a determination or a decision;

(6) The fee that may be charged or received by a person who has represented you in connection with a proceeding before us; and

(7) Disqualifying or suspending a person from acting as your representative in a proceeding before us (See § 416.1545).

(b) We send some notices of actions that are not initial determinations:

(1) If you receive an emergency cash advance, presumptive disability or presumptive blindness payments, we shall send you a notice explaining the nature and the conditions of the payments.

(2) If you receive presumptive disability or presumptive blindness payments, we shall send you a notice when these payments are exhausted.

**§ 416.1404 Notice of the initial determination.**

(a) We shall mail a written notice of the initial determination to you at your last known address. Generally, we will not send a notice if your benefits are stopped because of your death, or if the initial determination is a redetermination that your eligibility for benefits and the amount of your benefits have not changed.

(b) The written notice that we send will tell you—

(1) What our initial determination is;

(2) The reasons for our determination; and

(3) What rights you have to a reconsideration or hearing on the determination.

(c) If our initial determination is that we must suspend, reduce or terminate your benefits, the notice will also tell you that you have a right to an evidentiary hearing before the determination takes effect (see § 416.1336).

**§ 416.1405 Effect of an initial determination.**

An initial determination is binding and is subject to review only if you request a reconsideration or a hearing within the stated time period, or we revise the initial determination.

**Reconsideration**

**§ 416.1407 Reconsideration—general.**

Reconsideration is the first step in the administrative review process that we provide if you are dissatisfied with the initial determination. However, if the initial determination is that your blindness or disability has ceased due to medical reasons, you may request a hearing right after the initial determination. If you are dissatisfied with our reconsidered determination, you may request a hearing.

**§ 416.1408 Parties to a reconsideration.**

(a) *Who may request a reconsideration.* If you are dissatisfied with our initial determination, you may request that we reconsider the determination. In addition, a person who shows in writing that his or her rights may be adversely affected by our determination may request a reconsideration.

(b) *Who may participate in a reconsideration.* After a request for the reconsideration, you and any person who shows in writing that his or her rights are adversely affected by our determination will be parties to the reconsideration.

**§ 416.1409 How to request reconsideration.**

(a) We shall reconsider an initial determination if you or any other party to the reconsideration files a written request at one of our offices within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in paragraph (b) of this section).

(b) *Extension of time to request a reconsideration.* (1) If you want a reconsideration of the initial determination but do not request one in time, you may ask us for more time to request a reconsideration. Your request for an extension of time must be in writing and it must give the reasons why the request for reconsideration was not filed in the stated time period. If you show us that you had good cause for missing the deadline, we will give you more time to request a reconsideration.

(2) In determining whether you have shown that you have good cause for missing a deadline to request review we consider—

(i) What circumstances kept you from making the request on time;

(ii) Whether our action misled you; and

(iii) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions.

(3) Examples of circumstances where good cause may exist include, but are not limited to, the following situations:

(i) You were seriously ill and were prevented from contacting us in person, in writing, or through a friend, relative, or other person.

(ii) There was a death or serious illness in your immediate family.

(iii) Important records were destroyed or damaged by fire or other accidental cause.

(iv) You were trying very hard to find necessary information to support your claim but did not find the information within the stated time periods.

(v) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested reconsideration or a hearing, or within 30 days of receiving the explanation you filed a civil suit.

(vi) We gave you incorrect or incomplete information about when and how to request administrative review or to file a civil suit.

(vii) You did not receive notice of the initial determination or decision.

(viii) You sent the request to another Government agency in good faith within the time limit and the request did not reach us until after the stated time period had expired.

**§ 416.1410 Reconsideration procedures.**

If you request reconsideration, we will give you a chance to present your case. How you can present your case depends upon the issue involved and whether you are asking us to reconsider an initial determination on an application or an initial determination on a suspension, reduction or termination of benefits. The methods of reconsideration include the following:

(a) *Case review.* We will give you and the other parties to the reconsideration an opportunity to review the evidence in our files and then to present oral and written evidence to us. We will then make a decision based on all of this evidence. The official who reviews the

case will make the reconsidered determination.

(b) *Informal conference.* In addition to following the procedures of a case review, an informal conference allows you and the other parties to the reconsideration an opportunity to present witnesses. A summary record of this proceeding will become part of the case record. The official who conducts the informal conference will make the reconsidered determination.

(c) *Formal conference.* In addition to following the procedures of an informal conference, a formal conference allows you and the other parties to a reconsideration an opportunity to request us to subpoena adverse witnesses and relevant documents and to cross-examine adverse witnesses. A summary record of this proceeding will become a part of the case record. The official who conducts the formal conference will make the reconsidered determination.

**§ 416.1411 Reconsiderations of initial determinations on applications.**

The method of reconsideration we will use when you appeal an initial determination on your application for benefits depends on the issue involved in your case.

(a) *Nonmedical issues.* If you challenge our finding on a nonmedical issue, we shall offer you a case review or an informal conference, and will reach our reconsidered determination on the basis of the review you select.

(b) *Medical issues.* If you challenge our finding on a medical issue (even if you received payments because we presumed you were blind or disabled), we shall reach our reconsidered determination on the basis of a case review.

**§ 416.1412 Reconsideration procedures for post-eligibility claims.**

If you are eligible for supplemental security income benefits and we notify you that we are going to suspend, reduce or terminate your benefits, you can appeal our decision within 60 days of the date you receive our notice. The 60-day period may be extended if you have good cause for an extension of time under the conditions stated in § 416.1409(b). If you appeal a suspension, termination or reduction of benefits, the method of reconsideration we will use depends on the issue in your case. If the issue in your case is that you are no longer blind or disabled for medical reasons, you will receive a hearing. If any other issue is involved, you have the choice of a case review, informal conference or formal conference. (See § 416.1336 which discusses your right to have your payments continued at the same level until we issue a reconsidered determination.)

**§ 416.1413 Arrangement for conferences.**

(a) As soon as we receive a request for a formal or informal conference, we shall set the time, date and place for the conference.

(b) We shall send you and any other parties to the reconsideration a written notice about the conference (either by mailing it to your last known address or by personally serving you with it) at least 10 days before the conference. However, we may hold the conference sooner if we all agree. We will not send written notice of the time, date, and place of the conference if you waive your right to receive it.

(c) We shall schedule the conference within 15 days after you request it, but, at our discretion or at your request, we will delay the conference if we think the delay will ensure that the conference is conducted efficiently and properly.

(d) We shall hold the conference at one of our offices, by telephone or in person, whichever you prefer. We will hold the conference elsewhere in person if you show circumstances that make this arrangement reasonably necessary.

**§ 416.1414 Notice of another person's request for reconsideration.**

If any other person files a request for reconsideration of the initial determination in your case, we shall notify you at your last known address before we reconsider the initial determination. We shall also give you an opportunity to present any evidence you think helpful to the reconsidered determination.

**§ 416.1415 Reconsidered determination.**

After you or another person requests a reconsideration, we shall review the evidence considered in making the initial determination and any other evidence we receive. We shall make our determination based on this evidence. The person who makes the reconsidered determination shall have had no prior involvement with the intial determination.

**§ 416.1416 Effect of a reconsidered determination.**

The reconsidered determination is binding and subject to further review only if—

(a) You or any other party to the reconsideration requests a hearing within the stated time period and a decision is made;

(b) The expedited appeals process is used; or

(c) The reconsidered determination is revised.

**§ 416.1417 Notice of a reconsidered determination.**

We shall mail a written notice of our reconsidered determination to you at your last known address. We shall state the reasons for the determination and tell you and any other parties of the right to a hearing. If it is appropriate, we will also tell you and any other parties how to use the expedited appeals process.

**Expedited Appeals Process**

**§ 416.1418 Expedited appeals process—general.**

By using the expedited appeals process you may go directly to a Federal district court without first completing the administrative review process that is generally required before the court will hear your case.

**§ 416.1419 When the expedited appeals process may be used.**

You may use the expedited appeals process if all of the following requirements are met:

(a) We have made an initial and a reconsidered determination; an administrative law judge has made a hearing decision; or Appeals Council review has been requested, but a final decision has not been issued.

(b) You are a party to the reconsidered determination or the hearing decision.

(c) You have submitted a written request for the expedited appeals process.

(d) You have claimed, and we agree, that the only factor preventing a favorable determination or decision is a provision in the law that you believe is unconstitutional.

(e) If you are not the only party, all parties to the determination or decision agree to request the expedited appeals process.

**§ 416.1420 How to request the expedited appeals process.**

(a) *Time of filing request.* You may request the expedited appeals process—

(1) Within 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in § 416.1421);

(2) At any time after you have filed a timely request for a hearing but before you receive notice of the administrative law judge's decision;

(3) Within 60 days after the date you receive a notice of the administrative law judge's decision or dismissal (or within the extended time period if we extend the time as provided in § 416.1421); or

(4) At any time after you have filed a timely request for Appeals Council review, but before you receive notice of the Appeals Council's action.

(b) *Place of filing request.* You may file a written request for the expedited appeals process at one of our offices.

**§ 416.1421 Extension of time to request expedited appeals process.**

If you want to use the expedited appeals process but do not request it within the stated time period, you may ask for more time to submit your request. Your request for an extension of time must be in writing and it must give the reasons why the request for the expedited appeals process was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 416.1409(b)(2) and (3).

**§ 416.1422 Agreement in expedited appeals process.**

If you meet all the requirements necessary for the use of the expedited appeals process, our authorized representative shall prepare an agreement. The agreement must be signed by you, by every other party to the determination or decision, and by our authorized representative. The agreement must provide that—

(a) The facts in your claim are not in dispute;

(b) The sole issue in dispute is your belief that a provision of the Act that applies to your case is unconstitutional;

(c) Except for your belief that a provision of the Act is unconstitutional, you agree with our interpretation of the law;

(d) If the provision of the Act that you believe is unconstitutional were not applied to your case, your claim would be allowed; and

(e) Our determination or the decision is final for the purpose of seeking judicial review.

**§ 416.1423 Effect of an expedited appeals process agreement.**

After an expedited appeals process agreement is signed, you will not need to complete the remaining steps of the administrative review process. Instead, you may file an action in a Federal district court within 60 days after the date the agreement is signed by our authorized representative.

**§ 416.1424 Expedited appeals process that does not result in agreement.**

If you do not meet all of the requirements necessary to use the expedited appeals process, we shall tell you that your request to use this process is denied and that your request will be considerd as a request for a hearing, or Appeals Council review, whichever is appropriate.

**Hearings**

**§ 416.1425 Hearing—general.**

If you are dissatisfied with the reconsidered determination or an initial determination that your blindness or disability has ceased due to medical reasons, you may request a hearing before an administrative law judge. The Director of the Bureau of Hearings and Appeals shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, he or she may assign your case to another administrative law judge. At the hearing you may appear in person, submit new evidence, examine the evidence used in making the initial and reconsidered determinations, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at a hearing, the administrative law judge will make a decision based on the evidence that is in the file and any new evidence that may have been submitted for consideration.

**§ 416.1426 Availability of a hearing.**

(a) You may request a hearing if we have made—

(1) A reconsidered determination;

(2) An initial determination or revised initial determination that your blindness or disability has ceased due to medical reasons;

(3) A reconsideration of a revised determination of an initial or reconsidered determination that involves a suspension, termination or reduction of benefits; or

(4) A revised initial determination or revised reconsidered determination that does not involve a suspension termination, or reduction of benefits.

(b) We will hold a hearing only if you or another party to the hearing file a written request for a hearing.

**§ 416.1427 Parties to a hearing.**

(a) *Who may request a hearing.* You may request a hearing if a hearing is available under § 416.1426. In addition, a person who shows in writing that his or her rights may be adversely affected by the decision may request a hearing.

(b) *Who may participate in a hearing.* After a request for a hearing is made, you, the parties to the initial, reconsidered, or revised determination, and any other person who shows in writing that his or her rights may be adversely affected by the hearing, are parties to the hearing. In addition, any other person may be made a party to the hearing if his or her rights may be adversely affected by the decision, and the administrative law judge notifies the person to appear at the hearing or to present evidence supporting his or her interest.

**§ 416.1428 How to request a hearing.**

(a) *Written request.* You may request a hearing by filing a written request. You should include in your request—

(1) Your name and social security number;

(2) The name and social security number of your spouse, if any;

(3) The reasons you disagree with the previous determination;

(4) A statement of additional evidence to be submitted and the date you will submit it; and

(5) The name and address of any designated representative.

(b) *When and where to file.* The request must be filed at one of our offices within 60 days after the date you receive notice of the reconsidered determination (or within the extended time period if we extend the time as provided in paragraph (c) of this section).

(c) *Extension of time to request a hearing.* If you have a right to a hearing but do not request one in time, you may ask for more time to make your request. The request for an extension of time must be in writing and it must give the reasons why the request for a hearing was not filed in the stated time period. You may file your request for an extension of time with the administrative law judge. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, the standards explained in § 416.1409(b)(2) and (3) are used.

**§ 416.1429 Submitting evidence before a hearing.**

If possible, the evidence or a summary of evidence you wish to have considered at the hearing should be submitted to the administrative law judge with the request for hearing or within 10 days after filing the request. Each party shall make every effort to be sure that all material evidence is received by the administrative law judge or is available at the time and place set for the hearing.

**§ 416.1430 Time and place for a hearing.**

(a) The administrative law judge sets the time and place for the hearing. He or she may change the time and place, if it is necessary. After sending the parties reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies the parties of a hearing decision.

(b) If you object to the time or place of the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objection and the time or place you want the hearing to be held. The administrative law judge may change the time or place for the hearing if you show good cause for the change.

**§ 416.1431 Notice of a hearing.**

After the administrative law judge sets the time and place for the hearing, notice of the hearing will be mailed to you at your last known address or given to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 10 days before the hearing. It will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings.

**§ 416.1432 Objections to the issues.**

If you object to the issues to be decided upon at the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity before the time set for the hearing. You must state the reasons for your objection. The administrative law judge shall make a decision on your objectiions either in writing or at the hearing.

**§ 416.1433 Disqualification of the administrative law judge.**

An administrative law judge shall not conduct a hearing if he or she is prejudiced or partial with respect to any party or has any interest in the matter pending for decision. If you object to the administrative law judge who will conduct the hearing, you must notify the administrative law judge at your earliest opportunity. The administrative law judge shall consider your objection and shall decide whether to proceed with the hearing or withdraw. If he or she withdraws, the Director of the Bureau of Hearings and Appeals will appoint another administrative law judge to conduct the hearing. If the administrative law judge does not withdraw, you may, after the hearing, present your objections to the Appeals Council as reasons why the hearing decision should be revised or a new hearing held before another administrative law judge.

**§ 416.1434 Prehearing case review.**

(a) *General.* After a hearing is requested but before it is held, we may, for the purposes of a prehearing case review, forward the case to the component of our office (including a State agency) that issued the determination being reviewed. That component will decide whether the determination may be revised. A revised determination may be wholly or partially favorable to you. A prehearing case review will not delay the scheduling of a hearing unless you agree to continue the review and delay the hearing. If the prehearing case review is not completed before the date of the hearing, the case will be sent to the administrative law judge unless a favorable revised determiniation is in process or you and the other parties to the hearing agree in writing to delay the hearing until the review is completed.

(b) *When a prehearing case review may be conducted.* We may conduct a prehearing case review if—

(1) Additional evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulation; or

(4) There is an error in the file or some other indication that the prior determination may be revised.

(c) *Notice of a prehearing revised determination.* If we revise the determination in a prehearing case review, we shall mail written notice of the revised determination to you and the other parties at your last known addresses. We will state the basis for the revised determination and advise you of your right to request a hearing on the revised determination within 60 days after the date you receive this notice.

(d) *Revised determination wholly favorable.* If the revised determination is wholly favorable to you, we shall tell you in the notice that the administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to continue must be made in writing within 30 days after the date the notice of the revised determination is mailed.

(e) *Revised determination partially favorable.* If the revised determination is partially favorable to you, we shall tell you in the notice what was not favorable. We shall also tell you that the hearing you requested will be held unless you, the parties to the revised determination and the parties to the request for the hearing tell us that all parties agree to dismiss the hearing request.

**Hearing Procedures**

**§ 416.1435 Hearing procedures—general.**

A hearing is open to the parties and to other persons the administrative law judge considers necessary and proper. At the hearing, the administrative law judge questions you and the other witnesses and accepts as evidence any documents that are material to the issues. The administrative law judge may stop the hearing temporarily and continue it at a later date if he or she believes that there is material evidence missing at the hearing. The administrative law judge may also reopen the hearing at any time before he or she mails a notice of the decision in order to receive new and material evidence. The administrative law judge may decide when the evidence will be presented and when the issues will be discussed.

**§ 416.1436 Issues before the administrative law judge.**

(a) *General.* The issues before the administrative law judge include all the issues brought out in the initial, reconsidered or revised determination that were not decided entirely in your favor. However, if evidence presented before or during the hearing causes the administrative law judge to question a fully favorable determination, he or she will consider it an issue at the hearing.

(b) *New issues.*—(1) *General.* The administrative law judge may consider a new issue at the hearing if he or she notifies you and all the parties about the new issue any time after receiving the hearing request and before mailing notice of the hearing decision. The administrative law judge or any party may raise a new issue; an issue may be raised even though it arose after the request for a hearing and even though it has not been considered in an initial or reconsidered determination. However, it may not be raised if it involves a claim that is within the jurisdiction of a State agency under a Federal-State agreement concerning the determination of disability.

(2) *Notice of a new issue.* The administrative law judge shall notify you and any other party if he or she will consider any new issue. Notice of the time and place of the hearing on any new issues will be given in the manner described in § 416.1431, unless you have

indicated in writing that you do not wish to receive the notice.

**§ 416.1437 Deciding a case without an oral hearing.**

(a) *Decision wholly favorable.* If the evidence the administrative law judge has collected supports a finding in favor of you and all the parties on every issue, he or she may issue a hearing decision without holding an oral hearing. However, the notice of the decision will inform you that you have the right to an oral hearing and that you have a right to examine the evidence on which the decision is based.

(b) *No oral evidence.* (1) The administrative law judge may decide a case on the record and not conduct an oral hearing if—

(i) You and all parties indicate in writing that you do not wish to appear before the administrative law judge at an oral hearing; or

(ii) You live outside the United States and you do not inform us that you want to appear and there are no other parties who wish to appear.

(2) When an oral hearing is not held, the administrative law judge shall make a record of the material evidence. The record will include the applications, written statements, certificates, reports, affidavits, and other documents which were used in making the determination under review and any additional evidence you or any other party to the hearing present in writing. The decision of the administrative law judge must be based on this record.

(c) *Case remanded for a revised determination.* (1) The administrative law judge may remand a case to the appropriate component of our office for a revised determination if there is reason to believe that the revised determination would be fully favorable to you. This could happen if the administrative law judge receives new and material evidence or if there is a change in the law that permits the favorable determination.

(2) Unless you request the remand the administrative law judge shall notify you that your case has been remanded and tell you that if you object, you must notify him or her of your objections within 10 days of the date the case is remanded or we will assume that you agree to the remand. If you object to the remand, the administrative law judge will consider the objection and rule on it in writing.

**§ 416.1438 Presenting written statements and oral arguments.**

You or a person you designate to act as your representative may appear before the administrative law judge to present your case, to present a written summary of your case, or to enter written statements about the facts and law material to your case into the record. If there are other parties to the hearing, they must receive a copy of your written statements.

**§ 416.1439 Presenting evidence at a hearing.**

(a) *The right to appear and present evidence.* Any party to a hearing has the right to appear before the administrative law judge, either personally or by means of a designated representative, to present evidence and to state his or her position.

(b) *Waiver of the right to appear.* You may send the administrative law judge a waiver or a written statement indicating that you do not wish to appear at the hearing. You may withdraw this waiver any time before a notice of the hearing decision is mailed to you. Even if all of the parties waive their right to appear at a hearing, the administrative law judge may notify them of a time and a place for an oral hearing, if he or she believes that a personal appearance and testimony by you or any other party is necessary to decide the case.

(c) *What evidence is admissible at a hearing.* The administrative law judge may receive evidence at the hearing even though the evidence would not be admissible in court under the rules of evidence used by the court.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge or a member of the Appeals Council may, on his or her own initiative or at the request of a party, issue subpoenas for the appearance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to an issue at the hearing.

(2) Parties to a hearing who wish to subpoena documents or witnesses must send a written request for the issuance of a subpoena to the administrative law judge or to one of our offices at least 5 days before the hearing date. The written request must give the names of the witnesses or documents to be produced; describe the address or location of the witnesses or documents with sufficient detail to find them; state the important facts that the witness or document is expected to prove; and indicate whether these facts could be proven without issuing a subpoena.

(3) We will pay the cost of issuing the subpoena.

(4) We will pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(e) *Witnesses at a hearing.* Witnesses at a hearing testify under oath or affirmation, unless the administrative law judge finds an important reason to excuse them from taking an oath or affirmation. The administrative law judge may ask the witnesses any questions material to the issues and shall allow the parties or their designated representatives to do so.

(f) *Collateral estoppel—issues previously decided.* An issue at your hearing may be a fact that has already been decided in one of our previous determinations or decisions in a claim involving the same parties, but arising under a different title of the Act or under the Federal Coal Mine Health and Safety Act. If this happens, the administrative law judge will not consider the issue again, but will accept the factual finding made in the previous determination or decision unless there are reasons to believe that it was wrong.

**§ 404.1440 When a record of a hearing is made.**

The administrative law judge shall make a complete record of the hearing proceedings. The record will be prepared as a typed copy of the proceedings if—

(a) The case is certified to the Appeals Council without a decision by the administrative law judge;

(b) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(c) An administrative law judge or the Appeals Council asks for a written record of the proceedings.

**§ 416.1441 Consolidated hearings.**

(a) *General.* (1) A consolidated hearing may be held if—

(i) You have requested a hearing to decide your eligibility for supplemental security income benefits and you have also requested a hearing to decide your rights under another law we administer; and

(ii) One or more of the issues to be considered at the hearing you requested are the same issues that are involved in another claim you have pending before us.

(2) If the administrative law judge decides to hold the hearing on both claims, he or she decides both claims, even if we have not yet made an initial or reconsidered determination on the other claim.

(b) *Record, evidence, and decision.* There will be a single record at a consolidated hearing. This means that the evidence introduced in one case becomes evidence in the other(s). The administrative law judge may make either a single or consolidated decision.

**§ 416.1442 The administrative law judge's decision.**

(a) *General.* The administrative law judge shall issue a written decision which gives the findings of fact and the reasons for the decision. The administrative law judge shall mail a copy of the decision to all the parties at their last known addresses. The Appeals Council may also receive a copy of the decision.

(b) *Time for the administrative law judge's decision.* (1) The administrative law judge must issue the hearing decision no later than 90 days after the request for hearing is filed, unless—

(i) The matter to be decided is whether you are disabled; or

(ii) There is good cause for extending the time period because of unavoidable circumstances.

(2) Good cause for extending the time period may be found under the following circumstances:

(i) Delay caused by you or by your representative's action. The time period for decision in this instance may be extended by the total number of days of the delays. The delays include delays in submitting evidence, briefs, or other statements, postponements or adjournments made at your request, and any other delays caused by you or your representative.

(ii) Other delays. The time period for decision may be extended where delays occur through no fault of the Secretary. In this instance, the decision will be issued as soon as practicable.

(c) *Recommended decision when a court has remanded a case to the Appeals Council.* If a Federal district court remands a case to the Appeals Council for another hearing, the Appeals Council may send the case to an administrative law judge to hold the hearing and recommend a decision to the Appeals Council. The administrative law judge shall mail a copy of the recommended decision to all of the parties and certify the recommended decision to the Appeals Council.

**§ 416.1443 The effect of the administrative law judge's decision.**

The decision of the administrative law judge is binding on all parties to the hearing and subject to review only if—

(a) You or another party request a review of the decision by the Appeals Council within the stated time period, and the Appeals Council reviews your case;

(b) You or another party requesta a review of the decision by the Appeals Council within the stated time period, the Appeals Council denies your request for review, and you seek judicial review of your case by filing an action in a Federal district court;

(c) The decision is revised by an administrative law judge or the Appeals Council under the procedures explained in § 416.1463;

(d) The expedited appeals process is used; or

(e) The decision is a recommended decision directed to the Appeals Council.

**§ 416.1444 Hearings held by the Appeals Council.**

The Appeals Council may assume responsibility for holding a hearing if you have requested a hearing and the request is pending before an administrative law judge. If the Appeals Council holds a hearing, it shall conduct the hearing according to the rules for hearings before an administrative law judge. Notice shall be mailed to you and all the parties at your last known addresses telling you that the Appeals Council has assumed responsibility for your case.

**§ 416.1445 Dismissal of a request for a hearing.**

An administrative law judge may dismiss a request for a hearing and not conduct a hearing under any of the following conditions:

(a) At any time before notice of the hearing decision is mailed, you or the party or parties that requested the hearing ask to withdraw the request. This request may be submitted in writing to the administrative law judge or made orally at the hearing.

(b) Neither you nor the person you designate to act as your representative appears at the time and place set for the hearing and—

(1) The reasons for this failure to appear have not been presented to the administrative law judge; or

(2) Within 10 days after the administrative law judge mails you a notice asking why you did not appear, you do not give a good reason for the failure to appear.

(c) The administrative law judge decides that there is cause to dismiss a hearing request entirely or to refuse to consider any one or more of the issues because—

(1) The doctrine of *res judicata* applies in that we have made a previous determination or decision under this subpart about your rights on the same facts and on the same issue or issues, and this previous determination or decision has become final;

(2) The person requesting a hearing has no right to it under § 416.1426;

(3) You did not request a hearing within the stated time period and we have not extended the time for requesting a hearing under § 416.1428(c); or

(4) You die, there are no other parties, and we have no information to show that you may have an eligible spouse. However, dismissal of the hearing request will be vacated if, within 60 days after the date of the dismissal, another person claiming to be your eligible spouse submits a written request for a hearing on the claim and shows that he or she may be adversely affected by the determination that was to be reviewed at the hearing.

**§ 416.1446 Notice of dismissal of a hearing request.**

We shall send a written notice of the dismissal of the hearing request to you and any other party or parties at your last known addresses. The notice will state that there is a right to request that the Appeals Council vacate the dismissal action.

**§ 416.1447 Effect of dismissal of a hearing request.**

A dismissal of a request for a hearing is binding, unless it is vacated by an administrative law judge or the Appeals Council.

An administrative law judge or the Appeals Council may vacate any dismissal of a hearing request if, within 60 days after the date you receive the dismissal notice, you request that the dismissal be vacated and show good cause why the hearing request should not have been dismissed. The Appeals Council itself may decide within 60 days after the notice of dismissal is mailed to vacate the dismissal. The Appeals Council shall advise you in writing of any action it takes.

**§ 416.1448 Prehearing and posthearing conferences.**

The administrative law judge may decide on his or her own, or at the request of any party to the hearing, to hold a prehearing or posthearing conference to facilitate the hearing or the hearing decision. The administrative law judge shall tell the parties of the time, place and purpose of the conference at least seven days before the conference date, unless the parties have indicated in writing that they do not wish to receive a written notice of

the conference. At the conference, the administrative law judge may consider matters in addition to those stated in the notice, if the parties consent in writing. A record of the conference will be made. The administrative law judge shall issue an order stating all agreements and actions resulting from the conference. If the parties do not object, the agreements and actions become part of the hearing record and are binding on all parties.

Appeals Council Review

**§ 416.1449 Appeals Council—general.**

If you or any other party is dissatisfied with the hearing decision or dismissal, you may request that the Appeals Council review the decision or vacate the dismissal. The Appeals Council may deny or dismiss your request for review of the hearing decision, remand your case to an administrative law judge, or review your case and issue a decision. The Appeals Council may vacate the dismissal of your request for a hearing. The Appeals Council shall notify you and all the parties at your last known addresses of the action it takes.

**§ 416.1450 How to request Appeals Council review.**

(a) *Time and place to request Appeals Council review.* You may request Appeals Council review by filing a written request. Any documents or other evidence you wish to have considered by the Appeals Council should be submitted with your request for review. You may file your request at one of our offices within 60 days after the date you receive notice of the hearing decision (or within the extended time period if we extend the time as provided in paragraph (b) of this section).

(b) *Extension of time to request review.* You or any party to a hearing decision may ask that the time for filing a request for the review be extended. The request for an extension of time must be in writing. It must be filed with the Appeals Council, and it must give the reasons why the request for review was not filed within the stated time period. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, the standards explained in § 416.1409(b)(2) and (3) are used.

**§ 416.1451 Appeals Council initiates review.**

Anytime within 60 days after the date of a hearing decision, the Appeals Council itself may decide to review the action that was taken. If the Appeals Council does review the hearing decision, written notice of the action will be sent to you and all parties at your last known addresses.

**§ 416.1452 Cases the Appeals Council will review.**

(a) The Appeals Council will review a case if—

(1) There appears to be an abuse of discretion by the administrative law judge;

(2) There is an error of law;

(3) The action, findings or conclusions of the administrative law judge are not supported by substantial evidence; or

(4) There is a broad policy or procedural issue that may affect the general public interest.

(b) If new and material evidence is submitted with the request for review, the Appeals Council shall evaluate the entire record. It will then review the case if it finds that the administrative law judge's action, findings, or conclusion is contrary to the weight of the evidence currently in the record.

**§ 416.1453 Dismissal by Appeals Council.**

In deciding whether to review a case, the Appeals Council will consider the hearing decision or dismissal and any new and material evidence you submit with your request for Appeals Council review. The Appeals Council may dismiss your request for review if you did not file your request within the stated period of time and the time for filing has not been extended. The Appeals Council may also dismiss any proceedings before it if—

(a) You and any other party to the proceedings files a written request for dismissal; or

(b) You or any other party to the proceedings dies and the record clearly shows that there is no person who may be your eligible spouse who wishes to continue the action.

**§ 416.1454 Effect of dismissal of request for Appeals Council review.**

The effect of dismissal of a request for Appeals Council review is binding and not subject to further review.

**§ 416.1455 Notice of Appeals Council review.**

When the Appeals Council decides to review a case, it shall mail a notice to the parties stating the reasons for the review and the issues to be considered.

**§ 416.1456 Obtaining evidence from Appeals Council.**

You may request and receive copies or a statement of the documents or other written evidence upon which the hearing decision or dismissal was based and a copy or summary of the transcript of oral evidence. However, you will be asked to pay for these copies unless you show good cause why you should not pay.

**§ 416.1457 Filing briefs with the Appeals Council.**

Upon request, the Appeals Council shall give you and all other parties a reasonable opportunity to file briefs or other written statements about the facts and law relevant to the case. A copy of each brief or statement should be filed for each party.

**§ 416.1458 Procedures before Appeals Council on review.**

(a) *Limitation of issues.* The Appeals Council may limit the issues it considers if it notifies you and the other parties of the issues it will review.

(b) *Evidence.* The Appeals Council will consider the evidence in the hearing record and any additional evidence it believes is material to an issue being considered. If the Appeals Council decides that more evidence is needed, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Appeals Council decides that it can obtain the information more quickly, it may do so unless it will adversely affect your rights.

(c) *Oral argument.* You may request to appear before the Appeals Council to present oral argument. The Appeals Council will grant your request if it decides that your case raises an important question of law or policy or that oral argument would facilitate a proper decision. If your request to appear is granted, the Appeals Council will tell you the time and place of the oral argument at least 10 days before the scheduled date.

**§ 416.1459 Case remanded by Appeals Council.**

(a) *When the Appeals Council may remand a case.* The Appeals Council may remand a case to an administrative law judge so that he or she may hold a hearing and issue a decision. The Appeals Council will remand a case in which additional evidence is needed, unless it can obtain the information more quickly without adversely affecting your rights.

(b) *Action by administrative law judge on remand.* The administrative law judge shall take any action that is ordered by the Appeals Council and may take additional action that is not inconsistent with the Appeals Council's remand order. When gathering evidence and holding a hearing in response to a remand order, the administrative law

judge will follow the rules controlling these activities.

**§ 416.1460 Case remanded by Federal court.**

(a) *General.* When a Federal court remands a case to the Appeals Council for further consideration, the Appeals Council may review it and make a decision, or it may remand the case to an administrative law judge with instructions to take action and return the case to the Appeals Council with a recommended decision. The administrative law judge will gather evidence or hold a hearing as directed by the Appeals Council's remand order and will follow the rules controlling these activities. The administrative law judge, after taking the ordered action, will certify the case to the Appeals Council with a recommended decision.

(b) *Notice.* When the administrative law judge certifies a case to the Appeals Council, a notice is sent to all the parties at their last known addresses. The notice tells them that the case has been returned to the Appeals Council, explains the rules for submitting evidence to the Appeals Council, and includes a copy of the recommended decision.

(c) *Filing briefs with and obtaining evidence from the Appeals Council.* (1) You may submit briefs or other written statements about the facts and law relevant to your case to the Appeals Council within 10 days of the date that the recommended decision is mailed to you. However, within that 10-day period, you may ask for additional time to submit evidence to the Appeals Council. Upon request, the Appeals Council will allow 10 additional days. If you show good cause, the Appeals Council may extend this 10-day period, as appropriate.

(2) All other rules for filing briefs with and obtaining evidence from the Appeals Council follow th procedures explained in this subpart.

(d) *Procedures before the Appeals Council after certification.* (1) When an administrative law judge certifies a case to the Appeals Council, the Appeals Council will conduct its proceedings after certification according to the procedures explained in this subpart.

(2) If the Appeals Council thinks that more evidence is required, it may again remand the case to the administrative law judge for further inquiry into the issues, rehearing, receipt of evidence, and another initial hearing decision or a recommended decision. However, if the Appeals Council decides that it can get the additional evidence more quickly, it will take appropriate action.

**§ 416.1461 Decision of Appeals Council.**

After it has reviewed all the evidence in the hearing record and any additional evidence received, the Appeals Council will make a decision or remand the case to an administrative law judge. The decision may affirm, modify or reverse the hearing decision or recommended decision. A copy of the Appeals Council's decision will be mailed to you and any other parties at your last known addresses.

**§ 416.1462 Effect of Appeals Council's decision or refusal to review.**

The Appeals Council may deny a party's request for review or it may decide to review a case and make a decision. The Appeals Council's decision, or the decision of the administrative law judge if the request for review is denied, is binding and subject to further review only if you or another party file an action in Federal district court, or the decision is revised.

**Reopening and Revising Determinations and Decisions**

**§ 416.1463 Reopening and revising determinations and decisions.**

(a) *General.* Generally, if you are dissatisfied with a determination or decision made in the administrative review process, but do not request further review within the stated time period, you lose your right to further review. However, a determination or a decision made in your case may be reopened and revised. After we reopen your case, we may revise the earlier determination or decision. If we revise the earlier determination or decision, you may request a reconsideration or hearing, as appropriate on the revised decision.

(b) *Procedure for reopening and revision.* You may ask that a determination or a decision to which you were a party be revised. The conditions under which we will reopen a previous determination or decision are explained in § 416.1464. Also, a component of our office, an administrative law judge, or the Appeals Council may, under the conditions explained in § 416.1464, revise a previous determination or decision. If this action is taken, you will be notified of it in writing. You will also receive written notice of any revision. If you are dissatisfied with a revised decision, you may request a reconsideration or hearing, as appropriate.

**§ 416.1464 Conditions for reopening.**

A determination, revised determination, decision, or revised decision may be reopened—

(a) Within 12 months of the date of the notice of the initial determination, for any reason;

(b) Within two years of the date of the notice of the initial determination if we find good cause, as defined in § 416.1465, to reopen the case; or

(c) At any time if the determination or decision was obtained by fraud or similar fault.

**§ 416.1465 Good cause for reopening.**

(a) We will find that there is good cause to reopen a determination or decision if—

(1) New and material evidence is furnished;

(2) A clerial error is made; or

(3) The evidence that was considered in making the determination or decision clearly shows on its face that an error was made.

(b) We will not find good cause to reopen your case if the only reason for reopening is a change of legal interpretation or administrative ruling upon which the determination or decision was made.

**§ 416.1468 Notice of revised determination or decision.**

(a) When a determination or decision is revised, notice of the revision will be mailed to you and to any other parties to the determination or decision at your last known addresses. The notice will state the basis for the revised determination or decison, and the effect of the revision. The notice will also inform you of the right to a reconsideration or hearing.

(b) If a determination is revised and the revised determination requires that your benefits be suspended, reduced, or terminated, the notice will inform you of your right to continued payment (see § 416.1336 and the exceptions set out in § 416.1337) and of your right to reconsideration. However, if our revised determination is that your disability or blindness has ended due to medical reasons, the notice will inform you of your right to continued payment and of your right to a hearing.

(c) If a determination is revised and the revised determination does not require that your benefits be suspended, reduced, or terminated, the notice will inform you of your right to a hearing.

(d) If an administrative law judge or the Appeals Council proposes to revise a decision, and the revision would be based on evidence not included in the record on which the prior decision was based, you and any other parties to the decision will be notified of the proposed action and of your right to request that a hearing be held before any further

action is taken. If a revised decision is issued by an administrative law judge, you or any other party may request that it be reviewed by the Appeals Council, or the Appeals Council may review the decision on its own initiative.

(e) An administrative law judge may, in connection with a valid request for a hearing, propose to reopen an issue other than the issue on which the request for a hearing was based. The administrative law judge will follow the time limits for reopenings set out in § 416.1464. The administrative law judge shall send you and all other parties a notice of the reopening.

**§ 416.1469 Effect of revised determination or decision.**

A revised determination or decision is binding and subject to further review only if—

(a) You or a party to the revised determination or decision files a written request for a reconsideration or a hearing;

(b) The Appeals Council reviews the revised decision; or

(c) The revised determination or decision is further revised.

**§ 416.1470 Time and place to request a reconsideration or a hearing on revised determination or decision.**

You or another party to the revised determination or decision may request a reconsideration or a hearing on the revision by filing a request in writing at one of our offices within 60 days after the date you receive notice of the revision. A reconsideration or a hearing then may be held on the revision according to the rules of this subpart.

5. Subpart O of Part 416 is revised to read as follows:

**Subpart O—Representation of Parties**

Sec.

416.1500 Introduction.
416.1503 Definitions.
416.1505 Who may be your representative.
416.1507 Appointing a representative.
416.1510 Authority of a representative.
416.1515 Notice or request to a representative.
416.1520 Fee for a representative's services.
416.1525 Request for approval of a fee.
416.1528 Proceedings before a State or Federal court.
416.1535 Services in a proceeding under title XVI of the Social Security Act.
416.1540 Rules governing representatives.
416.1545 What happens to a representative who breaks the rules.
416.1550 Notice of charges against a representative.
416.1555 Withdrawing charges against a representative.
416.1560 Referring charges to our Bureau of Hearings and Appeals.
416.1565 Hearing on charges.
416.1570 Decision by hearing officer.
416.1575 Requesting review of the hearing officer's decision.
416.1580 Appeals Council's review of hearing officer's decision.
416.1585 Evidence permitted on review.
416.1590 Appeals Council's decision.
416.1595 When the Appeals Council will dismiss a request for review.
416.1597 Reinstatement after suspension—period of suspension expired.
416.1599 Reinstatement after suspension or disqualification—period of suspension not expired.

**Authority:** Secs. 1102 and 1631(d)(2) of the Social Security Act; 49 Stat. 647, 86 Stat. 1475; 42 U.S.C. 1302 and 1383.

## Subpart O—Representation of Parties

**§ 416.1500 Introduction.**

When you are a party to an initial or reconsidered determination, a hearing decision, or a review of a hearing decision under Subpart N of this part, you may appoint someone to represent you in your dealings with us. This subpart explains, among other things—

(a) Who may be your representative and what his or her qualifications must be;

(b) How you appoint a representative;

(c) The payment of fees to a representative;

(d) Our rules that representatives must follow; and

(e) What happens to a representative who breaks the rules.

**§ 416.1503 Definitions.**

As used in this subpart:

*Representative* means an attorney who meets all of the requirements of § 416.1505(a), or a person other than an attorney who meets all of the requirements of § 416.1505(b), and who may represent you in dealings with us.

*We, our, or us* refers to the Social Security Administration.

*You or your* refers to any person or the eligible spouse of any person claiming a right to payments under title XVI of the Social Security Act.

**§ 416.1505 Who may be your representative.**

(a) *Attorney.* You may appoint as your representative in dealings with us any attorney in good standing who—

(1) Has the right to practice law before a court of a State, Territory, District, or island possession of the United States, or before the Supreme Court or a lower Federal court of the United States;

(2) Is not disqualified or suspended from acting as a representative in dealings with us; and

(3) Is not prohibited by any law from acting as a representative.

(b) *Person other than attorney.* You may appoint any person who is not an attorney to be your representative in dealings with us if he or she—

(1) Is generally known to have a good character and reputation;

(2) Is capable of giving valuable help to you in connection with your claim;

(3) Is not disqualified or suspended from acting as a representative in dealing with us; and

(4) Is not prohibited by any law from acting as a representative.

**§ 416.1507 Appointing a representative.**

We will recognize a person as your representative if the following things are done:

(a) You give a written, signed notice to the person stating that you want the person to be your representative in dealings with us.

(b) That person signs the notice, agreeing to be your representative, if the person is not an attorney. (An attorney does not have to sign a notice of appointment.)

(c) You file the notice at one of our offices if you have initially filed a claim or requested reconsideration; with an administrative law judge if you have requested a hearing; or with the Appeals Council if you have requested a review of the administrative law judge's decision.

**§ 416.1510 Authority of a representative.**

(a) *What a representative may do.* Your representative may, on behalf of you—

(1) Obtain information about your claim to the same extent that you are able to do;

(2) Submit evidence;

(3) Make statements about facts and law; and

(4) Make any request or give any notice about the proceedings before us.

(b) *What a representative may not do.* A representative may not file an application on behalf of a claimant for rights or benefits under title XVI of the Act unless authorized to do so under § 416.315.

**§ 416.1515 Notice or request to a representative.**

(a) On behalf of you, we may send to your representative—

(1) A notice of any administrative action, determination, or decision; or

(2) A request for information or evidence.

(b) If we send the notice or request to your representative, it will have the same force and effect as if it had been sent to you.

**§ 416.1520 Fee for a representative's services.**

*General.* A representative may charge and receive a fee for his or her services as a representative only as provided in paragraph (b) of this section.

(b) *Charging and receiving a fee.* (1) The representative must file a written request with us in order to charge or receive a fee for his or her services.

(2) We decide the amount of the fee, if any, a representative may charge or receive.

(3) A representative shall not charge or receive any fee unless we have approved it, and he or she shall not charge or receive any fee that is more than the amount we approve. This rule applies whether the fee is charged to or received from you or from someone else.

(c) *Notice of fee determination.* We shall mail both to you and your representative at your last known addresses a written notice of what we decide about the fee. We shall state in the notice—

(1) The amount of the fee that is authorized;

(2) Why we made that decision;

(3) That we are not responsible for paying the fee; and

(4) That within 30 days of the date of the notice, either you or your representative may request us to review the fee determination.

(d) *Review of fee determination*—(1) *Request filed on time.* We will review the decision we made about a fee if either you or your representative files a written request for the review at one of our offices within 30 days after the date of the notice of the fee determination. Either you or your representative, whoever requests the review, shall send a copy of the request to the other person. An authorized official of the Social Security Administration who did not take part in the fee determination being questioned will review the determination. This determination is not subject to further review. The official shall send a written notice of the decision made on review both to you and to your representative at your last known addresses.

(2) *Request not filed on time.* (i) If you or your representative requests a review of the decision we made about a fee, but do so more than 30 days after the date of the notice of the fee determination, whoever makes the request shall state in writing why it was not filed within the 30-day period. We will review the determination if we decide that there was good cause for not filing the request on time.

(ii) Some examples of good cause follow:

(A) Either you or your representative was seriously ill and the illness prevented you or your representative from contacting us in person or in writing.

(B) There was a death or serious illness in your family or in the family of your representative.

(C) Material records were destroyed by fire or other accidental cause.

(D) We gave you or your representative incorrect or incomplete information about the right to request review.

(E) You or your representative did not timely receive notice of the fee determination.

(F) You or your representative sent the request to another government agency in good faith within the 30-day period, and the request did not reach us until after the period had ended.

(3) *Payment of fees.* We assume no responsibility for the payment of a fee based on a representative's services before the Social Security Administration under title XVI.

**§ 416.1525 Request for approval of a fee.**

(a) *Filing a request.* In order for your representative to obtain approval of a fee for services he or she performed in dealings with us, he or she shall file a written request with one of our offices. This should be done after the proceedings in which he or she was a representative are completed. The request must contain—

(1) The dates the representative's services began and ended;

(2) A list of the services he or she gave and the amount of time he or she spent on each type of service;

(3) The amount of the fee he or she wants to charge for the services;

(4) The amount of fee the representative wants to request or charge for his or her services in the same matter before any State or Federal court;

(5) The amount of and a list of any expenses the representative incurred for which he or she has been paid or expects to be paid;

(6) A description of the special qualifications which enabled the representative, if he or she is not an attorney, to give valuable help to you in connection with your claim; and

(7) A statement showing that the representative sent a copy of the request for approval of a fee to you.

(b) *Evaluating a request for approval of a fee.* (1) When we evaluate a representative's request for approval of a fee, we consider the purpose of the supplemental security income program, which is to assure a minimum level of income for the beneficiaries of the program, together with—

(i) The extent and type of services the representative performed;

(ii) The complexity of the case;

(iii) The level of skill and competence required of the representative in giving the services;

(iv) The amount of time the representative spent on the case;

(v) The results the representative achieved;

(vi) The level of review to which the claim was taken and the level of the review at which the representative became your representative; and

(vii) The amount of fee the representative requests for his or her services, including any amount authorized or requested before, but not including the amount of any expenses he or she incurred.

(2) Although we consider the amount of benefits, if any, that are payable, we do not base the amount of fee we authorize on the amount of the benefit alone, but on a consideration of all the factors listed in this section. The benefits payable in any claim are determined by specific provisions of law and are unrelated to the efforts of the representative.

**§ 416.1528 Proceedings before a State or Federal court.**

We shall not consider any service the representative gave you in any proceeding before a State or federal court to be services as a representative in dealings with us. However, if the representative has also given service to you in the same connection in any dealings with us, he or she must specify what, if any, portion of the fee he or she wants to charge is for services performed in dealings with us. If the representative charges any fee for those services, he or she must file the request and furnish all of the information requires by § 416.1525.

**§ 416.1535 Services in a proceeding under title XVI of the Act.**

Services provided a claimant in any dealing with us under title XVI of the Act consist of services performed for that claimant in connection with any claim he or she may have before the Secretary of Health, Education, and Welfare under title XVI of the Act. These services include any in connection with any asserted right a claimant may have calling for an initial or reconsidered determination by us, and a decision or action by an administrative law judge or by the Appeals Council.

**§ 416.1540 Rules governing representatives.**

No attorney or other person representing a claimant shall—

(a) With intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten by word, circular, letter, or advertisement, either oral or written, any claimant or prospective claimant or beneficiary regarding benefits, or other initial or continued right under the Act;

(b) Knowingly charge or collect, or make any agreement to charge or collect, directly or indirectly, any fee in any amount in excess of that allowed by us or if the proceeding is before a Federal court, any fee on any amount in excess of that allowed by the court;

(c) Knowingly make or participate in the making or presentation of any false statement, representation, or claim about any material fact affecting the rights of any person under title XVI of the Act; or

(d) Divulge, except as may be authorized by regulations prescribed by us, any information we furnish or disclose, about the claim or prospective claim of another person.

**§ 416.1545 What happens to a representative who breaks the rules.**

Our Deputy Commissioner or the Director (or Deputy Director) of our Bureau of Retirement and Survivors Insurance may begin proceedings to suspend or disqualify a person from acting as a representative in dealings with us if it appears that he or she—

(a) Has violated any of the rules in § 416.1540;

(b) Has been convicted of a violation under section 1631(d)(2) of the Act;

(c) has otherwise refused to comply with our rules and regulations on representing claimants in dealings with us.

**§ 416.1550 Notice of charges against a representative.**

(a) The Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance will prepare a notice containing a statement of charges that constitutes the basis for the proceeding against the representative.

(b) We will send this notice to the representative either by certified or registered mail, to his or her last known address, or by personal delivery.

(c) We will advise the representative to file an answer, within 30 days from the date of the notice or from the date the notice was delivered personally, stating why he or she should not be suspended or disqualified from acting as a representative in dealings with us.

(d) The Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, may extend the 30-day period for good cause.

(e) The representative must—

(1) Answer the notice in writing under oath ( or affirmation); and

(2) File it with the Social Security Administration, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235, within the 30-day time period.

(f) If the representative does not file an answer within the 30-day time period, he or she does not have the right to present evidence, except as may be provided in § 404.1565(f).

**§ 416.1555 Withdrawing charges against a representative.**

We may withdraw charges against a representative. We will do this if the representative files an answer, or we obtain evidence, that satisfies us that there is reasonable doubt about whether he or she should be suspended or disqualified from acting as a respresentative in dealings with us. If we withdraw the charges, we shall notify the representative by mail at his or her last known address.

**§ 416.1560 Referring charges to the Bureau of Hearings and Appeals.**

If we do not take action to withdraw the charges against the representative before 15 days have passed after the time within which he or she has filed an answer, we shall send the record of the evidence in support of the charges to the Bureau of Hearings and Appeals. We will ask that they hold a hearing and make a decision on the charges.

**§ 416.1565 Hearing on charges.**

(a) *Hearing officer.* (1) When the Bureau of Hearings and Appeals receives the notice of charges against the representative, the record of evidence, and the request for a hearing, the Director or his delegate shall name and administrative law judge, designated to act as a hearing officer, to hold a hearing on the charges.

(2) No hearing officer shall hold a hearing in a case in which he or she is prejudiced or partial about any party, or has any interest in the matter.

(3) If the representative or any party to the hearing objects to the hearing officer who has been named to hold the hearing, we must be notified at the earliest opportunity. The hearing officer shall consider the objection(s) and either proceed with the hearing or withdraw from it.

(4) If the hearing officer withdraws from the hearing, another one will be named.

(5) If the hearing officer does not withdraw, the representative or any other person objecting may, after the hearing, present his or her objections to the Appeals Council explaining why he or she believes the hearing officer's decision should be revised or a new hearing held by another administrative law judge designated to act as a hearing officer.

(b) *Time and place of hearing.* The hearing officer shall mail the representative a written notice of the hearing, at his or her last known address, at least 20 days before the date set for the hearing. The hearing officer shall send a copy of the notice to the Deputy Commissioner, or to the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance.

(c) *Change of time and place for hearing.* (1) The hearing officer may change the time and place for the hearing. This may be done either on his or her own, or at the request of the representative or the other party to the hearing;

(2) The hearing officer may adjourn or postpone the hearing;

(3) The hearing officer may reopen the hearing for the receipt of additional evidence at any time before mailing notice of the decision;

(4) The hearing officer shall give the representative and the other party to the hearing reasonable notice of any change in the time or place for the hearing, or of an adjournment or reopening of the hearing.

(d) *Parties.* The representative against whom charges have been made is a party to the hearing. The Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, also is a party to the hearing.

(e) *Subpoenas.* (1) The representative or the other party to the hearing may request the hearing officer or the Appeals Council to issue a subpoena for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to any matter being considered at the hearing. The hearing officer may, on his or her own, issue subpoenas for the same purposes when the action is reasonably necessary for the full presentation of the facts.

(2) The representative or the other party who wants a subpoena issued shall file a written request with the

hearing officer. This must be done at least 5 days before the date set for the hearing. The request must name the documents to be produced, and describe the address or location is enough detail to permit the witnesses or documents to be found.

(3) The representative or the other party who wants a subpoena issued shall state in the request for a subpoena the material facts that he or she expects to establish by the witness or document, and whether the facts could be established by the use of other evidence which could be obtained without use of a subpoena.

(4) We will pay the cost of the issuance and the fees and mileage of any witness subpoenaed, as provided in section 205(d) of the Act.

(f) *Conduct of the hearing.* (1) The hearing officer shall make the hearing open to the representative, to the other party, and to any persons the parties or the hearing officer consider necessary or proper. The hearing officer shall inquire fully into the matters being considered, hear the testimony of witnesses, and accept any documents that are material.

(2) If the representative did not file an answer to the charges, he or she has no right to present evidence at the hearing. The hearing officer may make or recommend a decision on the basis of the record, or permit the representative to present a statement about the sufficiency of the evidence or the validity of the proceedings upon which the suspension or disqualification, if it occurred, would be based.

(3) If the representative did not file an answer to the charges, and if the hearing officer believes that there is material evidence available that was not presented at the hearing, the hearing officer may at any time before mailing notice of the hearing decision reopen the hearing to accept the additional evidence.

(4) The hearing officer has the right to decide the order in which the evidence and the allegations will be presented and the conduct of the hearing.

(g) *Evidence.* The hearing officer may accept evidence at the hearing, even though it is not admissible under the rules of evidence that apply to Federal court procedure.

(h) *Witnesses.* Witnesses who testify at the hearing shall do so under oath or affirmation. Either the representative or a person representing him or her may question the witnesses. The other party and that party's representative must also be allowed to question the witnesses. The hearing officer may also ask questions as considered necessary, and shall rule upon any objection made by either party about whether any question is proper.

(i) *Oral and written summation.* (1) The hearing officer shall give the representative and the other party a reasonable time to present oral summation and to file briefs or other written statements about proposed findings of fact and conclusions of law if the parties request it.

(2) The party that files briefs or other written statements shall provide enough copies so that they may be made available to any other party to the hearing who requests a copy and to any other party named by the Appeals Council.

(j) *Record of hearing.* In all cases, the hearing officer shall have a complete record of the proceedings at the hearing made and transcribed.

(k) *Representation.* The representative, as the person charged, may appear in person and may be represented by an attorney or other representative.

(l) *Failure to appear.* If the representative or the other party to the hearing fails to appear after being notified of the time and place, the hearing officer may hold the hearing anyway so that the party present may offer evidence to sustain or rebut the charges. The hearing officer shall give the party who failed to appear an opportunity to show good cause for failure to appear. If the party fails to show good cause, he or she is considered to have waived the right to be present at the hearing. If the party shows good cause, the hearing officer may hold a supplemental hearing.

(m) *Dismissal of charges.* The hearing officer may dismiss the charges in the event of the death of the representative.

(n) *Cost of transcript.* If the representative or the other party to a hearing requests a copy of the transcript of the hearing, the hearing officer will have it prepared and sent to the party upon payment of the cost, unless the payment is waived for good cause.

**§ 416.1570 Decision by hearing officer.**

(a) *General.* (1) After the close of the hearing, the hearing officer shall issue a decision or certify the case to the Appeals Council. The decision must be in writing, will contain findings of fact and conclusions of law, and be based upon the evidence of record.

(2) If the hearing officer finds that the charges against the representative have been sustained, he or she shall either—

(i) Suspend the representative for a specified period of not less than 1 year, nor more than 5 years, from the date of the decision; or

(ii) Disqualify the representative from acting as a representative in dealings with us until he or she may be reinstated under § 416.1599.

(3) The hearing officer shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance. The notice will inform the parties of the right to request the Appeals Council to review the decision.

(b) *Effect of hearing officer's decision.* (1) The hearing officer's decision is final and binding unless reversed or modified by the Appeals Council upon review.

(2) If the final decision is that a person is disqualified from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us until authorized to do so under the provisions of § 416.1599.

(3) If the final decision is that a person is suspended for a specified period of time from being a representative in dealings with us, he or she will not be permitted to represent anyone in dealings with us during the period of suspension unless authorized to do so under the provisions of § 416.1599.

**§ 416.1575 Requesting review of the hearing officer's decision.**

(a) *General.* After the hearing officer issues a decision, either the representative or the other party to the hearing may ask the Appeals Council to review the decision.

(b) *Time and place of filing request for review.* The party requesting review shall file the request for review in writing with the Appeals Council within 30 days from the date the hearing officer mailed the notice. The party requesting review shall certify that a copy of the request for review and of any documents that are submitted have been mailed to the opposing party.

**§ 416.1580 Appeals Council's review of hearing officer's decision.**

(a) Upon request, the Appeals Council shall give the parties a reasonable time to file briefs or other written statements as to fact and law, and to appear before the Appeals Council to present oral argument.

(b) If a party files a brief or other written statement with the Appeals Council, he or she shall send a copy to the opposing party and certify that the copy has been sent.

**§ 416.1585 Evidence permitted on review.**

(a) *General.* Generally, the Appeals Council will not consider evidence in addition to that introduced at the hearing. However, if the Appeals Council believes that the evidence offered is material to an issue it is considering, the evidence will be considered.

(b) *Individual charged filed an answer.* (1) When the Appeals Council believes that additional material evidence is available, and the representative has filed an answer to the charges, the Appeals Council shall require that the evidence be obtained. The Appeals Council may name an administrative law judge or a member of the Appeals Council to receive the evidence.

(2) Before additional evidence is admitted into the record, the Appeals Council shall mail a notice to the parties telling them that evidence about certain issues will be obtained unless the notice is waived. The Appeals Council shall give each party a reasonable opportunity to comment on the evidence and to present other evidence that is material to an issue it is considering.

(c) *Individual charged did not file an answer.* If the representative did not file an answer to the charges, the Appeals Council will not permit the introduction of evidence that was not considered at the hearing.

**§ 416.1590 Appeals Council's decision.**

(a) The Appeals Council shall base its decision upon the evidence in the hearing record and any other evidence it may permit or review. The Appeals Council shall either—

(1) Affirm, reverse, or modify the hearing officer's decision;

(2) Return a case to the hearing officer when the Appeals Council considers it appropriate.

(b) The Appeals Council, in changing a hearing officer's decision to suspend a representative for a specified period, shall in no event reduce the period of suspension to less than 1 year. In modifying a hearing officer's decision to disqualify a representative, the Appeals Council shall in no event impose a period of suspension of less than 1 year.

(c) If the Appeals Council affirms or changes a hearing officer's decision, the period of suspension or the disqualification is effective from the date of the Appeals Council's decision.

(d) If the hearing officer did not impose a period of suspension or a disqualification, and the Appeals Council decides to impose one or the other, the suspension or disqualification is effective from the date of the Appeals Council's decision.

(e) The Appeals Council shall make its decision in writing and shall mail a copy of the decision to the representative at his or her last known address and to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance.

**§ 416.1595 When the Appeals Council will dismiss a request for review.**

The Appeals Council may dismiss a request for the review of any proceeding to suspend or disqualify a representative in any of the following circumstances:

(a) *Upon request of party.* The Appeals Council may dismiss a request for review upon written request of the party or parties who filed the request, provided there is not another party who objects to the dismissal.

(b) *Death of party.* The Appeals Council may dismiss a request for review in the event of the death of the representative.

(c) *Request for review not timely filed.* The Appeals Council will dismiss a request for review if a party failed to file a request for review within the 30-day time period and the Appeals Council does not extend the time for good cause.

**§ 416.1597 Reinstatement after suspension—period of suspension expired.**

We shall automatically allow a person to serve again as a representative in dealings with us at the end of any suspension.

**§ 416.1599 Reinstatement after suspension or disqualification—period of suspension not expired.**

(a) After a person has been suspended or has been disqualified, and more than one year has passed, he or she may ask the Appeals Council for permission to serve as a representative again.

(b) The suspended or disqualified person shall submit any evidence he or she wishes to have considered along with the request to be allowed to serve as a representative again.

(c) The Appeals Council shall notify the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance, of the receipt of the request and give that person 30 days in which to present a written report of any experiences with the suspended or disqualified person since that person was suspended or disqualified. The Appeals Council shall make available to the suspended or disqualfied person a copy of the report.

(d) The Appeals Council shall not grant the request unless it is reasonably satisfied that the person will in the future act according to the provisions of section 1631(d)(2) of the Act, and to our regulations.

(e) The Appeals Council shall mail a notice of its decision on the request to the suspended or disqualified person. It shall also mail a copy to the Deputy Commissioner, or the Director (or Deputy Director) of the Bureau of Retirement and Survivors Insurance.

(f) If the Appeals Council decides not to grant the request it shall not consider another request before the end of 1 year from the date of the notice of the previous denial.

[Regs. Nos. 4, 16]

[FR Doc. 79-10389 Filed 4-3-79; 8:45 am]

BILLING CODE 4110-07-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the City of Melbourne, Campbell County, Ky.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Melbourne, Campbell County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Office Building, Melbourne, Kentucky. Send comments to: Mr. Earl J. Moher, Chairman, Board of Trustees, City of Melbourne, City Office Building, P.O. Box 29, Melbourne, Kentucky 41059.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood

Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Melbourne, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ohio River | At the intersection of State Route 8 and Melbourne Avenue. | 503 |
| Four Mile Creek | At Upstream Corporate Limits. | 502 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
*Federal Insurance Administrator.*

[Docket No. FI-5306]

[FR Doc. 79-9888 Filed 4-3-79; 8:45 am]

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## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the town of Dighton, Bristol County, Mass.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Dighton, Bristol County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Selectman's Office, Dighton, Massachusetts. Send comments to: Mr. Edward J. Santos, Chairman, Board of Selectmen, Town of Dighton, Town Hall, Dighton, Massachusetts.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Dighton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Taunton River | Downstream corporate limits | 15 |
| | Just upstream of Cinter Street. | 14 |
| | Confluence of Three Mile River. | 14 |
| Three Mile River | Just upstream of Old Somerset Avenue. | 14 |
| | Just upstream of upstream divergence of West Channel Three Mile River. | 19 |
| | Just upstream of Dam Number 4. | 27 |
| | Upstream corporate limits | 27 |
| West Channel Three Mile River. | Just upstream of downstream confluence with Three Mil River. | 14 |
| | Just upstream of Spring Street. | 15 |
| Segreganset River | Mouth at Taunton River | 15 |
| | About 650 feet upstream of confluence of Sunken Brook. | 15 |
| | 1,400 feet downstream of Center Street. | 25 |
| | Just upstream of Center Street. | 40 |
| | About 2,600 feet upstream of Center Street. | 47 |
| Sunken Brook | Confluence with Segreganset River. | 15 |
| | Just upstream of Center Street. | 16 |
| | About 3,900 feet upstream of Center Street. | 17 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI-5307]

[FR Doc. 79-9889 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the town of Northfield, Franklin County, Mass.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Northfield, Franklin County, Massachusetts.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Main Street, Northfield, Massachusetts. Send comments to: Ms. Carolyn B. Parenteau, Chairman, Board of Selectmen, Town of Northfield, Town Hall, Main Street, Northfield, Massachusetts 01360

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Northfield, Massachusetts, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Connecticut River | Confluence with Tributary B * | 204 |
| | Confluence with Millers Brook *. | 207 |
| | New Route 10 Bridge—100 feet **. | 208 |
| | Schell Bridge * | 209 |
| Bennett Brook | Confluence with Connecticut River *. | 207 |
| | Old Route 10 Culvert— | |
| | 80 feet *** | 210 |
| | 100 feet ** | 219 |
| | Boston and Maine Railroad Culvert— | |
| | 180 feet *** | 257 |
| | 150 feet ** | 272 |
| | Mount Hermon Station Road Culvert— | |
| | 50 feet *** | 319 |
| | 50 feet ** | 342 |
| Fourmile Brook | Pine Meadow Road * | 205 |
| | Central Vermont Railroad Culvert * | 205 |
| | Breached Dam—40 feet ***. | 262 |
| | Breached Dam—50 feet ** | 275 |
| | Main Street (State Route 63)—20 feet ** | 326 |
| | Fourmile Brook Road Bridge-30 feet ** | 342 |
| | Private Drive Bridge—40 feet ** | 424 |
| Louisiana Brook | Route 10-63 Bridge—50 feet ** | 210 |
| | Dirt Road Bridge—50 feet ** | 210 |
| | Limit of Detailed Study * | 222 |
| Mill Brook | Confluence with Connecticut River * | 209 |
| | Dam downstream from State Route 63 Bridge— | |
| | 100 feet *** | 258 |
| | 50 feet ** | 274 |
| | Private Road Bridge—50 feet ** | 287 |
| | Birnam Road Bridge— | |
| | 100 feet *** | 297 |
| | 100 feet ** | 303 |
| | Sturbridge Road Bridge—50 feet ** | 319 |
| | Warwicke Avenue Bridge—50 feet ** | 330 |
| | Most upstream Driveway Bridge off Warwicke Avenue—80 feet ** | 432 |
| | Most upstream Warwicke Avenue Bridge—50 feet **. | 561 |
| | Limit of Detailed Study * | 601 |
| Millers Brook | Confluence with Connecticut River *. | 207 |
| | Central Vermont Railroad Culvert—100 feet **. | 207 |
| | Dam upstream from Central Vermont Railroad Culvert— | |
| | 50 feet *** | 208 |
| | 30 feet ** | 225 |
| | Driveway Bridge—100 feet ***. | 271 |
| | Driveway Bridge—100 feet ** | 276 |
| | Footbridge upstream from Beersplain Road Culvert— | |
| | 50 feet ** | 306 |
| | Old Wendall Road Culvert— | |
| | 70 feet *** | 336 |
| | Old Wendall Road Culvert— | |
| | 70 feet ** | 341 |
| | Driveway Bridge upstream from Old Wendall Road Culvert— | |
| | 50 feet *** | 349 |
| | 50 feet ** | 356 |
| | Maple Street (Gulf Road) Culvert— | |
| | 40 feet *** | 423 |
| | 100 feet ** | 427 |
| Pauchaug Brook | Route 63 Bridge—50 feet ** | 210 |
| Pine Meadow Brook | Pine Meadow Road Bridge— | |
| | 30 feet ** | 205 |
| | Cross Road Culvert—50 feet. | 205 |
| | Central Vermont Railroad Culvert— | |
| | 100 feet *** | 218 |
| | 80 feet ** | 227 |
| Roaring Brook | Main Street Culvert— | |
| | 100 feet ** | 210 |
| | Beersplain Road Bridge— | |
| | 40 feet *** | 252 |
| | 40 feet ** | 256 |
| | State Road Bridge— | |
| | 30 feet ** | 266 |
| | Farm Culvert—60 feet *** | 266 |
| | Farm Culvert—60 feet ** | 269 |
| Tributary B | Pine Meadow Road Bridge— | |
| | 40 feet ** | 204 |

* At centerline.
** Upstream from centerline.
Downstream from centerline.

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI-5309]

[FR Doc. 79-9907 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the Town of Gill, Franklin County, Mass.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Gill, Franklin County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Gill Center, Massachusetts. Send comments to: Mrs. Genevieve Krejmas, Chairman of the Board of Selectmen, Town of Gill, Town Hall, Gill Center, Massachusetts 01376.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Gill, Franklin County, Massachusetts. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Connecticut River | At Greenfield corporate limits. | 158 |
| | Just downstream of Turners Falls Road. | 160 |
| | Just upstream of Turners Falls Road. | 187 |
| | 3.25 miles upstream of Turners Falls Road. | 190 |
| | Just downstream of Mohawk Trail (Route 2). | 192 |
| | 1800 feet upstream of Mohawk Trail (Route 2). | 202 |
| | At confluence with Dry Brook. | 205 |
| | At Northfield corporate limits. | 207 |
| Fall River | Confluence with Connecticut River. | 158 |
| | 250 feet upstream of South Cross Road. | 170 |
| | 1050 feet upstream of South Cross Road. | 180 |
| | 500 feet downstream of Old Stone Dam. | 190 |
| | Just upstream of Old Stone Dam. | 205 |
| | 1600 feet upstream of Old Stone Dam. | 210 |
| | 3850 feet upstream of Old Stone Dam. | 220 |
| | 5400 feet upstream of Old Stone Dam. | 230 |
| | 1600 feet downstream of Bascom Road. | 240 |
| | 250 feet upstream of Bascom Road. | 250 |
| | 3000 feet downstream of a dam at Bernardston corporate limits. | 260 |
| | 1700 feet downstream of a dam at Bernardston corporate limits. | 270 |
| | Just downstream of Bernardston corporate limits. | 280 |
| | Just upstream of Bernardston corporate limits. | 290 |
| Dry Brook | Confluence with Connecticut River. | 205 |
| | Just downstream of Stone Dam. | 215 |
| | Just upstream of Stone Dam. | 232 |
| | Just downstream of Main Road. | 242 |
| | Just upstream of Main Road. | 247 |
| | 1600 feet upstream of Boyle Road. | 251 |
| | 2900 feet upstream of Boyle Road. | 260 |
| | 420 feet upstream of confluence of Otter Brook. | 270 |
| | 1000 feet downstream of North Cross Road. | 288 |
| | Just upstream of North Cross Road. | 301 |
| | At corporate limits (Bernardston). | 306 |
| Otter Brook | Confluence with Dry Brook | 267 |
| | 1450 feet upstream of confluence with Dry Brook. | 275 |
| | 3100 feet upstream of confluence with Dry Brook. | 285 |
| | 4500 feet upstream of confluence with Dry Brook. | 303 |
| | Just downstream of Ben Hale Road. | 313 |
| | Just upstream of Ben Hale Road. | 315 |
| | Just downstream of private driveway. | 317 |
| | Just upstream of private driveway. | 320 |
| | Just downstream of West Gill Road. | 322 |
| | Just upstream of West Gill Road. | 332 |

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–5308]

[FR Doc. 79–9690 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

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## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the City of Farmington Hills, Oakland County, Mich.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Farmington Hills, Oakland County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, City Clerk Office, 31555 eleven Mile Road, Farmington Hills, Michigan. Send comments to: The Honorable, Earl

Opperthauser, Mayor, City of Farmington Hills, City Hall, 31555 Eleven Mile Road, Farmington Hills, Michigan 48024. Attention: Floyd Cairns, City Clerk.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Farmington Hills, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Upper River Rouge | Upstream side of Eight Mile Road. | 646 |
| | At Middlebelt Road | 652 |
| | Upstream side of Tuck Road | 660 |
| | Upstream side of Folsom Drive. | 667 |
| | Downstream side of Orchard Lake Road. | 671 |
| | Upstream side of Orchard Lake Road. | 675 |
| | 850 feet upstream of Nine Mile Road. | 676 |
| | At northern corporate limits of the City of Farmington. | 723 |
| | 4,500 feet downstream of Brittany Drive. | 730 |
| | 1,300 feet downstream of Brittany Drive. | 740 |
| | At downstream side of Brittany Drive. | 745 |
| | 1,700 feet upstream of Brittany Drive. | 750 |
| | 3,450 feet upstream of Brittany Drive. | 761 |
| Minnow Pond Drain | 2,450 feet downstream of Quaker Valley Drive. | 762 |
| | 1,300 feet downstream of Quaker Valley Drive. | 770 |
| | Downstream side of Quaker Valley Drive. | 781 |
| | Upstream side of Quaker Valley Drive. | 787 |
| | 2,500 feet upstream of Quaker Valley Drive. | 800 |
| | 1,000 feet from the downstream side of Farmington Road. | 810 |
| | Downstream side of Farmington Road. | 816 |
| | Upstream side of Farmington Road. | 823 |
| | About 50 feet downstream of West Entrance to Oakland Community College. | 826 |
| | About 50 feet upstream of West Entrance to Oakland Community College. | 831 |
| | Downstream side of Interstate 696. | 834 |
| | Upstream side of Interstate 696. | 839 |
| | Upstream side of Twelve Mile road. | 843 |
| | Upstream side of Kendallwood Road. | 846 |
| | Downstream side of Chesterbrook Road. | 853 |
| | Upstream side of Chesterbrook Road. | 855 |
| | Upstream side of Oak Point Drive. | 862 |
| | Downstream side of Thirteen Mile Road. | 863 |
| | Upstream side of Thirteen Mile Road. | 867 |
| | Upstream side of Drake Road. | 871 |
| | At Halstead Road | 876 |
| | Upstream of Fourteen Mile Road. | 882 |
| Seeley Drain | 3,100 feet downstream of Drake Road. | 762 |
| | 2,300 feet downstream of Drake Road. | 770 |
| | 1,600 feet downstream of Drake Road. | 780 |
| | Upstream side of Concrete Footbridge (900 feet downstream of Drake Road). | 790 |
| | 100 feet downstream of Drake Road. | 796 |
| | Upstream side of Drake Road. | 803 |
| | Upstream side of Driveway Bridge (1,000 feet upstream of Drake Road). | 811 |
| | Upstream side of Footbridge (2,800 feet upstream of Drake Road). | 822 |
| | Upstream side of Driveway Bridge (1,700 feet downstream of Halstead Road). | 834 |
| | Upstream side of Dam & Driveway Bridge (950 feet downstream of Halstead Road). | 841 |
| | Downstream side of Halstead Road. | 846 |
| | Upstream side of Halstead Road. | 849 |
| | About 200 feet upstream of Howard Road. | 854 |
| | Upstream side of Dam (1,300 feet upstream of Howard Road). | 862 |
| | Upstream side of Twelve Mile Road. | 865 |
| | 3,700 feet upstream of Twelve Mile Road. | 874 |
| | 1,000 feet downstream of Thirteen Mile Road. | 880 |
| | Downstream side of Thirteen Mile Road. | 888 |
| | Upstream side of Thirteen Mile Road. | 893 |
| | At Haggerty Road | 894 |
| Pebble Creek | At eastern corporate limits | 691 |
| | Upstream side of Inkster Road. | 695 |
| | Downstream side of Forest Brook Road. | 701 |
| | 50 feet upstream of Forest Brook Road. | 707 |
| | 1,500 feet upstream of Forest Brook Road. | 710 |
| | Upstream side of Twelve Mile Road. | 719 |
| | Downsteam side of Danvers Street. | 723 |
| | Upstream side of Danvers Street Dam. | 729 |
| | Downstream side of Footbridge (Downstream of Danvers Court West). | 738 |
| | Upstream side of Danvers Court West. | 744 |
| | 1,100 feet downstream of Wellington Road. | 756 |
| | Downstream side of Wellington Road. | 769 |
| | Upstream side of Wellington Road. | 772 |
| | 1,900 feet upstream of Wellington Road. | 790 |
| | Downstream side of Middlebelt Road. | 812 |
| | Upstream side of Middlebelt Road. | 815 |
| | Downstream side of Thirteen Mile Road. | 819 |
| | Upstream side of Thirteen Mile Road. | 825 |
| | Downstream side of West Gate Road Bridge. | 830 |
| | Upstream side of West Gate Road Bridge. | 834 |
| | 2,300 feet upstream of West Gate Road Bridge. | 845 |
| | Upstream side of Orchard Lake Road Bridge. | 858 |
| | Downstream side of Hunters Drive Bridge #1. | 871 |
| | Upstream side of Hunters Drive Bridge #2. | 873 |
| | 500 feet upstream of Running Stream Drive (Bridge #2). | 884 |
| | At northern corporate limits | 893 |
| Tarabusi Creek | At Southern corporate limits | 700 |
| | Downstream side of Gill Road. | 710 |
| | Upstream side of Gill Road | 713 |
| | Upstream side of Bridgeman Avenue. | 716 |
| | Downstream side of Nine Mile Road. | 728 |
| | Upstream of Drake Road | 730 |
| | Downstream side of Interstate 96. | 741 |
| | 500 feet upsream of Interstate 96. | 748 |

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order

to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI-530]

[FR Doc. 79-9891 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the City of Dawson, Lac Qui Parle County, Minn.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Dawson, Lac Qui Parle County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, P.O. Box 552, Dawson, Minn. Send comments to: The Honorable Lester L. Ripley, Mayor, City of Dawson, City Hall, P.O. Box 552, Dawson, Minn. 56232. Attention: Ed Larsen, City Manager.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Dawson, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| West Branch Lac Qui Parle River. | Eastern corporate limits | 1,043 |
| | 400 feet downstream from County Highway 25. | 1,044 |
| | Just upstream from Chicago and North Western. | 1,046 |
| | Just upstream from Sixth Street. | 1,047 |
| | Southwestern corporate limits. | 1,048 |
| Judicial Ditch No. 4 | Just upstream from confluence with West Branch Lac Qui Parle River. | 1,043 |
| | Just upstream from Sixth Street. | 1,043 |
| | 500 feet downstream from County Highway 25. | 1,048 |
| | Just downstream from Chicago and North Western. | 1,409 |
| | Just upstream from Chicago and North Western. | 1,050 |
| | Northwestern corporate limits | 1,050 |

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2060, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI-531]

[FR Doc. 79-9892 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations the for City of Bellevue, Sarpy County, Nebr.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Bellevue, Sarpy County, Nebr.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 43 FR 50207 on October 27, 1978, and in the *Bellevue Press* published on or about October 21, 1978 and October 28, 1978, and hence supersedes those previously published rules.

**DATES:** The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood base (100-year) elevations are available for review at the City Planning Department, Bellevue, Nebr. Send comments to: The Honorable Robert M. Haworth, Mayor, City of Bellevue, 210 West Mission St., Bellevue, Nebr. 68005.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or toll free line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the City of Bellevue, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Missouri River | Downstream extraterritorial limit. | 968 |
| | Just upstream State Highway 370. | 971 |
| | Upstream County Boundary | 978 |
| Papillion Creek | Downstream extraterritorial limit. | 973 |
| | Just upstream Missouri Pacific Railroad. | 976 |
| | Just upstream Capehart Road. | 985 |
| | Just downstream of confluence of West Branch Papillion Creek. | 991 |
| Big Papillion Creek | 1.5 miles upstream of confluence of West Branch Papillion Creek. | 998 |
| West Branch Papillion Creek. | 0.5 mile upstream of 36th Street. | 995 |
| Mud Creek | 200 feet upstream of Union Pacific Railroad (North Crossing). | 1,004 |
| | 150 feet upstream of Cornhusker Drive. | 1,019 |
| | Just upstream of Kasper Street. | 1,031 |
| | Just downstream of Cary Street. | 1,034 |
| | Just upstream of Cary Street. | 1,036 |
| | At Union Pacific Railroad | 1,037 |
| | Just downstream of Childs Road. | 1,039 |
| | Just upstream of Brewster Road. | 1,045 |
| | Just upstream of Chandler Road. | 1,054 |
| | County Boundary | 1,060 |
| Betz Road Ditch | Just upstream of Fort Cook Road. | 999 |
| | Just upstream of State Highway 370. | 1,017 |
| | Just downstream of Englewood Drive. | 1,017 |
| | Just upstream of Lloyd Street | 1,040 |
| | Just upstream of Galvin Street. | 1,053 |
| | 600 feet upstream of Harvel Road. | 1,060 |
| | Just upstream of Lincoln Road. | 1,073 |
| | Just upstream of Harvel Road. | 1,075 |
| Squaw Creek | Mouth at Big Papillion Creek | 997 |
| | Just upstream of Cornhusker Drive. | 1,018 |
| | Upstream limit of Study (3,300 feet south of Chandler Road). | 1,037 |

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–4713]

[FR Doc. 79–9893 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the City of Lavista, Sarpy County, Nebr.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of LaVista, Sarpy County, Nebr. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 8116 Parkview Boulevard, LaVista, Nebr. Send comments to: The Honorable Harold Leathers, Mayor, City of LaVista, City Hall, 8116 Parkview Boulevard, LaVista, Nebr. 68128.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of LaVista, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| West Papillion Creek | About 4,500 feet downstream of Missouri Pacific Railroad. | 1,025 |
| | About 300 feet downstream of Missouri Pacific Railroad. | 1,031 |
| | At the confluence of South Papillion Creek. | 1,035 |
| | Just downstream of Burlington Northern Railroad. | 1,035 |
| | Just upstream of Buroington Northern Railroad. | 1,041 |
| | About 900 feet upstream of Harrison Street. | 1,044 |
| Hell Creek | At the confluence with West Papillion Creek. | 1,035 |
| | Just downstream of Burlington Northern Railroad. | 1,035 |
| | Just upstream of Burlington Northern Railroad. | 1,053 |
| | Just downstream of Harrison Street. | 1,054 |
| Big Papillion Creek | At the confluence of Giles Creek. | 998 |
| | Just upstream of confluence of Thompson Creek. | 1,001 |
| | Just upstream of Harrison Street. | 1,001 |

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI- 5312]

[FR Doc. 79-9894 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for The Town of Derry, Rockingham County, N.H.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Derry, Rockingham County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Offices, 48 East Broadway, Derry, New Hampshire. Send comments to: Mr. Donald Bentley, Chairman, Board of Selectmen, Town of Derry, Town Offices, 48 East Broadway, Derrry, New Hampshire 03038.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Derry, New Hampshire, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Beaver Brook | Interstate 93 Northbound Bridge—100 feet*. | 236 |
| | Birch Street—100 feet* | 248 |
| | East Derry Road—20 feet* | 251 |
| | Lower Beaver Lake Dam | 289 |
| Shields Brook | Dam (near downstream crossing of Boston and Maine Railroad)—20 feet*. | 264 |
| | Folsom road—50 feet* | 276 |
| | Boston and Maine Railroad (upstream crossing)— | |
| | 100 feet** | 281 |
| | 100 feet* | 291 |
| | Street A—50 feet* | 307 |
| | Scobie Pond Road—30 feet* | 357 |
| | Londonderry Turnpike— | |
| | 60 feet** | 373 |
| | 60 feet* | 379 |
| Hornes Brook | Florence Street—10 feet* | 241 |
| | West Broadway—10 feet* | 247 |
| | Maple Street—10 feet* | 253 |
| Tributary O | At confluence with Beaver Brook. | 239 |
| | At Upstream Corporate Limits. | 246 |
| Tributary E | Chester Road—75 feet* | 293 |
| | Tsienneto Road (at centerline). | 294 |
| Tributary F | Northshore Road—65 feet* | 297 |
| | Backchester Road—20 feet*. | 326 |
| Tributary G | At confluence with West Running Brook. | 250 |
| | Bradfort Road—75 feet* | 266 |
| | Windham Road (downstream crossing)—50 feet*. | 281 |
| | Windham Road (upstream crossing)— | |
| | 100 feet* | 301 |
| | 25 feet* | 314 |
| Drew Brook | Colletts Grove Road—75 feet*. | 209 |
| | Drew Road—50 feet* | 211 |
| Taylor Brook (including Ballard Pond). | Northshore Road—25 feet* | 214 |
| | Island Pond Road (downstream crossing)—50 feet*. | 222 |
| | Upper Ballard Pond Dam—25 feet*. | 258 |
| | Island Pond Road (most upstream crossing)—50 feet*. | 263 |
| Tributary H | Abandoned Railroad Bed—50 feet*. | 224 |
| | Hampstead Road—20 feet* | 266 |
| Cunningham Brook | Abandoned Railroad Culvert—50 feet*. | 219 |
| | Hampstead Road—10 feet* | 200 |
| Adams Pond | 100 feet east of Adams Pond Dam. | 327 |
| Beaver Lake | 500 feet west of intersection of North Shore Road and Lake Avenue. | 290 |
| Island Pond | 100 feet east of the end of Dixons Grove Road. | 207 |

* UPstream of centerline.
** Downstream of centerline.

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI-5313]

[FR Doc. 79-9895 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the Town of Almond, Allegany County, N.Y.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Almond, Allegany County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Municipal Building, No. 1 Marvin Lane, Almond, N.Y. Send comments to: Mr. Gary

Fraser, Town Supervisor, Town of Almond, R.D. No. 1, Almond, N.Y. 14804.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Almond, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Canisteo River | Downing Road—150 feet* | 1318 |
| | Downing Road—100 feet** | 1324 |
| | North Almond Valley Road—50 feet** | 1344 |
| | Bailey Hill Road—10 feet** | 1375 |
| | Thomas Hill Road—150 feet* | 1409 |
| | Thomas Hill Road—100 feet** | 1414 |
| | Bush Road—10 feet** | 1564 |
| | Perry Road—10 feet** | 1605 |
| Tributary No. 18 to Canisteo River. | Bishopville Road—10 feet** | 1389 |
| Canacadea Creek | Road Bridge (approximately 2000 feet upstream of village of Almond Corporate Limits) | |
| | 60 feet* | 1372 |
| | 80 feet** | 1378 |
| | Sately Hill Road—20 feet** | 1455 |
| | At Upstream Corporate Limits. | 1485 |
| Karr Valley Creek | At Downstream Corporate Limits. | 1341 |

* Downstream of centerline.
** Upstream of centerline.

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5314]

[FR Doc. 79–9896 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

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**[24 CFR Part 1917]**

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the Town of Ashland, Chemung County, N.Y.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Ashland, Chemung County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Ashland Town Hall, Wellsburg, New York. Send comments to: Mr. Reginald Layton, Supervisor of the Town of Ashland, 101st Street, Welsburg, New York 14894.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Ashland, Chemung County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Chemug River | State Route 367 | 824 |
| | Confluence of Seeley Creek | 835 |
| | Upstream Corporate Limits | 837 |
| Baldwin Creek | Confluence with Chemung River. | 820 |
| | State Route 17 Bridge | 830 |
| | Upstream Corporate Limits | 860 |
| Bently Creek | Confluence with Chemung River. | 825 |
| | Corporate Limits adjacent to Conell Hill Road. | 856 |
| | State Boundary | 871 |
| Seeley Creek | State Route 427 Bridge | 844 |
| | Upstream Coporate Limits | 848 |
| South Creek | Corporate Limits | 1,008 |
| | Conrail | 1,026 |
| | State Boundary | 1,085 |

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI-5315]

[FR Doc. 79-9697 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the Town of Erwin, Steuben County, N.Y.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Erwin, Steuben County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Erwin Town Hall, Painted Post, New York. Send comments to: Mr. Emmett Mallison, Supervisor of the Town of Erwin, Erwin Town Hall, Painted Post, New York 14870.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Erwin, Steuben County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Chemung River | Downstream Corporate Limits. | 934 |
| Tioga River | At confluence w/Cohocton River. | 935 |
| | Conrail Bridge upstream | 941 |
| | Mulholland Road upstream | 950 |
| | Confluence with the Caniseto River. | 953 |
| | Upstream Corporate Limits | 958 |
| Canisteo River | At confluence w/Tioga River. | 953 |
| | Old U.S. Route 15 upsteam | 958 |
| | U.S. Route 15 upstream | 963 |
| | Upstream Corporate Limits | 977 |
| Cohocton River | Downstream Corporate Limits. | 937 |
| | U.S. Route 15 upsteam | 938 |
| | Confluence w/Meads Creek | 953 |
| | Upstream Corporate Limits | 974 |
| Meads Creek | Confluence w/Cohocton River. | 953 |
| | New York Route 415 upstream. | 956 |
| | Access Road Ford | 965 |
| | Upstream Corporate Limits | 970 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,

*Federal Insurance Administrator.*

[Docket No. FI-5316]

[FR Doc. 79-9398 Filed 4-3-79; 8:45 am]

BILLING CODE 4210-01-M

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the City of Hornell, Steuben County, N.Y.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hornell, Steuben County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 108 Broadway, Hornell, New York. Send comments to: Honorable Richard Dunning, Mayor, City of Hornell, City Hall, 108 Broadway, Hornell, New York 14843.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hornell, New York, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The

community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Canisteo River | Cedar Street—50 feet * | 1140 |
| | Footbridge—25 feet * | 1144 |
| | River Street—50 feet * | 1147 |
| | Main Street—50 feet * | 1147 |
| | Bennett Street—25 feet * | 1151 |
| | Seneca Street (State Route 36)—75 feet *. | 1155 |
| | State Route 326—50 feet * | 1156 |
| Crosby Creek | Dam, approximately 1265 feet downstream from East Van Scotter Street)—100 feet *. | 1140 |
| | East Van Scotter Street—15 feet *. | 1153 |
| | State Route 36—60 feet * | 1159 |
| | Canisteo Street—40 feet * | 1163 |
| | South Division Street—20 feet *. | 1168 |
| | Grand Street—45 feet * | 1174 |
| | Dam, approximately 560 feet upstream from Grant Street—10 feet ** | 1179 |
| | 10 feet * | 1187 |
| | Corporate Limits (at centerline). | 1205 |
| Chauncey Run | East Main Street—25 feet * | 1154 |
| | Catherine Street—55 feet * | 1174 |
| | Corporate Limits (at centerline). | 1198 |
| Canacadea Creek | Church Street—15 feet * | 1156 |
| | Seneca Street—45 feet * | 1163 |
| | State Route 326—15 feet * | 1165 |
| | Thatcher Street—20 feet * | 1167 |
| | West Main Street—25 feet * | 1167 |
| | Conrail—20 feet * | 1168 |
| | Corporate Limits (at centerline). | 1171 |

* Upstream of Centerline.
** Downstream of centerline

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–5317]

[FR Doc. 79–9899 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

**[24 CFR Part 1917]**

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the city of New Rochelle, Westchester County, N.Y.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of New Rochelle, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Municipal Building, 515 North Avenue, New Rochelle, New York. Send comments to: Mr. C. Samuel Kissinger, City Manager, City of New Rochelle, Municipal Building, 515 North Avenue, New Rochelle, New York 10801.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of New Rochelle, New York, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Hutchinson River | Hutchinson River Parkway—10 feet* | 66 |
| | Reservoir No. 2 Dam—80 feet**. | 77 |
| | Reservoir No. 2 Dam—20 feet*. | 103 |
| | Reservoir No. 3 Dam—60 feet**. | 103 |
| | Reservoir No. 3 Dam—100 feet*. | 124 |
| | Mill Road—10 feet* | 145 |
| | Lakeshore Drive—120 feet* | 190 |
| | Hutchinson Boulevard—120 feet*. | 214 |
| | Drake Road (At center-line) | 233 |
| Sheldrake River | Tulip Lane—50 feet* | 153 |
| | Harlan Drive—50 feet* | 170 |
| | At Upstream Corporate Limits. | 219 |
| Long Island Sound | At intersection of Harbor Lane and Fort Slocum Road. | 14 |

*Upstream of centerline.
**Downstream of centerline.

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket 4210–01]

[FR Doc. 79–9900 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

**[24 CFR Part 1917]**

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the Village of Port Chester, Westchester County, N.Y.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Port Chester, Westchester County, New York.These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village of Port Chester, Westchester County, New York. Send comments to: Mr. Michael D. Ritchie, Village Manager of Port Chester, 110 Willet Avenue, Port Chester, New York 10573.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Port Chester, Westchester County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Byram River | Downstream Corporate Limits. | 13 |
| | Upstream of the upstream Putnam Avenue Bridge. | 17 |
| | Upstream Corporate Limits | 18 |
| Long Island Sound | Entire Shoreline | 13 |

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–5319]

[FR Doc. 79–9901 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

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**[24 CFR Part 1917]**

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the Township of East Donegal, Lancaster County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of East Donegal, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the East Donegal Township Building. Send comments to: Mr. John Henry Brubaker, Chairman of the Township of East Donegal, R.D. 3, Box 904, Mount Joy, Pennsylvania 17552.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of East Donegal, Lancaster County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Sesquehanna River | Vinegar Ferry Road Extended. | 267 |
| | Township of Conoy Corporate Limit. | 272 |
| Unnamed Creek through the Borough of Marietta. | Borough of Marietta Corporate Limit. | 275 |
| | Colebrook Road | 287 |
| | Private Road off of Colebrook Road. | 299 |
| Unnamed Creek along Railroad Avenue. | Marietta Street | 271 |
| | Confluence with Susquehanna River. | 276 |
| | Route 441 | 281 |
| | Railroad Avenue | 296 |
| | Arch Culvert on Unnamed road north of Railroad Avenue. | 311 |
| | Bainbridge Road | 331 |

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Donegal Creek | Confluence with Chickies Creek. | 261 |
| | Marietta Pike | 269 |
| | Donegal Farm Road | 275 |
| | Mount Joy Pike | 299 |
| | Trout Run Road | 314 |
| | Farm Bridge | 325 |
| | Kraybill Church Road | 337 |
| | The Downstream Donegal Springs Road crossing. | 344 |
| | Colebrook Road | 347 |
| Chickies Creek | River Road | 260 |
| | Marietta Pike | 271 |
| Tributary to Donegal Creek along Mussar Road. | Trout Run Road | 315 |
| | Farm Road North of Trout Run Road. | 321 |
| | Gibblic Road | 331 |
| | Donegal Springs Road | 344 |
| | Carmany Road | 356 |
| Little Chickies Creek | Drager Road | 374 |
| | Dam Ruins | 286 |
| | Iron Road | 292 |
| | Pinkerton Road | 302 |
| | Upstream Dam | 312 |
| | Longhecker Road Crossing | 320 |

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

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–5320]

[FR Doc. 79–9902 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## [24 CFR Part 1917]

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the Borough of Mechanicsburg, Cumberland County, Pa.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Mechanicsburg, Cumberland County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, 36 West Main Street, Mechanicsburg, Pennsylvania. Send comments to: Honorable Byron L. Reppert, Mayor of Mechanicsburg, 36 West Main Street, Mechanicsburg, Pennsylvania 17055.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Mechanicsburg, Cumberland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Trindle Spring Run | Mulberry Drive | 414 |
| | Church Road | 421 |
| Cedar Run | Farm Drive | 426 |
| | Pa. Route 114 | 434 |

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–5321]

[FR Doc. 79–9903 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

## [24 CFR Part 1917]

## National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations for the City of LeRoy, McLennan County, Tex.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of LeRoy, McLennan County, Texas. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 3511 on January 17, 1979, and in the West News published on December 21, and December 28, 1978, and hence supersedes those previously published rules.

**DATE:** The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Secretary's Office, P.O. Box 86, LeRoy, Texas. Send comments to: Mayor W. H. Janes, P.O. Box 56 or Mrs. Yvonne Martin, City Secretary, P.O. Box 56, LeRoy, Texas 76654.

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

**SUPPLEMENTARY INFORMATION:** Proposed base (100-year) flood elevations are listed below for selected locations in the City of LeRoy, McLennan County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Rice Creek | Southernmost corporate limits. | 459 |
| | At Unnamed Road approximately 600 feet upstream of the southernmost corporate limits. | 460 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7 (o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–4919]

[FR Doc. 79–9904 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

**[24 CFR Part 1917]**

## National Flood Insurance Program; Proposed Flood Elevation Determinations for the Town of Springfield, Windsor County, Vt.; Correction

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Correction of proposed rule.

**SUMMARY:** This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 6943 of the **Federal Register** of February 5, 1979.

**EFFECTIVE DATE:** February 5, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410. (202) 755–5581 or toll free line (800) 424–8872.

The following changes are made:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Black River | Slack Dam—30 feet** | 351 |
| | Slack Dam—10 feet* | 371 |
| Seaver Brook | Seaver Brook Road (most downstream crossing)—10 feet**. | 431 |
| | Seaver Brook Road (most downstream crossing)—15 feet*. | 438 |
| Valley Street Brook | Valley Street (most upstream crossing)—35 feet*. | 570 |
| Chester Road Brook | State Route 11 (downstream crossing near confluence with Black River)—10 feet*. | 450 |
| | State Route 11 (most upstream crossing)—30 feet*. | 590 |
| Carley Road Brook | Carley Road—20 feet* | 467 |
| Spoonerville Brook | Fairground Road—10 feet* | 463 |
| Great Brook | Main Street (most upstream crossing)—20 feet*. | 579 |
| Williams River | At Upstream Corporate Limits. | 512 |

*Upstream from centerline.
**Downstream from centerline.

The following elevations should be added:

| Source of flooding | Location | Elevation in feet national geodetic vertical datum |
|---|---|---|
| Valley Street Brook | At confluence with Black River. | 404 |
| | Bridge at Warren's—30 feet* | 477 |

The following elevation should be deleted:

| | | |
|---|---|---|
| Valley Street Brook | Main Street—30 feet* | 414 |

*Upstream of centerline.

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

**Gloria M. Jimenez,**

*Federal Insurance Administrator.*

[Docket No. FI–5080]

[FR Doc. 79–9905 Filed 4–3–79; 8:45 am]

**BILLING CODE 4210–01–M**

**[24 CFR Part 1917]**

## National Flood Insurance Program; Proposed Flood Elevation Determinations for Laramie County, Wyo.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Laramie County, Wyoming. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATE:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Cheyenne-Laramie County Regional Planning Office, 1700 Snyder Avenue, Cheyenne, Wyoming. Send comments to: Mr. Elmo Foster, Chairman, Board of County Commissioners, Laramie County, City-County Building, 19th Carey, Cheyenne, Wyoming 82001.

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of

base (100-year) flood elevations for Laramie County, Wyoming, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Dry Creek | Campstool Road—90 feet *... | 5884 |
| | Campstool Road—25 feet **. | 5889 |
| | Interstate Highway 80—100 feet *. | 5896 |
| | Interstate Highway 80—25 feet **. | 5904 |
| | Union Pacific Railroad—100 feet *. | 5921 |
| | Union Pacific Railroad—50 feet **. | 5935 |
| | Pershing Boulevard—20 feet **. | 5950 |
| | U.S. Highway 30—50 feet *... | 5961 |
| | U.S. Highway 30—50 feet **. | 5967 |
| | Dell Range Boulevard (1st crossing)—70 feet **. | 6002 |
| | Stock Dam—95 feet *..... | 6068 |
| | Stock Dam—100 feet **..... | 6073 |
| | Prarie Avenue—200 feet **... | 6088 |
| | Yellowstone Road—100 feet *. | 6116 |
| | Yellowstone Road—25 feet **. | 6124 |
| | Interstate Highway 25—100 feet **. | 6146 |
| Crow Creek | Campstool Road—100 feet *. | 5886 |
| | Campstool Road—25 feet **. | 5891 |
| | Outer Belt Road (U.S. Alternate Highway 87 and State Route 212)—150 feet **. | 5974 |
| | Interstate Highway 80—25 feet **. | 5979 |
| | Refinery Bridge—40 feet **... | 6005 |
| | (Last) Corporate Limits—at centerline. | 6020 |
| Wyoming Hereford Ranch Reservior No. 1 Emergency Spillway. | Kingm Ditch—200 feet *..... | 5917 |
| | Kingm Ditch—200 feet **..... | 5922 |

* Downstream of centerline.
** Upstream of centerline.

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

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

**Gloria M. Jimenez,**
*Federal Insurance Administrator.*

[Docket No. FI–5322]

[FR Doc. 79–9906 Filed 4–3–79; 8:45 am]

BILLING CODE 4210–01–M

## COPYRIGHT ROYALTY TRIBUNAL

### [37 CFR Part 302]

### Supplemental Rule With Respect to Filing of Claims to Cable Royalty Fees

**AGENCY:** Copyright Royalty Tribunal.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This is a notice to inform the public that the Copyright Royalty Tribunal is proposing to supplement the rule issued June 6, 1978 (43 FR 24528) pursuant to 17 U.S.C. 111(d)(5)(A) which stated the filing requirements for those claiming to be entitled to compulsory license copyright fees for secondary transmissions by cable systems. In that rule, for a claim to be valid it was required to contain the name of the claimant, the address, a general description of the copyrighted works transmitted, and an identification of at least one transmission. The proposed rule, in addition, would require the percentage or dollar figure of the license fees the claimant feels entitled to and a justification for that amount. This rule would apply to both the 1979 filing and, as a supplement, to the July 1978 filing. The proposed rule also provides that the Tribunal, prior to the distribution of royalty fees, shall deduct all costs which would not have been incurred by the Tribunal but for the distribution proceeding.

**DATES:** Initial comments concerning the content of the proposed regulation should be received on or before April 25, 1979. Reply comments on or before May 9. Proceedings will be held, if in the Tribunal's judgment they are warranted.

**ADDRESS:** Interested persons should submit 10 copies of their comments to Chairman, Copyright Royalty Tribunal, 4th Floor, 1111 20th St., N.W., Washington, D.C. 20036.

**FOR FURTHER INFORMATION CONTACT:** Douglas Coulter, Chairman, Copyright Royalty Tribunal 202–653–5175.

**SUPPLEMENTARY INFORMATION:** 17 U.S.C. 111(d)(5)(B) directs the Copyright Royalty Tribunal to determine whether a controversy exists concerning the distribution of cable royalty fees after the first day of August of each year. The proposed regulation is designed to enable the Tribunal to carry out this mandate. The obligation on claimants to affix a price tag to their claims will enable the Tribunal to establish simply and expeditiously if there is a controversy.

In accordance with 17 U.S.C. 111(d)(3) the Copyright Office prepares and submits to the Copyright Royalty Tribunal on a semiannual basis an official certification of the royalty fees paid during each six-month period. The certification for the first six months of 1978 has already been completed, and the Tribunal has been informed that the one for the second six months of 1978, and relevant to the July 1979 filings, is expected to be complete toward the end of April 1979. Information concerning the royalty fees and particular signals or programs carried by cable systems should be obtained from the Licensing Division of the Copyright Office.

Therefore, 37 CFR Chapter III Part 302 is amended by amending §§ 302.5 and 302.6 to read as follows, and by adding a new § 302.10.

**§ 302.5 Supplemental filing.**

(a) During the month of July 1979 those persons who filed claims pursuant to § 302.2 for secondary transmissions during the period January 1 through June 30, 1978, shall make a supplemental filing, which shall include:

(1) A percentage or dollar figure of the compulsory copyright license fees the claimant feels entitled to.

(2) A justification for such percentage or dollar figure.

(b) For the purposes of this supplemental filing claimants may lump their claims together and file them jointly through a designated common agent. Such joint filing need not contain a separate entitlement claim or justification for each individual claimant.

**§ 302.6 Filing of claims to cable royalty fees for secondary transmissions during the period July 1 through December 31, 1978.**

During the month of July 1979, any person claiming to be entitled to compulsory license fees for secondary

transmissions during the period July 1 through December 31, 1978, shall file in the offices of the Copyright Royalty Tribunal a claim to such fees. No royalty fees shall be distributed to copyright owners for secondary transmissions during the above period unless such owner has filed a claim to such fees during July 1979. For purposes of this clause claimants may lump their claims together and file them jointly through a designated common agent. Such joint filing need not contain a separate entitlement claim or justification for each individual claimant. Such filing shall include:

(a) The full legal name of the person or entity claiming compulsory license fees.

(b) The full address, including a specific number and street name or rural route, of the place of business of the person or entity.

(c) A general statement of the nature of the copyrighted works, whose secondary transmissions provides the basis of the claim.

(d) Identification of at least one secondary transmission establishing a basis for the claim.

(e) A percentage or dollar figure of the compulsory copyright license fees the claimant feels entitled to.

(f) A justification for such percentage or dollar figure of the compulsory copyright license fees.

**§ 302.10 Deduction of costs of distribution proceedings.**

In compliance with 17 U.S.C. 111(d)(5)(c) and 17 U.S.C. 807, before any distributions are made pursuant to 17 U.S.C. 111, the Copyright Royalty Tribunal will deduct all costs which would not have been incurred by the Tribunal but for the distribution proceeding.

**Douglas Coulter,**

*Chairman, Copyright Royalty Tribunal.*

[FR Doc. 79-10369 Filed 4-3-79; 8:45 am]

BILLING CODE 1410-01-M

## ENVIRONMENTAL PROTECTION AGENCY
## [40 CFR Part 52]

### Receipt of Implementation Plan Revision for the State of Vermont; Availability

**AGENCY:** Environmental Protection Agency.

**ACTION:** Receipt of Implementation Plan.

**SUMMARY:** This notice is to announce the receipt of a State Implementation Plan (SIP) revision for Vermont which is not available for public review and comment.

Under the requirements of Part D of the Clean Air Act, the State of Vermont submitted to EPA on March 21, 1979 a revision to its SIP for certain areas designated as not attaining the National Ambient Air Quality Standards (NAAQS) for specific air pollutants. As required by the Act, the purpose of this revision is to implement new measures for controlling air pollution and to demonstrate that these measures will provide for attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982 (in certain instances December 31, 1987). If the revision cannot be approved by EPA on or before July 1, 1979, certain sanctions required by the Clean Air Act must be implemented in the non-attainment areas. A Notice of Proposed Rulemaking describing the revision and EPA's intended approval or disapproval action will be published in the **Federal Register** at a later date.

**DATES:** See Supplementary Information.

**ADDRESSES:** Copies of the SIP revision are available for inspection at the following addresses: Environmental Protection Agency, Region I, Air Branch, Room 1903, JFK Federal Building, Boston Massachusetts 02203; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460; and Agency of Environmental Conservation, Air Pollution Control, State Office Building, Montpelier, Vermont 05602.

**WRITTEN COMMENTS SHOULD BE SENT TO:** Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203.

**FOR FURTHER INFORMATION CONTACT:** Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203, telephone: 617/223-5609.

**SUPPLEMENTARY INFORMATION:** On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, EPA designated areas in each State as non-attainment with respect to the criteria air pollutants. The non-attainment areas in Vermont are:

| Vermont | CO | $O_x$ | TSP (Secondary) |
|---|---|---|---|
| Colchester | X | | X |
| Winooski | X | | X |
| Essex (includes Essex Junction). | X | | X |
| Burlington | X | | X |
| So. Burlington | X | | X |
| Williston | X | | |
| Shelburne | X | | |
| Barre | | | X |
| Chittenden County | | X | |
| Windsor County | | X | |
| Addison County | | X | |

Other non-attainment areas referred to in 43 FR 8962 are to be redesignated as unclassified or attainment.

Part D of the Clean Air Act required each State to revise its SIP to meet specific requirements in the non-attainment areas. These SIP revisions were due on January 1, 1979 and must demonstrate attainment of the NAAQS, as expeditiously as practicable, but no later than December 31, 1982, or in limited instances for carbon monoxide and oxidants, no later than December 31, 1987. An 18-month extension may be granted for plans to demonstrate attainment of secondary standards for total suspended particulates.

On March 2, 1979 EPA received the revised SIP for Vermont and is currently reviewing the revision. The revision addresses strategies for attainment of standards for TSP, control of Carbon Monoxide, emission standards for hydrocarbon control, and procedures for the Prevention of Significant Deterioration of Air Quality and new source review. At the completion of that review, a notice will be published in the **Federal Register** proposing approval or disapproval of the revision.

All interested persons are advised that the proposed revision is available for review at the locations listed, and are invited to comment on its approvability. A file of documents explaining EPA's criteria for approval is also available at EPA offices. The proposed notice referred to above will announce the last day for public comment. This public comment period will end not less than 60 days from this date and not less than 30 days from the published date of EPA's proposal for approval or disapproval.

Dated: March 26, 1979.

**William R. Adam, Jr.,**

*Regional Administrator, Region I.*

[FRL 1068-3]

[FR Doc. 79-10013 Filed 4-3-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

## Delayed Compliance Orders; Notice of Proposed Approval of an Administrative Order Issued by the Georgia Department of Natural Resources Environmental Protection Division to Gilman Paper Company

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve an Administrative Order issued by the Georgia Department of Natural Resources, Environmental Protection Division, to Gilman Paper Company. The Order requires Gilman Paper Company to bring air emissions from its No. 3 Recovery Boiler, and Nos. 1, 2, 3, and 4 Power Boilers, (by February 28, 1979) and its No. 1 Bark Boiler (by July 1, 1979) into compliance with air pollution control regulations contained in the federally approved Georgia State Implementation Plan (SIP). Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the administrative order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

**DATE:** Written comments must be received on or before May 4, 1979.

**ADDRESSES:** Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Voshell, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, Telephone number: (404) 881-4253.

**SUPPLEMENTARY INFORMATION:** Gilman Paper Company operates No. 3 recovery boiler, Nos. 1, 2, 3, and 4 power boilers, and the No. 1 bark boiler at its facility in Camden County, Georgia. The Order under consideration addresses particulate and smoke emissions from manufacturing processes and fuel burning equipment. These emissions are subject to Georgia's Rules and Regulations for Air Quality Control Section 391-3-1-.02(2)(b)(l)(i) and (ii), 391-3-1-.02(2)(d)(1)(ii), and Section 391-3-1-.02(2)(e)(1)(ii) which deals with smoke, mass emissions from fuel burning equipment, and mass emissions from manufacturing processes, respectively. The above regulations are part of the federally approved Georgia State Implementation Plan. The Order requires final compliance with the respective regulations by July 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

Completed—Installation of opacity monitors on the No. 4 power boiler and No. 1 bark boiler. Company will apply for construction permit for the installation of a wet scrubber system for the No. 1 bark boiler.

Completed—Company shall place order(s) for all the wet scrubber system for No. 1 bark boiler.

Completed—Company shall apply for a construction permit and place order(s) for modification to the No. 3 power boiler combustion controls.

February 28, 1979—Company shall complete the installation of the No. 2 bark boiler, and the No. 1, 2, 3, and 4 power boilers shall be in full compliance with the Rules and Regulations for Air Quality Control, 391-3-1-.02(2)(b), Smoke, as measured by EPA Method 9.

May 1, 1979—The Company shall begin the permitted construction of the No. 1 bark boiler wet scrubber system.

June 20, 1979—The Company shall complete permitted construction of the No. 1 bark boiler scrubber.

June 30, 1979—The Company shall conduct or cause to be conducted a particulate emission performance test of the No. 1 bark boiler and shall submit a written report of the results of the performance test within thirty (30) days of the completion of such testing but in no event after the specified date.

July 1, 1979—The Company's No. 1 bark boiler shall be in full compliance with the Rules and Regulations for Air Quality Control 391-3-1-.02(2)(d), for fuel burning equipment as demonstrated by a valid particulate emissions compliance test.

*No. 3 Recovery boiler*

Completed—The Company shall apply for a construction permit and shall place an order(s) for any equipment or materials needed for the reconstruction.

Completed—The Company shall begin the permitted reconstruction.

Completed—The Company shall complete the permitted reconstruction.

Completed—The Company shall conduct or cause to be conducted a particulate emission performance test and shall submit a written report of the results of the performance test within thirty (30) days of the completion of such testing. The test shall be conducted in accordance with accepted methods and procedures.

February 28, 1979—The Company shall be in full compliance with the Rules and Regulations for Air Quality Control, 391-3-1-.02(2)(e), particulate emissions from manufacturing processes, as demonstrated by a valid particulate emission compliance test.

The source has agreed to the terms of the order and has agreed to meet the order's increments during the period of informal rulemaking.

Also the Company has agreed to perform a correlation test of the particulate emissions from the No. 3 recovery boiler with the black liquor firing rate to the boiler. The purpose of the correlation test shall be to establish a black liquor firing rate which will result in the compliance of the No. 3 recovery boiler. If the No. 3 recovery boiler cannot comply at any technically practicable black liquor firing rate, then the Company shall not operate the unit at a feed rate greater than 70 gallons per minute prior to the completion of the last designated compliance activity.

The Order requires final compliance with the regulation by July 1, 1979, through the implementation of a schedule for the construction or installation of control equipment. The source is required to submit monthly reports by the 10th day of the month indicating progress toward each milestone in the schedule of compliance.

If any delay is anticipated in meeting said milestones, Gilman Paper Company shall immediately notify the Georgia Department of Natural Resources, Environmental Protection Division, in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Gilman Paper Company shall submit, no later than ten days after the deadline for completing each milestone required by the above schedule certification to Robert H. Collom, Jr., whether or not such milestone has been met.

As an interim control measure, visible smoke emissions from the tall stack (number 1, 2, and 3 power boilers) or from the number 4 power boiler shall not exceed 50% opacity (one hour average) and visible smoke emissions from the number 1 bark boiler shall not exceed 60% opacity (one hour averages). As an interim limit, the rates at which bark is fired in the No. 1 bark boiler, shall not be in excess of 80% of the boiler's bark fuel design capacity based on a 24-hour average; nor shall the No. 1 bark boiler be fired without the minimum of 20% of the total heat input

being derived from fuel oil based on a 24-hour average.

Because this Order has been issued to a major source of visible smoke and particulate emissions and permits a delay in compliance with the applicable state air pollution control regulation[s], it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation[s] covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Georgia SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: March 26, 1979.

John C. White,

*Regional Administrator, Region IV.*

[FRL 1089-7; Docket No. DCO-159]

[FR Doc. 79-10228 Filed 4-3-79; 8:45 am]

BILLING CODE 6560-01-M

## 40 CFR Part 65

## Delayed Compliance Orders; Proposed Delayed Compliance Order for University of Tennessee, Knoxville, Tenn.

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to issue a Federal Delayed Compliance Order (DCO) to the University of Tennessee (U.T.) located in Knoxville, Tennessee. The DCO requires U.T. to bring air emissions from its main steam plant coal-fired boilers into compliance with local air pollution control regulations contained in the federally approved Tennessee State Implementation Plan (SIP). Because U.T. is unable to comply with these regulations at this time, the proposed DCO would establish an expeditious schedule requiring final compliance by May 15, 1979. If issued by EPA, the federal DCO would prevent suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the Order to the extent the source complies with the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on this proposed DCO.

**DATES:** Written comments must be received on or before May 4, 1979. All requests for a public hearing must be received on or before April 19, 1979 and should be accompanied by a statement as to why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after at least twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

**ADDRESSES:** Comments and requests for a public hearing should be submitted to the Director, Enforcement Division EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308. Material supporting the Delayed Compliance Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Bert Cole, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308, telephone number (404) 881-4298.

**SUPPLEMENTARY INFORMATION:** U.T. operates a steam plant at Knoxville, Tennessee. The proposed order addresses emissions from the coal-fired boilers at this main steam plant which are subject to § 17.1 of the Knox County Air Pollution Control Regulations. The regulation limits visible emissions, and is part of the federally approved Tennessee State Implementation Plan. The Order requires final compliance with the regulation by May 15, 1979, and the source has consented to its terms.

The proposed Delayed Compliance Order satisfies the applicable requirements of Section 113(d) of the Act. If the Federal Delayed Compliance Order is issued, source compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against this source for violations of the local air pollution control regulation covered by the Order during the period the Delayed Compliance Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would also be barred. In the event of an emergency air pollution episode, the source would have to comply with all of the provisions of Section 303 of the Act. Comments received by the date specified above will be considered in determining whether EPA should issue the Delayed Compliance Order. Testimony given at any public hearing concerning the Delayed Compliance Order will also be considered. After the public comment period, and public hearing, if any, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Dated: March 23, 1979.

John C. White,

*Regional Administrator, Region IV*

In consideration of the foregoing, it is proposed to amend Part 65 of Chapter 1, Title 40, Code of Federal Regulations as follows:

## PART 65—DELAYED COMPLIANCE ORDERS

### § 65.470 [Amended]

1. By amending the table in § 65.470 to reflect approval of the following order:

Docket No. 78-16

2. The text of the order reads as follows:

### Delayed Compliance Order

In the matter of the University of Tennessee, Knoxville, Tennessee; proceeding under section 113(d) Clean Air Act, as amended. Docket No. DCO-78-16.

This Delayed Compliance Order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7413(d) (hereinafter referred to as the "Act"). This Delayed Compliance Order contains a schedule for compliance and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the City of Knoxville, Knox County, and the State of Tennessee have been provided pursuant to section 113(d)(1) of the Act.

### Findings

On March 13, 1978, Mr. Paul Traina, Director, Enforcement Division, Region IV, United States Environmental Protection Agency, pursuant to authority delegated to him by the Administrator, issued a Notice of Violation to the University of Tennessee,

Knoxville (hereinafter referred to as "U.T."), informing U.T. that the Main Steam Plant was found to be in violation of Knox County Regulation, Section 17.1, dealing with the regulation of visible emissions from stationary sources. Said violation has continued beyond the 30th day after receipt of the Enforcement Director's notification to U.T.

After a thorough investigation and analysis of all relevant facts, including the fact that U.T. is unable to comply immediately and that repair of control equipment is necessary to facilitate compliance with the applicable Knox County air pollution regulations, EPA has determined that compliance in accordance with the schedule hereinafter set forth is reasonable and as expeditious as practicable.

**Ordered**

I

*Abatement Program*

The attached Appendix governing an abatement program is incorporated into and made a part of this Delayed Compliance Order for the control of visible emissions at U.T. located in Knoxville, Tennessee.

The Appendix is designated as follows:

Appendix A: Main Steam Plant

II

*Reports—Addressees*

All submissions of source performance test results, reports and other items required by this Delayed Compliance Order shall be made to Paul J. Traina, Director, Enforcement Division, United States Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30308 (hereinafter referred to as the "Director"), with copies to the Director, Tennessee Division of Air Pollution Control, 256 Capitol Hill Building, Nashville, Tennessee 37219 (hereinafter referred to as the "State Director"), and the Director, Department of Air Pollution Control of Knox County, Fort Hill Building, 701 East Vine Avenue, Suite 205B, Knoxville, Tennessee 37915 (hereinafter referred to as the "Local Director").

III

*Progress Reports—Milestone Certification*

U.T. shall submit, no later than five (5) days after the end of each month, commencing with September 1, 1978, a monthly progress report for the emission point specified in Part I. This report shall contain specific information on the progress toward each milestone in Part I. If any delay is anticipated in meeting said milestone, U.T. shall immediately notify the Director in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay shall not excuse the delay. In addition, U.T. shall submit, no later than five (5) days after the deadline for completing each milestone required by Part I, certification to the Director, State Director and Local Director whether such milestone has been met.

IV

*Method of Tests and Required Notification*

U.T. shall provide the Director, State Director and Local Director, with twenty (20) days notice prior to the conducting of any performance tests required by Part I in order to afford an opportunity to evaluate the test procedure and to have an observer present at such testing. The required tests for particular emissions and opacity shall be conducted in accordance with EPA test reference methods specified in 40 CFR Part 60.

V

*Malfunctions and Breakdowns*

U.T. shall perform operation and maintenance practices on the source as necessary to prevent malfunctions or breakdowns and to reduce emissions in excess of regulations to the maximum extent practicable. When emissions due to sudden and unforeseen malfunction or breakdown of the affected facility exceed those which occur during the normal operation of the steam plant for greater than four (4) hours, the operator shall notify this office and the appropriate state or local air pollution control agency by telephone or telegram as promptly as possible, and in no event later than twelve (12) hours following the start of such malfunction or breakdown, and shall cause written notice to be sent to the Director, the State Director and the Local Director, no later than the end of the next working day following the start of such malfunction or breakdown. Such notices shall specify the name of the affected facility, its location, the address and telephone number of the person responsible for the affected facility, the nature and cause of the malfunction or breakdown, the date and time when such malfunction or breakdown was first observed, the expected duration, and an estimate of the physical and chemical composition, rate, and concentration of the emission. U.T. shall remedy the malfunction or breakdown as soon as possible thereafter and shall take reasonable steps to reduce emissions during the malfunction or breakdown.

The Regional Administrator shall have the authority during a malfunction or breakdown to require U.T. to take specific steps to reduce emissions, including process equipment modifications and/or reductions, or termination if necessary. Within ten (10) days after the termination of a malfunction or breakdown requiring the above notification, the owner shall submit a report detailing:

(1) The time the excess emission began and ended;

(2) The time of the beginning and end of the malfunction or breakdown which is asserted to be the cause of the excess emission;

(3) An estimate of the physical and chemical composition, rate, and concentration of emissions which occurred, and where continuous monitoring is required or is in effect (including visible emission detector), the strip charts with plots of all emissions monitored versus time, including a summary of the monitoring instruments' written record expressed in units of the applicable standard.

(4) An explanation and, where appropriate, an engineering analysis of the cause of the malfunction or breakdown;

(5) A description of those operating and/or maintenance procedures and practices in use prior to and during the occurrence, which were designed to prevent or minimize the extent and duration of the malfunction or breakdown;

(6) Any other steps taken to minimize the extent or duration of the malfunction or breakdown;

(7) An analysis of what steps will be taken to prevent or minimize similar occurrences in the future; and

(8) Such additional information as the Regional Administrator may require.

VI

*Interim Requirements*

A. For the period during which this Order is in effect, U.T. shall at all times comply with the following interim emission requirements for the Main Steam Plant which represent the best practicable system of emission reduction:

1. The visible emissions from the Main Steam Plant shall not exceed 60% opacity as determined by EPA Method 9 or by the continuous opacity monitoring equipment.

2. The peak load for the 1978–1979 heating season shall not exceed 190,000 pounds per hour.

If, at any time during the effective period of this Order, the applicable interim emission requirements are violated, U.T. shall notify EPA of the violation as soon as possible, but no later than twenty-four hours after the start of the violation.

B. In addition to the foregoing interim emission requirements, for the period during which this Order is in effect, U.T. shall take all necessary steps to comply with the applicable emission limitations contained in the State Implementation Plan insofar as U.T. is able, and shall take all necessary precautions to ensure that its emissions will not cause or contribute to a violation or violations of National Ambient Air Quality Standards.

C. Furthermore, U.T. shall comply with any emergency requirements specifed by EPA pursuant to Section 303 of the source to comply with all other applicable Federal, State, or local regulations.

IX

*Order Termination*

This Delayed Compliance Order shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator determines on the record after notice and hearing that the inability to comply with Section 17.1 no longer exists.

*Violation of Requirements*

Violation of any requirement of this Delayed Compliance Order shall result in one or more of the following actions:

(a) enforcement of such requirement through the commencement of a civil action for injunctive relief and the assessment of civil penalties pursuant to Section 113(b) of

the Act, or a criminal prosecution pursuant to Section 113(c) of the Act, or both;

(b) revocation of this Delayed Compliance Order, after notice and opportunity for a public hearing, and subsequent enforcement of Section 17.1 in accordance with Sections 113(b) and/or (c) of the Act.

XI

*Noncompliance Penalty*

Failure by U.T. to achieve and certify compliance by May 15, 1979, and maintain compliance thereafter, shall result in one or more of the actions identified in Part X(a).

In addition, noncompliance beyond August 7, 1979, shall subject U.T. to an administratively assessed nocompliance penalty pursuant to the requirements of Section 120 of the Act and any rules and regulations promulgated pursuant thereto, unless U.T. is exempted by Section 120(a)(2)(B) or (C) of the Act. In the event of noncompliance after Agusut 7, 1979, U.T. will be formally notified of its noncompliance purusant to Section 120(b)(3) of the Act.

**Waiver of Rights**

By consenting to the terms and conditions of this Delayed Compliance Order, U.T. waives any and all rights it may have to seek a stay of enforcement of this Delayed Compliance Order in connection with any judicial review of the Tennessee State Implementation Plan or portion thereof.

XIII

*Effective Date*

This Delayed Compliance Order shall have full force and effect upon execution.

**Appendix A—United States Environmental Protection Agency, Delayed Compliance Order***

U.T. shall complete or have completed the following acts with respect to control of visible emissions for its Main Steam Plant located in Knoxville, Tennessee, on or before the dates specified:

1. July 1, 1978—Begin repairs on precipitator. Start construction of pollution control equipment—completed.
2. January 1, 1979—Complete repairs on precipitator.
3. February 15, 1979—Start-up precipitator and commence shake-down operations.
4. May 15, 1979—Complete adjustments to precipitator and submit acceptable source tests which demonstrate final compliance with the applicable regulations.

CONSENT*

The University of Tennessee acknowledges that the visible emissions from its Main Steam Plant and Agricultural School Plant located at its facility in Knoxville, Tennessee, are in violation of the applicable emission limitations contained in the Federally-approved Tennessee Implementation Plan. The University has reviewed this Delayed Compliance Order, believes it to be a reasonable and expeditious means to achieve compliance with the applicable visible emission limiting regulation as contained in the Federally-approved Tennessee Implementation Plan, and consents to all of the requirements and terms of this Delayed Compliance Order. The University also agrees to meet all of the provisions of this Order during the informal rule making process.

The University hereby represents that it has full legal authority and the necessary governmental approval to enter into and perform in accordance with the terms and provisions of this Delayed Compliance Order. The signatory below represents that he has the requisite authority to execute this Consent on behalf of the University.

Dated: December 20, 1978.

J. E. Johnson,
*University of Tennessee.*

[FRL 1089-5; Docket No. 78-16]

[FR Doc. 79-10229 Filed 4-3-79; 8:45 am]
BILLING CODE 6560-01-M

* This appendix is attached to and incorported by reference into a Delayed Compliance Order issued to U.T. at Knoxville on ———— pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d).

*This Consent is hereby attached to and incorporated by reference into a Delayed Compliance Order issued to U.T. at Knoxville, Tennessee on ———— pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d).

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[40 CFR Part 65]

## Delayed Compliance Orders; Proposed Delayed Compliance Order for Aminoil Terminals, Inc., West Sacramento, Calif.

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to issue an administrative order to Aminoil Terminals, Inc. The order requires the company to bring air emissions from its bulk terminal in West Sacramento, California into compliance with certain federally-promulgated regulations contained in the California State Implementation Plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by April 1, 1979. Source compliance with the Order would preclude suits under the federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

**DATES:** Written comments must be received on or before May 4, 1979, and requests for a public hearing must be received on or before April 19, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after thirty days prior notice of the date, time, and place of the hearing has been given in this publication.

**ADDRESSES:** Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, California 94105. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** William M. Thurston, Chief, Case Development Section, Air and Hazardous Materials Branch, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, California 94105, telephone (415)556-6150.

**SUPPLEMENTARY INFORMATION:** Aminoil Terminals, Inc., operates a gasoline bulk terminal in West Sacramento, California. The proposed order addresses emissions from the vapor recovery unit at this facility, which are subject to 40 CFR 52.255, Gasoline transfer vapor control. This regulation limits the emissions of hydrocarbons and is a federally-promulgated regulation in the California State Implementation Plan. The order requires final compliance with the regulation by April 1, 1979, and the source has consented to its terms. Aminoil Terminals, Inc. has already let contracts and initiated on-site construction of modifications to the vapor recovery system as required in Section I, increments A and B of the proposed order.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the

administrator of EPA will publish in the **Federal Register** the Agency's final action on the order in 40 CFR Part 65.

Dated: March 21, 1979.

(42 U.S.C. 7413, 7601)

**Frank M. Covington,**

*Acting Regional Administrator, Region IX.*

In consideration of the foregoing it is proposed to amend 40 CFR Chapter 1, as follows:

## PART 65—DELAYED COMPLIANCE ORDERS

### § 65.90 [Amended]

1. By adding an entry to the table in § 65.90, Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act, to reflect approval of the following order:

*ORDER.* In the matter of Aminoil Terminals, Inc., West Sacramento, California, proceeding under section 113(d) Clean Air Act, as amended. Docket No. 9–78–22.

This order is issued pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. ("the Act"). This ORDER contains a schedule for compliance, interim requirements and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of California have been provided pursuant to section 113(d)(1) of the Act.

**Findings**

On September 15, 1978, the United States Environmental Protection Agency issued a notice of violation, pursuant to Section 113(a)(1) of the Act, to Aminoil U.S.A., Inc. upon a finding that the Aminoil Terminals, Inc. bulk gasoline terminal is in violation of 40 CFR 52.255, a part of the applicable California Implementation Plan as defined in Section 110(d) of the Act. (This regulation has been superceded in part by Yolo-Solano Air Pollution Control District Rule 2.21, approved by EPA as part of the State Implementation Plan for California on June 14, 1978, 43 F.R. 25673. Rule 2.21 is equivalent to 40 CFR § 52.255.) This finding was based upon a letter sent to EPA by Aminoil U.S.A., Inc. which indicated that gasoline loading operations occurred at the bulk terminal during periods when the terminal's vapor recovery system was not operating.

Said violation has extended beyond the thirtieth day after issuance of the September 15, 1978, notice of violation. This finding is based upon statements made by Aminoil U.S.A., Inc. representatives at an October 24, 1978, conference with EPA that the vapor recovery unit was again out of service from September 29 to October 17, 1978, during which time gasoline loading operations continued at this terminal. Aminoil Terminals, Inc. is presently unable to comply with the requirements of 40 CFR 52.255.

**Order**

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with section 113(d) of the Act. Therefore it is hereby ORDERED:

I. That Aminoil Terminals, Inc. will comply with the California Implementation Plan regulations is accordance with the following schedule on or before the dates specified therein for the modification of the vapor recovery system.

A. Completed—Let contracts for the modification of the vapor recovery system.

B. Completed—Initiate on-site construction or installation of modifications to the vapor recovery system.

C. April 1, 1979—Complete construction and achieve final compliance with 40 CFR 52.255.

II. That Aminoil Terminals, Inc. shall comply with the following reasonable interim requirement which is determined to be the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in Section I, above) and is necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with 40 CFR 52.255 insofar as Aminoil Terminals, Inc. is able to comply during the period this ORDER is in effect:

1. The existing vapor recovery system shall be properly operated and maintained to minimize the emission of gasoline vapors to the atmosphere.

III. That Aminoil Terminals, Inc. is not relieved by this ORDER from compliance with any requirements imposed by the applicable State implementation plan, EPA and/or the courts pursuant to Section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That Aminoil Terminals, Inc. shall comply with the following reporting requirements on or before the dates specified below:

A. No later than five days after any date for achievement of an incremental step or final compliance, specified in this ORDER, Aminoil Terminals, Inc. shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this ORDER, Aminoil Terminals, Inc. shall notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA pursuant to this ORDER shall be made to the Director, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, California 94105.

V. Nothing herein shall affect the responsibility of Aminoil Terminals, Inc. to comply with State, local or other federal regulations.

VI. Aminoil Terminals, Inc. is hereby notified that your failure to achieve final compliance by July 1, 1979, may result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, Aminoil Terminals, Inc. will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder of its noncompliance.

VII. This ORDER shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with 40 CFR § 52.255 no longer exists.

VIII. Violation of any requirement of this ORDER shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Sections 113(a), (b) or (c) of the Act, including possible judicial action for an injuction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this ORDER, after notice and opportunity for a public hearing, and subsequent enforcement of 40 CFR § 52.255 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

IX. This ORDER if effective April 4, 1979.

Dated: March 28, 1979.

**Douglas M. Costle.**

*Administrator.*

**Consent Provision**

Aminoil Terminals, Inc. has reviewed this ORDER and consents to the terms of the ORDER.

Dated: January 29, 1979

**J. O. Jones**

*Vice President, Aminoil Terminals, Inc.*

[FRL 1086–1; Docket No. 9–78–22]

[FR Doc.79–10223 Filed 4–3–79; 8:45 am]

**BILLING CODE 6560–01–M**

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**[40 CFR Part 65]**

## Delayed Compliance Orders; Proposed Approval of Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to Foote Mineral Co.

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve a delayed compliance order issued by the North Carolina Environmental Management Commission to Foote Mineral Company in Kings Mountain, North Carolina. The delayed compliance order requires Foote Mineral Company to bring air emissions from the Spodumene Ore Dryer in Kings Mountain, North Carolina, into compliance with an applicable regulation contained in the North Carolina State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the

provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

**DATE:** Written comments must be received on or before May 4, 1979.

**ADDRESSES:** Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Floyd Ledbetter, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881–4298.

**SUPPLEMENTARY INFORMATION:** Foote Mineral Company operates a Lithium Ore processing plant in Kings Mountain, Cleveland County, North Carolina. The order under consideration addresses emissions from the spodumene ore dryer, which are subject to North Carolina Administrative Code (NCAC) Title 15, Chapter 2D, Section .0521. This regulation limits the visible emission from process operations, and is part of the federally approved North Carolina State Implementation Plan. The order requires compliance with the regulation by July 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

1) Submit plans and specifications for visible emissions control equipment on or before October 1, 1978.

2) Let contracts for visible emission control equipment on or before January 1, 1979.

3) Begin construction of the chosen equipment on or before April 1, 1979.

4) Complete construction and achieve compliance with 15 NCAC 2D.0521 in the manner chosen and proposed by the company on or before July 1, 1979.

The source is required to submit progress reports by the 15th day of the end of each quarter commencing with the October 1 to December 31 quarter of 1978, indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, Foote Mineral Co. shall immediately notify the Director, Division of Environmental Management in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition Foote Mineral Company shall submit, no later than five (5) days after the deadline for completing each milestone required by the above schedule certification to the Director, Division of Environmental Management, whether or not such milestone has been met.

This Order does not address interim control measures because the excess visible is due to a condensate forming after the control equipment and it is believed that the exhaust meets the regulation for mass emissions.

Because this Order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable state air pollution control regulation[s], it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced order satisfies these legal requirements.

If the submitted administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the North Carolina SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

**Authority:** 42 U.S.C. 7413, 7601.

Dated: March 28, 1979.

**John C. White,**

*Regional Administrator, Region IV.*

[Docket No. DCO–78–50: FRL 1091–1]

[FR Doc. 79–10376 Filed 4–3–79; 8:45 am]

**BILLING CODE 6560–01–M**

**[40 CFR Part 65]**

## Delayed Compliance Orders; Proposed Approval of an Administrative Order Issued by the North Carolina Environmental Management Commission to Harris Mining Co.

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve an administrative order issued by the North Carolina Environmental Management Commission to Harris Mining Company. The Order requires Harris Mining Company to bring air emissions from its coal boiler at its Kaolin Plant in Spruce Pine, North Carolina , into compliance with air pollution control regulations contained in the federally approved North Carolina State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

**DATE:** Written comments must be received on or before May 4, 1979.

**ADDRESSES:** Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Floyd Ledbetter, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881–4298.

**SUPPLEMENTARY INFORMATION:** Harris Mining Company, Kaolin Plant, operates a Kaolin clay processing plant in Spruce Pine, Avery County, North Carolina.

The Order under consideration addresses particulates and visible emissions from the coal boiler in Spruce Pine, North Carolina, which is subject to the North Carolina Administrative Code (NCAC) Title 15 Chapter 2D Sections .0503 and .0521. These regulations limit particulate and visible emissions from fuel burning sources and are part of the federally approved North Carolina State Implemention Plan. The order requires final compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

A. Complete construction and/or installation of an overfired air system on or before December 15, 1978.

B. Demonstrate, by source testing, compliance or noncompliance with 15 NCAC 2D .0503, "Control of Particulate from Fuel Burning Sources," and 15 NCAC 2D .0521, "Control of Visible Emissions," on or before January 30, 1979. Should the results of testing not demonstrate compliance, the company does hereby agree to do and perform all of the following things on or before the dates hereinafter set out:

C. Submit a revised application for a Permit to install visible and particulate emissions abatement equipment on or before February 28, 1979.

D. Let contracts for the proposed abatement equipment on or before March 15, 1979.

E. Begin construction and/or installation of control equipment on or before May 1, 1979.

F. Complete construction and/or installation of control equipment on or before June 15, 1979.

G. Achieve and document compliance with 15 NCAC 2D .0503, "Control of Particulates from Fuel Burning Sources," and 15 NCAC 2D .0521, "Control of Visible Emissions," on or before June 30, 1979.

Notification of a delay shall not excuse the delay. In addition Harris Mining Company shall submit, no later than five (5) days after the deadline for completing each milestone required by the above schedule certification to the Director, Division of Environmental Management, whether or not such milestone has been met.

As an interim control measure, visible emissions from the coal fired boiler shall not exceed 60% opacity for an aggregate of more than 5 minutes in any one hour or more than 20 minutes in any 24 hour period.

Because this Order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable state air pollution control regulation[s], it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced order satisfies these legal requirements.

If the submitted administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation[s] covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the North Carolina SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: March 29, 1979.

John C. White,

*Regional Administrator, Region IV.*

[Docket No. DCO-79-1; FRL 1090-8]

[FR Doc. 79-10377 Filed 4-3-79; 8:45 am]

BILLING CODE 6560-01-M

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### [50 CFR Part 12]

### Seizure and Forfeiture Procedures

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** Regulations are proposed which would revise 50 CFR Part 12, entitled, "Seizure and Forfeiture Procedures." A number of laws enforced by the Service provide for the seizure and forfeiture of wildlife and other property involved in violations of the laws. This revision of the Service's seizure and forfeiture regulations would clarify existing procedures and would implement the provisions for administrative forfeiture proceedings contained in several statutes that adopt the customs forfeiture laws.

**DATES:** Comments on these proposed regulations must be received on or before June 4, 1979.

**ADDRESSES:** The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed revision. Comments should be addressed to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, and should refer to the file number, REG 12-02-1.

Comments received will be available for public inspection during normal business hours at the Service's Division of Law Enforcement, Suite 600, 1612 K Street, N.W., Washington, D.C. 20006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marshall L. Stinnett, Special Agent in Charge, Branch of Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20036, Telephone: 202-343-9237.

**SUPPLEMENTARY INFORMATION:**

#### Background

A number of laws administered by the Service provide for forfeiture to the United States of wildlife, plants, and other property involved in violations of the laws. In addition, several laws administered by the Service authorize the assessment of civil monetary penalties for violations of certain prohibitions. As part of the compromise or settlement of such civil penalty claims, property subject to forfeiture may be transferred to the United States in exchange for reduction or elimination of the penalty. These proposed regulations would establish procedures governing forfeiture of property, transfers of property in settlement of civil penalty claims, and related activities such as appraisement of seized property and petitions for remission of forfeitures.

#### Description of Proposed Regulations

Sections 12.1 and 12.2 of the proposal set forth general provisions concerning the purpose and scope of the regulations. Section 12.3 defines a number of important terms, and section

12.4 establishes time requirements for the filing of documents. Section 12.5 provides for delivery to the Service of property covered by these regulations which has been seized by other Federal agencies.

In certain instances, it may be appropriate to release seized property rather than hold such property for the duration of forfeiture proceedings. Such release, in exchange for a bond or other security, is authorized by the Bald and Golden Eagles Protection Act, Fish and Wildlife Act of 1956 [Airborne Hunting Amendments], Marine Mammal Protection Act, Endangered Species Act, and Lacey Act. 16 U.S.C. 668b(c), 742j–1(f), 1376(a), 1377(e)(2), 1540(e)(3), (f); 18 U.S.C. 43(c)(2); 19 U.S.C. §§ 1614, 1623. Section 12.6 would implement these statutory provisions by prescribing the terms and conditions for bonded release.

Sections 12.21 and 12.22 establish procedures relating to judicial forfeiture proceedings. Section 12.21 deals with criminal forfeiture and section 12.22 deals with civil in rem actions to obtain forfeiture.

The Bald and Golden Eagles Protection Act, Fish and Wildlife Act of 1956 [Airborne Hunting Amendments], Marine Mammal Protection Act (as it applies to the cargo of vessels employed in unlawful taking), and Endangered Species Act adopt the forfeiture provisions of the "customs laws." 16 U.S.C. 668b(c), 742j–1(f), 1376(a), 1540(e)(5). The customs laws referred to are certain provisions of the Tariff Act of 1930, 19 U.S.C. §§ 1602–1624. Under the Tariff Act, property having an appraised domestic value not in excess of $10,000 may be forfeited through administrative proceedings conducted by the Department. 19 U.S.C. 1606–1609. In connection with these proceedings, the Tariff Act also provides for the filing of petitions to remit forfeitures or restore the proceeds of forfeited property disposed of according to law. 19 U.S.C. 1613, 1618.

Sections 12.11, 12.23, 12.24, and 12.33 of the proposed regulations would govern the administrative forfeiture proceedings described above. Section 12.11 provides for the appraisement of seized property to determine its domestic value. Section 12.23 prescribes the notice and other procedural requirements of the administrative proceedings. Sections 12.24 and 12.33 establish rules governing petitions for remission of forfeiture and petitions for restoration of proceeds.

As indicated previously, serveral statutes administered by the Service authorize the assessment of civil monetary penalties for violations, in addition to forfeiture of the property involved. These statutes are the Bald and Golden Eagles Protection Act, Marine Mammal Protection Act, Endangered Species Act, and Lacey Act. 16 U.S.C. 668(b), 1375(a), 1377(e), 1540(a); 18 U.S.C. § 43(c). As part of the compromise or settlement of civil penalty claims under these statutes, property subject to forfeiture may be voluntarily transferred to the United States in exchange for reduction or elimination of the penalty. Section 12.25 of the proposal prescribes the requirements for such transfers.

Finally, §§ 12.31 and 12.32 provide for the utilization and disposal of forfeited or transferred property and for the recovery of certain storage costs. Section 12.41 establishes procedures for return of property to owners or consignees.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Service has determined that issuance of these regulations would not be a major Federal action significantly affecting the quality of the human environment, and thus preparation of an environmental impact statement is not required.

The primary author of this proposed rulemaking is Ronald E. Swan, Office of the Solicitor, Department of the Interior, (202–343–2172).

Accordingly, it is hereby proposed to revise Part 12 of Title 50, Code of Federal Regulations, to read as set forth below.

## PART 12—SEIZURE AND FORFEITURE PROCEDURES

### Subpart A—General Provisions

Sec.

12.1 Purpose of regulations.
12.2 Scope of regulations.
12.3 Definitions.
12.4 Filing of documents.
12.5 Seizure by other agencies.
12.6 Bonded release.

### Subpart B—Preliminary Requirements

12.11 Appraisement.

### Subpart C—Forfeiture Proceedings

12.21 Criminal prosecutions.
12.22 Civil actions to obtain forfeiture.
12.23 Administrative forfeiture proceedings.
12.24 Petitions of remission of forfeiture.
12.25 Transfers in settlement of civil penalty claims.

### Subpart D—Disposition of Forfeited or Transferred Property

12.31 Disposition.
12.32 Recovery of certain storage costs.
12.33 Petitions for restoration of proceeds.

### Subpart E—Return of Property

12.41 Return procedure

**Authority:** Act of September 6, 1966, 5 U.S.C. § 301; Bald and Golden Eagles Protection Act, 16 U.S.C. §§ 668–668b; National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd(e)-(f); Migratory Bird Treaty Act, 16 U.S.C. 706–707; Migratory Bird Hunting Stamp Act, 16 U.S.C. §§ 718f–718g; Fish and Wildlife Act of 1956 [Airborne Hunting Amendments], 16 U.S.C. 742j–1(d)–(f); Black Bass Act, 16 U.S.C. 852d–853; Marine Mammal Protection Act of 1972, 16 U.S.C. 1375–1377, 1382; Endangered Species Act of 1973, 16 U.S.C. 1540; Lacey Act, 18 U.S.C. 43, 44, 3054, 3112; Tariff Act of 1930, 19 U.S.C. 1602–1624.

### Subpart A—General Provisions

#### § 12.1 Purpose of regulations.

The regulations of this Part establish procedures relating to property seized or subject to forfeiture under various statutes enforced by the Service.

#### § 12.2 Scope of regulations.

Except as hereinafter provided, the regulations of this Part apply to all property seized or subject to forfeiture under any of the following statutes:

(a) The Bald and Golden Eagles Protection Act, 16 U.S.C. 668–668c;

(b) The National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. 668dd–668ee;

(c) The Migratory Bird Treaty Act, 16 U.S.C. §§ 703–711;

(d) The Migratory Bird Hunting Stamp Act, 16 U.S.C. §§ 718–718h;

(e) The Fish and Wildlife Act of 1956 (Airborne Hunting Amendments), 16 U.S.C. 742j–1;

(f) The Black Bass Act, 16 U.S.C. 851–856;

(g) The Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407;

(h) The Endangered Species Act of 1973, 16 U.S.C. 1531–1543; and

(i) The Lacey Act, 18 U.S.C. 43, 44, 3054, 3112.

#### § 12.3 Definitions.

(a) As used in this Part:

(1) "Attorney General" means the Attorney General of the United States or an authorized representative;

(2) "Domestic value" means the price at which the seized property or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisement,

such value in the principal market nearest to the place of appraisement shall be reported.

(3) "Solicitor" means the Solicitor of the Department of the Interior or an authorized representative.

(b) The definitions of paragraph (a) of this section are in addition to, and not in lieu of, those contained in § 10.12 of this title.

**§ 12.4 Filing of documents.**

(a) Whenever any document is required by this Part to be filed or served within a certain period of time, such document will be considered filed or served as of the date of the postmark if mailed, or as of the date of actual delivery to the party with or upon whom filing or service is required. The time periods established by this Part shall begin to run on the day following the date of filing or service.

(b) If an oral or written application is made before the expiration of a time period established by this Part, an extension of such period for a fixed number of days may be granted where there are reasonable grounds for the failure to file or serve the document within the period required. Any such extension shall be in writing. Except as provided in this paragraph, no other requests for an extension shall be granted.

**§ 12.5 Seizure by other agencies.**

Any authorized employee or officer of any other Federal agency who has seized any wildlife or other property under any of the laws listed in § 12.2 shall deliver such seizure to the appropriate Special Agent in Charge (*see* § 10.22 of this title) or an authorized designee, who shall either hold such seized wildlife or other property or arrange for its proper handling and care.

**§ 12.6 Bonded release.**

(a) Subject to the conditions set forth in paragraph (b) of this section, and to such additional conditions as the Director may deem appropriate, the Service, in its discretion, may accept an appearance bond or other security (including payment of the appraised domestic value as determined under 12.11) in place of any property seized under the Endangered Species Act of 1973, 16 U.S.C. 1531–1543, the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407, the Lacey Act, 18 U.S.C. 43, the Fish and Wildlife Act of 1956, 16 U.S.C. 742j–1, or the Bald and Golden Eagles Protection Act, 16 U.S.C. 668–668c.

(b) No seized property may be released under paragraph (a) of this section unless, at a minimum, all three of the following conditions are met:

(1) The property may be released only to the owner or consignee;

(2) Possession of the property by the owner or consignee must be legal under all laws and regulations; and

(3) The Director must determine that release of the property will not frustrate the purpose or policy of any law or regulation.

## Subpart B—Preliminary Requirements

**§ 12.11 Appraisement.**

Property seized under the Endangered Species Act of 1973, 16 U.S.C. 1531–1543, the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407 (where the seized property is cargo of a vessel or other conveyance employed in unlawful taking), the Bald and Golden Eagles Protection Act, 16 U.S.C. 668–668c, or the Fish and Wildlife Act of 1956, 16 U.S.C. 742j–1, shall be appraised to determine its domestic value. Domestic value is defined in paragraph (a)(2) of § 12.3.

## Subpart C—Forfeiture Proceedings

**§ 12.21 Criminal prosecutions.**

If property is subject to criminal forfeiture, the Solicitor may request the Attorney General to obtain such forfeiture in accordance with Rules 7(c)(2), 31(e), and 32(b)(2) of the *Federal Rules of Criminal Procedure.*

**§ 12.22 Civil actions to obtain forfeiture.**

The Solicitor may request the Attorney General to obtain forfeiture of any property subject to forfeiture under the Fish and Wildlife Act of 1956, 16 U.S.C. 742j–1, the Lacey Act, 18 U.S.C. 43–44, the Black Bass Act, 16 U.S.C. 851–856, the Marine Mammal Protection Act, 16 U.S.C. 1361–1407, the Migratory Bird Treaty Act, 16 U.S.C. 703–711, the Migratory Bird Hunting Stamp Act, 16 U.S.C. 718–718h, or the Bald and Golden Eagles Protection Act, 16 U.S.C. 668–668c, and of any wildlife or plants subject to forfeiture under the Endangered Species Act of 1973, 16 U.S.C. 1531–1543, by means of a civil action in rem filed in accordance with the *Federal Rules of Civil Procedure and the Supplemental Rules for Certain Admiralty and Maritime Claims.* Before any such action is filed against property subject to forfeiture under the Lacey Act, 18 U.S.C. 43, or the Marine Mammal Protection Act 16 U.S.C. 1361–1407 (other than cargo of vessels or conveyances employed in unlawful taking), a civil penalty must first be assessed in accordance with the statute, and no such action may be filed more than 30 days after the conclusion of civil penalty assessment proceedings.

**§ 12.23 Administrative forfeiture proceedings.**

(a) *When authorized.* Whenever any property subject to forfeiture under the Bald and Golden Eagles Protection Act, 16 U.S.C. 668–668c, or the Fish and Wildlife Act of 1956, 16 U.S.C. 742j–1, any wildlife or plants subject to forfeiture under the Endangered Species Act of 1973, 16 U.S.C. 1531–1543, or any cargo of a vessel or other conveyance employed in unlawful taking subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361–1407, is determined under § 12.11 to have a domestic value not greater than $10,000, the Solicitor may obtain forfeiture of such property in accordance with this section.

(b) *Procedure.*—(1) *Notice of commencement of forfeiture proceeding.* As soon as practicable following seizure, the Solicitor shall cause to be published a Notice of Commencement of Forfeiture Proceedings.

(i) Where the domestic value of the property as determined under § 12.11 does not exceed $250, the notice may be published by posting for at least three successive weeks in a conspicuous place accessible to the public at the Service's Office and United States District Court nearest the place of seizure. The date of initial posting shall be indicated on the notice.

(ii) Where the domestic value of the property as determined under § 12.11 exceeds $250, the notice shall be published for a at least three successive weeks in a newspaper of general circulation in the locality where the property was seized.

(iii) Regardless of the domestic value of the property, the notice shall be dated, and a copy thereof shall be served by registered or certified mail, return receipt requested, on each person having an interest in the property whose name and address are known or reasonably ascertainable. The notice shall be in substantially the same form as a complaint for forfeiture filed in U.S. District Court. It shall describe the property, including, in the case of motor vehicles, the motor and serial numbers. The notice shall state the time and place of seizure, as well as the reason therefor, and shall specify the property's domestic value as determined under § 12.11. It shall allege that the property is subject to forfeiture under the statute cited therein. The notice shall also state that any person desiring to claim the property must, on or before the final day of publication, file a claim and give a

bond in accordance with paragraph (b)(2) of this section, and shall state that if no claim is filed or bond given on or before such date, the property will be declared forfeited to the United States and disposed of according to law. The notice shall advise interested persons of their right to file a Petition for Remission of Forfeiture in accordance with § 12.24.

(2) *Filing a claim and giving a bond.* At any time within 20 days from the date of the first publication of the Notice of Commencement of Forfeiture Proceedings, any person claiming the seized property may file with the Solicitor a claim to the property and a bond in the penal sum of $250. The claim shall state the claimant's interest in the property. The bond shall describe the property , and shall state that it is being given so that the claimant's claim thereto may be heard in a forfeiture proceeding in U.S. District Court. The bond shall also provide that in case of forfeiture in District Court, the obligors on the bond shall pay all the costs and expenses of the proceedings to obtain such forfeiture. There shall be at least two sureties, and such sureties shall be approved by the Solicitor. The claimant and each surety shall sign the bond in the presence of two witnesses who shall attest to the execution of the bond by signing immediately below the signatures of the sureties. The claim and bond referred to in this paragraph shall not entitle the claimant or any other person to possession of the property.

(3) *Transmittal to Attorney General.* As soon as practicable after receiving a claim and bond filed in accordance with paragraph (b)(2) of this section, the Solicitor shall transmit such claim and bond to the Attorney General for institution of forfeiture proceedings in U.S. District Court.

(c) *Summary forfeiture.* If no such claim is filed or bond given within the 20 days specified in paragraph (b)(2) of this section, the Solicitor shall declare the property forfeited. The Declaration of Forfeiture shall be in writing, and a copy thereof shall be sent by registered or certified mail, return receipt requested, to the Director and to each person who had an interest in the property whose name and address are known or reasonably ascertainable. The declaration shall be in substantially the same form as a default judgment of forfeiture entered in U.S. District Court. It shall describe the property and state the time, place and reason for its seizure. It shall identify the Notice of Commencement of Forfeiture Proceedings, giving the dates and manner of publication and service, and shall state that in response to the notice no claim or bond was filed by any claimant, and that therefore all potential claimants are deemed to admit the truth of the allegations of the notice. The declaration shall conclude with a decree of condemnation and forfeiture of the property to the United States for disposition according to law.

### § 12.24 Petitions for remission of forfeiture.

(a) At any time before disposition of the cargo of a vessel or other conveyance employed in unlawful taking that is subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. §§ 1361–1407, or before disposition of any property subject to forfeiture under the Endangered Species Act of 1973, 16 U.S.C. 1531–1543, the Bald and Golden Eagles Protection Act, 16 U.S.C. 668–668c, or the Fish and Wildlife Act of 1956, 16 U.S.C. 742j–1, a person having an interest in such property, or a person who has incurred or is alleged to have incurred a forfeiture thereof, may file with the Director or, where forfeiture proceedings have been brought in U.S. District Court, the Attorney General a Petition for Remission of Forfeiture.

(b) Petitions filed with the Director need not be in any particular form, but they must contain the following:

(1) A description of the property;

(2) The time and place of seizure;

(3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title and other satisfactory evidence; and

(4) A statement of all facts and circumstances relied upon by the petitioner to justify remission of the forfeiture.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition may be signed by an , authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under Title 18, United States Code, section 1001.

(e) Upon receiving the petition, the Director shall decide whether or not to grant relief. In making a decision, the Director shall consider the information submitted by the petitioner, as well as any other available information concerning the matter.

(f) If the Director finds that the forfeiture or alleged forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law, or if the Director finds the existence of such mitigating factors as to justify the remission or mitigation of the forfeiture or alleged forfeiture, the Director may remit or mitigate the same upon such terms and conditions as the Director deems reasonable and just, or the Director may order discontinuance of any prosecution relating to the matter.

(g) If the Director decides that no relief should be granted, the Director shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is filed within 60 days from the date of the Director's notification denying the original petition.

### § 12.25 Transfers in settlement of civil penalty claims.

In accordance with instructions issued by the Solicitor or Director, an owner liable for a civil penalty under the Endangered Species Act of 1973, 16 U.S.C. 1531–1543, the Lacey Act, 18 U.S.C. 43, the Bald and Golden Eagles Protection Act, 16 U.S.C. 668–668c, or the Marine Mammal Protection Act, 16 U.S.C. 1361–1407, may be given an opportunity to completely or partially settle the civil penalty claim by transfering to the United States any wildlife or plants involved in the penalty violation which are subject to forfeiture. Such transfer may be accomplished by the owner's execution and return of a Compromise Transfer of Property Instrument, which is available from the Service.

## Subpart D—Disposition of Forfeited or Transferred Property

### § 12.31 Disposition.

Disposition of property forfeited to the United States or transferred in settlement of civil penalty claims shall be in accordance with the regulations set forth in 41 Code of Federal Regulations, Chapters 101 and 114.

### § 12.32 Recovery of certain storage costs.

If wildlife, plants, or evidentiary items are seized and forfeited under the Endangered Species Act of 1973, 16 U.S.C. §§ 1531–1543, the responsible party may be charged a reasonable fee for expenses to the Government connected with the transfer, board, handling, or storage of such property. Within a reasonable time after forfeiture, the Director shall send to the responsible party by registered or certified mail, return receipt requested, a bill for such fee. The bill shall contain an itemized statement of the transfer,

boarding, handling or storage costs, together with instructions as to the time and manner of payment. Payment shall be made in accordance with the bill.

**§ 12.33 Petitions for restoration of proceeds.**

(a) Any person claiming any property or interest therein which has been forfeited under the Endangered Species Act of 1973, 16 U.S.C. 1531–1543, the Bald and Golden Eagles Protection Act, 16 U.S.C. 668–668c, or the Fish and Wildlife Act of 1956, 16 U.S.C. 742j–1, and disposed of under 41 CFR Chapters 101 and 114, or any person claiming the cargo of a vessel or other conveyance employed in unlawful taking which has been forfeited under the Marine Mammal Protection Act 16 U.S.C. 1361–1407, and disposed of under 41 CFR Chapters 101 and 114, may at any time within three months after the date of such disposition file with the Director or, where forfeiture proceedings have been brought in U.S. District Court, the Attorney General a Petition for Restoration of Proceeds.

(b) Petitions filed with the Director need not be in any particular form, but they must contain the following:

(1) A description of the property;

(2) The time and place of seizure;

(3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title and other satisfactory evidence;

(4) A request for the restoration of the proceeds or such part thereof as is claimed by the petitioner; and

(5) A statement of all facts and circumstances relied upon by the petitioner to justify restoration of the proceeds, including proof that the petitioner did not know of the seizure before the declaration or order of forfeiture and was in such circumstances as prevented the petitioner from knowing of the same, and that the forfeiture was incurred without any willful negligence or intention to defraud on the part of the petitioner.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition may be signed by an authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under Title 18, United States Code, section 1001.

(e) Upon receiving the petition, the Director shall decide whether or not the proceeds or any part thereof should be restored to the petitioner. In making a decision, the Director shall consider the information submitted by the petitioner, as well as any other available information relating to the matter.

(f) If the Director finds that the petitioner did not know of the seizure before the declaration or order of forfeiture and was in such circumstances as prevented the petitioner from knowing of the same, and that the forfeiture was incurred without any willful negligence or intention to defraud on the part of the petitioner, the Director may order the proceeds or any part thereof restored to the petitioner, after deducting from such proceeds the costs of seizure, storage, forfeiture, and disposition, the duties, if any, accruing on the seized property, and any sum due on a lien for freight, charges, or contribution in general average, notice of which has been filed with the Director according to law.

(g) If the Director decides that neither the proceeds nor any part thereof should be restored to the petitioner, the Director shall so notify the petitioner in writing, stating in the notification the reasons for denying restoration. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is filed within 60 days from the date of the Director's notification denying the original petition.

## Subpart E—Return of Property

**§ 12.41 Return procedure.**

If, at the conclusion of the appropriate proceedings, seized property is to be returned to the owner or consignee, the Director shall issue a letter or other document authorizing its return. This letter or other document shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by the Director, the seized property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements.

Dated: March 26, 1979.

James W. Pulliam, Jr.,

*Acting Director.*

[FR Doc. 79-10314 Filed 4-3-79; 8:45 am]

BILLING CODE 4310-55-M

# Notices

Federal Register
Vol. 44, No. 66
Wednesday, April 4, 1979

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

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Meat Import Limitations; Second Quarterly Estimate

Pub. L. 88–482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act, the following second quarterly estimates for 1979 are published.

1. The estimated aggregate quantity of such articles prescribed by section 2(a) of the Act during the calendar year 1979 is 1,131.6 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1979 is 1,570.0 million pounds. This estimate is based upon a voluntary restraint program which has been negotiated by the Department of State with major supplying countries. Were it not for the restraint program, the estimate of imports in 1979 subject to the Act would have been higher.

Since the estimated quantity of imports continues to exceed 110 percent of the estimated quantity prescribed by section 2(a) of the Act, limitations for the calendar year 1979 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), are required unless suspended by the President pursuant to section 2(d) of the Act. Such limitations were imposed by Proclamation 4642 of February 26, 1979, but were simultaneously suspended.

Done at Washington, D.C. this 30th day of March 1979.

**Bob Bergland,**
*Secretary.*

[FR Doc. 79–10381 Filed 4–3–79; 8:45 am]
**BILLING CODE 3410–10–M**

## CIVIL AERONAUTICS BOARD

### North Central-Southern Merger Case; Revised Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on April 23, 1979, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before April 13, 1979, together with the name of the person who will represent it at the argument.

**Note.**—Oral Argument is limited to Docket 33136.

Dated at Washington, D.C., March 29, 1979.

**Phyllis T. Kaylor,**
*Secretary.*

[Docket 33136]

[FR Doc. 79–10343 4–3–79; 8:45 am]
**BILLING CODE 6320–01–M**

### United States-France "Vacances" Fares Proposed by Compagnie Nationale Air France and Trans World Airlines, Inc., Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of March, 1979.

By tariff revisions filed February 7, 1979, for effectiveness April 1, 1979, Compagnie Nationale Air France (Air France) proposed new "Vacances" fares between the United States and France, at New York-Paris roundtrip levels of $360, peak season, and $329, basic season. The proposed fares would have a 14/60-day minimum/maximum stay requirement, permit no stopovers, and apply only on three specific flights each week.[1] A $50 penalty would be assessed for cancellation or change of reservation before departure; after departure, failure to use confirmed space would result in complete forfeiture of the return flight coupon.[2]

Several U.S. flag carriers have also filed new low fares for travel between the United States and France. Trans World Airlines, Inc. (TWA), proposes reductions in the advance purchase excursion fare (from $379 to $349 in the basic season and from $435 to $399 in the peak season, New York-Paris), along with more liberal conditions.[3] Braniff Airways, Inc. (Braniff), would reduce normal economy fares, excursion and APEX fares; and proposes a new budget fare at New York-Paris levels of $258 basic and 3338 peak.[4] Finally, Trans International Airlines, Inc. (TIA), proposes a single-fare service at levels of $349 basic and $359 peak. Appendix C [5] shows present and proposed fares.

The Board is encouraged by the U.S. and French flag carrier filings, which would offer new low fare benefits to the public in a market where such opportunities have, thus far, been rather limited compared to other U.S. -Europe markets. However, the Government of France has disapproved TWA's fare package insofar as it provides lower fares or more liberal conditions than Air France's.[6] In addition, we have been informed that France objects to Braniff's fares as well. Thus it appears that France intends to disapprove any filings by U.S. carriers which offer lower or more liberal fares than Air France. In these circumstances we must act now in order to preserve a free scope for the U.S. carriers to exercise their respective marketing judgments, an important tenet of United States aviation policy. All carriers should have an equal opportunity to compete by offering those

[1] On Monday, Friday and Saturday. The flights are to be operated with 500-seat B–747 equipment.

[2] The fare is set at the same levels as existing Midweek fares, which Air France would now cancel. The Midweek fares, however, have different conditions and are available only two days each week.

[3] Expansion of the validity period from 14/45 days to 7/60 days, and a reduction in the advance purchase period from 30 to 21 days.

[4] Braniff's New York fares would be constructed over Boston.

[5] Appendix C filed as part of the original document at the Office of the Federal Register.

[6] France objects to TWA's fare package because TWA proposes first class and APEX fares at levels less than Air France, as well as more liberal APEX conditions.

prices which in their judgment are best suited to the market, and the range or flexibility of their pricing initatives should not be abridged by governmental interference.

The Board is always reluctant to suspend new low fares which would promote greater use of air transportation and provide a wider choice of price/quality options to the consumer. In this case, however, we have concluded that circumstances compel us to suspend Air France's proposal in order to pursue effectively our policy objectives. The public stands to gain much more over the long run by our firm support of the right of competitive carriers to provide a variety of pricing options which make travel more widely available for consumers and expand the total market, than it will lose by the present suspension of the Vacances fare. The Vacances fare certainly shows a welcome initiative and imagination on the part of Air France, but may not necessarily be the best response to the needs of the market, and competing carriers should be free to explore other options.

We would hope this matter can be resolved to the benefit of the traveling public so that passengers will be able to use all the new fares proposed in this important and historic transatlantic market. We trust that the Government of France is as concerned as we are with the welfare of American and French travelers, as well as the airlines providing services, and while we must take action now to preserve the rights of U.S. flag carriers in pursuit of our overall policy of competition, we hope to be able to withdraw our suspension of the Vacances fare at an early date.

The Board has therefore decided to suspend the Vacances fare tariffs for passenger foreign air transportation filed by Air France between the United States and France, as described below, for a period of 365 days from the effective date of this order.[7]

Accordingly, under sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958:

1. We suspend the fares and provisions set forth in Appendix A [8] hereof, and rules and regulations or practices affecting such fares and provisions, and defer their use from April 1, 1979, to and including March 31, 1980, and suspend the fares and provisions set forth in Appendix B [9] hereof, and rules and regulations or practices affecting such fares and provisions, defer their use from May 22, 1979, to and including May 21, 1980, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board.

2. We shall submit this order to the President [10] and it shall become effective on April 1, 1979; and

3. We shall file copies of this order with the tariffs and serve them upon Compagnie Nationale Air France, Trans World Airlines, Inc., Braniff Airways, Inc., Trans International Airlines, Inc., and the Ambassador of France in Washington, D.C.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[11]

**Phyllis T. Kaylor,**

*Secretary.*

[Order 79-3-174; Docket 35064]

[FR Doc. 79-10342 Filed 4-3-79; 8:45 am]

**BILLING CODE 6320-01-M**

## CIVIL RIGHTS COMMISSION

### Vermont Advisory Committee; Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission orginally scheduled for April 5, 1979 published in the **Federal Register,** March 13, 1979, (FR Doc. 79-7566) on page 14613 has been cancelled.

Dated at Washington, D.C., March 30, 10979.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 79-10293 Filed 4-3-79; 8:45 am]

**BILLING CODE 6335-01-M**

## U.S. DEPARTMENT OF COMMERCE

### Advisory Committee on East-West Trade; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Wednesday, April 18, 1979, at 9:30 a.m., in Room 4830, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established on February 11, 1974 to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to further its mission to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries. The Committee, which currently has 21 members, will terminate no later than December 10, 1980, unless renewed by proper authority by appropriate action.

The Committee meeting agenda has seven parts:

**General Session, Room 6802**

*Morning 9:30 a.m.–12:00 Noon*

(1) Welcome and Opening Remarks by Jerome Ottmar and Kempton B. Jenkins

(2) Remarks by Secretary Kreps

(3) Summary of recent meetings of Joint American-Romanian Economic Commission and U.S.-Hungarian Joint Economic/Commercial Committee

(4) Committee recommendations on upcoming joint U.S.-Soviet marketing seminar

(5) Status/Renewal of Export Administration Legislation

(6) Committee recommendations on trade with the P.R.C.

**Executive Session, Room 4830**

*Afternoon 2:00 p.m.–4:00 p.m.*

(7) Discussion of matters listed in 5 U.S.C. 552b(c)(b) relating to U.S. negotiations with the P.R.C. on Trade and Economic Agreements

The General Session of the meeting will be open to public observation. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis.

A period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments may be submitted in writing at any time before or after the meeting.

With respect to agenda item (7), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 30, 1979, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act P.L. 94-409, that the matters to be discussed under agenda item (7) should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because it will be concerned with matters listed in 5 U.S.C. 552b(c)(9)(B), i.e., premature disclosure would be likely to significantly frustrate implementation of a proposed agency action.

Copies of minutes of the open portion of the meeting will be available 30 days after the meeting upon written request addressed to the Industry and Trade Administration, Freedom of Information Officer, Freedom of Information Control

[7] We are also suspending TWA's tariff matching the Vacances fare.

[8] Appendix A filed as part of the original document at the Office of the Federal Register.

[9] Appendix B filed as part of the original document at the Office of the Federal Register

[10] We submitted this order to the President on March 19, 1979.

[11] All members concurred except Member O'Melia who was not present.

Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Ms. JeNelle Matheson, Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–2498.

The complete Notice of Determination to close the aforementioned portion of the April 18 meeting of the Advisory Committee on East-West Trade is hereby published.

Dated: April 2, 1979.

**Allen J. Lenz,**

*Director, Office of East-West Policy and Planning, Bureau of East-West Trade.*

## DEPARTMENT OF COMMERCE

### Office of the Assistant Secretary for Administration

### Advisory Committee on East-West Trade

*Notice of Determination*

The Secretary of Commerce, having determined that it is in the public interest in connection with the duties imposed on the Department by law, initially established the Advisory Committee on East-West Trade ("the Committee") on February 11, 1974, pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (1976). In December 1978, with the concurrence of the General Services Administration, the Committee's charter was renewed until December 5, 1980. Authorized membership of the Committee is approximately 20, with a current membership of 21.

The Committee provides advice on ways to promote, facilitate and coordinate the expansion of two-way trade with the Soviet Union, Poland, Hungary, Czechoslovakia, Romania, Bulgaria, the People's Republic of China, and certain other areas of the world with similar economic/political structures, so as to contribute materially to a more positive balance of trade and payments situation.

The Committe may identify and make recommendations concerning current and proposed government policies and programs relating to the promotion and expansion of such trade; advise on the development of future government plans and actions directed at promoting and increasing such trade and improving trading relations; advise on ways U.S. firms could enter this trade or expand existing trade programs and activities; advise on problems encountered by U.S. business in pursuing such trade and recommend solutions; and provide a forum for business, the academic community and government to discuss problems and issues in the field of East-West trade.

The Committee's activities are conducted pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A–63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409, provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the President, or the head of the agency to which the advisory committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

On September 7, 1977 the Assistant Secretary for Administration determined that a one-hour portion of the September 28, 1977 meeting of the Advisory Committee on East-West Trade could be closed to the public because Committee discussions concerned matters listed in 5 U.S.C. 552b(c)(9)(B). Such discussions addressed the progress by the U.S.S.R. and other East European countries toward implementation of the economic and commercial (Basket II) provisions of the Helsinki Final Act. Advice and information received from the Committee at this meeting was used to formulate and implement an effective U.S. Government negotiation. Similarly, on September 12, 1978 the Assistant Secretary for Administration also determined that a two-hour portion of the September 27, 1978 meeting of the Advisory Committee on East-West Trade could be closed to the public because Committee discussions concerned matters listed in 5 U.S.C. 552b (c)(9)(B). Such discussions centered on future U.S. Government actions regarding U.S.-Soviet trade in light of the arrest and conviction of a U.S. businessman in Moscow and the imposition of validated licensing controls on exports of oil- and gas-related equipment to the U.S.S.R.

5 U.S.C. 552b (c)(9)(B) and 5 U.S.C. 552b (c)(1) were cited by the Assistant Secretary for Administration as authority for a determination that a two-hour portion of the December 13, 1978 meeting be closed to the public. The Committee discussed (1) U.S. economic policy initiatives towards the Soviet Union in the aftermath of the meetings of the U.S.-Soviet Joint Commercial Commission and U.S.-U.S.S.R. Trade and Economic Council; and (2) Council on Security and Cooperation in Europe review of Basket II provisions of the Helsinki Final Act.

5 U.S.C. 552b (c)(9)(B) provides that agency meetings or portions thereof may be closed to the public where the premature disclosure of information discussed at such meetings is likely to significantly frustrate implementation of a proposed agency action.

In order to provide advice to the Department under terms of its charter, on April 18, 1979 from 2:00–4:00 p.m. the Committee will discuss future U.S.-P.R.C. trade and economic agreements. Advice and information received from Committee members at this meeting will subsequently be used by the Department in contributing to the U.S. Government negotiating position on these agreements. Public disclosure of information and advice furnished by the Committee is likely to significantly frustrate the formulation of an effective U.S. Government negotiating position and the actual negotiating process. In addition, because meetings are regularly attended by Embassy representatives of the communist countries, knowledge that attributed information provided by the Committee would be disclosed would inhibit frank discussions of such issues by Committee members at the April 18 meeting.

Accordingly, I hereby determine, pursuant to Section 10(d) of the Federal Advisory Committe Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409, that the portion of the Committee meeting scheduled from 2:00-4:00 p.m. on April 18, 1979, which will address matters discussed in the preceding paragraph, shall be exempt from the provisions of Section 10(a) (1) and (a) (3) relating to open meetings and public participation therein, because the aforementioned Committee discussions will be concerned with matters listed in 5 U.S.C. 552b (c) (9) (B). Remaining portions of the meeting will be open to the public.

Dated: March 30, 1979.

**Guy Chamberlin,**

*Acting Assistant Secretary for Administration*

Dated: March 28, 1979.

**Alfred Meisner,**

*Acting General Counsel.*

[FR Doc. 79–10425 Filed 4–3–79; 8:45 am]

BILLING CODE 3510–25–M

## U.S. DEPARTMENT OF COMMERCE

### Industry and Trade Administration DHEW, NIH, NCI—Bethesda; Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce, Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 79–00005. Applicant: Department of Health, Education, and Welfare, NIH, Division of Cancer Biology and Diagnosis, NCI, Building 31, Room 3A–05, Bethesda, Md. 20014. Article: Gammacell 40–(small animal irradiator) with accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used in a variety of types of basic biomedical research, primarily involving investigation of immunologic functions of various types from the administration of relatively low doses (200–300 rads) which permits the transplantation of foreign neoplasms to lethal doses in the

800–900 rad range followed by the transplantation of hematopoietic cells.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a dual Cesium 137 source. The National Bureau of Standards advises in its memorandum dated February 21, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (20 it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance program No. 11.105, Importation of Duty-Free Educational and Scientific materials.)

Stanley P. Kramer,

*Program Manager, Florence Agreement Program, Statutory Import Programs Staff.*

[FR Doc. 79-10241 Filed 4-3-79; 8:45 am]

BILLING CODE 3510-25-M

## University of Rochester; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce, Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 79–00061. Applicant: University of Rochester School of Medicine and Dentistry, 601 Elmwood Avenue, Rochester, N.Y. 14642. Article: Automated ultrasonic body imager. Manufacturer: Ausonics Ltd., Australia. Intended use of article: The article is intended to be used for study of the reflection characteristics of a variety of tissues within the body by computer analysis of the amplitude, scattering characteristics and frequency content of signals emanating from specific targets. The wide field of view of the article will also permit large image reconstruction of the heart at selected phases of the cardiac cycle to provide static images of structure position or in a motion format which will provide dynamic information concerning the movement of structures. The unique features of the article will permit rapid and accurate calculation of the volumes of organs as well as the display of structures in 3-dimension using a computerized facility. In addition, the article will be used in educational programs in which trainees from both Radiology and Cardiology are actively involved. In this connection, the superior structure representation obtained by this instrument will demonstrate anatomic and disease characteristics more faithfully and will simplify the presentation of anatomic information in a 3-dimensional concept by virtue of the closely spaced, automatically obtained individual planes in areas of great anatomic complexity. Medical students who regularly view ultrasonic images will be provided with a more complete, in-depth display of structures and diseases to enhance their understanding of ultrasonic imaging, as well as the impact of structural alteration on organ function.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides water coupling and automated multiple transducer scanning of the target. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

*Program Manager, Florence Agreement Staff, Statutory Import Programs Staff.*

[FR Doc. 79-10242 Filed 4-3-79; 8:45 am]

BILLING CODE 3510-25-M

## University of Texas Health Science Center at Dallas; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 79–00056. Applicant: University of Texas Health Science Center at Dallas, Dept. of Internal Medicine, 5323 Harry Hines Blvd., Dallas, Texas 75325. Article: Microperfusion pump type III. Manufacturer: Wolfgang Hampel, West Germany. Intended use of article: The article is intended to be used for experiments which will investigate mechanisms of fluid and electrolyte transport in the proximal tubule of the rat kidney. Proximal tubules of the rat kidney will be perfused *in vivo* with artificial ultrafiltrate solutions. Volume reabsorptive rate, bicarbonate reabsorptive rate, and intraluiminal pH will be measured. In addition, the article will be used in the tranining of postdoctoral research fellows in the micropuncture laboratory.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent sceintific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article provides constant perfusion at rates as low as 0–50 nanoliters/minute. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

**Stanley P. Kramer,**

*Program Manager, Florence Agreement Staff, Statutory Import Programs Staff.*

[FR Doc. 79-10243 Filed 4-3-79; 8:45 am]

**BILLING CODE 3510-25-M**

## Maritime Administration

### Merchant Marine Academy Advisory Board; Public Meeting

Notice is hereby given of a meeting of the U.S. Merchant Marine Academy Advisory Board (the Board) on May 4, 1979 at 10:00 a.m. in Wiley Hall, U.S. Merchant Marine Academy, Kings Point, New York.

The Advisory Board to the United States Merchant Marine Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and the overall management of the U.S. Merchant Marine Academy (the Academy) and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce, selected from segments of the maritime industry, labor, educational institutions, and other fields relating to the objectives of the Academy.

The agenda for the meeting is:

1. Call meeting to order;
2. Approval of the Minutes of the January 19, 1979 meeting;
3. Reports by Board members of assignments;
4. Revision of the Maritime Administration training regulations;
5. Midshipmen officer's report on the impact of the revision of the disciplinary regulations;
6. Discussion of after-hours recreational facilities;
7. Setting of date for the next Board meeting.

This meeting is open to public observation and comment. Approximately 20 seats will be available to the public on a first come, first served basis.

Copies of the minutes will be made available upon request.

Inquiries may be addressed to the Committee Control Officer, Arthur W. Friedberg, Director, Office of Maritime Manpower, Room 3069A, Main Commerce Building, Washington, D.C. 20230, telephone A/C 202-377-3018.

Dated: March 30, 1979.
So ordered by
Assistant Secretary of Commerce for Maritime Affairs.

**James S. Dawson, Jr.,**

*Secretary.*

[FR Doc. 79-10299 Filed 4-3-79; 8:45 am]

**BILLING CODE 3510-15-M**

## National Bureau of Standards

### Voluntary Product Standard; Intent To Withdraw

In Accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Voluntary Product Standard PS 39-70, "Clinical Thermometers (Maximum-Self-Registering, Mercury-in-Glass)."

This withdrawal action is being proposed for the reason that PS 39-70 is adequately covered by the American society for Testing and Materials' standard ANSI/ASTM E 667-79, "Standard Specification for Clinical Thermometers (Maximum Self-Registering, Mercury-in-Glass)," and duplication is inappropriate and not in the public interest.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standards Development Services, National Bureau of Standards, Washington, D.C. 20234 by May 4, 1979. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal. For further information, contact Karl G. Newell, Area Code (301) 921-2356.

Dated: March 30, 1979.

**Ernest Ambler,**

*Director.*

[FR Doc. 79-10291 Filed 4-3-79; 8:45 am]

**BILLING CODE 3510-13-M**

## National Oceanic and Atmospheric Administration

### Proposed Approval of Amendment to the California Coastal Management Program

January 31, 1978, the Office of Coastal Zone Management (OCZM) of the National Oceanic and Atmospheric Administration (NOAA) approved the incorporation of the California Liquefied Natural Gas ["LNG"] Terminal Act of 1977 [herinafter "LNG Act"] SB 1081, California Stats. 1977, into the California Coastal Management Program [hereinafter "CCMP" or "Program"]. The CCMP had been approved by OCZM under Sections 305 and 306 of the Coastal Zone Management Act of 1972 (CZMA), Pub. L. 92-583, as amended, on November 7, 1977. OCZM treated the incorporation of the LNG Act as a "refinement" of the CCMP pursuant to the criteria and procedures set forth in 15 CFR 923.82. These procedures provide for summary approval of changes to an approved coastal zone management program that (1) do not modify the goals, objectives, or policies of the program; (2) do not have environmental impacts significantly different from those of the program as previously approved; and (3) do not significantly alter previously approved intergovernmental relationships among State, local, and Federal agencies without the consent of any affected agencies. These procedures do not require that Federal agencies and other interested persons be given an opportunity to comment on a proposed program refinement before approval, and such an opportunity was not offered before incorporation of the LNG Act into the CCMP. Notice of OCZM's approval of the LNG Act as a refinement to the CCMP was published on February 22, 1978, 43 FR 7339.

Following publication of this notice, OCZM received a number of objections to its treatment of the LNG Act as a refinement of the CCMP and to the lack of opportunity for prior public participation. It was urged that OCZM reprocess the LNG Act as a proposed amendment to the CCMP under 15 CFR 923.81, and that it prepare an environmental impact statement (EIS) on its proposed incorporation into the Program with full opportunity for prior public comment. On May 4, 1978, in response to these objections, OCZM published a notice reaffirming its treatment of the LNG Act as a refinement to the CCMP, but inviting comments by interested persons and agencies on the appropriateness of this treatment. 43 FR 1925. The 30-day comment period provided for in the May 4, 1978 notice was extended by a subsequent notice of June 16, 1978, 43 FR 26101, to June 30, 1978.

In response to the notices, OCZM received comments from nine agencies and private organizations, all of them urging that OCZM rescind its approval of the LNG Act as a refinement to the CCMP. Most of the commenters argued that OCZM should reprocess the LNG Act as a proposed amendment to the CCMP, and that it should prepare an EIS on the proposed approval of the LNG Act as part of the Program. These commenters placed special emphasis on

the opportunity for prior public and agency participation afforded by the amendment procedures prescribed in 15 CFR 923.81 and by the EIS process.

Based upon these comments and its own reevaluation of the character of the LNG Act, and for the reasons discussed below, OCZM has decided to reprocess the LNG Act as a proposed amendment to the CCMP. It has concluded, however, that an EIS on this proposed action is not required.

OCZM invites all interested persons and agencies to comment in writing on the proposed approval of the LNG Act as an amendment to the CCMP. Comments should be addressed to Eileen E. Mulaney, Pacific Regional Manager, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

All comments must be received no later than May 21, 1979.

**Description of the LNG Act**

The first section of the LNG Act amended Section 30261(b) of the California Coastal Act, the primary legal foundation of the CCMP, to provide that the location of terminal facilities for the importation, transportation, and handling of LNG shall be determined solely and exclusively as provided in the LNG Act, and that the provisions of the Coastal Act shall not apply to such matters unless the contrary is expressly provided in the LNG Act.

Section 2 of the LNG Act adds a new Division 2, Chapter 10 to the California Public Utilities Code. It requires the California Public Utilities Commission (PUC) to consider applications, for a permit to construct and operate an LNG terminal in California, that are filed within 30 days of the effective date of the LNG Act, and to make its final decision by July 31, 1978. The terminal for which the PUC issues a permit may not be located offshore and must comply with certain capacity and population density restrictions. Following receipt of permit applications, the Coastal commission was required to evaluate and rank eligible sites for an LNG terminal, including any site proposed in an application, in light of the policies, goals, and objectives of the California Coastal Act. The Coastal Commission was to transmit its evaluation and ranking to the PUC by May 31, 1978, recommending terms and conditions that would ensure operation of the terminal at each site in accordance with the policies, goals, and objectives of the Coastal Act. The PUC could issue a permit for construction and operation of a terminal only at one of the sites ranked by the Coastal Commission, and had to select the highest-ranked site unless it determined that it would not be feasible to complete a terminal at any site ranked higher than the chosen site in time to prevent significant curtailment of high priority requirements for natural gas. In issuing a permit, the PUC was required to incorporate each condition recommended by the Coastal Commission, unless it found that the condition would adversely affect public health or safety, that the Coastal Commission's recommendation was not based on substantial evidence, or that the condition

"will cause delays in commencement of terminal operations that will result in significant curtailment of high priority natural gas requirements and that deletion or modification of the term or condition will avoid or significantly reduce such curtailment."

**Action Taken Pursuant to the LNG Act**

Applications for a PUC permit pursuant to the LNG Act were submitted by applicants already engaged in two pending proceedings before the Federal Energy Regulatory Commission (FERC) and the Economic Regulatory Administration (ERA) of the U.S. Department of Energy in which the issuance of certificates of public convenience and necessity for the transportation, importation, and sale of LNG through a terminal on the California coast was being considered. Western LNG Terminal Company was an applicant in both these Federal proceedings, each of which carries the name of a cosponsor of the California LNG proposal: *Pacific Indonesia LNG Company*, Docket Nos. CP 74–160, *et al.* (transferred to FERC from ERA for hearing purposes only), and *Pacific Alaska LNG Company*, Docket Nos. CP 75–140, *et al. Pacific Indonesia* concerns a proposal to import LNG from Indonesia, while *Pacific Alaska* involves a proposal to import LNG from Cook Inlet in southern Alaska. In each case, the LNG would be received, stored, and revaporized at a terminal located on the coast of California constructed and operated by Western LNG Company.

In May 1978, the Coastal Commission submitted to the PUC its report evaluating and ranking four potential sites, and recommending permit conditions that would ensure compliance with the policies, objectives, and goals of the California Coastal Act. These sites, in order of their ranking by the Coastal Commission, were (1) Horno Canyon, Camp Pendleton, San Diego County; (2) Rattlesnake Canyon, San Luis Obispo County; (3) Point Conception, Santa Barbara County; (4) Deer Canyon, Ventura County. In its tentative decision of July 31, 1978, granting a permit to Western LNG Company, the PUC designated Point Conception as the terminal site and did not accept all of the conditions recommended for that site by the Coastal Commission.

The Coastal Commission has informed OCZM that the LNG Act has been interpreted to provide for the construction and operation only of the first LNG terminal in California. The siting of additional LNG terminal facilities in California would require further action by the California Legislature.

**Reasons for Reprocessing the LNG Act as an Amendment to the CCMP**

OCZM has decided that the LNG Act should be reprocessed as an amendment to the CCMP because, on the basis of the comments it received and its own subsequent analysis of the question, it has concluded that the LNG Act results in (1) changes in basic policies of the CCMP, and (2) alteration of relationships between state and local agencies. It thus comes within the provisions of 15 CFR 923.81(b) describing the kinds of changes to approved coastal zone management programs that constitute amendments. Among the new policies introduced by the LNG Act are the policies that the siting of the first LNG terminal in California must be expedited; that this first terminal may not be located offshore; and that this first terminal be constructed on a remote site whether or not construction in industrialized areas could be shown to be consistent with the health and safety of nearby human populations. New policies on LNG vessel navigation and on the capacity of the terminal were also introduced. Finally, the LNG Act changes the extent to which the policies of the Coastal Act apply to LNG terminal facilities. As was noted above, and for the reasons there set forth, the PUC must consider, but may reject or modify permit conditions prescribed by the Coastal Commission to ensure that the construction and operation of the terminal will be in accordance with the Coastal Act policies.

The LNG Act has changed the relationship among state and local agencies in the matter of LNG terminal siting. Before the LNG Act was passed, siting of LNG terminals would have been carried out under the normally applicable procedures of the Coastal Act. Decisions would eventually have been made in the first instance by local

government authorities under Chapter 7 of the Coastal Act, and would have been appealable in most cases to the regional commissions and to the Coastal commission itself. These decisions would have had to be made pursuant to the local coastal programs developed by local governments and approved by the Coastal Commission. The LNG Act changed this situation by giving exclusive jurisdiction over LNG terminal siting to the PUC and limiting the Coastal Commission to an advisory role. It also revoked all the planning and regulatory authority that local governments had over LNG terminal siting under the original version of the Coastal Act.

**Approvability of the LNG Act as an Amendment to the CCMP**

In initiating this amendment proceeding, OCZM is asking interested persons and agencies to communicate their views as to whether the LNG Act can, consistently with the CZMA and OCZM regulations, be incorporated into the CCMP. OCZM will take no position on this matter until it has received and considered all the comments that are submitted in response to this notice. OCZM will approve the LNG Act as an amendment to the CCMP if, after considering all the comments received in response to this notice, it concludes that the CCMP would continue to be approvable under the CZMA and OCZM regulations following incorporation of the amendment into the Program.

**EIS Not Required**

Section 102(2)(C) of the National Environmental Policy Act (NEPA) requires that an EIS be prepared on any major Federal action that would significantly affect the quality of the human environment. OCZM has concluded that approval of the LNG Act as an amendment to the CCMP would not have a significant effect on the quality of the environment and that an EIS is, therefore, not required.

In explaining the reasons for this conclusion, it is essential to emphasize that the environmental impacts of OCZM approval of the LNG Act as am amendment to the CCMP would be distinct from the environmental impacts of the adoption of the LNG Act by the State of California. The latter impacts are undoubtedly quite substantial. They derive, however, from the fact that the LNG Act is a California statute, binding on all persons, agencies, and activities that are subject to the jurisdiction of that State, and would occur whether or not OCZM approved the LNG Act as part of the CCMP. These impacts are, as a result, not impacts of the *Federal* action that OCZM is contemplating.

The environmental impacts of OCZM approval of the LNG Act as an amendment to the CCMP would all derive from the two primary legal effects that such approval would have. These are (1) the availability of Federal funds for implementation of the LNG Act under section 306 of the CZMA, and (2) activation of the requirement that Federal agencies comply with the provisions of the LNG Act under the Federal consistency provisions of CZMA section 307.

As was the case before passage of the LNG Act, the Coastal Commission has authority to use Federal funds to plan for and evaluate alternative sites for major coastal facilities. The Commission has not, however, used Federal funds provided under section 306 of the CZMA to implement the LNG Act, and it does not intend to use them for this purpose. No significant environmental impacts are expected to result, therefore, due to continued Federal funding by OCZM of the CCMP following the proposed incorporation of the LNG Act into the Program as an amendment.

Section 307 of the CZMA requires that all activities affecting land and water uses in the coastal zone for which Federal licenses and permits are required comply with and be carried out consistently with the approved Coastal Zone Management Program. The required Federal licenses and permits may not be issued unless the State concurs with certifications by the applicants that this consistency obligation will be met. By approving incorporation of the LNG Act into the CCMP, OCZM would extend the applicability of this requirement to the LNG Act. Because of the binding effect of the LNG Act's permit requirements under State law independent of the CCMP, and certain special circumstances surrounding the approval of the Program, reinforcement of the LNG Act by the CZMA Federal consistency requirements will not have any significant environmental effects. In order to illustrate this, it is necessary to describe in some detail how the LNG Act, as part of the Program, would affect the decisions of relevant Federal agencies on LNG terminal siting, and to contrast the results of those decisions with the situation that would result if the LNG Act were not part of the Program.

To the extent that the LNG Act, as part of the Program, would bind the actions of a Federal agency under the CZMA consistency provisions, it would require that agency to (1) deny a permit for any LNG Terminal in California other than the single LNG terminal for which the PUC has granted a permit, and (2) permit that single LNG terminal to be located, if at all, only at the site selected by the PUC under the LNG Act. Thus, only one LNG terminal at the most could be located in California, and that terminal could be sited only at the location that the PUC had designated. The same result would occur, however, even if the LNG Act were not part of the Program. While Federal agencies (primarily FERC and ERA) would be free to grant permits for a multitude of LNG terminals at diverse locations in the California coastal zone, the actual construction and operation of those terminals in California would be prohibited, as a matter of State law, except for the single terminal and location, if any, that had been designated by the PUC under the LNG Act. The impact on the environment under these circumstances would be identical to the impact that would result if the LNG Act were part of the Program.

Approval of the LNG Act as an amendment to the CCMP would thus have no significant environmental impacts deriving from the operation of the Federal consistency provisions of CZMA section 307.

It should be noted here as a additional consideration that OCZM has determined that the Federal consistency requirements of the CZMA do not apply to the applications, pending before FERC and ERA in the *Pacific Alaska* and *Pacific Indonesia* proceedings. Under the OCZM Federal consistency regulations, 15 CFR Part 930, the consistency requirements apply only to Federal licenses and permits for which application was filed following approval of the applicable program. *See*, e.g., 15 CFR 930.52. The *Pacific Indonesia* and *Pacific Alaska* applications were filed in 1973 and 1974, respectively. The CCMP was approved on November 7, 1977. Because of a court order issued in the course of litigation challenging the program's approval, the Federal consistency provisions did not apply to it until August 31, 1978, the date on which the court upheld OCZM's approval of the CCMP. Thus, FERC and ERA would not be bound to conform their decisions on the pending applications to the requirements of the LNG Act. As was discussed above, the actual construction and operation of any LNG terminal inconsistent with the LNG Act is prohibited as a matter of State Law whether or not a Federal permit is part of the CCMP. The nonapplicability of the Federal consistency provisions to the pending applications reinforces

OCZM's view that incorporation of the LNG Act into the program will have no significant environmental impact.

**Conclusion**

OCZM solicits comments on all the matters discussed above and on any related issues that interested persons or agencies may consider relevant to the proposed incorporation of the LNG Act into the CCMP as an amendment. We sincerely thank those who have assisted us in this matter up to now, and appreciate particularly the extensive comments that were received in response to our notices of May 4 and June 16, 1978.

Dated: March 28, 1979.

**R. L. Carnahan,**

*Acting Assistant Administrator for Administration.*

[FR Doc. 10339 Filed 4-3-79; 8:45 am]

BILLING CODE 3510-08-M

## National Technical Information Service

### Government-Owned Inventions, Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

**Douglas J. Campion,**

*Patent Program Coordinator, National Technical Information Service.*

**Department of the Army,** Chief, Intellectual Prop. Division, OTJAG, RJOM 2D 444, Pentagon, Washington, DC 20310

Patent application, 907,653: Automated Path Differencing System; filed May 22, 1978.

Patent application, 914,098: A New Type of Superlattice; filed June 9, 1978.

Patent application, 914,100: Infrared Optical Devices of Layered Structure; filed June 9, 1978.

Patent application, 914,102: Injection Laser Structures with a Periodic Active Region; filed June 9, 1978.

Patent application, 914,103: New Tunnel Diode; filed June 9, 1978.

Patent application, 915,638: Method for Forming a Drive Hole in Arc Plasma Spray Fabricated Ferrite Pharsors; filed June 15, 1978.

Patent application, 933,702: Magnetic Bubble Traveling Wave Tube; filed Aug. 15, 1978.

Patent application, 933,703: A Frequency Bandwidth Center Tuning Technique; filed Aug. 15, 1978.

Patent 4,070,099: Fast Shutter Mechanism for High Power Thermal Radiation; filed Apr. 22, 1976; patented Jan. 24, 1978; not available NTIS.

Patent 4,083,692: Detection and Estimation of Microquantities of Alkylating Agents; filed June 4, 1979, patented Apr. 11, 1978; not available NTIS.

Patent 4,085,112: 2-Formyl-3-Alkyl-Benzothiazolium Halide Oxime; filed Sept. 11, 1962, patented Apr. 18, 1978; not available NTIS.

Patent 4,087,695: Method for Producing Optical Baffling Material Using Pulsed Electron Beams; filed Jan. 17, 1977; patented May 2, 1978 not available NTIS.

Patent 4,089,016: Rapid Access Dry Photographic System; filed Nov. 17, 1976; patented May 9, 1978; not available NTIS.

Patent 4,091,133: Porous Ceramic Tubing for Flowing Gas Lasers; filed Dec. 3, 1975; patented May 23, 1978; not available NTIS.

Patent 4,091,709: Recoilless Rifle Nozzle; filed Aug. 15, 1977; patented May 30, 1978; not available NTIS.

Patent 4,095,872: Security Sealing System Using Fiber Optics; filed Jan. 13, 1977; patented June 20, 1978; not available NTIS.

Patent 4,096,433: Automatic Inspection for the Deposition of Conductive Liquids; filed Sept. 1, 1976; patented June 20, 1978; not available NTIS.

**U.S. Department of the Navy,** Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 859,354: Electro-Optical Detector Protection Device; filed Dec. 12, 1977.

Patent application 939,318: Method and Apparatus for Rapid Evaluation of Lens Performance; filed Sept. 5, 1978.

Patent application 939,642: Double Precision Residue Combiners/Coders; filed Sept. 5, 1978.

Patent application 942,858: Ion-Implanted Multilayer Optical Interference Filter; filed Sept. 15, 1978.

Patent application 944,238: Rod Pinch Diode; filed Sept. 20, 1978.

Patent 3,695,951: Pyrotechnic Composition; filed June 25, 1970; patented Oct. 3, 1972; not available NTIS.

Patent 4,088,387: Optical Switch; filed Feb. 22, 1977; patented May 9, 1978; not available NTIS.

Patent 4,104,533: Wideband Optical Isolator; filed Feb. 28, 1977; patented Aug. 1, 1978; not available NTIS.

Patent 4,105,177: Breakaway Link Assembly for Maintaining a Structural Alignment of Shock-Sensitive Equipment; filed Sept. 14, 1977; patented Aug. 8, 1978; not available NTIS.

Patent 4,115,191: Tokamak Plasma heating with Intense, Pulsed, Ion Beams; filed June 14, 1977; patented Sept. 19, 1978; not available NTIS.

[FR Doc. 79-10357 4-3-79; 8:45 am]

BILLING CODE 3510-04-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Announcing Import Restraint Levels Under New Multifiber Agreement With Mexico

March 29, 1979.

**AGENCY:** Committee for the Implementation of Textile Agreements.

**ACTION:** Establishing import restraint levels for certain cotton and man-made fiber textile products from Mexico during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

**SUMMARY:** On February 26, 1979, the Governments of the United States and the United Mexican States exchanged notes establishing a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement for the period beginning on May 1, 1978 and extending through December 31, 1981. The agreement establishes levels of restraint for the following categories, among others, for the twelve-month period which began on January 1, 1979: 338/339, 347/348, 604 (pt.), 633, 634/635, 638/639, 641, 647/648 and 649. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or

withdrawals from warehouse for consumption, of cotton and man-made fiber textile products in the foregoing categories to the designated amounts. The levels of restraint have not been adjusted to account for imports during the period which began on January 1, 1979 and extends through the effective date of this action. Imports during this period will be charged to the new levels. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), and January 2, 1979 (44 FR 94).)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**EFFECTIVE DATE:** April 2, 1979.

**FOR FURTHER INFORMATION CONTACT:** Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

**Robert E. Shepherd,**

*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.*

March 29, 1979.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textile done at Geneva on December 20, 1973, as extended on December 14, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, between the Governments of the United States and the United Mexican States; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on April 2, 1979, and for the twelve-month period which began on January 1, 1979 and extends through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton and man-made fiber textile products, exported from Mexico in the following categories, in excess of the indicated twelve-month levels of restraint:

| *Category* | *Twelve-Month Level of Restraint* [1] |
|---|---|
| 338/339 | 368,056 dozen. |
| 347/348 | 526,626 dozen of which not more than 315,976 dozen shall be in Cat. 347 and not more than 315,976 dozen shall be in Cat. 348. |
| 604 (only T.S.U.S.A. No. 310.5049. | 853,659 pounds. |
| 633 | 46,961 dozen. |
| 634/635 | 267,710 dozen of which not more than 160,626 dozen shall be in Cat. 634 and not more than 160,626 dozen shall be in Cat. 635. |
| 638/639 | 12,873,433 square yards equivalent of which not more than 429,114 dozen shall be in Cat. 638 and not more than 514,937 dozen shall be in Cat. 639. |
| 641 | 265,222 dozen. |
| 647/648 | 1,309,185 dozen of which not more than 785,511 dozen shall be in Cat. 647 and not more than 785,511 dozen shall be in Cat. 648. |
| 649 | 2,277,083 dozen. |

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1978.

In carrying out this directive entries of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in Mexico and exported to the United States prior to January 1, 1979 and entered on and after the effective date of this directive, shall not be charged against the levels of restraint established in this directive.

Cotton and man-made fiber textile products in the foregoing categories that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of February 26, 1979, between the Governments of the United States and the United Mexican States, which provide, in part, that: (1) Specific limits or specific sublimits may be exceeded by not more than seven percent in any agreement period; (2) these same limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit, or sublimit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers and factors for converting equivalent square yards was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408) and January 2, 1979 (44 FR 94).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the United Mexican States and with respect to imports of cotton and man-made fiber textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

**Robert E. Shepherd,**

*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.*

[FR Doc. 79–10244 Filed 4–3–79; 8:45 am]

**BILLING CODE 3510–25–M**

## CONSUMER PRODUCT SAFETY COMMISSION

### Technical Advisory Committee on Poison Prevention Packaging; Meeting

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of meeting: Technical Advisory Committee on Poison Prevention Packaging.

**SUMMARY:** This notice announces a meeting of the Technical Advisory Committee on Monday, April 23, 1979 from 9 a.m. to 4:30 p.m. The meeting will be held at 1111 18th Street, NW, Washington, D.C., Third Floor Conference Room.

**FOR FURTHER INFORMATION CONTACT:** Sadye Dunn, Office of the Secretary, Suite 300, 1111 18th Street, NW, Washington, DC 20207, 202–634–7700.

**SUPPLEMENTARY INFORMATION:** The Technical Advisory Committee provides advice and recommendations on the types and kinds of products which require special packaging that will protect children from injury or illness resulting from handling or ingestion of household substances. The Monday morning session will include an update of CPSC activities in the area of poison prevention packaging, a discussion on a petition for exemption from the packaging standards for isosorbide dinitrate, and a discussion of the Canadian standards for protocol testing. The afternoon session will be devoted to a discussion of CPSC protocol test methods. The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Technical Advisory Committee should notify the Office of the Secretary (see address above) by April 17, 1979. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject

matter and the approximate time requested. Time permitting, these presentations and other statements from the audience to the Committee may be allowed by the presiding officer.

Dated: March 30, 1979.

Sadye Dunn,

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-10317 Filed 4-3-79; 8:45 am]

BILLING CODE 6355-01-M

## Television Receivers; Proceeding to Develop a Proposed Standard; Extension of Time

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Extension of time to publish a proposed standard.

**SUMMARY:** This notice extends to July 30, 1979 the period during which the Commission must either publish a proposed standard concerning fire hazards associated with television receivers or terminate the 1975 notice of proceeding to develop such a standard. The extension of time is needed for completion and review of a report on the possiblity of containing potential fire within a television receiver, and other related safety information.

**FOR FURTHER INFORMATION CONTACT:** Carl W. Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492-6557.

**SUPPLEMENTARY INFORMATION:**

### Background

On November 2, 1977 (42 FR 57335), the Commission partially terminated a notice of proceeding to develop a consumer product safety standard addressed to fire, shock, implosion and mechanical hazards associated with television (TV) receivers, that had been commenced by a notice in the **Federal Register** on February 28, 1975 (40 FR 8592). The notice of proceeding stated the Commission's preliminary determination that the four hazards mentioned above presented unreasonable risks of injury to the public, and invited offers to develop standards to eliminate or reduce these risks. The offeror selected by the Commission to develop a standard, Underwriters Laboratories, submitted its recommended standard on July 6, 1976. For the purpose of obtaining views of experts in the TV field and other interested persons on the offeror's recommended standard, the period of time in which the Commission was required by section 7(f)(2) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2056(f)(2)) either to propose a standard for public comment or to terminate the notice of proceeding, was extended to October 31, 1977 (41 FR 51055, Nov. 19, 1976).

During this period the Commission reviewed the opinions of experts and others on the offeror-recommended standard, as well as staff reports on TV safety-related incident data collected from TV manufacturers. The Commission was also advised by its staff of improvements in the voluntary industry standard. All this information showed that desirable features of the recommended standard were being incorporated into the voluntary standard, and that the voluntary standard, generally adhered to by TV manufacturers, was being progressively upgraded. Information available at that time also showed a substantial decline in TV safety-related incidents. As a result of this favorable information, the Commission concluded that a consumer product safety standard did not appear to be necessary to address any risks of injury from shock, implosion and mechanical hazards associated with TVs. In the matter of TV fire hazards, the Commission expressed an interest in determining the feasibility of designing a receiver that could contain a possible TV fire within the confines of the TV enclosure.

Accordingly, the Commission terminated the TV notice of proceeding as to shock, implosion and mechanical hazards only. As to fire hazards associated with TVs, the Commission directed the staff to prepare a feasibility study on a system performance requirement for containment of a TV fire. Therefore, the notice of proceeding as to fire hazards associated with TVs has continued in effect. For this purpose, the Commission extended until April 30, 1979 the period in which it must either publish a proposed standard addressed to fire hazards associated with TVs or terminate its notice of proceeding.

In addition to the feasibility study on fire containment, the Commission also directed the staff to obtain fire-related TV incident data from TV manufacturers in order to determine whether such incidents continued their apparent decline. The staff was also directed to continue monitoring the voluntary standard development process, particularly as it relates to fulfilling commitments for further improvement.

### Extension of Time

An analysis of fire data to determine predominant ignition sources in TV fires and experimental observation of fire spread and growth within the TV set after ignition has occurred, has been submitted by the contractor. An expanded testing program required by the technical staff, however, will cause a delay in delivery of the final report. similarly, a delay has been experienced in the analysis of the TV fire-related incident data. Therefore, the Commission believes a 90-day extension of time is necessary in order for the staff to evaluate and for the Commission to consider all the relevant information.

In accordance, therefore, with section 7(f)(2), as amended, of the CPSA (15 U.S.C. 2056(f)(2)), the Commission extends from April 30, 1979 to July 30, 1979, the period during which the Commission must either propose a consumer product safety standard related to fire hazards associated with TV receivers or terminate the notice of proceeding published on February 28, 1975 (40 FR 8592).

Dated: March 30, 1979.

Sadye E. Dunn,

*Secretary Consumer Product Safety Commission.*

[FR Doc. 79-10316 Filed 4-3-79; 8:45 am]

BILLING CODE 6355-01-M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Aberdeen Proving Ground, Md., Fort McClellan, Ala., Redstone Arsenal, Ala.; Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on March 30, 1979 provided the Environmental Protection Agency with the Draft Environmental Impact Statement for Establishment of the US Army Nuclear, Biological, Chemical School. The draft statement assesses the environmental and socioeconomic impacts of establishing an Army Nuclear, Biological, Chemical School at Aberdeen Proving Ground, MD; Ft McClellan, AL; or Redstone Arsenal, AL. On March 29, 1979, the Department of the Army announced Ft McClellan, AL, as the preferred alternative. The decision on establishment and location of the school will be made after public comments are reviewed and considered and the final Environmental Impact Statement is filed.

Copies of the Draft Environmental Impact Statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Commander, US Army Training and

Doctrine Command, ATTN: ATCS-CSPG, Fort Monroe, Virginia 23651.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, The Pentagon, Washington, DC 20310 (phone (202) 694-1163).

Dated: March 30, 1979.

Bruce A. Hildebrand,

*Deputy for Environment, Safety, and Occupational Health OASA (IL&FM).*

[FR Doc. 79-10276 Filed 4-3-79; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF DEFENSE

### Department of the Army

### The Judge Advocate General's School Board of Visitors; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), Announcement is made of the following Committee meeting:

**NAME OF COMMITTEE:** Board of Visitors, The Judge Advocate General's School, U.S. Army, Charlottesville, VA 22901.

**DATE OF MEETING:** 23-25 April 1979.

**PLACE:** The Judge Advocate General's School, U.S. Army, Charlottesville, VA 22901.

**TIME:** 0900-1600—24 April 1979; 0900-1200—25 April 1979.

**PROPOSED AGENDA:** The first day's agenda consists of a briefing by the Commandant, a meeting with the instructors and students of the School, and visits to the Basic and Advanced classes while in session. During the second day, the Board will convene and write its report which will be submitted to the Commandant. This meeting is open to the public; however, space accomodations are limited. Persons wishing to attend, appear before, or file statements with the Committee at the time and in the manner permitted by the Committee should advise the Recorder of the Committee in writing prior to the meeting at the following address: Post Judge Advocate, The Judge Advocate General's School, U.S. Army, Charlottesville, VA 22901.

Dated: March 27, 1979.

By Authority of the Secretary of the Army.

Rome D. Smith,

*Colonel, U.S. Army, Director, Administrative Management TAGGEN*

[FR Doc. 79-10289 Filed 4-3-79; 8:45 am]

BILLING CODE 3710-08-M

### Department of the Navy

### Board of Advisors to the President, Naval War College, Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Board of Advisors to the President, Naval War College will meet on June 8, 1979, in Room 210, Conolly Hall, at the Naval War College, Coaster's Harbor Island, Newport, Rhode Island. The meeting will commence at 8:30 a.m and terminate at approximately 4:30 p.m.

The purpose of the meeting is to elicit the advice of the Board on education, doctrinal, and research policies and programs of the Naval War College.

For further information concerning the meeting contact Captain T. J. McEnaney, Jr., U.S. Navy, Director, Support Services, Naval War College, Newport, RI 02840, telephone number (401) 841-2528 or (401) 841-2565.

Dated: March 29, 1979.

P. B. Walker,

*Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).*

[FR Doc. 79-10368 Filed 4-3-79; 8:45 am]

BILLING CODE 3810-71-M

## DEPARTMENT OF INTERIOR

### Office of the Secretary

### Oil Shale Environmental Advisory Panel; Meeting

Notice is hereby given in accordance with Public Law 92-436 that a meeting of the Oil Shale Environmental Advisory Panel will be held May 2 and 3, 1979, in the Powderhorn Room of the Howard Johnson Motor Lodge in Grand Junction, Colorado. The meeting will begin at 9:00 a.m. on Wednesday, May 2 and conclude at noon Thursday, May 3.

The Oil Shale Panel was originally established in March 1974 to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program. It operated until December 1977 when its charter expired. A new charter reestablishing the Panel was effective November 1, 1978.

The purpose of the meeting will be to (1) acquaint the panel members with the current status of the prototype oil shale program, (2) consider the current environmental monitoring programs for the two Colorado projects, (3) receive reports from Interior officials and be briefed on a proposes EPA visibility monitoring program, (4) discuss future panel activities, and (5) consider any other matters which may have come before the Panel.

The meeting will be open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the Panel or submit written statements. Requests should be made to the Panel Chairman, Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 820-A, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. (303) 234-3275.

Further information concerning this meeting may also be obtained from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel office.

Guy R. Martin,

*Assistant Secretary of the Interior.*

March 23, 1979.

[FR Doc. 79-10356 Filed 4-3-79; 8:45 am]

BILLING CODE 4310-10-M

## DEPARTMENT OF ENERGY

### Energy Information Administration and Federal Energy Regulatory Commission

### Final Review of Proposed Form EIA-210, Monthly Power Plant Data for Electric Utilities

**AGENCY:** Department of Energy, Energy Information Administration and Federal Energy Regulatory Commission.

**ACTION:** Notice of the final review of the proposed Form EIA-210.

**SUMMARY:** The Energy Information Administration (EIA) and the Federal Energy Regulatory Commission (FERC) hereby give notice of the final review of the proposed new form EIA-210, Monthly Power Generating Plant Data for Electric Utilities. This form, when approved, will replace portions of the present Forms FPC-4, Monthly Power Plant Report (for Electric Utilities), and FPC-423, Monthly Report of Cost and Quality of Fuels for Electric Plants. The proposed Form EIA-210 is one of the initial applications of the Respondent Information System (RIS).

**DATE:** Written comments are due on May 4, 1979.

**ADDRESS:** Submit written comments to: Director, Survey and Statistical, Design Division (EI-631), Energy Information Administration, Department of Energy, M.S. BE-012, Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:** Survey and Statistical Design Division, Energy Information Administration, Department of Energy, M.S. BE–012, Washington, DC 20585, (202) 252–5786.

**SUPPLEMENTARY INFORMATION:** The new form EIA–210 has been designed to serve several purposes: (1) to simplify reporting by consolidating similar information presently being collected on two existing FERC (formerly Federal Power Commission (EPC)) forms; (2) to lessen the reporting burden on the respondent by preprinting certain information on schedules after the first submission, and requiring only an updating of that information on subsequent submissions; and (3) to facilitate the use of electronic data processing technology, thus permitting prompt access to data contained in a central data bank, and facilitating the evaluation of information without voluminous manual files.

The DOE has conducted a rigorous analysis and review process to ensure the drafting of a form which meets FERC's regulatory needs and the EIA's statistical needs while at the same time imposing the least possible burden on the respondent. The DOE's review process is consistent with the efforts of the Department's Regulatory Reform Task Force and the President's Paperwork Burden Reduction Program.

During the developmental and review processes for the EIA–210, the DOE and the FERC solicited comments from the public, industry, and state commissions, in several stages:

(1) a proposed rulemaking on August 23, 1976 (Docket No. RM76–32 of the FPC);

(2) a pilot study with 19 electric utilities during 1977;

(3) briefings with 47 state regulatory commissions during 1977;

(4) 12 technical conferences throughout the United States during 1977; and

(5) a **Federal Register** notice on November 3, 1978, (43 FR 51497) and on January 11, 1979, (44 FR 2414) soliciting comments or requirements for data elements on existing FERC (formerly FPC) forms to be replaced by new RIS forms.

The purpose of this notice is to inform the public of the final contents and format of the proposed Form EIA–210 resulting from this developmental process. This version of the form includes suggested improvements received from the public, industry, and state commissions.

At this time, the DOE is submitting the copy of the EIA–210 that follows this notice to the OMB. The OMB will issue in the near future its customary **Federal Register** notice announcing the DOE's submission of the EIA–210. Comments received in response to this DOE notice and the OMB notice will be shared by the two agencies.

**Comment Procedures**

Written Comments: Consideration will be given to any relevant comments submitted in writing with respect to this notice. Accordingly, comments are requested to be submitted no later than thirty (30) days following publication of this notice. Any person who wishes to do so may sumbit written comments with respect to this notice. All comments should be addressed to Director, Survey and Statistical Design Division at the address indicated above, and should be identified on the outside envelope and on the document with the designation: "EIA–210 Review". Two copies should be submitted, one of which will be provided to FERC.

Any information or data submitted which a person considers to be confidential must be so identified. Two copies of the confidential material should be provided. DOE reserves the right to determine the confidential status of such information or data and to treat it according to its determination.

The new EIA–210 form and instructions follow this notice.

Issued at Washington, D.C. March 16, 1970.

**Lincoln E. Moses,**

*Administrator, Energy Information Administration.*

**William G. McDonald,**

*Executive Director, Federal Energy Regulatory Commission.*

**General Instructions for the Preparation and Submission of EIA–210**

*I. Purpose*

This form is designed to collect generating plant data on installed capacity, net generation, fossil fuel consumption and stocks from all electric utilities owning or operating power plants and cost and quality of fossil fuels delivered to generating plants which have a total combined steam-electric, combustion turbine and internal combustion engine powered generating capacity of 25 megawatts or greater. This data enables the Federal Energy Regulatory Commission to perform its regulatory functions in accordance with the Federal Power Act and to perform analyses relating to electric power generations and capacity and cost and quality of fossil fuels delivered to generating plants.

*II. Who Must Submit*

Schedule 0635, "Monthly Power Plant Data", shall be submitted monthly by all electric utilities owning or operating power plants. Schedule 0636, "Plant Fuel Cost and Quality Data" shall be submittted monthly be all electric utilities owning or operating power plants which have a total combined steam-electric, combustion turbine and internal combustion engine power generating capacity of 25 megawatts or greater.

*III. When to Submit*

Schedule 0635, "Monthly Power Plant Data", must be submitted monthly on or before 10 days after the end of the previous month. For example, January data must be reported on or before February 10th. Schedule 0636, "Plant Fuel Cost and Quality Data", shall be submitted monthly on or before 45 days after the 1st of the following month.

*IV. Where to Submit*

This form and any attachments thereto should be sent to: Department of Energy, Energy Information Administration, Code 2909, Washington, DC 20461.

*V. Sanctions.*

The timely submission of this form by those required to report is a mandatory requirement under DOE Regulations. Late filing, failure to file, failure to keep records, or failure otherwise to comply with these instructions, may result in criminal fines, civil penalities and other sanctions as provided by law.

*VI. Preparing EIA 210 for Submission*

The following directions are applicable to all electric utilities owning or operating plants who are required to submit to the Department of Energy. Each submission must include:

1. a completed Submission Title Page,
2. a completed Monthly Power Plant Data Report (Schedule 0635) or a completed Monthly Plant Fuel Cost and Quality Data Report (Schedule 0636), and
3. supporting documentation (Schedules 1000 and 0000), if needed.

An original on which to complete each of the above is provided in the EIA–210 package sent to each electric utilities owning or operating power plants whose address is on file at the Commission. The package also includes an "Assignment of Respondent Codes" sheet containing a Code Number assigned by DOE to the recipient. This DOE respondent code is to be used when preparing the required schedules.

*1. Submission Title Page*

The Submission Title Page is to be completed and returned with the Form.

The respondent code and the exact legal name of respondent as provided on the "Assignment of Respondent Code" sheet, and the complete address of respondent's principal business office must be included on this page. Check the appropriate box if the respondent name and/or address has changed since submission of the previous report.

*2. Supporting Documentation*

Schedule 1000 should be used to present any clarifying documentation regarding the data presented on the schedules.

*3. General Guidelines For Entering Information*

(A) *Handwritten Schedules.* Handwritten schedules are acceptable provided entries are printed with all alphabetic characters written in *capital letters*, in *ink*, and are *clear* and *readable*. At the respondent's option, the schedules may be enlarged for worksheet purposes. However, if the respondent wishes to submit these worksheets to DOE, they must be reduced to their original size prior to submission.

(B) *Multiple Pages:* If more than one page is required of a Schedule, number each page in the spaces provided in the upper right hand corner. Please note that line 2 must be repeated on each additional page of the report.

(C) *Null Entries: Do not* write "N/A", or "NONE", or "No DATA", or any other null response in any data field. Numeric data fields that *do* apply to the respondent but for which the respondent has a legitimate value of zero must be completed with a zero. Data fields that do not apply are to be left blank.

(D) *Reporting of Dates:* All dates must be entered numerically in month, day and year order (MMDDYY). Do not use alphabetic abbreviations, hyphens, slashes, etc. Example: December 31, 1976 should be reported as 123176; January 1, 1977, as 010177.

(E) *Numeric Data Field Restrictions:* Only integers *0 thru 9* are to be entered in a numeric data field—no special characters, such as "$", are permitted. Commas or decimal points which pertain to the proper positioning of the value within the field are preprinted and are not to be reentered or modified by the respondent. The number of digits to be entered after a decimal point is indicated by "tick" marks. One digit is entered between each pair of "tick" marks, all digits after the decimal point must be entered.

(F) *Alphanumeric Data Field Restrictions:* Characters may be alphabetic letter, numeric digit, or any special character, with the exception of: Asterisk (*), Vertical Bar (/) or "at sign" (@).

(G) *Interpretation of "Schedule-Specific Instructions":* The schedules are to be completed according to the "Schedules-Specific Instructions". The schedules are to be completed according to the "Schedule-Specific Instructions". The schedule-specific instructions specify what is to be entered in each data field block. In these instructions, the name of each data field is followed by a code in parentheses to indicate whether the field is alphanumeric or numeric (see above) and the maximum number of characters to be placed into the data field. A code of "A" indicates an alphanumeric field and a code of "N" indicates a numeric field. The single number following the "A" or the "N" is the maximum number of characters which can be placed into the data field. A data field described by a code "N" followed by 2 numbers separated by a period (e.g. N6.3) indicates that the data value to be placed into the field contains a decimal point. The first code number indicates the maximum number of digits to be placed before the decimal point (6 in this example) and the second code number indicates the *exact* number of digits to be placed after the decimal point (3 in this example).

For quantities required to be reported in a particular unit of measure, (e.g. hours, cents, BTU) the unit of measure is specified immediately after the alpha-numeric code.

(H) *Modification to Data Previously Submitted on EIA–210:* If it is necessary to prepare a revised report, to correct, modify or reverse an original submission on file at DOE, please complete the whole page being corrected. The "Revision" block in the heading must be checked. The revised pages must have the identical page numbers of the original filing unless additional information on additional pages are being provided.

(I) *Required Identification Data:* Except as otherwise noted, the following items must be entered on each schedule/page submitted. These are found on line 02 of all schedules.

1. *Respondent Code* (N6): Enter the six-digit respondent code provided on the "Assignment of Respondent Code" sheet sent with the package.

2. *Respondent Name* (A35): Enter the respondent name as given on the "Assignment of Respondent Code" sheet.

3. *Submission Period (Period Ending)* (N6): Enter the ending date of the report period, that is, December 31. Use the format month, day, year (MMDDYY), e.g., December 31, 1977 is 123177.

4. *Page Footnote* (N3): For DOE internal use only.

5. *Type of Report* (A1): A report is processed according to the type of information reported.

(a) *Original:* Enter an (X) in this box if the report is being submitted for the first time for the Report Period date entered for "3" above.

(b) *Revision:* Enter (X) in this box if the report is submitted to replace data previously submitted. Remember: All revisions entered on the page must be applicable to the Report Period date entered in "3" above.

6. *Revision Date* (N6): Complete this data field only if an "X" has been placed in the revision indicator block. This will be the date the revised report was prepared by you. Use the format (MMDDYY).

7. *Page Number* (N4): Enter each page number.

*VII. Further Information*

For further information, or for clarification of any schedules or instructions in EIA–210, contact the Office of Energy Data and Interpretation at (202) 252–6521.

*VIII. Requesting Additional Copies of Report Forms*

Additional report forms may be requested from the address below. Be sure to include a complete return address in order to expedite receiving the additional copies. Send requests to: Department of Energy, Energy Information Administration, Code 2909, Washington, DC 20461.

Respondents requesting additional copies must allow sufficient time for mailing in order to meet filing dates. Extensions of filing dates will *not* be granted due to time required to receive copies from DOE.

*IX. Definitions*

1. *Electric Respondent:* A person or agency authorized to submit reports on the status and operations of one or more electric power system(s).

2. *Electric Utility:* An enterprise engaged in the production and/or transmission and/or distribution of electricity *for use by the public*, including investor owned, cooperatively owned, government-owned (municipal systems, Federal agencies, state projects, and public power districts).

3. *Generating Plant:* Electric power generating facilities and related apparatus located at a single site. As defined here, "plant" may include generating units of different types, and

also include switchgear, transformers, pollution-control devices, fuel storage and handling facilities, auxiliaries, and other material and equipment related to electric power generation at the plant site.

4. *Generating Type:* The engine, turbine, water wheel or similiar machine which drives an electric generator.

BILLING CODE 6450-01-M

| | | |
|---|---|---|
| INSTRUCTIONS FOR COMPLETION OF:<br>SCHEDULE 0635 | MONTHLY UTILITY PLANT DATA | 1 of 2 |

This schedule is used to collect data on installed capacity, net generation, fossil fuel consumption and stocks from all electric utility power plants.

A. This schedule shall be submitted by all electric utilities owning or operating power plants.

B. The Respondent shall provide a corrected entry where changes have occurred to data preprinted in data fields 1-5. Space can be found for providing corrected entries below the preprinted lines or, if necessary, on another page.

C. Respondents shall complete data field 6 on this schedule monthly and complete data fields 7 and 8 when fuel type in data field 5 indicates gas, oil or coal.

D. If any plant is equipped with combinations of hydro, pumped storage, steam-electric, internal combustion, or gas-turbine units, then each generating type should be reported separately using the same plant code in data field 1.

E. One line must be completed for each fuel type within the generating type. For example, a steam-electric plant using coal, oil and gas for generation during a given month must complete three lines on this schedule.

E. Only the operating company of a jointly owned plant should report the entire plant statistics without dividing capacity, generation, fuel consumed, or fuel stocks between the participating companies. The other participating companies should not report their share.

All data fields marked with a single asterisk must be entered.

| Data Field Number | Instructions |
|---|---|
| * 1 | Plant Code (N5): Enter the code, from the Register of Data Standards, Electric Power Plants. |
| * 2 | Generating Type Code-Specific (A2): Enter one of the abbreviations for prime mover generator type, from the Register of Data Standards, Electric Plant/Motive Power. |
| 3 | Installed Generating Capacity (N4.1) MW: Enter the installed generating capacity (in megawatts). Enter capacity as of the end of the subject month. The capacity should represent the total of the manufacturer's generator nameplate ratings at the end of the month, exclusive of auxiliary or house units. Where a generator nameplant shows two or more ratings, use the maximum rating. |

| | | |
|---|---|---|
| INSTRUCTIONS FOR COMPLETION OF:<br>SCHEDULE 0635 | MONTHLY UTILITY PLANT DATA | 2 of 2 |

| Data Field Number | Instructions |
|---|---|
| 4 | Generating Status Code (A1): Enter the code describing the status of the generating unit(s) associated with the generating type identified in data field 2 above.<br><br>F - Some or all units are in regular operation.<br>S - None of the units are operated except under unusual or emergency conditions.<br>T - All the units are under test. This code would normally be applicable to a new installation.<br>R - All the units have been retired. |
| NOTE: | For data fields 5-8: Report fuel types in data field 5 and related data in data fields 6-8. |
| * 5 | Fuel Type Code Specific (N2): Enter the type of fuel associated with the generating type entered in data field 2 above, from the Register of Data Standards, Type of Fuel. |
| 6 | Net Generation (N7.1) MWH: Enter the net generation (i.e. megawatt-hours), by type of prime mover, for the reporting period. If the respondent is unable to break down net generation by fuel type make estimate. |
| 7 | Quantity Fuel Consumed for Generation (N5.1): Enter the actual or estimated amount of fuel used for each generating type and fuel type combination during the subject month. Enter only the quantity of fuel used in generating electric energy, including fuel for maintenance of standby service. Report in the following units: coal, 1000 short tons; fuel oil, 1000 42-gallon barrels; gas, 1000 Mcf at 14.73 PSA at 60°F. |
| 8 | Fuel Stocks - End of Month (N5.1): Enter coal and fuel oil (in the same units of measure as data field 7 above) held for electric energy generation, including regular stocks at the plant and in cars or barges at the plant site. Amounts held in central storage yards should also be included and footnoted.<br><br>Entry Footnote (N3): For DOE internal use only. |

| | | |
|---|---|---|
| INSTRUCTIONS FOR COMPLETION OF:<br>SCHEDULE 0636 | MONTHLY PLANT FUEL COST AND QUALITY DATA | 1 of 3 |

This schedule is used to collect data on the cost and quality of fossil fuels delivered at electric generating plants on a monthly basis.

A. This schedule shall be submitted by electric utilities owning or operating for all plant which have a total combined steam-electric, combustion turbine and internal combustion engine powered generating capacity of 25 megawatts or greater during the reporting month. On jointly owned plants, the plant operator will submit this schedule for the entire plant.

B. Respondents shall complete all the data fields on this schedule monthly.

C. Units of fuel to be reported separately, in each logical entry, for the month are total quantities representing individual laboratory analysis, combination of samples, or any other basis used for determining payment for each fuel supplier for the total receipts for the month.

D. Do not report negative quantities or zero values to reflect inventory adjustments, etc. Use footnotes to explain any such descriptions.

E. When fuel type is other than coal, data fields 7, 8, 9, 12, and 13 will be blank.

All data fields marked with a single asterisk must be entered.

| Data Field Number | Instructions |
|---|---|
| * 1 | Plant Code (N5): Enter the code, from the Register of Data Standards, Electric Power Plants. |
| * 2 | Generating Type Code-Specific (A2): Enter one of the abbreviations for "type of generator", from the following list:<br>CG - Combined Cycle (Gas Turbine)<br>CS - Combined Cycle (Steam)<br>ST - Steam Turbine (Boiler)<br>CT - Combustion-Turbine (Gas)<br>IC - Internal Combustion (Diesel) |
| * 3 | Fuel Type Code-Specific (N2): Enter the code for type of fuel from the Register of Data Standards, Type of Fuel. |
| * 4 | ID Purchase Entry (N3): Enter sequential number, assigned by the respondent to each fuel purchase (i.e., purchase one would be ØØ1). This sequence starts new each month. |

| | | |
|---|---|---|
| INSTRUCTIONS FOR COMPLETION OF:<br>SCHEDULE 0636 | MONTHLY PLANT FUEL COST AND QUALITY DATA | 2 of 3 |

| Data Field Number | Instructions |
|---|---|
| 5 | ID Purchase Type Code (A2): Enter the abbreviation for type of purchase from the following list. Note purchase type for gas would be different than coal and oil. Coal and Oil Purchases, use only the following codes:<br><br>S - for "spot" purchase;<br>NC - for new or newly renegotiated contract purchase under which deliveries were first made during the reporting month;<br>CF - for contract purchases under which the price is changed from the price of the previous delivery under and existing contract due to provisions for automatic price adjustment;<br>OT - for all other contract purchases.<br><br>For gas purchases, use only the following codes:<br><br>I - for "interruptible",<br>F - for "firm";<br>OP - for "off peak". |
| 6 | Indicator Contract Expiration (A1): Enter "Y" if the contract expires within 24 months. If not, enter "N". |
| 7 | ID Coal Mine Type (A1): Enter the abbreviation from the following list for the type of coal mine:<br><br>S - Surface Mined<br>U - Underground Mined<br>G - Underground Portion Greater than Surface Portion<br>F - Surface Portion Greater than Underground Portion |
| 8 | ID BOM District Number (N2): Enter the code for BOM coal producing district number from which the coal originated, from the Register of Data Standards, Coal Districts. |
| 9 | LOC Coal State of Origin (A2): Enter the abbreviation for state in which the coal was produced, from the Register of Data Standards, States of the United States. |
| 10 | Quantity (N5.3): Specify quantities in units of a thousand (use thousands of tons for coal, thousands of barrels for oil and other liquid fuels and thousands of Mcf for gas). For example, if 213,000 tons of coal is delivered during the reporting month, report 213. Show separate quantities for each class of fuel. To derive the quantity, group all fuels received within the month from the supplier for which the price was based upon a given or related set of laboratory analysis. For quantities of fuel received from a given supplier during the month for which no laboratory analysis is made, report on the basis of the last previous laboratory analysis upon which price paid was determined for that supplier or on the basis of contract specifications or estimates, and specify in a footnote the basis used. |

| | | |
|---|---|---|
| INSTRUCTIONS FOR COMPLETION OF:<br>SCHEDULE 0636 | MONTHLY PLANT FUEL COST AND QUALITY DATA | 3 of 3 |

| Data Field Number | Instructions |
|---|---|
| 11 | BTU Content (N6) BTU: List the average BTU content of each fuel in terms of BTU per pound of coal, BTU per gallon for oil (and other liquid products), or BTU per cubic foot of gas. |
| 12 | Sulfur Content (N2.2) Percent: Show sulfur content of each unit-of-fuel in terms of per cent sulfur by weight. Show accurate to nearest 0.01 per cent. |
| 13 | Ash Content (N2.1) Percent: Show ash content of each unit-of-fuel in terms of per cent ash by weight. Show accurate to nearest 0.1 per cent. |
| 14 | Purchase Cost (N4.1) Cents: Enter the cost in cents per million BTU delivered to the Plant. Show accurate to the nearest 0.1 percent. |
| 15 | ID Source Name (A35): Select one:<br><br>For Coal - Enter the name of the coal company and mine,<br>For Oil - Enter the name of the oil supplier,<br>For Gas - Enter the name of the supplier from whom the gas was purchased. |
| 16 | LOC Source Location (A35): Select one:<br><br>For Coal - Enter the county from which the coal originated,<br>For Oil - Enter the name of the oil refinery or Port of Entry,<br>For Gas - Enter the Port of Entry or the state in which the gas is produced.<br><br>Entry Footnote (N3): For DOE internal use only. |

**U.S. DEPARTMENT OF ENERGY**
**Energy Information Administration**
Code 2909
**Washington, D.C. 20461**

**This report is mandatory under Public Law 93-275. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law.**

EIA-210

Monthly Power Generating Data For Electric Utilities

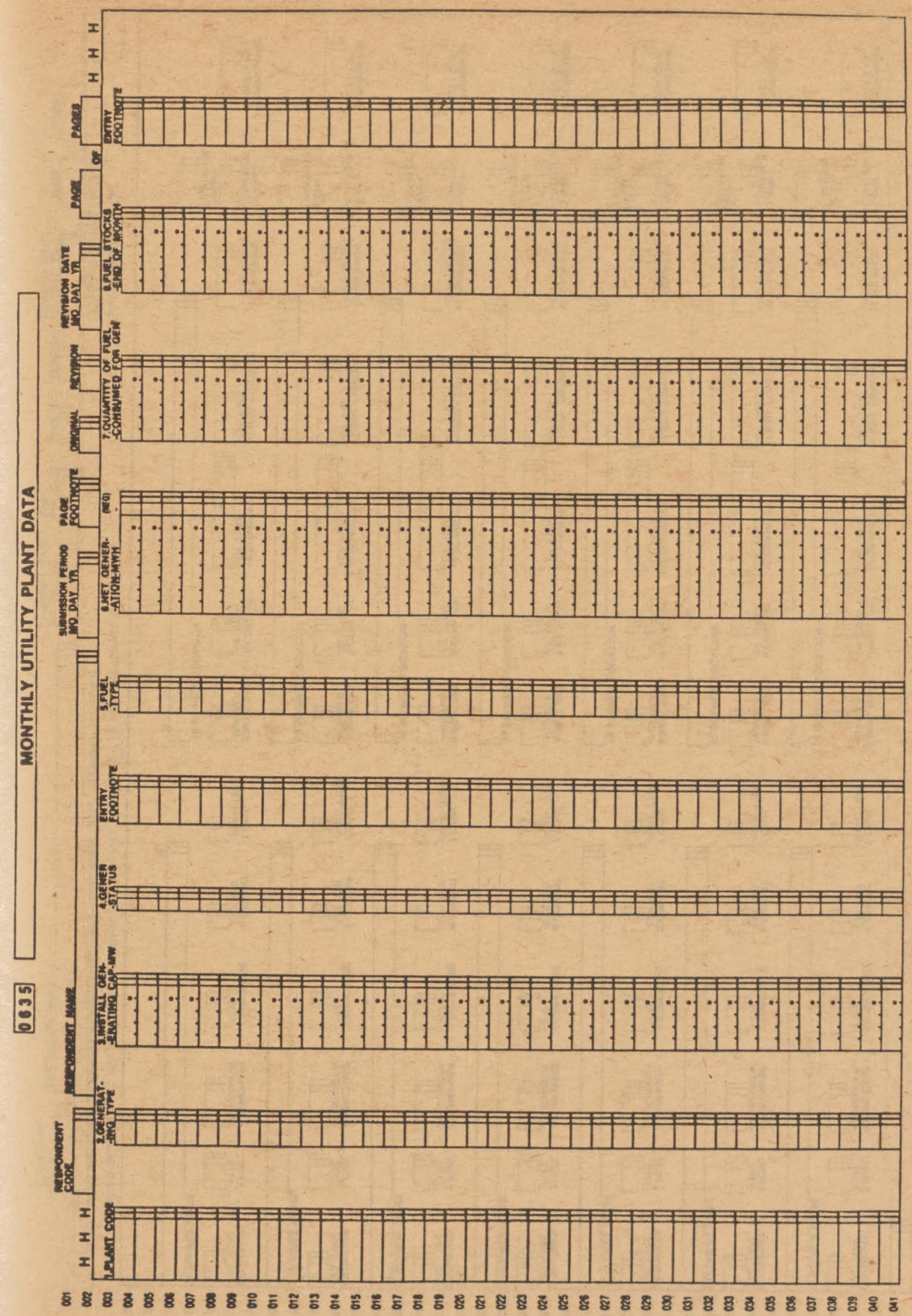
| | | |
|---|---|---|
| Firm Name: | | Change of Address Incicator: ☐ |
| Street/Box/RFD | | |
| City: | State: ☐☐ | Zip Code: ☐☐☐☐☐ |
| Contact Person: | | Telephone Number: ☐☐☐ ☐☐☐-☐☐☐☐ |

The information provided herein and appended hereto is true and accurate to the best of my knowledge.

| | |
|---|---|
| Name | Title |
| Signature | Date |

Title 18, USC 1001. Makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United State any false, fictitious or fradulent statements as to any matter within its jurisdiction.

Respondent Code: ☐☐☐☐☐


MONTHLY UTILITY PLANT DATA
0635
RESPONDENT NAME
RESPONDENT CODE
1.PLANT CODE
2.GENERAT-ING TYPE
3.INSTALL GEN-ERATING CAP-MW
4.GENER -STATUS
ENTRY FOOTNOTE
5.FUEL -TYPE
SUBMISSION PERIOD MO DAY YR
6.NET GENER-ATION-MWH
PAGE FOOTNOTE
(NEG)
ORIGINAL
REVISION
7.QUANTITY OF FUEL CONSUMED FOR GEN
REVISION DATE MO DAY YR
8.FUEL STOCKS -END OF MONTH
PAGE
OF
PAGES
ENTRY FOOTNOTE

0636

# MONTHLY PLANT FUEL COST AND QUALITY DATA

RESPONDENT CODE | RESPONDENT NAME | SUBMISSION PERIOD MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR | PAGE | OF | PAGES

H H H

1.PLANT CODE

| 2.GENERAT-ING TYPE | 3.FUEL -TYPE | 4.PURCHASE -ID NUMBER | 5.PURCHASE -TYPE | 6.CONTRT -EXP IND | 7.COAL -MINE TYPE | 8.BOM DST -NUMBER | 9.COAL ST -OF ORIG | 10.QUANTITY -OF FUEL | 11.BTU CONTENT -OF FUEL | 12.SULPHUR -CONTENT-% | 13.ASH -CONTENT-% | ENTRY FOOTNOTE | 14.PURCHASE -COST CTS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | |

15.SOURCE NAME

16.SOURCE LOCATION

| 2.GENERAT-ING TYPE | 3.FUEL -TYPE | 4.PURCHASE -ID NUMBER | 5.PURCHASE -TYPE | 6.CONTRT -EXP IND | 7.COAL -MINE TYPE | 8.BOM DST -NUMBER | 9.COAL ST -OF ORIG | 10.QUANTITY -OF FUEL | 11.BTU CONTENT -OF FUEL | 12.SULPHUR -CONTENT-% | 13.ASH -CONTENT-% | ENTRY FOOTNOTE | 14.PURCHASE -COST CTS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | |

15.SOURCE NAME

16.SOURCE LOCATION

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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15.SOURCE NAME

16.SOURCE LOCATION

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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15.SOURCE NAME

16.SOURCE LOCATION

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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15.SOURCE NAME

16.SOURCE LOCATION

| 2.GENERAT-ING TYPE | 3.FUEL -TYPE | 4.PURCHASE -ID NUMBER | 5.PURCHASE -TYPE | 6.CONTRT -EXP IND | 7.COAL -MINE TYPE | 8.BOM DST -NUMBER | 9.COAL ST -OF ORIG | 10.QUANTITY -OF FUEL | 11.BTU CONTENT -OF FUEL | 12.SULPHUR -CONTENT-% | 13.ASH -CONTENT-% | ENTRY FOOTNOTE | 14.PURCHASE -COST CTS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | |

15.SOURCE NAME

16.SOURCE LOCATION

| 2.GENERAT-ING TYPE | 3.FUEL -TYPE | 4.PURCHASE -ID NUMBER | 5.PURCHASE -TYPE | 6.CONTRT -EXP IND | 7.COAL -MINE TYPE | 8.BOM DST -NUMBER | 9.COAL ST -OF ORIG | 10.QUANTITY -OF FUEL | 11.BTU CONTENT -OF FUEL | 12.SULPHUR -CONTENT-% | 13.ASH -CONTENT-% | ENTRY FOOTNOTE | 14.PURCHASE -COST CTS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | |

15.SOURCE NAME

16.SOURCE LOCATION

1000 SUPPORTING DOCUMENTATION

RESPONDENT CODE | RESPONDENT NAME | SUBMISSION PERIOD MO DAY YR | PAGE FOOTNOTE | ORIGINAL | REVISION | REVISION DATE MO DAY YR | PAGE | OF | PAGES

NOTE: UTILIZE THE SPACE BELOW FOR NARRATIVE EXPLANATIONS, CHARTS, MAPS, DIAGRAMS, OR OTHER DOCUMENTATION SUPPORTIVE OF THE SCHEDULE REFERENCED ABOVE. ATTACH THESE PAGES TO THE APPROPRIATE SCHEDULE

SCHEDULE REFERENCE

PAGE REFERENCE

TITLE: COAL PRODUCING DISTRICTS

DESCRIPTION: IDENTIFIES COAL AND LIGNITE PRODUCING COUNTRIES AND STATES OF THE US.

DATE: MARCH 15, 1976

| CODE | COAL PRODUCING DISTRICTS |
|---|---|
| 00 | UNSPECIFIED |
| 01 | EASTERN PENNSYLVANIA |
| 02 | WESTERN PENNSYLVANIA |
| 03 | NORTHERN WEST VIRGINIA |
| 04 | OHIO |
| 05 | MICHIGAN |
| 06 | PANHANDLE |
| 07 | SOUTHERN NO 1 |
| 08 | SOUTHERN NO 2 |
| 09 | WEST KENTUCKY |
| 10 | ILLINOIS |
| 11 | INDIANA |
| 12 | IOWA |
| 13 | SOUTHEASTERN |
| 14 | ARKANSAS-OKLAHOMA |
| 15 | SOUTHWESTERN |
| 16 | NORTHERN COLORADO |
| 17 | SOUTHERN COLORADO |
| 18 | NEW MEXICO |
| 19 | WYOMING |
| 20 | UTAH |
| 21 | NORTH DAKOTA-SOUTH DAKOTA |
| 22 | MONTANA |
| 23 | WASHINGTON |
| 24 | PENNSYLVANIA ANTHRACITE |
| 25 | POLAND |
| 30 | SOUTH AFRICA |
| 35 | AUSTRALIA |
| 40 | CANADA |

TITLE: STATES OF THE UNITED STATES

DESCRIPTION: IDENTIFIES THE 50 STATES, THE DISTRICT OF COLUMBIA, THE OUTLYING AREAS OF THE US, CANADA AND MEXICO

DATE: NOVEMBER 19, 1976

| CODE | STATES OF THE UNITED STATES |
|---|---|
| AK | ALASKA |
| AL | ALABAMA |
| AR | ARKANSAS |
| AS | AMERICAN SAMOA |
| AZ | ARIZONA |
| CA | CALIFORNIA |
| CD | CANADA |
| CO | COLORADO |
| CT | CONNECTICUT |
| CZ | CANAL ZONE |
| DC | DISTRICT OF COLUMBIA |
| DE | DELAWARE |
| FL | FLORIDA |
| GA | GEORGIA |
| GU | GUAM |
| HI | HAWAII |
| IA | IOWA |
| ID | IDAHO |
| IL | ILLINOIS |
| IN | INDIANA |
| KS | KANSAS |
| KY | KENTUCKY |
| LA | LOUISIANA |
| MA | MASSACHUSETTS |
| MD | MARYLAND |
| ME | MAINE |
| MI | MICHIGAN |
| MN | MINNESOTA |
| MO | MISSOURI |
| MS | MISSISSIPPI |
| MT | MONTANA |
| MX | MEXICO |
| NC | NORTH CAROLINA |
| ND | NORTH DAKOTA |
| NE | NEBRASKA |
| NH | NEW HAMPSHIRE |
| NJ | NEW JERSEY |
| NM | NEW MEXICO |
| NV | NEVADA |
| NY | NEW YORK |
| OH | OHIO |
| OK | OKLAHOMA |
| OR | OREGON |
| PA | PENNSYLVANIA |
| PR | PUERTO RICO |
| RI | RHODE ISLAND |
| SC | SOUTH CAROLINA |
| SD | SOUTH DAKOTA |
| TN | TENNESSEE |
| TX | TEXAS |
| UT | UTAH |
| VA | VIRGINIA |
| VI | VIRGIN ISLANDS |
| VT | VERMONT |
| WA | WASHINGTON |
| WI | WISCONSIN |
| WV | WEST VIRGINIA |
| WY | WYOMING |

Title: Type Electric Plant/Motive Power

Description: List provides types of plants used to generate electric power.

Date:

| Code | Type Electric Plant/Motive Power |
|---|---|
| CS | Combined Cycle (Steam) |
| CT | Combustion Turbine (Gas Turbine) |
| CG | Combined Cycle (Gas Turbine) |
| FC | Fuel Cell |
| GE | Steam Turbine (Geothermal) |
| HY | Conventional Hydroelectric |
| IC | Internal Combustion (Diesel) |
| JE | Jet Engine |
| NB | Nuclear BWR |
| NH | Nuclear HTGR |
| NL | Nuclear LWBR |
| NP | Nuclear PWR |
| NU | Nuclear Unknown type at this time (use only for future units) |
| PS | Pumped Storage Hydroelectric |
| SO | Solar |
| ST | Steam Turbine (Boiler) |
| UN | Unknown |
| WM | Windmill |

Title: Type of Fuel

Description: List describes types of fuel which may be used by electric generating plants.

Date:

| Code | Type of Fuel |
|---|---|
| 02 | Combination Coal/Gas/Oil |
| 10 | Coal, Unspecified |
| 11 | Coal, Bituminous |
| 12 | Coal, Sub-Bituminous |
| 13 | Coal, Anthracite |
| 14 | Coal, Lignite |
| 15 | Coal, Solvent Refined |
| 20 | Gas, Unspecified |
| 21 | Gas, Natural |
| 22 | Gas, Liquefied Natural |
| 23 | Gas, Refinery |
| 24 | Gas, Blast Furnace |
| 25 | Gas, Coke Oven |
| 26 | Gas, Sewage |
| 27 | Gas, Synthetic |
| 28 | Gas, Liquid Petroleum |
| 40 | Oil, Heavy, Unspecified |
| 41 | Oil, Heavy, No. 4 (F04) |
| 42 | Oil, Heavy, No. 5 (F05) |
| 43 | Oil, Heavy, No. 6 (F06, Residual Oil) |
| 44 | Oil, Heavy, Crude |
| 45 | Oil, Heavy, Topped Crude |
| 46 | Oil, Heavy, Refined Motor |
| 50 | Oil, Light, Unspecified |
| 51 | Oil, Light, No. 1 (F01) |
| 52 | Oil, Light, No. 2 (F02, Distillate, Diesel) |
| 53 | Oil, Light, High Viscosity |
| 54 | Oil, Light, Jet Fuel |
| 55 | Oil, Light, Kerosene |
| 56 | Oil, Light, Dry BKOH |
| 70 | Nuclear, Unspecified |
| 71 | Nuclear, Plutonium |
| 72 | Nuclear, Thorium |
| 73 | Nuclear, Uranium |
| 80 | Waste, Unspecified |
| 81 | Waste, Municipal (Refuse) |
| 82 | Waste, Solid (Animal) |
| 83 | Waste, Wood |
| 90 | Hydro (Water) |
| 91 | Geothermal, Steam |
| 92 | Fuel Cell |
| 93 | Methanol |
| 94 | Hydrogen |
| 95 | Solar |
| 96 | Wind |
| 97 | Petroleum Coke |
| 99 | Other, Unspecified |

| | | |
|---|---|---|
| | | |
| | 'Assignment of Reporting Codes' | |

DEPARTMENT OF ENERGY

You have been assigned the following identifiers. Please use these identifiers in all subsequent reporting. Please report any changes to the following names and addresses to:

Department Of Energy
Energy Information Administration
Code 2909
Washington, D.C. 20461

RESPONDENT CODE: 654321

RESPONDENT NAME AND ADDRESS (AS CONTAINED IN OUR FILES):

DOE INC
123 MAIN ST
ANYWHERE NY 00001

SYSTEM CODES AND ASSOCIATED PLANT CODES:

| System Code | Plant Code | Name |
|---|---|---|
| 123456 | | system name goes here |
| | 23456 | plant name goes here |
| 123458 | | system name goes here |
| | 23457 | |

[FR Doc. 79-10059 Filed 4-3-79; 8:45 am]
BILLING CODE 6450-01-C

## Economic Regulatory Commission

### Environmental Assessment of of Proposed Reduction in Small Refiner Bias Benefits Under the Crude Oil Entitlements Program

**AGENCY:** Department of Energy, Economic Regulatory Administration.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of an environmental assessment (EA) on a proposal to amend its regulations concerning the small refiner bias provisions of the crude oil entitlements program. Based on the findings presented in the EA, DOE has concluded that the proposed amendment to reduce the value of the small refiner bias does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act (NEPA). Therefore, DOE has determined that an environmental impact statement (EIS) is not required with respect to this action. Comments on this negative determination and the EA are invited and will be considered by DOE prior to promulgation of the final rule.

**DATES:** Comments by April 17, 1979, 4:30 P.M.

**ADDRESSES:** Written comments to: Docket Control Center, ERA–R–78–3B, Economic Regulatory Administration, 2000 M Street, NW., Room 2313, Washington, D.C. 20461.

**FOR FURTHER INFORMATION CONTACT:**

Verlette Gatlin (DOE Reading Room), 1000 Independence Avenue, NW., Room GA–152, Washington, D.C. 20585, 202–252–6022.

Mary B. Jones (Economic Regulatory Administration), 2000 M Street, NW., Room 8202–E, Washington, D.C. 20461, 202–632–5133.

Carol Borgstrom (NEPA Affairs Division), 20 Massachuesetts Avenue, NW., Room 6229, Wahington, D.C. 20545, 202/376-5998.

Janine Landow-Esser (Office of General Counsel), 1000 Independence Avenue, Room 6G-067, Washington, D.C. 20585, 202–252–6947.

Robert C. Gillette (Public Hearings Management), 2000 M Street, NW., Room 2214, Wasington, D.C. 20461, 202–254–5201.

William L. Webb (Office of Public Information), 2000 M Street, NW., Room B110, Washington, D.C. 20461, 202–634–2170.

#### I. Background

The DOE proposed, on November 14, 1978 (43 FR, 54652, November 22, 1978), amendments to the entitlements program to alter the schedule of benefits received by small refiners under the small refiner bias. Pursuant to the provisions of section 7(a)(1) of The Federal Energy Administration Act of 1974 (FEAA, Pub. L. 93–275) the notice was submitted to the Administrator of the Environmental Protection Agency (EPA) for his review concerning the impact of the proposals on the quality of the environment. By letter to DOE of November 14, 1978, the Administrator commented as follows:

> We would like to receive comment on whether the reduction of the level of benefits available to small refiners under the small refiner bias of the Entitlements Program will cause these refiners to either curtail unleaded gasoline production from existing facilities or adversely affect their plans to construct new unleaded gasoline production facilities. Unitl we possess this information we cannot assess the environmental impact of these regulations.
>
> We are interested in one of the alternatives to reducing the level of the bias, that of conditioning receipt of bias entitlements upon utilizing the entitlements to invest in capital improvements. In particular, we would like to see explored a program to supply bias entitlements (or alternatively provide direct incentives) for refiners who undertake to increase their unleaded gasoline production capacity. This would encourage refinery expansion and the production of unleaded gasoline for those late model year vehicles requiring unleaded fuel to protect emission controls.

At public hearings on the proposed amendments in January 1979 several small refiners expressed the view that DOE was required to evaluate the environmental impacts of the proposal. In light of the comments of these refiners and those of the Administrator of EPA, an environmental assessment (EA) of the proposal has been prepared. The EA reviews ways in which possible environmental impacts could reasonably be associated with the proposed amendments, and evaluates the degree to which these impacts may be significant.

Based on the findings of the EA, DOE has concluded that the amendments will not significantly affect the quality of the human environment within the meaning of section 102 (2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (2)(c). Therefore, DOE has determined that an EIS is not required for this action.

We invite your views regarding the negative determination of the EA. Amendments to the small refiner bias in the form of a final rule will not take effect until we complete an evualuation of the written comments received pursuant to this notice.

The EA is based in part upon a *Draft Regulatory Analysis* prepared by ERA and issued in November 1978 concurrently with the Notice of Proposed Rulemaking. You may obtain copies of these documents from the Economic Regulatory Administration, Office of Public Information, 2000 "M" Street, NW., Room 110–B, Washington, D.C. 20461, telephone (202) 634–2170. The EA reference document number is DOE/EA–0084. Copies are also available for review in the DOE Reading Room, GA–152, Forrestal Building, 1000 Independence Avenue, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

#### II. Comment Procedures

You are invited to participate in this proceeding by submitting written comments containing data, views or arguments with respect to the EA and the negative determination. Comments should be submitted by 4:30 p.m., e.s.t., April 17, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the designation: "Environmental Assessment of Proposed Amendments to the Small Refiner Bias." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

Any informaton or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confindential status of such information or data and to treat it according to our determination.

Issued in Washington, D.C., March 30, 1979.

**David J. Bardin,**
*Administrator, Economic Regulatory Administration.*

[Docket No. ERA—R–78–3B]

[FR Doc. 10438 Filed 4–3–79; 8:45]

**BILLING CODE 6450–01–M**

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## Alabama-Tennessee Natural Gas Co.; Tariff Filing

March 27, 1979.

Take notice that on March 26, 1979, Alabama-Tennessee Natural Gas Company (Respondent), P.O. Box 915,

Florence, Alabama 35630, filed in Docket No. TC79–51 a tariff sheet as part of its FERC Gas Tariff, Third Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1970 and part 281 of the Regulations thereunder, all as more fully set forth in said sheet which is on file with the Commission and open to public inspection.

The tariff sheet tendered by Respondent adopts and incorporates by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultrual and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79–13 (44 FR 13464, March 12, 1979) that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make may protest with reference to said tariff sheet should on or before March 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
*Secretary.*

[Docket No. TC79–51]

[FR Doc. 79–10320 Filed 4–3–79; 8:45 am]

BILLING CODE 6450–01–M

## Algonquin Gas Transmission Co.; Application

March 28, 1979.

Take notice that on March 21, 1979, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP79–234 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transportation-exchange arrangement for five years ending December 31, 1984, and involving gasified liquefied natural gas (LNG) received at Everett, Massachusetts, for the benefit of The Brooklyn Union Gas Company (Brooklyn Union), The Connecticut Gas Company (Connecticut Gas), Providence Gas Company (Providence Gas), and South Jersey Gas Company (South Jersey) (Participating Customers), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following:

A transportation-exchange service under which Applicant: (1) would receive gas in liquid or vapor phase at a point or points near Everett, Massachusetts, for the account of the Participating Customers; and (2) would redeliver thermally equivalent quantities of gas either at existing delivery points or at existing interconnections between Applicant and another pipeline company(s). Applicant would charge 15.0 cents per million Btu's of gas received and redelivered.

Applicant does not propose to construct any facilities to provide the subject service and asserts that the proposed arrangement would have no adverse impact upon Applicant's existing service to its regular sales customers.

It is indicated that Connecticut Gas and Providence Gas, which are regular on-system customers of Applicant, have acquired a supply of LNG from Distrigas of Massachusetts Corporation (DOMAC) and Distrigas Corporation (DISTRIGAS) to help meet the requirements of customers which they serve and that Brooklyn Union and South Jersey have acquired a supply of LNG from the same companies for the same purpose. It is stated the Participating Customers would purchase approximately 22 trillion Btu's annually, and of this quantity, Applicant proposes to transport under minimum bill conditions the following:

| | Estimated annual million Btu's 12 months ending December 31 | | | |
|---|---|---|---|---|
| | Maximum daily quantity million Btu's | 1980 | 1981 | 1982 and thereafter |
| Connecticut Gas | 2,000 | 183,000 | 273,750 | 365,000 |
| Providence Gas | 5,000 | 457,500 | 684,375 | 912,500 |
| Brooklyn Union | 30,000 | 2,745,000 | 4,106,250 | 5,475,000 |
| South Jersey | 3,500 | 320,250 | 479,063 | 638,750 |
| Total quantities | 40,500 | 3,705,750 | 5,543,438 | 7,391,250 |

It is stated that the imported LNG would, in part, be delivered by DOMAC to Boston Gas Company (Boston Gas) in a gasified form with the exception of limited quantities in liquid phase which are needed for Algonquin LNG, Inc.'s (Algonquin LNG) storage tank at Providence. Boston Gas would use such gasified LNG in its own distribution system and thermally equivalent quantities of gas would be released to Applicant, it is said. Algonquin proposes to receive such gas by displacing thermally equivalent quantities to Boston Gas. It is proposed that at Everett, DOMAC would also deliver to Applicant, for the account of the Participating Customers, the limited quantities of LNG in liquid phase for Algonquin LNG's storage tank at Providence.

With respect to redeliveries by Applicant to the Participating Customers other than Brooklyn Union and South Jersey, Applicant proposes to deliver appropriate thermally equivalent quantities to such customers at existing delivery points. With respect to redeliveries for the account of Brooklyn Union and South Jersey, Applicant proposes to release appropriate corresponding quantities to Texas Eastern Transmission Corporation (Texas Eastern) at the interconnection between the systems of Texas Eastern and Applicant. It is indicated that pursuant to arrangements among Applicant, Texas Eastern, Transcontinental Gas Pipe Line Corporation (Transco), Brooklyn Union, and South Jersey, Texas Eastern would displace deliveries of such quantities to Applicant under firm rate schedules of

Texas Eastern, billing Applicant as though the gas is delivered under such firm rate schedules. Texas Eastern would thereupon transport and deliver equivalent quantities of gas to Transco which would in turn transport and deliver equivalent quantities to Brooklyn Union and South Jersey for distribution and sale to ultimate consumers, it is said.

Applicant states that the secondary quantities of gas in liquid phase, not utilized on the distribution system of Boston Gas, would be delivered directly to Applicant at Everett and would be place in Algonquin LNG's storage tank at Providence in order to maintain the cold temperature necessary for operating the tank. It is indicated that the estimated total quantity of LNG required for this purpose would not exceed 50 billion Btu's per month (not to exceed approximately 300 billion Btu's annually) and that as it is gasified, all such LNG would be delivered to Providence Gas under Applicant's existing rate schedules and certificate authorizations.

Applicant states that while it desires to limit service hereunder to 5 years, nevertheless it has agreed to reopen discussions with the Participating Customers prior to the beginning of the final year of service in order to determine whether and the extent to which the underlying arrangements may then be renegotiated for an additional period.

It is asserted that the proposed arrangement would permit the Participating Customers to receive volumes of LNG, in gasified form, to augment the supply of gas otherwise available to them and to offset curtailments of their pipeline gas supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,
*Secretary.*

[Docket No. CP79-234]

[FR Doc. 79-10321 Filed 4-3-79; 8:45 am]
BILLING CODE 6450-01-M

## Colorado Interstate Gas Co.; Application

March 28, 1979.

Take notice that on March 13, 1979, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-216, an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity for authorization to revise its jurisdictional peak day volume obligations, to establish a new delivery point to an existing customer, to make miscellaneous revisions to the service agreements with certain of its jurisdictional customers, and for permission and approval to abandon a non-jurisdictional direct firm sale to the City of Trinidad, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its full requirement transmission system customers nominated an aggregate peak day increase of 171,067 Mcf for the 1979-1980 heating season, but Applicant proposes to increase the peak day entitlement by only 40,000 Mcf or approximately 23 percent of the volume requested. Applicant further states that the proposed 40,000 Mcf peak day entitlement increase would be allocated on a *pro rata* basis to its full requirement transmission system customers, with the exception of Citizens Utilities Company, which declined the proffered increase. Applicant points out that the proposed peak day entitlement increase is partially offset by the 1,100 Mcf of firm entitlement volumes to be abandoned for the City of Trinidad, resulting in a net increase of 38,900 Mcf per day over the currently authorized peak day entitlements.

Applicant indicates that it and the City of Trinidad have executed an amendment to the direct sales agreement between them, dated August 18, 1975, which provided for the abandonment of firm non-jurisdictional sales to Trinidad after February 28, 1977. It is stated that this deadline was subsequently extended to September 30, 1979. Trinidad, it is stated, purchases this gas for use at an electric generating station which has been converted so that it can use either coal or natural gas. Applicant states that after September 30, 1979, it would not supply gas on a firm basis subject to the approval sought herein.

It is asserted that Peoples Natural Gas Division of Northern Natural Gas Company (Peoples) has proposed that an existing Applicant-to-Peoples meter station known as Springfield, and located in Section 26, T30S, R46W, in Baca County, Colorado, be added to the service agreements between them. It is stated that the addition of this delivery point would enable Peoples to receive purchased gas under Rate Schedule G-1, as well as exchange gas at that location.

Applicant states that six of its full requirement customers have requested small increases in the maximum daily volume obligations (MDVO) for certain delivery points into their respective systems. It is stated that the peak day entitlement (contract demand) is the maximum amount of gas that a customer may receive on any day while the MDVO is the maximum amount that Applicant is obligated to deliver at any specified delivery point. It is further stated that the Greeley Gas Company requires an increase of 190 Mcf in MDVO to accommodate the peak day entitlement increase proposed herein, and that the Town of Keyes, Raton Natural Gas Company, the City of Trinidad, and the City of Walsenburg must increase their MDVO by 13 Mcf, 338 Mcf, 257 Mcf, and 66 Mcf respectively, for the same reason. Applicant states that the sixth customer, Peoples, requires revisions both upward and downward to the MDVO for five of its 18 delivery points from Applicant's transmission system. This is necessary because of a gradual shift in load concentration on Peoples' system

caused primarily by growth in residential and small commercial building, it is stated. Applicant states that these proposed revisions would enable Peoples to utilize its system more efficiently at no cost in facilities to Applicant.

Applicant also proposes to revise the maximum delivery pressures at certain delivery points included in the service agreements with two of its customers. It is asserted that the maximum delivery pressure requirement at the Norfolk delivery point in the Western Slope Gas Company service agreement has been reduced from 550 psig to 460 psig. Applicant states that this change would permit greater operational flexibility on Applicant's Wyoming main line. In addition, the delivery pressures at two delivery points to Peoples have been revised, according to the Applicant. Applicant states that the maximum delivery pressure at the Colorado State Penitentiary delivery point has been increased from 60 psig to 95 psig and that the pressure at the Black Forest delivery point has been changed from 150 psig to 250 psig when seller has such pressure available, but not less than 150 psig. Applicant asserts that these proposed pressure changes would have no significant impact upon the operation of Applicant's system but would assist the distribution customers in their operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,
*Secretary.*

[Docket No. CP79-216]

[FR Doc. 79-10322 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Duke Power Co.; Filing

March 28, 1979.

Take notice that Duke Power Company, on March 19, 1979 tendered for filing Service Schedule G–1979 between Duke Power Company and Carolina Power & Light Company. Duke Power Company states that the Service Schedule G–1979 provides for an increase in charge and gives recognition to current cost accounting methods. Duke Power Company requests that this Service Schedule G–1979 be permitted to become effective on April 1, 1979.

Duke Power Company has sent copies of this filing to North Carolina Power & Light Company, the South Carolina Public Service Commission, and the Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 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 April 16, 1979. 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.*

[Docket No. ER79-258]

[FR Doc. 79-10323 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Duke Power Co.; Supplement to Electric Power Contract

March 28, 1979.

Take notice that Duke Power Company (Duke Power) tendered for filing on March 19, 1979 a supplement to the Company's Electric Power Contract with the City of Albemarle. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 225.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: Delivery Point No. 1 from 40,000 kW to 46,000 kW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately succeeding the effective date. Duke Power proposes an effective date of May 18, 1979.

According to Duke Power copies of this filing were mailed to the City of Albemarle and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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, 1.10). All such petitions or protests should be filed on or before April 16, 1979. 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.*

[Docket No. ER79-261]

[FR Doc. 79-10324 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Duke Power Co.; Supplement to Electric Power Contract

March 28, 1979.

Take notice that Duke Power Company (Duke Power) tendered for filing on March 16, 1979 a supplement to the Company's Electric Power Contract with Broad River Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has

been designated Duke Power Company Rate Schedule FERC No. 143.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand: Delivery Point No. 8 from 3,300 kW to 4,100 kW and Delivery Point No. 11 from -0- to 2,000 kW. Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of May 18, 1979.

According to Duke Power, copies of this filing were mailed to Broad River Electric Cooperative, Inc. and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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, 1.10). All such petitions or protests should be filed on or before April 16, 1979. 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.*

[Docket No. ER79-262]

[FR Doc. 79-10325 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Duke Power Co.; Supplement to Electric Power Contract

March 28, 1979.

Take notice that Duke Power Company (Duke Power) tendered for filing on March 19, 1979 a supplement to the Company's Electric power Contract with Union Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 141.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following changes in designated demand: Delivery Point No. 1 from 24,000 kW to 14,000 kW and Delivery Point No. 8 from -0- to 14,000 kW. Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of May 18, 1979.

According to Duke Power copies of this filing were mailed to Union Electric Membership Corporation and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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, 1.10). All such petitions or protests should be filed on or before April 16, 1979. 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.*

[Docket No. ER79-263]

[FR Doc. 79-10326 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Georgia Power Co.; Proposed Tariff Change

March 28, 1979.

Take notice that Georgia Power Company (Georgia Power), on March 20, 1979, tendered for filing an amendment to its Interchange Agreement with South Carolina Electric & Gas Company (SCE&G), amending Georgia Power's FERC Rate Schedule No. 793. Georgia Power states that Rate Schedule No. 793 expired on February 9, 1979, and the amendment will provide for a continuation of Rate Schedule 793, pursuant to which Georgia Power supplies stand-by service to a portion of SCE&G's service area.

Georgia Power further states that pursuant to the amendment, SCE&G's monthly rental payment will be decreased to recognized changed circumstances.

Georgia Power proposes an effective date of September 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Georgia Power indicates that copies of this filing have been served upon SCE&G.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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, 1.10). All such petitions or protests should be filed on or before April 16, 1979. 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.*

[Docket No. ER79-259]

[FR Doc. 79-10327 Filed 4-3-79; 8:45 am]

BILLING CODE 79-10327-M

## Florida Power & Light Co.; Filing of Interchange Contract

March 26, 1979.

Take notice that Florida Power & Light Company (FPL) on March 16, 1979 tendered for filing an agreement, executed by both parties, entitled "Contract for Interchange Service Between Florida Power & Light Company and Jacksonville Electric Authority." FPL states that the contract supersedes the existing contracts with Jacksonville Electric Authority (JEA) which are on file with the Commission except for the provisions concerning flicker determination and correction, designated FPL Rate Schedule No. 17.7. FPL requests an effective date for this contract of no later than 60 days after the date of filing. According to FPL, a copy of this filing was served upon JEA.

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 or 1.10). All such petitions or protests should be filed on or before April 11, 1979. 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.*

[Docket No. ER79-253]

[FR Doc. 79-10328 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Georgia Power Co.; Extension of Time

March 28, 1979.

On March 12, 1979, Georgia Power Company filed a motion for extension of time to file revised rates and accompanying cost support as required by Commission order of January 30, 1979. The motion states that additional time is needed in order to comply with this filing requirement because a new allocated cost of service study must be prepared. Staff Counsel filed an answer in opposition to the extension on March 13, 1979, stating that the proposed extension would allow only two weeks for Staff preparation of top sheets. Staff states that if an extension is granted for the compliance filing, the time for filing top sheets should also be extended.

Upon consideration, notice is hereby given that an extension of time is granted to and including April 16, 1979, for Georgia Power Company to file in compliance with Ordering Paragraph (C) of the Commission's January 30, 1979 order. Staff's top sheets shall be filed on or before May 14, 1979.

Kenneth F. Plumb,
*Secretary.*

[Docket No. ER79-88]

[FR Doc. 79-10329 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Kansas City Power & Light Co.; Suspension of Rate Changes, Denial of Summary Disposition, and Grant of Intervention

Issued: March 28, 1979.

On January 23, 1979, Kansas City Power & Light Company (KCPL) filed with the Commission schedules of increased rates and charges for wholesale firm power service to seven municipal electric systems, two electric cooperatives and two investor-owned utilities.[1] The proposed rates would increase revenues from these customers by approximately $997,178 annually, based on sales for the Period I test year ending June 30, 1978. KCPL requests that the proposed increased rates be made effective on March 31, 1979.

Notice of KCPL's filing was issued on February 7, 1979, with responses due on or before February 16, 1979. On February 16, 1979, the two cooperative customers, Coffey County Rural Electric Cooperative Association and United Electric Cooperative, Inc. (Cooperatives) and five municipal customers, the Cities of Higginsville, Salisbury and Slater, Missouri, and Gardner and Pomona, Kansas (Cities), filed protests, petitions to intervene, requests for a five month suspension of the proposed rates, and motions for summary disposition of various issues. On March 2, 1979, Missouri Power & Light Company filed an untimely petition to intervene but did not raise any specific objections to the proposed rates.

The Cities and the Cooperatives request summary disposition of KCPL's use of a 48 percent federal income tax rate in computing tax expense. They request that KCPL be required to refile its proposed rates and supporting cost data to reflect the current 46 percent tax rate.

The Cities and the Cooperatives also maintain that KCPL's proposed working capital allowance is excessive. The Cooperatives state that summary disposition of this issue is appropriate because the proposed allowance does not reflect off-system energy sales made by KCPL and because the proposed allowance includes amounts related to certain minimum bank balances in addition to amounts computed according to the 45-day formula rule. The Cities similarly maintain that the 45-day formula includes an adequate allowance for minimum bank balances that may be required. The Cities, therefore, ask that we require KCPL to refile its rate increase application to reflect a 45-day working capital allowance which does not include an additional amount attributable to these bank balances. In the alternative, the Cities would require KCPL to submit a lead-lag study demonstrating actual cash working capital requirements.

The Cities and Cooperatives also allege that KCPL included in rate base nuclear fuel in process related to a plant presently under construction. They maintain that such nuclear fuel in process is tantamount to construction work in progress (CWIP) which may not be included in rate base. The Cities but not the Cooperatives request summary disposition of this issue.

The Cities request that summary disposition also be granted with regard to KCPL's inclusion in rate base of an amount for the unamortized portion of property records information and work order system expense. The Cities assert KCPL has provided no support for this item. The Cooperatives also raise this issue but do not seek summary disposition. Summary disposition is also sought by the Cities with regard to KCPL's alleged failure to synchronize test year interest expense with the weighted cost of long-term debt used for income tax calculations.

The Cities and the Cooperatives also maintain that rate increases proposed by KCPL exceed the applicable wage and price guidelines issued December 13, 1978, by the Council on Wage and Price Stability.

The Cooperatives further state that a comparison of the proposed wholesale rates with certain KCPL retail rates indicates a price squeeze will exist under the proposed rates.

Our review of KCPL's filing indicates that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them for five months to become effective August 31, 1979, subject to refund.

We shall grant summary disposition with regard to the use of 48 percent federal income tax rate. KCPL is therefore directed to refile within sixty days revised rates and accompanying cost support which incorporate the current 46 percent federal income tax rate.[2]

KCPL's filing indicates that the company has included "Nuclear Fuel in Process" in rate base as construction work in progress (CWIP). Such fuel in process does not constitute a completely fabricated fuel assembly delivered for use and ready for service and was held to be tantamount to CWIP in Commission Opinion No. 784–A.[3] The determination whether KCPL's proposed rate base treatment of nuclear fuel in process is allowable must be made on

[1] The seven municipal customers are the Cities of Gardner, Pomona, and Prescott, Kansas; and Higgensville, Salisbury, Slater, and Marshall, Missouri. The Coffey County Rural Electric Cooperative Association, Inc. and United Electric Cooperative, Inc. are the cooperatives affected by the proposed rate increase. The investor-owned utility customers are Missouri Power & Light Company and Missouri Public Service Company. See Attachment A for proposed rate schedule designations.

[2] *See, Central Kansas Power Co.*, Inc., Docket No. ER79-90 Order issued January 31, 1979.

[3] Nuclear fuel in process in Account No. 120.1 (18 CFR Part 101), which by definition is not yet completely fabricated and ready for service, is akin to CWIP in in Account No. 107 and may not be given rate base treatment. *See, Florida Power & Light Co.*, Opinion No. 784–A, pages 6–7, June 14, 1977. Completely fabricated fuel assemblies delivered for use in refueling or to be carried in stock as spares are properly booked in Account No. 120.2 and may be included in rate base. Similarly, nuclear fuel assemblies which have been inserted in a reactor are booked in Account No. 120.3 and are included in rate base.

the basis of our rulemaking Order No. 555, issued November 8, 1976, in Docket No. RM75–13. In certain circumstances the inclusion of CWIP in rate base might be permitted. First, certain pollution-control or fuel-conversion facilities under construction may be included in rate base. Second, we indicated that if a utility is in severe financial distress that cannot otherwise be alleviated, the inclusion of some amount of CWIP (not necessarily limited to pollution control and conversion facilities) in rate base might be permitted. In this second instance, however, the inclusion of CWIP in rate base would be permitted only on a prospective basis upon our final determination after rehearing that the circumstances of a particular case justify departure from the general rule against inclusion of CWIP in rate base.

KCPL has not attempted to show that its nuclear fuel in process is eligible for inclusion in rate base as either pollution-control or fuel-conversion facilities, nor do we believe such a showing could be successfully made under the definitions of those facilities set forth in Order No. 555 (18 CFR 2.16). Neither has KCPL sought to justify its inclusion of nuclear fuel in rate base on the basis of severe financial difficulty. In any case, inclusion of CWIP would be permitted in rate base under this exception, if at all, only on a prospective basis after a final Commission order approving it.

We shall therefore grant the motion for summary disposition of the nuclear fuel in process portion of KP&L's filing. Accordingly, KCPL is directed to refile revised rates and cost support which reflect the exclusion of nuclear fuel in process from its rate base.

KCPL's filing does not provide any explanation as to whether Electric Power Research Institute (EPRI) contributions are included in the Administrative and General (A&G) expense allocated to its wholesale customers. We shall therefore direct KCPL to include in its refiling a breakdown of its total A&G expense indicating the portion of the expense, if any, attributable to EPRI contributions. We shall also summarily direct KCPL to file revised rates and cost support which reflect exclusion of any such EPRI amounts in the A&G expense allocated to its wholesale customers.[5]

KCPL shall include all costs of refilling in its Account No. 426.5 so that the expense will not be borne by the ratepayers. KCPL should have reflected the 46 percent tax rate in its January 23, 1979, filing because it could have and should have known prior to that date that the tax rate had been reduced from 48 percent and would become effective January 1, 1979, prior to KCPL's requested effective date. Further, the cost of reflecting our summary disposition of the other issue will add little, if any, to the cost of incorprating the proper tax rate in the refiling.[6]

KCPL is also hereby advised that any adjustment which it may contemplate pursuant to the tax adjustment clause contained in the proposed rate schedules will have to be filed as a change in rates under § 35.13 of our Rules and Regulations. It is our policy not to permit such tax clauses to be the basis for automatic changes in rates.[7]

Other matters which have been raised by the Cities and by the Cooperatives are properly to be considered and resolved during the course of the proceeding. We note, however, that should KCPL wish to depart from the use of the 45-day formula method in computing its working capital allowance, it shall be required to present a complete lead-lag study justifying its claimed allowance.[8] We also find it appropriate to institute the price squeeze procedures set forth in our Order No. 563 (issued March 21, 1977) and in Section 2.17 of our Regulations (18 CFR 2.17).

*The Commission orders:*

(A) Kansas City Power & Light Company's (KCPL) proposed rates are accepted for filing and suspended for five months to become effective August 31, 1979, subject to refund.

(B) The Cities, Cooperatives and Missouri Power & Light Company are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that the participation of these intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* that the admission of these intervene shall not be construed as recognition by the Commission that they might be agrrieved because of any order or orders by the Commission entered in this proceeding.

(C) Summary disposition is hereby granted with regard to the federal income tax rate, nuclear fuel in rate base, and EPRI contribution issues. Within 60 days of the issuance of this order, KCPL is directed to refile its proposed rates and cost support to reflect this treatment and shall include all costs of refiling in its Account No. 426.5. Summary disposition of all other issues is denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the proposed rates.

(E) Pursuant to Order No. 563 and Section 2.17 of the Commission's Regulations, price squeeze procedures are hereby instituted.

(F) The Staff shall serve top sheets in this proceeding on or before June 12, 1979.

(G) A Presiding Administratrive Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure. The Presiding Administrative Law Judge shall convene a prehearing conference within fifteen (15) days of the issuance of this order for the purpose of hearing intervenors' requests for data required to present their case, including *prima facie* showing, on price squeeze issues.

(H) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
*Secretary.*

[5] *See, Connecticut Light and Power Company,* Docket ER77–517, Order Issued August 31, 1978, and Order on Rehearing issued November 22, 1978.

[6] *See, Georgia Power Company,* Docket No. ER79–88, Order issued January 30, 1979; and *Central Kansas Power & Light Company,* Docket No. ER79–90, Order issued January 31, 1979.

[7] *See, Boston Edison Company,* Docket No. ER79–304, Order issued May 30, 1978; and *Kansas City Power & Light Company,* Docket No. ER79–141, Order issued March 13, 1979.

[8] *Carolina Power & Light Company,* Opinion No. 19–A, page 3, February 21, 1979. Upon an adequate evidentiary presentation, upward or downward adjustments relating to fossil fuel expense and purchased power expense may be made to a working capital allowance computed by use of the 45-day formula. *Carolina Power & Light Company, supra. See also, Public Service Company of Indiana,* Opinion No. 783, pages 29–31 (November 10, 1976).

**Kansas City Power & Light Co.**

*Dated: Undated.*
*Filed: January 23, 1979.*

Revised Firm Power Rates

| Other party | Designation | Supersedes |
|---|---|---|
| City of Salisbury, Mo | Supplement No. 9 to R.S. FPC No. 61. | Supplement No. 8 to R.S. FPC No. 61. |
| City of Slater, Mo | Supplement No. 4 to R.S. FPC No. 81. | Supplement No. 3 to R.S. FPC No. 81. |
| City of Gardner, Kans | Supplement No. 3 to R.S. FPC No. 79. | Supplement No. 2 to R.S. FPC No. 79. |
| United Electric Cooperative | Supplement No. 4 to R.S. FPC No. 84. | Supplement No. 3 to R.S. FPC No. 84. |
| Coffey County Rural ECA | Supplement No. 9 to R.S. FPC No. 69. | Supplement No. 8 to R.S. FPC No. 69. |
| City of Pomona, Kans | Supplement No. 4 to R.S. FPC No. 82. | Supplement No. 3 to R.S. FPC No. 82. |
| City of Higginsville, Mo | Supplement No. 7 to R.S. FPC No. 72. | Supplement No. 6 to R.S. FPC No. 72. |
| Missouri Power & Light Co | Supplement No. 7 to R.S. FPC No. 73. | Supplement No. 6 to R.S. FPC No. 73. |
| Missouri Public Service Co | Supplement No. 8 to R.S. FPC No. 74. | Supplement No. 7 to R.S. FPC No. 74. |
| City of Prescott, Kans | Supplement No. 7 to R.S. FPC No. 76. | Supplement No. 6 to R.S. FPC No. 76. |
| City of Marshall, Mo | Supplement No. 11 to R.S. FPC No. 83. | Supplement No. 10 to R.S. FPC No. 83. |

[Docket No. ER79-166]

[FR Doc. 79-10344 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Mississippi River Transmission Corp.; Proposed Change in Rates

March 26, 1979.

Take notice that Mississippi River Transmission Corporation (Mississippi) has submitted for filing Substitute Seventy-Second Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1. Mississippi submits that this substitute revised tariff sheet reflects rate adjustments ordered by the Commission in its letter order dated February 28, 1979 in the subject docket. An effective date of March 1, 1979 is proposed.

Mississippi has informed the Commission that copies of its filing have been served on its jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

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 Section 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 April 9, 1979. 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.*

[Docket No. RD72-149]

[FR Doc. 79-10330 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Missouri Utilities Co.; Extension of Time

March 26, 1979.

On March 20, 1979, the Cities of Jackson, Malden, and Bennett, Missouri filed a motion for extension of time to file briefs on the initial decision issued in this proceeding on February 26, 1979. The motion states that the request is made due to the number of issues covered in the initial decision and because of other Commission proceedings in which counsel is involved. Commission Staff and Missouri Utilities Company agree with and join in the motion according to the Cities.

Upon consideration, notice is hereby given that an extension is granted to and including April 4, 1979 for the filing of briefs on exceptions. Briefs opposing exceptions shall be filed on or before April 24, 1979.

**Kenneth F. Plumb,**
*Secretary.*

[Docket Nos. ER77-354 and ER78-14]

[FR Doc. 79-10331 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Northern States Power Co.; Filing

March 23, 1979.

Take notice that Northern States Power Company (NSP) on March 20, 1979, tendered for filing Supplement No. 2, dated March 12, 1979, to the Interconnection and Interchange Agreement, dated September 16, 1977, with the City of Melrose.

NSP states that Supplement No. 2 amends Article IV of the Interconnection and Interchange Agreement deleting sections no longer needed because Melrose desires to purchase Load Pattern Power from Northern States to supply its requirements in excess of power and energy supplied by Western Area Power Administration.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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, 1.10). All such petitions should be filed on or before April 16, 1979. 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.*

[Docket No. ER79-265]

[FR Doc. 79-10332 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Public Service Co. of New Hampshire; Order Deferring Action

Issued March 27, 1979.

On March 7, 1979, Public Service Company of New Hampshire filed a motion requesting that any further action in the captioned proceeding be held in abeyance pending the Company's filing of a further motion within 60 days.

PSNH's motion is based on the recent decision by its Board of Directors in which the Board directed the Company's management to sell 22 percent of the Seabrook project to other participants and an additional 8 percent to its New Hampshire wholesale customers. The Board also ordered the sale of PSNH's interest in two other nuclear power projects, Pilgrim No. 2 (3.47 percent) and Millstone No. 3 (3.89 percent). PSNH asserts that these directives change the factual context of Phase I of the present proceeding. The Company further states that upon receiving responses to its offers of sale it will promptly (within 60 days) file a further motion either for the withdrawal of its request for the inclusion of Construction Work in Progress in rate base and the termination of Phase I or to establish procedures for bringing Phase I to a decision on the merits. The Company asked that the date for the filing of briefs opposing exceptions to the initial decision be postponed.

In a response dated March 8, 1979, staff agreed that such postponement would be appropriate. Staff also advised that it had been authorized to state that none of the parties filing briefs in the proceeding objects to the proposed postponement.

We conclude that the public interest will be served by granting the motion filed by PSNH on March 7, 1979.

*The Commission orders:*

(A) The motion filed by Public Service Company of New Hampshire on March 7, 1979, as herein discussed, is granted.

(B) Within 60 days from the date of issuance of this order Public Service Company of New Hampshire shall inform the Commission of the responses received to its offers of sale of the facilities referred to in the motion and its recommendation for disposition of Phase I of the proceeding. The Company shall serve copies of its filing on the parties to the proceeding. Any responses to the filing shall be submitted within 10 days from the date of service thereof.

(C) The filing by the parties of briefs opposing exceptions to the initial decision issued January 26, 1979, is postponed until further order of the Commission.

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

[Docket Nos. EL78-15 and ER78-339]

[FR Doc. 79-10333 Filed 4-3-79; 8:45 am]

**BILLING CODE 6450-01-M**

## Requests for Adjustment Under Section 502(c) of the Natural Gas Policy Act of 1978

March 27, 1979.

Take notice that the interstate pipelines listed herein have filed requests under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) for waiver of the tariff filing requirement embodied in § 281.104 of the Commission's rules implementing Title IV of the NGPA as set forth in the Commission's order of March 6, 1979, in Docket No. RM79-13. The requests for adjustment listed herein are on file with the Commission and open to public inspection.

The procedures applicable to the conduct of these Sections 502(c) adjustment proceedings are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to be heard with reference to said waiver request should on or before April 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene in accordance with the Commission's Rules of Practice and Procedure (18 CFR § 1.4.). No requests for extension of this time will be entertained. 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.*

| Name of applicant | Date of filing | Docket No. | Address |
|---|---|---|---|
| Kentucky West Virginia Gas Company | March 26, 1979 | TC79-52 | 420 Boulevard of the Allies, Pittsburgh, PA 15219. |
| Equitable Gas Company | March 26, 1979 | TC79-53 | 420 Boulevard of the Allies, Pittsburgh, PA 15219. |
| Associated Natural Gas Company | March 22, 1979 | TC79-54 | c/o Arkansas-Missouri Power Co., 405 West Park St., Blytheville, AR 72315. |

[FR Doc. 79-10319 Filed 4-3-79; 8:45 am]

**BILLING CODE 6450-01-M**

## Sales Gas Conditioning Facility Proposed at Prudhoe Bay, Alaska; Notice of Intent to Prepare Environmental Assessment

March 30, 1979.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of Intent to Prepare Environmental Impact Assessment.

**SUMMARY:** The Commission, pursuant to the Natural Gas Act and the Natural Environmental Policy Act, intends to prepare an environmental assessment of a sales gas conditioning facility to be constructed at Prudhoe Bay, Alaska, or, if reasonable, an alternative site, in connection with the Alaska Natural Gas Transportation System which the President recommended to Congress on September 22, 1977. The conditioning and processing facility would remove water, carbon dioxide, hydrogen sulfides, and some hydrocarbons from the natural gas before pipeline transmission to the lower 48 states. No formal application for these facilities has been filed before the Commission as of this date.

The Commission is acting as lead agency in preparing this environmental assessment. Other agencies participating include the U.S. Department of Transportation, the U.S. Environmental Protection Agency, the U.S. Department of the Interior, the U.S. Army Corps of Engineers, and the State of Alaska.

Interested persons, agencies, and organizations desiring to submit comments or suggestions for consideration in connection with the preparation of the environmental assessment are invited to do so. Upon completion of the assessment, its availability will be announced in the **Federal Register**, at which time public comments will again be solicited.

**FOR FURTHER INFORMATION, CONTACT:**

Robert K. Arvedlund, Room 3311, 825 North Capitol Street, N.E., Washington, D.C. 20426, telephone (202) 275-4573.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 79-10346 Filed 4-3-79; 8:45 am]

**BILLING CODE 6450-01-M**

## Southern Natural Gas Co.; Order Authorizing Continued Rate Base Treatment Subject To Conditions

Issued: March 28, 1979.

On December 14, 1978, Southern Natural Gas Company (Southern) filed a petition for continued rate base

treatment of certain advance payments made to Canadian-Occidental of California, Inc. (Can-Oxy). Southern requests, pursuant to §§ 4 and 16 of the Natural Gas Act and § 1.7 of the Commission's Rules and Regulations, authorization to retain certain advance payments in Account No. 166 for a period of five years from March 20, 1979.

In its petition Southern states that it entered into two advance payment agreements with Can-Oxy on March 20, 1974. Thesse agreements provided that Southern would advance certain sums of money to Can-Oxy in consideration for the commitment by Can-Oxy of its interest in natural gas reserves in South Pass Block 78, Offshore Louisiana. Southern subsequently advanced $7,000,000 to Can-Oxy for the development of these reserves. Southern states that Can-Oxy estimates that by March 20, 1979, it will have spent approximately $6,300,000 of the $7,000,000 advance payments received from Southern and that it will ultimately spend at least $9,000,000 on the development of its South Pass Block 78 gas reserves. Can-Oxy has informed Southern that it expects to have five wells available for production on March 1, 1979. It is expected that a pipeline will be constructed during the next offshore pipeline construction season (June 1 through November 1, 1979) to attach the gas reserves in this area.[1] However, because of unusual and unforeseen circumstances beyond the control of either Southern or Can-Oxy [2] deliveries of gas from South Pass Block 78 cannot commence within the requisite five-year period from the date the advance payments were made. Although unstable bottom conditions in the South Pass area of the Gulf of Mexico delayed the installation of a platform until new technology was developed, a platform is now in place and drilling is in progress.

Southern, Can-Oxy, and Oxy Petroleum, Inc. (Oxy Petroleum) an affiliate of Can-Oxy, have reached certain agreements which are contingent upon the granting of the relief requested by February 22, 1979. First, Can-Oxy will pay back immediately all portions of the advance payments which are unexpended on March 20, 1979, and will pay back the then remaining outstanding advance payments over a five-year period commencing on March 20, 1979, regardless of whether or not gas deliveries have commenced on such date. The repayment of the outstanding advances in 60 consecutive equal monthly installments substantially accelerates the repayment schedule in the advance payment agreements and thereby shortens the time said advances are included in Southern's rate base. Second, Oxy Petroleum will commit for sale to Southern, sujbect to the provisions of its Louisiana State Lease covering a portion of the reserves, its interest in the South Pass Block 57 and 58 gas reserves. Such additional dedication will very substantially increase Southern's gas commitment in the four-block area composed of South Pass Blocks 57, 58, 77 and 78.[3]

The subject advance payments were made pursuant to the provisions of the Commission's Order No. 499,[4] which contemplates that the Commission will grant extended rate base treatment of advance payments in the appropriate case. Ordering Paragraph (F) of said Order (and 18 C.F.R. Part 201, Account 166(f) provide:

"However, if five years elapses from the time the advance has been included in this account and during such time no gas deliveries have commenced or no determination has been made that the recovery will be in economic consideration other than gas, the pipeline shall at the end of the five-year period, transfer the advance from this account to Account 167, and cease rate base treatment thereof, *unless otherwise directed by the Commission.*" (Emphasis added.)

Although the advance payment program has been terminated,[5] this provision still governs the issue of rate base treatment of advance payments made pursuant to Order No. 499. In the order terminating the advance payment program, the Commission explicitly provided that rate base treatment for advances made pursuant to Order No. 499 should be continued subject to the provisions of that Order (mimeo at 18)

Although no gas deliveries will commence within the prescribed five year period (by March 20, 1979), Southern states that Can-Oxy will begin repayment of the advances on that date in 60 equal monthly payments, which complies with the repayment requirements of Order No. 499. In addition, the repayment will be on an accelerated basis compared with the repayment schedule set forth in the original contract. Can-Oxy will immediately repay, in a lump sum, any amount advanced but not expended by that date (approximately $700,000). In addition, Southern will be able to obtain further gas commitments from Oxy Petroleum. These additional commitments and the repayment schedule are clearly in the public interest.

The Commission finds that Southern's request is within the spirit of Order No. 499 and also benefits the public interest and should be granted.

*The Commission Orders:*

(A) Southern's Petition for Continued Rate Base Treatment of Advanced Payments is granted subject to the conditions set forth below in Ordering Paragraphs (B), (C), (D), and (E).

(B) Within 60 days of issuance of this order Can-Oxy shall repay to Southern any amount of the $7,000,000 advanced which has not been expended by March 20, 1979.

(C) Repayment of the advances expended by Can-Oxy shall be made to Southern in sixty equal payments. The first payment shall be made within 60 days of issuance of this order. The remaining payments shall be made on the first day of each succeeding month.

(D) Southern shall reflect the repayments in its rates according to the method set forth by the Commission in Order Nos. 410, 410–A, 441, 465, and 499.

[1] Southern states that it has had discussions with the other pipelines having commitments of gas in this area and anticipates that an application will be filed with the Commission in sufficient time to obtain authorizatioin to construct a pipeline to the area during the next offshore pipeline construction season (June 1 through November 1, 1979). Construction of the pipeline at that time will coincide with the completion of drilling on the platforms planned to be installed in this area.

[2] Southern states that bottom conditions prohibited the immediate installation of a platform in this area. Such conditions are the result of a thick layer of mud covering the Gulf bottom throughout the area near the mouth of the Mississippi River. During period of large surface waves, which cause rapid pressure changes on the Gulf bottom, this layer of mud rises and falls. Mud slides are an unavoidable consequence of these conditions. It wasn't until 1976 that the state of the art of platform design reached a point so that platform stability would not be adversely affected by storm-induced mud slides.

[3] The gas reserves under this four-block area are owned by or committed to, taking into consideration Oxy Petroleum's conditional commitment of its South Pass Blocks 57 and 58 gas reserves to Southern, the following companies: Columbia Gas Transmission Company (26%), Gulf Oil Corporation (21%), Tennessee Gas Pipeline Company (18%), United Gas Pipe Line Company (13%), Southern (9%), Transcontinental Gas Pipe Line Corporation (7%), and Natural Gas Pipeline Company of America (6%). If Oxy Petroleum's conditional commitment to Southern of its South Pass Blocks 57 and 58 gas reserves is not considered in Southern's interest in this area, that interest is reduced to approximately 2% of the total potential reserves under the four block area.

[4] *Accounting and Rate Treatment of Advances Included in Account No. 166, Advance for Gas Exploration, Development and Production,* Docket No. RM74–4, 50 F.P.C. 2111 (1973).

[5] *Accounting and Rate Trreatment of Advances Included in Account No. 166, Advances for Gas Exploration, Development and Production,* Docket Nos. R–411 and RM74–4, Order and Remand From Court Opinion Terminating Investigation and Terminating Advance Payment Program With Conditions, Issued December 31, 1976.

(E) The continued rate base treatment authorized by Ordering Paragraph (A) shall be null and void and of no effect unless, within 45 days of issuance of this order, Southern files proof that it has amended its advance payment agreements. The required amendment shall provide repayment in accordance with Ordering Paragraphs (B) and (C). Southern shall also file proof that Oxy Petroleum has committed for sale to Southern its interest in the South Pass Block 57 and 58 gas reserves.

By the Commission.

Kenneth F. Plumb.
*Secretary.*

[Docket No. RP79-18]

[FR Doc. 79-10334 Filed 4-3-79; 8:45 am]
BILLING CODE 6450-01-M

## Supply Shortages on the Transcontinental Gas Pipe Line Corp. System; Order Directing Examination to Resume Forthwith

March 28, 1979

On February 13, 1979, the Commission initiated this proceeding to examine the supply situation on the Transcontinental Gas Pipe Line (Transco) system.[1] The examination was to answer the following questions which the District of Columbia Circuit Court of Appeals [2] determined necessary in order to pass on the validity of the compensation plan pending before it resulting out of Transco's interim curtailment plan for the period of November 16, 1974, to November 15, 1975:

> Are sufficient volumes of gas available as proved or provable reserves so that greater total deliverability can be foreseen in the short-term future? Are present levels of curtailment likely to continue for the indefinite future, or to deepen? And more specifically: will compensation be a short-term financial adjustment between customers of the pipeline to keep some of those customers financially afloat until the supply situation stabilizes, or will it be a permanent cross-subsidization?

In providing for an immediate pre-hearing conference, the Commission directed the presiding judge "to expedite his consideration of the questions presented by the Court of Appeals and report back to the Commission at the earliest possible date."

Two days later the Commission filed a motion with the court to have the case remanded [3] to the FERC in order for it to determine, in the first instance, "whether a compensation feature was appropriate in the 1974–1975 curtailment plan, and how the escrowed compensation payments [4] are to be disposed of." The Commission represented that upon remand it would answer the foregoing questions posed by the court.[5]

The pre-hearing conference was held on February 27, 1979. In an interim report issued on the following day, the judge recessed the conference in order to await the decision of the Court of Appeals on the remand motion. He reasoned that "the fact that the Commission has been found to have the authority to allow compensation [6] means the legality of the curtailment plan is no longer at issue". Since the escrow agreement provides for distribution of the escrowed funds following the determination of the legality of the compensation, he concluded that should the court deny the motion it is likely that the funds would be distributed "without use of the evidence requested by the court. . . ." In this eventuality, according to the judge, it would not be necessary to conduct the examination. The administrative law judge indicated his willingness to proceed with the examination should the Commission disagree with his conclusion.

The proceeding should continue to move forward. That the Commission possesses the power to approve a compensation plan is no longer in dispute. Its appropriateness in a particular case, however, depends, among other things, on the supply status of the applicable pipeline. This inquiry was commenced precisely to make this determination with regard to Transco's 1974–1975 compensation plan. As such, the propriety of the plan at issue here is still unresolved and will remain so until the examination initiated in this docket has been completed.[7]

Should the court deny the motion, the present need for a substantive inquiry by the Commission into Transco's reserve status remains in order for the court to pass on the appropriateness of the compensation plan in accordance with the standards espoused in *Transco v. FPC, supra.* Therefore, we fail to perceive any connection between the court's prospective ruling on the motion to remand and the necessity to conduct this examination. Accordingly, we direct the judge to reconvene the pre-hearing conference established in the February 13th order and conduct this inquiry as expeditiously as possible.

*The Commission orders:*

The administrative law judge shall reconvene the pre-hearing conference at the earliest possible date and conduct an examination of the supply shortages on the Transco system in accordance with our order in this docket on February 13, 1979.

By the Commission.
Kenneth F. Plumb,
*Secretary.*

[Docket No. TC79-6]

[FR Doc. 79-10345 Filed 4-3-79; 8:45 am]
BILLING CODE 6450-01-M

## Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Petition To Amend

March 28, 1979.

Take notice that on March 13, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP78-248 a petition to amend the order of June 21, 1978, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of up to 3,000 Mcf of natural gas per day for United Gas Pipeline Company (United), in lieu of the 10,000 Mcf of natural gas per day originally authorized, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of June 21, 1978, Petitioner was authorized to transport up to 10,000 Mcf of natural gas per day for United, which volumes were to be delivered by United to Petitioner at a point of interconnection on Petitioner's pipeline at Mile Post 17C-801 plus 7.46 miles in the T. J. Evans Survey #900, Abstract A-787, in Colorado County, Texas, and with Petitioner redelivering equivalent volumes (adjusted for processing plant fuel and shrinkage, and for Petitioner's fuel and use requirements) to United at an existing point of interconnection of

[1] The historical and procedural background of this case was fully stated in this order and therefore does not need to be repeated herein.

[2] *See, Transcontinental Gas Pipe Line Corporation* v. *FPC*, 562, F. 2d 664, 669, (D.C. Cir. 1976).

[3] Although the court had remanded the record to the Commission for its determination of the Transco's reserve status, it retained jurisdiction over the case.

[4] The compensation payments were placed in an escrow account pending final determination of the lawfulness of the compensation feature. *Consolidated Edison Co.* v. *FPC*, 511 F. 2d 372, 381 (D.C. Cir. 1974).

[5] *See* Motion for Remand, p. 4.

[6] *See, e.g., North Carolina* v. *FERC*, 584 F. 2d 1003 (D.C. Cir. 1978); *Elizabethtown Gas Co.* v. *FERC*, 575 F. 2d 885 (D.C. Cir. 1978); *Mississippi Public Service Commission* v. *FPC*, 522 F. 2d 1345 (5th Cir. 1975), *cert. den.*, 429 U.S. 870 (1976).

[7] There is no reason to believe that the evidence which the court deemed relevant in 1976 in order to resolve the propriety of the compensation plan is, in its view, no longer relevant. In fact, a recent communication from the court indicates that it still awaits our report on Transco's supplies. *See* the January 30, 1979, letter from the clerk of the Court of Appeals to the Commission.

United's 18-inch line and Petitioner's Compressor Station No. 47, near West Monroe, Quachita Parish, Louisiana. Petitioner states that it is presently transporting and redelivering volumes of gas for United pursuant to said authorization and pursuant to the terms of a transportation contract dated March 17, 1978, between Petitioner and United. Such transportation contract is on file with the Commission in Petitioner's FERC Gas Tariff, Sixth Revised Volume No. 2 as Rate Schedule T–65.

Petitioner states that pursuant to Article II, Section 2.1 of the above mentioned transportation contract, United has exercised its right of election to reduce the transportation quantity under such contract from a maximum of 10,000 Mcf per day to a maximum of 3,000 Mcf per day. Such election was made with proper notice by United by letter dated December 6, 1978, with such change to become effective on March 17, 1978, or at such later date as may be authorized by the Commission. Consequently, Petitioner requests that the Commission amend its order in the instant proceeding to reflect said change.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
*Secretary.*

[Docket No. CP76–248]

[FR Doc. 79–10335 Filed 4–3–79; 8:45 am]

BILLING CODE 6450–01–M

## Texas Gas Transmission Corp.; Application

March 28, 1979.

Take notice that on March 13, 1979, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP79–220 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon approximately 3.459 miles of 10-inch pipeline, and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon and remove approximately 2.234 miles of 10-inch pipeline and to replace 1.225 miles of 10-inch pipeline with 1.225 miles of 4-inch pipeline with necessary valves and appurtenances.

Applicant states the location of the proposed abandonment and replacement of facilities is in Tipton County, Tennessee. Applicant further states that the salvage value of the facilities to be abandoned is $8,100.84. It is stated that the estimated cost of the proposed facilities is $108,500 which would be financed from funds on hand.

Applicant asserts that the 10-inch pipeline which it proposes to abandon is part of the pipeline system constructed by Memphis Natural Gas Company (a predecessor of Texas Gas) in West Tennessee. It is stated that this pipeline has deteriorated to a point where it cannot be operated and meet the requirements of the Natural Gas Pipeline Safety Act of 1968 and the regulations promulgated thereunder. Applicant further states that the 1.225 miles of 10-inch pipeline which it proposes to replace with a 4-inch pipeline, serves several customers and would be adequate to serve these customers' needs.

Any persons desiring to be heard or to make any protest with reference to said application should on or before April 19, 1979, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review on the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,
*Secretary.*

[Docket No. CP79–220]

[FR Doc. 79–10336 Filed 4–3–79; 8:45 am]

BILLING CODE 6450–01–M

## United Gas Pipe Line Co.; Tariff Filing and of Request for Adjustment Under Section 502(c) of the Natural Gas Policy Act of 1978

March 27, 1979.

Take notice that on March 16, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas, filed a request under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) for waiver of the tariff filing requirement embodied in § 281.104 of the Commission's rules implementing title IV of the NGPA, as set forth in the Commission's order of March 6, 1979, in Docket No. RM79–13.[1] On March 23, 1979, however, United also filed tariff sheets, as part of its FERC gas tariff, to provide an interim plan for the delivery of natural gas for essential agricultural and high priority uses in accordance with section 401 of the NGPA and part 281 of the regulations thereunder, all as more fully set forth in the tariff sheets. Both the tariff sheets and the request for an adjustment under section 502(c) are on file with the Commission and open to public inspection.

In its request for a waiver under section 502(c), United says that it cannot make a tariff filing and the Commission could not accept one without prior action by the United States Court of Appeals for the Fifth Circuit, because the curtailment plan currently in effect

[1] The procedures applicable to section 502(c) adjustment proceedings are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

on United's system was ordered into effect by that court on November 1, 1976. Moreover, says United, the court-ordered plan contains relief provisions that would ensure continued service to "gas-dependent high priority and essential agricultural users served on United's system."

On March 21, 1979, counsel for Commission Staff sent United a telegram saying that in Staff's opinion, United had not complied with the requirements of the Commission's interim curtailment rule in Docket No. RM79–13 and that United should file tariff sheets. In response, United filed tariff sheets, on March 23, 1979, as part of a "supplement" to its petition of March 16, 1979, but stated that the filing was under protest and renewed its request for a waiver of the interim rule.

The tariff sheets tendered provide for implementation of the "proration procedures" provided for in United's FERC gas tariff in accordance with (1) the modifications prescribed in the November 13, 1976, order of the United States Court of Appeals for the Fifth Circuit in *Southern Natural Gas Company* v. *FPC*, 543 F.2d 530 (1976) and (2) the further modifications prescribed in the March 6, 1979, rule of the FERC in Docket No. RM79–13.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79–13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act, or unless the Commission grants United's request for a waiver under section 502(c) of the NGPA.

Any person desiring to be heard with reference to United's request for waiver should, on or before March 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene in accordance with the Commission's Rule of Practice and Procedure (18 CFR § 1.41). Any person desiring to be heard or make any protest with reference to United's tariff filing should on or before March 29, 1979, file a petition to intervene or a protest in accordance with 18 CFR § 1.8 or § 1.10.

No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
*Secretary.*

[Docket No. TC79–30]

[FR Doc. 79–10337 Filed 4–3–79; 8:45 am]

BILLING CODE 6450–01–M

## Village of Penn Yan, New York; Declaratory Order Modifying Jurisdictional Contracts

Issued March 28, 1979.

Before the Commission is a petition seeking invalidation of certain contractual provisions contained in agreements providing for the wheeling of power by New York State Electric and Gas Corporation (NYSEG) from the Power Authority of the State of New York (PASNY) to a municipal customer, the Village of Penn Yan, New York (Penn Van or Village). The issue is whether contractual provisions which limit Penn Yan's use of power wheeled by NYSEG for retail service within its borders as of the date of the wheeling contract (February 10, 1961) are just and reasonable. On the basis of the undisputed facts presented in the pleadings, we find that these limitations on wheeling service are unjust and unreasonable because they are unreasonably anticompetive in effect. Accordingly, we find that the provisions are not part of the approved rate schedule in the 1962 Agreement and are therefore unenforceabe.

*Procedural History*

On May 25, 1978, Penn Yan filed a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure.[1] In its petition, Penn Yan requests the Commission to invalidate provisions of the contract between PASNY and NYSEG dated February 10, 1961, designated Niagara Contract NS–11 (NS–11 Contract).

Protests and Petitions to Intervene were filed by NYSEG and PASNY on July 21, 1978,[2] raising a variety of arguments against modification of the NS–11 contract which will be dealt with below. Penn Yan filed a reply to the NYSEG and PASNY petitions on August 8, 1978. In addition, Penn Yan filed a Motion To Compel Filing of the 1962 NYSEG-Penn Yan wheeling agreement (1962 Agreement) with this Commission. Both PASNY and Penn Yan filed objections to the Motion To Compel raising jurisdictional arguments that will be discussed herein.

*Discussion*

Before turning to the merits of the issues raised by the parties' pleadings, we will respond to the jurisdicational objections raised by PASNY and NYSEG.

The provision which places restrictions on power wheeled by NYSEG is found in two contracts. The first, a contract between PASNY and NYSEG, provides for, *inter alia*, the transmission by NYSEG of Niagara Project power to certain PASNY customers including Penn Yan. The offending Contract NS–11 provision is Article X, Paragraph 3, which reads as follows:

> The electric power and energy to be delivered by Contractor [NYSEG] to Authority for customers from the system or Contractor *will be limited to such electic power and energy as is necessary for the use, distribution and resale within the area limits served as of the date hereof* by the Village of Bath, Castile, Endicott, Greene, Groton, Marathon, Penn Yan, Silver Springs and Watkins Glen, Chautaugua-Cattaraugus Electric Cooperative, Inc., and Steuben Rural Electric Cooperative, Inc., and for such other loads and customers of Authority as may be mutually agreed upon from time to time. (Emphasis added.)

The second contract to be considered, the NYSEG-Penn Yan agreement, terminated a 1956 agreement under which Penn Yan purchased its electrical energy requirements from NYSEG and provided for NYSEG to wheel PASNY power to Penn Yan. It contains language which parallels the language in Article X:

> The Customer (NYSEG) and the Village may contract with the Authority for the supply of Customer's electrical energy requirements. *Customer will take from the Authority under such contract only such electric energy required by the Village within the territorial limits, as of February 10, 1961, of the Village and its franchise area outside the Village as approved by the Public Service Commission of the State of New York, (a) for its own use, and (b) for distribution and resale to its existing and future customers.* Electric energy purchased by the Customer from the Authority and delivered to the Customer by the Corporation pursuant to its agreement with the Authority shall be delivered at 34,500 volts at a point in the Village on the Corporation's 34,500 volt circuit at the Corporation's presently existing substation, known as the St. John's

[1] Notice of Penn Yan's peition was issued on June 13, 1978, with protests or petitions to intervene due on or before June 30, 1978.

[2] On June 26, 1978, NYSEG requested an extension to file it protest and petition to intervene and such extension was granted until July 21, 1978.

Substation. Relaying shall be co-ordinated as mutually agreed. (Emphasis added.)

Both NYSEG and PASNY challenge the Commission's jurisdiction over the 1962 Agreement. According to NYSEG, that agreement need not be filed with the Commission because: 1) both the 1956 and 1962 Agreements were executed prior to judicial determination that this Commission had jurisdiction over state-regulated sales of wholesale power in *F.P.C.* v. *Southern California Edison Co.*, 376 U.S. 205 (1964); and 2) only *notice* of termination need be filed under Section 35.15 of the Rules and Regulations, not the 1962 Agreement itself.

PASNY argues, essentially, that it is not *its* contract with NYSEG that is preventing Penn Yan from serving the additional customers. The problem lies, PASNY argues, with NYSEG's 1962 agreement with Penn Yan. According to PANSY, the 1962 Agreement is properly jurisdictional before the New York State Public Service Commission.[3]

Although Penn Yan states that the NS–11 contract is on file with the Commission and no party disputes that representation, we note that this contract *has not* been filed with the Commission. We find, that to the extent they provide for NYSEG's transmission of power to PASNY's municipal customers, both the NS–11 contract and the 1962 Agreement are subject to the jurisdiction of this Commission.

Under Section 201(b) of the Federal Power Act, a jurisdictional utility is one which sells or transmits electric energy at wholesale in interstate commerce. Therefore the 1962 Agreement and the provision of the NS–11 contract which provide for NYSEG transmission of PASNY power at wholesale to Penn Yan are contracts subject to our jurisdiction. While PASNY is exempt from our jurisdiction as a public authority under Section 201(f), NYSEG is a jurisdictional utility and must file these contracts under Section 205(c). Section 205(c) of the Act requires that all such contracts be filed with the Commission. Accordingly, we will direct NYSEG to file the NS–11 Contract and the 1962 Agreement with this Commission pursuant to Sections 201(b) and 205(c) of the Act and Section 35.1 of our Rules and Regulations.[4]

Having established this Commission's authority to review the reasonableness of the contracts in question, we turn to the specific contractual provisions at issue. On the basis of the undisputed facts presented in the pleadings, the relevant case law and public policy considerations we find that these limitations on wheeling service are unjust and unreasonable because they are aniticompetitive with no public interest justification.

It is well-established that this Commission must consider antitrust policy in exercising its broad regulatory authority. As stated by the Supreme Court," . . . [t]he history of Part II of the Federal Power Act indicates an overriding policy of maintaining competition to the maximum extent possible consistent with the public interest." *Otter Tail Power Co.* v. *United States*, 410 U.S. 366, 374–5 (1973). See also *Gulf States Utilities Co.* v. *F.P.C., 411 U.S. 747, 760–62 (1973).* Thus, the Courts have recognized that regulation and competition can act as complementary forces in promoting economic and efficient electric service.

Recent Commission orders further define our responsibility to consider antitrust policy when examining the rates, terms and conditions of agreements for wholesale service. In an order approving settlement in *Gulf States Utilities Company*,[5] this Commission reviewed a proposed tariff provision which restricted wholesale purchasers from reselling electric power and energy except at the retail level. In the order we established a *per se* rule against direct resale prohibitions, finding such provisions to be unduly restrictive and anticompetitive. *See also Empire District Electric Company.*[6] In reviewing the reasonableness of the contracts before us, then, we must consider the anticompetitive effect of the provisions at issue.

In its petition, Penn Yan argues that the disputed provisions violate the public policy of the State of New York, and the United States, including the policies expressed in the antitrust laws. The contract provisions at issue, the Village argues, are unlawful as horizontal territorial allocation schemes. Further, Penn Yan points out that the anticompetitive effect of the territorial restrictions in the contracts is similar to that of the effect of resale restrictions found unlawful in the Commission's order in *Gulf States, supra.* We agree with Penn Yan. The two contractual provisions at issue restrict the *use* to which Penn Yan can put electric power wheeled to it by NYSEG from PASNY's Niagara Project. Under the previously cited provisions of both the NS–11 and 1962 Agreement, Penn Yan's use of the wheeled power is limited to service of customers within its 1961 boundaries. However, there is no limitation in the *amount of power* NYSEG will wheel.[7] For example, when Penn Yan's retail load increases due to an increase in population *within* its 1961 borders, NYSEG will be obligated to wheel additional power under the two contracts at issue. It is only when Penn Yan attempts to utilize wheeled PASNY power to serve outside those boundaries that the restriction comes into play. The effect of those provisions, then, is to protect NYSEG from competition for retail customers and to restrict Penn Yan's ability to extend its municipal system, thereby impairing and diminishing competition to serve retail customers in the extended territories.[8]

In terms of anticompetitive effect, this territorial restriction on the use of PASNY power is as onerous as a restriction on the use of power which prohibits resale to any but retail customers.[9] As stated above, such direct

[3] In May 1978, Penn Yan filed a complaint with the New York Public Service Commission. "Complaint and Request For Declaratory Ruling by the Village of Penn Yan, New York Requesting Investigation and Invalidation of Contract Provision between Village of Penn Yan and New York State Electric and Gas Company, pursuant to Sections 66, 68, 71 and 72 of the Public Service Law of the State of New York." As of the date of the issuance of this order the the NYPSC has taken no action on the complaint.

[4] The Commission considered and interpreted a similar contract in *Niagara Mohawk Power Corporation*, ER76–523 (July 21, 1976). In that order we examined a Niagara Mohawk-PASNY Contract which provided, *inter alia*, for the transmission by Niagara Mohawk of power from PASNY's Fitzpatrick Nuclear Plant to PASNY priority customers. We held that Niagara-Mohawk's obligation to wheel to priority customers extended to both *present and future* priority customers. We note that PASNY did not challenge the Commission's assertion of jurisdiction over those portions of the contract providing for transmission by Niagara Mohawk. PASNY raises no such objections here with respect to the NS–11 contract.

[5] "Order Approving Settlement Subject to Condition," Docket No. ER76–816 (October 20, 1978).

[6] "Order Conditionally Accepting Proposed Rate Schedules for Filing and Granting Intervention", Docket No. ER78–511 (October 27, 1978) (directing utility to strike resale prohibition under *Gulf States per se* rule).

[7] The only limitation on the *amount* of power Penn Yan can receive under this agreement is imposed by its contractual allocation from *PASNY* which is provided for in the PASNY-Penn Yan Niagara Contract NS–28. In its petition, Penn Yan indicates that it has not yet reached its full capacity allocation.

[8] Although it does not affect a large group of customers under the facts of this case, competition among utilities at the edges of their service territories does serve an important purpose. This form of competition can provide an incentive for the present holder of a distribution franchise to operate its system efficiently so as to keep costs low and continue to serve in the fringe areas.

[9] NYSEG's exercise of control in this situation can be characterized as greater in degree than that excerised by bulk power suppliers who attempt to impose direct resale prohibitions. In the latter case, the bulk power suppliers attempt to limit the use of power *they supplied* to wholesale customers. Here, NYSEG extends the restriction further by attempting

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resale prohibitions have been found *per se* unlawful in *Gulf States, supra*. There the Commission stated:

This gives Gulf States the power to eliminate or inhibit its bulk power customers as potential competitors of Gulf States for further wholesaling of power and energy purchased under the respective rate schedules. . . . We do not find in the regulatory scheme under the Federal Power Act any public policy basis for allowing public utilities to employ tariff provisions to foreclose wholesale competition between a supplier like Gulf States and its bulk power purchasers.[10]

Similarly, here we find no public policy to uphold provisions in service agreements which work to eliminate or inhibit competition for retail customers between a wheeling agent like NYSEG and its wheeling customers.

In this connection, we recognize that electric utilities may serve legitimate purposes in scheduling the amount of power they will wheel to a wheeling customer. For example, their concerns might be to ensure sufficient time to modify transmission facilities to serve the changing needs of their customers. However, we need not reach the question of the appropriate device for serving those interests here. These contractual provisions can only be characterized as limitations on the *use* of power, were included for the benefit of NYSEG, and are irrelevant to any valid concern of NYSEG regarding the capability of its transmission system.

NYSEG's own admissions indicate that these provisions were included for the express purpose of eliminating Penn Yan as a potential competitor in area which Penn Yan has annexed to its municipal borders. In their Protest and Petition to Intervene NYSEG states:

NYSEG has declined to further modify its transmission obligation under NS–11 Paragraph 3 relative to transmission service for the Excell Estates area of Penn Yan because, . . . in the exercise of *sound business judgment*, NYSEG has determined that it would not be in the public or *its corporate interest* to offer its transmission services as now requested by Penn Yan when the result would be an unwarranted duplication of electric service in Excell Estates.[11] (Emphasis added.)

Later, in the same petition, NYSEG states:

The relief requested by Penn Yan, if granted, would only result in the Commission compelling NYSEG to "wheel" power involuntarily *for a direct competitor* in violation of NYSEG's rights and the public interest attendant upon the avoidance of an unwarranted duplication of electric service, thus abrogating contract provisions of Niagara Contract NS–11 between NYSEG and PASNY. (Emphasis added)[12]

Finally, we note that NYSEG's repeated assertions that the Commission's modification of these provisions would result in an "order compelling wheeling" are unfounded. By entering into the two contracts at issue, NYSEG, has already undertaken an obligation to wheel power to Penn Yan. By eliminating the restrictive provisions, we are eliminating the restrictions on the use of wheeled power rather than "compelling wheeling."

We find, therefore, that these restrictive provisions are anticompetitive and serve no countervailing public interest objectives. Accordingly, they will be unenforceable.[13]

*The Commission orders:*

(A) Penn Yan's Petition for a Declaratory Order to Invalidate Contract Provision Between the Power Authority of the State of New York and New York State Electric and Gas Corporation is hereby granted.

(B) Penn Yan's Motion to Compel Filing of the 1962 Agreement between NYSEG and Penn Yan is hereby granted.

(C) Within thirty days of the date of issuance of this order, the New York State Gas and Electric Company shall file its 1962 Agreement with Penn Yan and any other contracts in which NYSEG has agreed to provide similar transmission services to other customers. In all such contracts, the provisions which impose a limitation on the availability of wheeling service as discussed in the text of this order will not be considered part of the approved rate schedule and are therefore, unenforceable.

(D) Within thirty days of the date of issuance of this order, NYSEG shall file its Contract NS–11. That portion which places limitations on the availability of wheeling service to Penn Yan is rendered unenforceable.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

[Docket No. EL78–29]

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to limit the use of power supplied to Penn Yan from *another utility*.

[10] *Gulf States, supra* at pages 5–6.

[11] We note that the question of whether Penn Yan's retail service to the residents of Excell Estates would result in "unwarranted duplication of electric service to Excell Estates" need not be reached here. We have merely determined that a restrictive provision in NYSEG's wholesale transmission agreement is unreasonable and therefore unenforceable and leave the question of which entity should serve the retail customers in Excell Estates to the New York State Public Service Commission.

[12] In addition, Communications between Penn Yan and NYSEG reveal a similar intent on NYSEG's part to protect itself from competition. In response to Penn Yan's letter request for modification of the 1962 Agreement NYSEG responded:

Paragraph 3 of that Agreement was specifically designed to preserve the territorial integrity of the Company's franchise area as of February 10, 1961. Letters from NYSEG dated October 30, 1970 and March 14, 1978, Exhibit C to Penn Yan Petition for Declaratory Order.

[13] We note that the restrictive provision in the NS–11 contract between NYSEG and PASNY applies to NYSEG's wheeling arrangements with the following PASNY customers: Bath, Castile, Endicott, Greene, Groton, Marathon, Penn Yan, Silver Springs, Watkins Glen, Chautaugua-Cattaraugus Electric Cooperative, and Steuben Rural Electric Cooperative. Any individual wheeling contracts which NYSEG has entered into with these municipalities should be on file with this Commission under Section 201(b) and Section 205(c). To the extent that such contracts have not been filed, we will direct NYSEG to do so now.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### IMC Exploration Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

March 27, 1979.

On March 21, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

**State of Louisiana Department of Natural Resources—Office of Conservation**

FERC Control Number: JD79–938
API Well Number: 1711100452
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #34
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79–939
API Well Number: 1711100451
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #35
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.2 MMcf.

FERC Control Number: JD79–940
API Well Number: 1711100459
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #36
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 10.2 MMcf.

FERC Control Number: JD79–941

API Well Number: 1711100474
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #37
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79-942
API Well Number: 1711100450
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #38
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79-943
API Well Number: 1711100456
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #39
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 11.7 MMcf.

FERC Control Number: JD79-944
API Well Number: 1711101909
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Math Chem. Corp. #4
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.7 MMcf.

FERC Control Number: JD79-945
API Well Number: 17111011191
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Math Chem. Corp. #5
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-946
API Well Number: 1711101192
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Math Chem. Corp. #6
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.6 MMcf.

FERC Control Number: JD79-947
API Well Number: 1711101168
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Math Chem. Corp. #7
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 7.3 MMcf.

FERC Control Number: JD79-948
API Well Number: 1711101095
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #29
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79-949
API Well Number: 1711100454
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #32
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79-950
API Well Number: 1711100453
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Olin Gas Trans. Corp. #33
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.4 MMcf.

FERC Control Number: JD79-951
API Well Number: 1711100333
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Reppond #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 3.7 MMcf.

FERC Control Number: JD79-952
API Well Number: 1711100347
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Reppond #2
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 3.3 MMcf.

FERC Control Number: JD79-953
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: R. Rugg #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 3.3 MMcf.

FERC Control Number: JD79-954
API Well Number: 1711101102
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: J. T. Savage #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-955
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Simpson #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 8.8 MMcf.

FERC Control Number: JD79-956
API Well Number: 1711102165
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: A. W. Smith #5
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79-957
API Well Number: 1711102179
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: B. E. Smith #4
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79-958
API Well Number: 1703100428000
Section of NGPA: 108
Operator: Pennzoil Producing Company
Well Name: Jeter Sus: Flecthcer No. 1
Field: Logansport
County: DeSota
Purchaser: United Gas Pipe Line Company
Volume: 8 MMcf.

FERC Control Number: JD79-959
API Well Number: 17-027-20405
Section of NGPA: 103
Operator: American Petrofina Company of Texas
Well Name: Bs Ra Su E (W. H. Cobb #1)
Field: Lisbon
County: Claiborne Parish
Purchaser: Texas Gas Transmission Corp.
Volume:

FERC Control Number: JD79-960
API Well Number: 1702720468
Section of NGPA: 103
Operator: MRT Exploration Company
Well Name: Cv Ra Sum Gladney No. 1
Field: Leatherman Creek
County: Claiborne Parish
Purchaser: Mississippi River Trans. Corp
Volume: 1980 MMcf.

FERC Control Number: JD79-961
API Well Number: 1702720468
Section of NGPA: 103
Operator: MRT Exploration Company
Well Name: Hoss B Ra Suz Gladney No. 1-D
Field: Leatherman Creek
County: Claiborne Parish
Purchaser: Mississippi River Trans. Corp.
Volume: 360 MMcf.

FERC Control Number: JD79-962
API Well Number: 1706120174
Section of NGPA: 103
Operator: IMC Exploration Company
Well Name: C Ra Suc; J. W. Ellis #1 (159222)
Field: Ruston
County: Lincoln
Purchaser: Louisiana Gas Interstate Inc.
Volume: MMcf.

FERC Control Number: JD79-963
API Well Number: 1701920773
Section of NGPA: 103
Operator: Hawthorne Oil & Gas Corporation
Well Name: Fi Ra Sua; Tuten No. 6
Field: Iowa
County: Calcasieu
Purchaser: United Gas Pipe Line Company
Volume: 400 MMcf.

FERC Control Number: JD79-964
API Well Number: 1711102365
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: M. Rugg #5
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 1.5 MMcf.

FERC Control Number: JD79-965
API Well Number: 1711102170
Section of NGPA: 108

Operator: IMC Exploration Company
Well Name: Etta S. Rabun #9
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 1.8 MMcf.

FERC Control Number: JD79–966
API Well Number: 1711102181
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Etta S. Rabun #2
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.6 MMcf.

FERC Control Number: JD79–967
API Well Number: 1711102082
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Etta S. Rabun #13
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 16.5 MMcf.

FERC Control Number: JD79–968
API Well Number: 1711102537
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Etta S. Rabun #17
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79–969
API Well Number: 1711102169
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Etta S. Rabun #19
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79–970
API Well Number: 1711100553
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: L. F. Roberson #5
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Comapny
Volume: 2.9 MMcf.

FERC Control Number: JD79–971
API Well Number: 1711100554
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: W. A. Roberson #4
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.8 MMcf.

FERC Control Number: JD79–972
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: E. R. Rogers #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.4 MMcf.

FERC Control Number: JD79–973
API Well Number: 1711102369
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Fred Rogers #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 6.2 MMcf.

FERC Control Number: JD79–974
API Well Number: 1711102370
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: E. Rugg #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 4.4 MMcf.

FERC Control Number: JD79–975
API Well Number:
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: M. Rugg #3
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 5.1 MMcf.

FERC Control Number: JD79–1096
API Well Number: 1706700140
Section of NGPA: 108
Operator: ENERCO Exploration & Management Co.
Well Name: Kenyon-Spyker #6—#112335
Field: Monroe
County: Morehouse
Purchaser: Southern Natural Gas
Volume: 4.4 MMcf.

FERC Control Number: JD79–1097
API Well Number: 1706700177
Section of NGPA: 108
Operator: ENERCO Exploration & Management Co.
Well Name: Kenyon-Spyker #7—#114274
Field: Monroe
County: Morehouse
Purchaser: Southern Natural Gas
Volume: 5.5 MMcf.

FERC Control Number: JD79–1098
API Well Number: 1706720009
Section of NGPA: 108
Operator: ENERCO Exploration & Management Co.
Well Name: Kenyon-Spyker #8—#115910
Field: Monroe
County: Morehouse
Purchaser: Southern Natural Gas
Volume: 9.9 MMcf.

FERC Control Number: JD79–1099
API Well Number: 1706700176
Section of NGPA: 108
Operator: ENERCO Exploration & Management Co.
Well Name: Kenyon-Spyker #3–D—#118430
Field: Monroe
County: Morehouse
Purchaser: Southern Natural Gas
Volume: 4.7 MMcf.

FERC Control Number: JD79–1100
API Well Number: 1703120577
Section of NGPA: 108
Operator: Pintail Minerals Corporation
Well Name: Lafitte No. 1
Field: Cannisnia Lake
County: DeSoto
Purchaser: United Gas Pipeline Co.
Volume: 20.0 MMcf.

FERC Control Number: JD79–1101
API Well Number: 17013000820000
Section of NGPA: 108
Operator: Crystal Oil Company
Well Name: U HOSS SUK: Haynesville 1
Field: Arcadia
County: Bienville
Purchaser: Texas Gas Transmission Corporation
Volume: 1 MMcf.

FERC Control Number: JD79–1102
API Well Number: None
Section of NGPA: 108
Operator: Crystal Oil Company
Well Name: U. Hoss SU 6: Jones 1
Field: Arcadia
County: Bienville
Purchaser: Texas Gas Transmission Corp.
Volume: 11 MMcf.

FERC Control Number: JD79–1103
API Well Number: 1706120167
Section of NGPA: 103
Operator: Crystal Oil Company
Well Name: Reser 2
Field: Middlefork
County: Lincoln
Purchaser: United Gas Pipeline Company
Volume: 24 MMcf.

FERC Control Number: JD79–1104
API Well Number: 1706720740
Section of NGPA: 108
Operator: ENERCO Exploration & Management Co.
Well Name: Kenyon-Spyker #15—#149121
Field: Monroe
County: Morehouse
Purchaser: Southern Natural Gas
Volume: 4.7 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 19, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

**Kenneth F. Plumb,**
*Secretary.*

[FR Doc. 79-10246 Filed 4-3-79; 8:45 am]
BILLING CODE 6450-01-M

## Indiana & Michigan Electric Co.; Agreement

March 27, 1979.

Take notice that American Electric Power Service Corporation (AEP) on March 16, 1979, tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company,

Modification No. 12 dated March 1, 1979 to the Interconnection Agreement dated December 30, 1960 between Indiana & Michigan Electric Company and Indianapolis Power & Light Company (Indianapolis Company), designated Indiana's Rate Schedule FERC No. 21.

AEP indicates that this Modification No. 12 provides that, for the purpose of conserving energy resources during extended fuel shortages Indiana Company or Indianapolis Company may arrange to obtain Conservation Energy from the other. When supplied, the charge for Conservation Energy generated on the supplying party's will be 110% of the out-of-pocket replacement cost of generating the energy, plus 5.00 mills per kilowatt hour. The new Modification No. 12 also provides for a transmission service charge of 1.7 and 1.5 mills per kilowatt-hour for deliveries of Conservation Energy from systems interconnected with Indiana Company and Indianapolis Company.

Because of the current uncertainty of fuel supplies and the possibility that transactions will be required immediately under the proposed Modification No. 12, the parties have requested that the Commission waive its notice requirements and that the proposed Schedule become effective as soon as possible.

Copies of the filing were served upon Indianapolis Power & Light Company, Public Service Commission of Indiana and Michigan Public Service Commission, according to AEP.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 April 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. 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.*

[Docket No. ER79-254]

[FR Doc. 79-10247 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Natural Gas Pipeline Co. of America; Order Approving Consolidation of Tax Normalization Issue

March 26, 1979.

On February 23, 1979, Natural Gas Pipeline Company of America (Natural) filed a motion for severance of the tax normalization issue from Docket No. RP78-78, and consolidation of same with Docket No. RP77-98. Natural also recommended a procedural schedule for hearing this issue in Docket No. RP77-98. For the reasons stated herein, Natural's motion shall be granted and the recommended procedural schedule shall be adopted.

Natural states that the issue of tax normalization, which was the subject of testimony and hearings in Docket No. RP77-98, is tentatively reserved for decision in a settlement agreement expected to be filed shortly in Docket No. RP78-78. Natural believes that the tax issues in each docket involve common issues of law and fact, and suggests that they be consolidated and considered jointly in RP77-98. With respect to these issues, Natural indicates it has developed an alternate tax normalization method in RP78-78 as to which it desires to present evidence.

Natural states that the Commission Staff joins in the request, and that counsel for the remaining active parties in this proceeding have no objections to the motion.

From the facts before us, it appears that common issues of law and fact are involved, and that consolidation for the limited purpose of deciding the common issue of tax normalization is warranted. We will therefore grant Natural's motion and accept the recommended procedural schedule.

*The Commission orders:*

(A) Natural's motion to consolidate Docket No. RP78-78 with Docket No. RP77-98 for purposes of hearing and decision insofar as it relates to consideration and determination of the common issue of tax normalization is granted.

(B) The following procedural schedule is adopted for the purpose of submitting evidence on tax normalization in the consolidated proceeding:

Natural's direct evidence—April 23, 1979.
Staff and intervenor evidence—May 25, 1979.
Natural's rebuttal evidence—June 25, 1979.
Hearing—July 12, 1979.

By the Commission.

Kenneth F. Plumb,
*Secretary.*

[Docket Nos. RP77-98 and RP78-78]

[FR Doc. 79-10248 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## Northern Indiana Public Service Co.; Proposed Settlement Agreement

March 26, 1979.

Take notice that on March 5, 1979, the Presiding Administrative Law Judge, Samuel Kanell certified to the Commission a proposed settlement agreement in the above-captioned docket.

By order issued April 6, 1978, in this proceeding, the Commission assigned for hearing proposed revisions to its tariff filed by Northern Indiana Public Service Company. These revised tariff sheets pertain to construction of electric power transmission facilities to serve new municipal customers.

The Judge indicates that following prehearing conference the parties engaged in settlement discussion, resulting in a proposed settlement agreement; also, that pursuant to § 1.18 of the Commission's Rules of Practice and Procedure, the following documents are herewith certified to the Commission:

(1) Transcript of prehearing conference held on July 17, 1978 (Pages 1 to 14)

(2) Motion dated March 1, 1979, by Northern Indiana, requesting certification of the record and the proposed settlement agreement to the Commission and suspension of the procedural schedules.

(3) Proposed settlement agreement, dated February 26, 1979.

The Judge also indicates that in light of the proposed settlement of this proceeding, all prescribed procedural dates are hereby vacated.

Any person desiring to be heard or to protest said settlement proposal should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 10, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this proposal are on file with the Commission and are available for public inspection.

Kennth F. Plumb,
*Secretary.*

[Docket No. ER78-236]

[FR Doc. 79-10249 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

### Texas Gas Transmission Corp.; Application

March 27, 1979.

Take notice that on March 12, 1979, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owersboro, Kentucky 42301, filed in Docket No. CP79–215, an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon approximately 335 feet of 8-inch pipeline and 1,360 feet of 6-inch pipeline, and for a certificate of public convenience and nesessity authorizing the construction and operation of certain natural gas transmission facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that the pipeline facilities it proposes to abandon were constructed in 1931 and have deteriorated to the point that reconditioning or replacement is necessary in order to meet the requirements of the National Gas Pipeline Safety Act of 1968 and the regulations promulgated thereunder. Applicant specifically proposes to abandon approximately 335 feet of 8-inch pipeline, and 1,360 feet of 6-inch river crossing line, being one of three 6-inch river crossing lines. It is stated that the facilities are located in Warren County, Kentucky and that the salvage value of the pipelines is approximately $402.

Applicant also proposes to install a total of approximately 670 feet of 6-inch pipeline which would extend the two remaining 6-inch river lines a distance of 335 feet each. Applicant states the estimated cost of these facilities would be $21,800, which would be financed from funds on hand.

Applicant states that the two remaining 6-inch river lines which would be reconditioned and extended by 335 feet each to replace the 335-foot section of 8-inch pipeline to be abandoned, will be adequate to move the volumes of gas necessary to serve applicant's customers along the route of these facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,
*Secretary.*

[Docket No. CP79–215]

[FR Doc.79–10250 Filed 4–3–79; 8:45 am]

BILLING CODE 6450–01–M

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### Turlock Irrigation District; Application for Short Form License (Minor)

March 27, 1979.

Take notice that on October 23, 1978, Turlock Irrigation District filed, pursuant to the Federal Power Act (16 U.S.C. 791(a)–825(r)), a license application for a minor hydroelectric project. The proposed Drop No. 9 Power Plant (FERC Project No. 2878) would be located on the Turlock Irrigation District Main Canal, near Hickman, in Stanislaus County, California. Water is diverted into this canal from the Tuolumne River at LaGrange Dam, LaGrange California. The proposed project may be exempted from licensing under Section 30 of the Act. Correspondence with the applicant should be directed to Turlock Irrigation District, 333 East Canal Drive, Turlock, California 95380.

*Purpose of Project*—Project energy would be used to meet present and anticipated loads within the applicant's electric system. There would be no surplus energy for sale.

Applicant states that, with the exception of occasional fishing in the canal, there are no recreational activities taking place at or near the project site, and that operation of the proposed power plant would not interfere with any recreational fishing activity. The diversion canal and the main irrigation canal system were built in the 1890's.

*Estimated Cost*—The cost of the project is estimated by the applicant to be $1,500,000.

*Project Description*—The applicant's proposed project would include two fixed-blade propeller type Leffel turbines with generators, to replace an existing irrigation drop structure, providing an installed capacity of 1,100 kilowatts. The average plant head is estimated at 17 feet. The power plant would be remotely monitored and controlled from the aplicant's control center in Turlock, and would produce approximately 5 million kilowatt-hours of energy per year.

*Agency Comments*—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power Act, to submit appropriate terms and conditions to protect any fish and wildlife resources. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Protests and Petitions to Intervene*—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person

must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before May 25, 1979. The Commission's address is: 825 N. Capitol Street, N.W. Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
*Secretary.*

[Project No. 2878]

[FR Doc. 79-10251 Filed 4-3-79; 8:45 am]
BILLING CODE 6450-01-M

## Southwestern Public Service Co.; Proposed Tariff Change

March 30, 1979.

Take notice that Southwestern Public Service Company (Southwestern), on March 28, 1979, tendered for filing proposed changes in its FERC Electric Service Tariffs as follows:

Rate Schedule FPC No. 74, Supplement No. 2, applicable to full requirement customer, Cochran Power and Light Company at Morton, Texas and at Whiteface, Texas.

Rate Schedule FPC No. 75, Supplement No. 2, applicable to full requirement customer, Community Public Service Company, Fort Worth, Texas, for service at Spearman, Texas and at Perryton, Texas.

Rate Schedule FERC No. 80, Section 2 of Supplement No. 1, applicable to partial requirement customer, City of Canadian, Texas.

Rate Schedule FERC No. 81, Section 2 of Supplement No. 1, applicable to partial requirement customer, City of Brownfield, Texas.

Rate Schedule FERC No. 82, Supplement No. 1 to Supplement No. 1, applicable to partial requirement customer, New Mexico Electric Service Company, Hobbs, New Mexico, and to Lea County Electric Cooperative, Inc., Lovington, New Mexico, jointly served at NML.

The proposed changes would increase revenues from jurisdictional sales and service by $869,750 for the full requirement customers and by $1,203,119 for the partial requirement customers based on the 12 month period ending August 31, 1979, according to Southwestern.

The Company states that the reasons for the proposed increases in base rates are as follows: (1) in building coal fired generation plants to lower the overall cost of electricity, Southwestern has incurred increased capital costs, and (2) Southwestern has experienced increases in labor, material and other operating costs since the effective dates of the existing rate schedules.

According to Southwestern, copies of the filing were served on the affected customers, the Public Utility Commission of Texas and the Public Service Commission of New Mexico.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 April 25, 1979. 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.*

[Docket No. ER79-274]

[FR Doc. 79-10253 Filed 4-3-79; 8:45 am]
BILLING CODE 6450-01-M

## Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

March 27, 1979.

On March 21, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

**State of Louisiana Department of Natural Resources, Office of Conservation**

FERC Control Number: JD79-918
API Well Number: 1711121580
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 No. 50
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 22 MMcf.

FERC Control Number: JD79-919
API Well Number: 1711121581
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 51
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 44 MMcf.

FERC Control Number: JD79-920
API Well Number: 1711121525
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 104 NO. 1
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 36 MMcf.

FERC Control Number: JD79-921
API Well Number: 1711121521
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 104 NO. 2
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 30 MMcf.

FERC Control Number: JD79-922
API Well Number: 1711121578
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 46
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 29 MMcf.

FERC Control Number: JD79-923
API Well Number: 1711121579
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 47
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 26 MMcf.

FERC Control Number: JD79-924
API Well Number: 1711121589
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 48
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 22 MMcf.

FERC Control Number: JD79-925
API Well Number: 1711121590
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 49
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 32 MMcf.

FERC Control Number: JD79-926
API Well Number: 1711100387
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Frost LBR. IND #5
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 7.7 MMcf.

FERC Control Number: JD79-927
API Well Number: 1711100388
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Frost LBR. IND #4
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79-928
API Well Number: 1711100401
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Frost LBR. IND #3
Field: Monroe Gas Field

County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79-929
API Well Number: 1711100382
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Frost LBR. IND #1
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 1.1 MMcf.

FERC Control Number: JD79-930
API Well Number: 1711121281
Section of NGPA: 108
Operator: IMC Exploration Company
Well Name: Ford #11
Field: Monroe Gas Field
County: Union
Purchaser: Mid Louisiana Gas Company
Volume: 9.4 MMcf.

FERC Control Number: JD79-931
API Well Number: 1711121515
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 39
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 36 MMcf.

FERC Control Number: JD79-932
API Well Number: 1711121546
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 40
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 30 MMcf.

FERC Control Number: JD79-933
API Well Number: 1711121547
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 41
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 33 MMcf.

FERC Control Number: JD79-934
API Well Number: 1711121524
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 42
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 29 MMcf.

FERC Control Number: JD79-935
API Well Number: 1711121516
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 43
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 26 MMcf.

FERC Control Number: JD79-936
API Well Number: 1711121577
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 44
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 17 MMcf.

FERC Control Number: JD79-937
API Well Number: 1711121588
Section of NGPA: 103
Operator: Pennzoil Producing Company
Well Name: FEE 61 NO. 45
Field: Monroe
County: Union
Purchaser: United Gas Pipe Line Company
Volume: 24 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 19, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
*Secretary.*

[FR Doc. 79-10147 Filed 4-3-79; 8:45 am]
BILLING CODE 6450-01-M

## Availability of Implementation Plan Revision for Nonattainment Area in Mississippi

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** EPA announces today that the Mississippi implementation plan revision due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 has been received and is available for public inspection. The public is invited to submit written comments. A notice of proposed rulemaking describing the revision will be published in the **Federal Register** later; the period for the submittal of written comments will extend for 30 days after the publication of the Notice of Proposed Rulemaking.

**ADDRESSES:** The Mississippi submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308.

In addition, the revision may be examined at the offices of the Mississippi Air and Water Pollution Control Commission, Robert E. Lee Building, Jackson, Mississippi.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

**FOR FURTHER INFORMATION CONTACT:** Melvin Russell of EPA's Region IV Air Programs Branch, 404/881-2864 (FTS-257-2864).

**SUPPLEMENTARY INFORMATION:** Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1978, the Administrator designated an area in Mississippi as nonattainment for particulate matter (43 FR 8962). The State has responded by preparing an implementation plan revision as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that this has been formally submitted and is available for public inspection. Also, the public is encouraged to submit written comments on it. A description of the revision will be published in the **Federal Register** at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: March 27, 1979.

John C. White,
*Regional Administrator, Region IV.*

[FR Doc. 79-10378 Filed 4-3-79; 8:45 am]
BILLING CODE 6560-01-M

## Amendment to Experimental Use Permit Issued to Rohm and Haas Co.

On Monday, April 24, 1978 (43 FR 17399), information appeared pertaining to the issuance of an experimental use permit, No. 707-EUP-88, to Rohm and Haas Company. At the request of the company, that permit has been amended. The experimental use permit now allows the use of 129 pounds of the herbicide 3', 4'-dichloropropionanilide on spring wheat, barley, and oats to evaluate control of foxtail species and broadleaf weeds on 100 acres in Minnesota, Montana, North Dakota, and South Dakota, and in Illinois, Iowa, and Oregon for redistribution only. The experimental use permit period was also extended and is now effective from May 1, 1979 to June 2, 1980. This permit is being issued with the limitation that all treated crops will be destroyed or used

for research purposes only. (PM–25, Room: E–359, Telephone: 202/755–2196).

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: March 28, 1979.

**Herbert S. Harrison,**

*Acting Director, Registration Division.*

[OPP–50367A; FRL 1091–6]

[FR Doc. 79–10371 Filed 4–3–79; 8:45 am]

**BILLING CODE 6560–01–M**

## Issuance of Experimental Use Permits to American Cyanamid Co. and Dow Chemical Co.

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 241–EUP–80. American Cyanamid Co., Princeton, New Jersey 08540. This experimental use permit allows the use of 400 pounds of the herbicide pendimethalin on peanuts to evaluate control of annual grasses and certain broadleaf weeds. A total of 442 acres is involved; the program is authorized only in the States of Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas and Virginia. The experimental use permit is effective from March 20, 1979 to March 20, 1980. A temporary tolerance for the residues of the active ingredient and its metabolite in or on peanuts, and peanut forage and hay has been established. (PM–25, Room: E–359, Telephone: 202/755–2196)

No. 464–EUP–54. Dow Chemical Co., Midland, Michigan 48640. This experimental use permit allows the use of 5,220 pounds of the insecticide chlorpyrifos on field corn to evaluate control of the corn rootworm. A total of 1,740 acres is involved; the program is authorized only in the States of Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Ohio, and Tennessee. The experimental use permit is effective from March 26, 1979 to March 26, 1980. A permanent tolerance for residues of the active ingredient in or on field corn has been established (40 CFR 180.342). (PM–12, Room: E–229, Telephone: 202/426–9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 28, 1979.

**Herbert S. Harrison,**

*Acting Director, Registration Division.*

[OPP–50414; FRL 1091–3]

[FR Doc. 79–10374 Filed 4–3–79; 8:45 am]

**BILLING CODE 6560–01–M**

## Issuance of Experimental Use Permits to ICI Americas, Inc., et al.

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 10182-EUP-6. ICI Americas, Inc., Wilmington, Delaware 19897. This experimental use permit allows the use of 4,952 pounds of the insecticide permethrin on alfalfa, almonds, apples, broccoli, cabbage, cauiflower, field corn, lettuce, peanuts, pears, potatoes, soybeans, sunflowers, sweet corn, tomatoes, and chrysanthemums to evaluate control of lepidopterous insects. A total of 3,875 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from April 1, 1979 to April 1, 1980. This permit is being issued with the limitations that no part of the treated crops will be used for food, feed, or oil purposes; and his livestock will not be grazed in treated areas. (PM–17, Room: E–229, Telephone: 202/426–9425)

No. 21137–EUP–3. EM Laboratories, Inc., Elmsford, New York 10523. This experimental use permit allows the use of 11.3 pounds of the plant growth regulator methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxyfluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate on cucumbers to evaluate its ability to induce seedless fruit set in all-female cultivars of pickling cucumbers. A total of 130 acres is involved; the program is authorized only in the States of California, Colorado, Florida, Michigan, Minnesota, North Carolina, Ohio, Texas, and Wisconsin. The experimental use permit is effective from March 19, 1979 to March 19, 1980. A temporary tolerance for residues of the active ingredient in or on cucumbers has been established. (PM–25, Room: E–301, Telephone: 202/755–2196)

No. 707–EUP–93. Rohm and Haas Co., Philadelphia, Pennsylvania 19105. This experimental use permit allows the use of fifty pounds of the herbicide nitrofluorfen on sunflowers to evaluate control of certain annual grasses and broadleaf weeds. A total of fifty acres is involved; the program is authorized only in the States of Minnesota, North Dakota, and Texas. The experimental use permit is effective from April 1, 1979 to April 1, 1980. This permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (PM–25, Room: E–301, Telephone: 202/755–2196)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 28, 1979.

**Herbert S. Harrison,**

*Acting Director, Registration Division.*

[OPP–50413; FRL 1091–4]

[FR Doc. 79–10373 Filed 4–3–79; 8:45 am]

**BILLING CODE 6560–01–M**

## Issuance of Experimental Use Permits to Rohm and Haas Co. et al.

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 707–EUP–83. Rohm and Haas Co., Philadelphia, Pennsylvania 19105. This experimental use permit allows the use of 1,218 pounds of the herbicide oxyfluorfen on soybeans to evaluate control of weeds. Approximately 3,000 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from June 5, 1979 to June 5, 1980. A temporary tolerance for residues of the active ingredient in or on soybeans has been established. (PM–25, Room: E–301, Telephone: 202/755–2196)

No. 275–EUP–13. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of a mixture of ten pounds each of the plant growth regulators gibberellic acid and 6-benzyladenine on apples to evaluate improvement of typiness or shape of fruit. The experimental use permit is effective from March 19, 1979 to March 19, 1980. (PM–25, Room: E–301, Telephone: 202/755–2196)

No. 275–EUP–16. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of a mixture of four pounds each of the plant growth regulators gibberellic acid and 6-benzyladenine in a tank mixture on apples to evaluate improvement of typiness or shape of fruit. A total of approximately 224 acres is involved for both this permit and the one above; the programs are authorized only in the States of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. This permit is also effective from March 19, 1979 to March 19, 1980. Permanent tolerances for residues of the active ingredients in or on apples have been established (40 CFR 180.224 and 180.376). (PM–25, Room: E–301, Telephone: 202/755–2196)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 28, 1979.

**Herbert S. Harrison,**

*Acting Director, Registration Division.*

[OPP–50412; FRL 1091–5]

[FR Doc. 79–10372 Filed 4–3–79; 8:45 am]

BILLING CODE 6560–01–M

## Pesticide Programs; Receipt of Application To Register Pesticide Product Entailing a Changed Use Pattern

Fisons Inc., Agricultural Chemicals Div., 2 Preston Court, Bedford, MA 01730, has submitted to the Environmental Protection Agency (EPA) an application to amend the registration of the product FICAM W (EPA Reg. No. 40546–1) containing 76% of the active ingredient 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate. The application received from Fisons Inc. proposes that the use pattern of this pesticide be changed to include outdoor control of pests on ornamental plants, turf, and lawns. The application also proposes that the pesticide be classified for general use.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS–757), Office of Pesticide Programs, EPA, Rm. 401 East Tower, 401 M St., SW, Washington, DC 20460. The comments must be received within 30 days from the date of publication of this notice in the **Federal Register** and should bear a notation indicating the EPA Registration Number "40546–1". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 12, Registration Division (TS–767), Office of Pesticide Programs, at the above address or by telephone at 202/426–9425. The label furnished by Fisons 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 4:00 p.m., Monday through Friday.

Notice of approval or denial of this application to register FICAM W will be announced in the **Federal Register**. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136), 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: March 28, 1979.

**Herbert S. Harrison,**

*Acting Director, Registration Division.*

[OPP–31026; FRL 1091–2]

[FR Doc. 79–10375 Filed 4–3–79; 8:45 am]

BILLING CODE 6560–01–M

## Protests of Grantee Procurement Actions Under Grants for Construction of Publicly Owned Treatment Works; Subject Index List of Regional Administrator Protest Determinations Issued During 1978

This notice supplements the subject index of 1974–1977 Regional Administrator protest determinations issued under 40 CFR § 35.939 which was published at 43 FR 29086–95 (July 5, 1978). The following subject index lists only the bid protest determinations issued during calendar year 1978. A comprehensive subject index for all determinations issued through mid-1979

will be published in the **Federal Register** later this year.

Several of the standards and procedures concerning grantee procurement were changed in the recodification of EPA regulations governing the construction grants program for municipal wastewater treatment works. 43 FR 44022–99 (September 27, 1978). The amended bid protest process appears at 43 FR 4083–85. The subject headings refer to many of these regulatory changes, as well as other EPA policies which may affect grantee procurement. Reference is made to important litigation where appropriate. New subject classifications have also been added.

The determinations are cited informally, for administrative convenience. The preferred citation form is, *Grantee, State* (EPA Region , full date of determination) (Protest of ). Asterisked determinations contain an expansive discussion or important resolution of the subject indexed.

Copies of the issued protest determinations may be examined or obtained from the EPA Regional Counsels or from the headquarters source identified below. We understand that the full texts of the determinations will be published and offered for sale by a private company later in the year.

Interested parties are invited to submit comments concerning improvements, or correction, of the subject index list to Joseph M. Zorc, Assistant General Counsel, Grants (A–134), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C. 20460. Comments should be made on or before June 4, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Christopher L. Rissetto, Attorney, Grants, Contracts and General Administration Division (A–134), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C. 20460, 202–755–8108.

Dated: March 21 1979.

**Joan Z. Bernstein,**
*General Counsel.*

*Ambiguity (but see Bids: Mistake).*

1. Amherst, New York (II, 5–15–78) (Cimato Bros. Inc.)

2. Barrington, Illinois (V, 10–20–78) (Utility & Industrial Construction Co.) (method of bidding; basis for contract award)

**Architect/Engineering Procurement (§ 35.937).**

*1. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (grantee reranking of technical committee evaluation of proposals)

*2. East Bay Dischargers Authority, California (IX, 2–15–78) (R.D. Smith) (subagreements; minority business enterprise)

3. Atwater, California (IX, 4–26–78) (Warren C.T. Wong & Assoc.) (price competition)

4. Penns Grove, New Jersey (II, 8–24–78) (Pandullo Quirk Assoc.) (evaluation of proposals)

*Award-Prime Contract (e.g.,* pending resolution of subcontract issue, *see* 40 C.F.R. § 35.938–4(h)(5), as amended by 43 FR 44080, September 27, 1978 *(see also Deferral of Procurement).*

*1. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance)

2. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Co.) (award on 2 of 10 contracts advertised)

*Bid Shopping* (The Administrator, on June 29, 1978, submitted a report to Congress entitled, *Waste Water Treatment Contracting and Bid Shopping* which concluded that among other things, EPA would not impose a procurement standard upon grantees with the effect of preventing bid shopping, *see* 40 C.F.R. § 35.938–4(h)(6), as amended by 43 FR 44080, September 27, 1978).

*1. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co. Inc.) (failure of low bidder to name preapproved supplier)

**Bonds (§§ 35.936–13(c) and 35.936–22).**

1. West Bend, Wisconsin (V, 3–3–78) (Oliver Construction Co. Inc.) (bid—goes to responsiveness).

*2. Effingham, Illinois (V, 3–21–78) (Autotrol) (performance; combined 200% bond requirement)

*3. San Francisco, California (IX, 3–22–78) (E & I, Inc.) (experience)

4. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (prequalification)

5. San Francisco, California (IX, 8–17–78) (E & I, Inc.) (performance)

*6. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp., and Wheatley Corp.) (warranty and performance bond—ambiguity; operation and maintenance costs)

**Note.**—The first determination in this matter was issued 12–10–77 and was affirmed in CCTW&M v. U.S. EPA, 452 F.Supp. 69 (D.N.J. 19780.

7. Silver City, New Mexico (VI, 10–13–78) (Enviro Development Co. Inc.) (experience).

8. Concord, North Carolina (IV, 10–24–78) (EDC/Enviro Development Inc.) (5 year-justification)

*9. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear) (5 year period; cost)

10. Rivanna Water and Sewer Authority, Charlottesville, Virginia (III, 11–2–78) (National Hydro Systems)

*Burden of Proof* (e.g., § 35.939(g), as well as subtier issues).

1. Kitsap County, Washington (X, 2–3–78) ( Will Construction Co., Inc.) (where grantee may be awarding to other than low bidder)

2. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)

3. Effingham, Illinois (V, 3–6–78) (Mautz & Oren, Inc.) (failure of prime to list line item prices in bid)

4. Turlock, California (XI, 3–6–78) (Riga Inc.)

5. Southern Clinton County, Michigan (V, 8–11–78) (A. Z. Shmina) (for third low bidder where low prime fails to include all subcontractor names and prices at time of bid submission)

6. Toppenish, Washington (X, 10–20–78) (Ridge Construction Co.) (burden shifting from protestant to grantee)

7. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers) (non-restrictive specification protest)

**Choice of Law—General.**

*1. New York City, New York (II, 1–12–78) (Schiavone Construction Co.) (public interest standard; mistake—bidder intent rule) [*Note:* The determination was affirmed in *Schiavone Construction Co. v. Samowitz,* 451 F. Supp. 29 (S.D.N.Y. 1978); *aff'd without opinion,* 578 F.2d 1370 (2d Cir. 1978)].

2. Kitsap County, Washington (X, 2–3–78) (Will Construction Co., Inc.)

3. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (fundamental fairness; need for competition)

*4. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co., joint venture) (specification language as controlling—federalizing local law issues)

5. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.) (public interest standard; mistake—bidder intent rule)

6. Toppenish, Washington (X, 10–20–78) (Ridge Construction Co.) (conformance to both state and federal principles)

*Choice of Law—Fundamental Federal Procurement Principles (see also, Rational Basis Test).*

1. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.) (fair evaluation of subcontract offers)

*Choice of Law—State Law, Applicability of (e.g.,* §§ 35.936–2, 35.937–5 and 35.939(j)(3)).

1. Niagra County Sewer District (No. 1), New York (II, 10–18–78) (Environment One Corp.) (building code approvals)

*Competition (e.g.,* §§ 35.936–3, 35.936–13; *see* preamble to recent recodification of 40 C.F.R., Part 35, Subpart E, at 43 FR 44046, September 27, 1978) *(see also Non-Restrictive Specifications, Salient Requirements).*

(A) *DeFacto* (This category is primarily, although not exclusively, intended to connote those determinations in which a defined class or subclass is precluded, or sought to be precluded, from actually competing under a solicitation and is distinguished from circumstances where the sole issue concerns the restrictiveness of an individual "or equal" determination; the Regional Administrator will review the procurement to determine, *inter alia,* whether an acceptable level of competition, in fact, occurred):

*1. Chester, South Carolina (IV, 3–29–78) (Carolina Concrete Pipe Co.) (single pipe material selection—vitrified clay)

*2. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (ultimately nonconforming, prequalified equipment supplier)

3. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (pipe material selection limited to 3 types—vitrified clay, lined reinforced concrete or ductile iron)

*4. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries Inc.) (project design exclusion, § 35.939(j)(5)—on-site oxygenation generation system for sludge treatment)

*5. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries Inc.) (project design exclusion, § 35.939(j)(5)—on-site oxygenation generation system for sludge treatment; licensee-licensor relationship as permitting competition)

6. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.) (project design exclusion; § 35.939(j)(5)—closed tank nitrification system)

(B) *General—Free and Open.*

1. Effingham, Illinois (V, 3–21–78) (Autotrol) (rotating biological disc equipment—salient performance requirements)

2. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.) (approval of offered equipment items as controlled by specification)

3. Onondaga County, New York (II, 6–30–78) (Zimpro Inc.) (bidding competitor's system)

*4. Onondaga County, New York—Reconsideration (II, 7–19–78) (Zimpro Inc.) (EPA competitive process and overview)

*5. Prince William County, Virginia (III, 8–4–78) (Spencer Turbine Co.) (approval of offered equipment under rational basis analysis)

*6. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (functional equivalency—carbon steel to solid stainless steel pump shaft)

7. Frankfort, Kentucky (IV, 10–18–78) (Passavant)

8. Fairfield, New Jersey (II, 10–20–78) (Loc Pump) (salient performance requirements as standard; functional equivalency—rubber gasket to metal-to-metal connection of pump at discharge pipe)

*9. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear) (functional equivalency—parallel to right angle shaft for design of aerator speed reducer driver)

**Conflict of Interest.**

*1. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (personal—competitor supplier's counsel as counsel for grantee consultant)

*Defective Invitation for Bids (see also Ambiguity; Specifications).*

*11. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.)

2. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.) (impossibility of performance, unavailability of alternate disposal site)

3. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (alternates)

4. Chester, South Carolina (IV, 8–7–78) (Preston Carroll Construction Co.) (multiple low bidders)

*Deferral of Procurement Action* (§§35.938–4(h)(5) and 35.939(h)) (*see also, Award—Prime Contract*).

1. Barrington, Illinois (V, 10–20–78) (Utility & Industrial Construction Co.)

**Enforcement.**

*1. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (A/E procurement—EPA remand authority)

2. Wells, Maine (I, 3–17–78) (Purcell Pump) (barring grantee rejection of equipment)

*3. Cumberland County, New Jersey (II, 3–31–780 (Dorr-Oliver Inc.) (technical nonrestritive specification requirement in post-contract context)

4. Mt. Olive, North Carolina (IV, 5–18–78) (Lyco–Zf)

5. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.) (award to low base bid or readvertise)

*6. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (EPA directed rejection of all bids and negotiation on rebid)

7. Chester, South Carolina (IV, 8–7–78) (Preston Carroll Construction Co.) (EPA directed rejection of all bids; accelerated reprocurement by negotiation approved)

8. San Francisco California (IX, 8–17–78) (E & I, Inc.) (rational basis justification for performance bond)

9. Newcastle, Indiana—Reconsideration (V, 8–23–78) (request of Newcastle, Indiana) (retrofit items procured to conform to determination)

10. Oklahoma City, Oklahoma (VI, 8–25–78) (Automatic Enginering Inc.) (award to other subcontractors or reprocure at no extra cost to EPA)

11. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)

12. Concord, North Carolina (IV, 10–24–78) (EDC/Enviro Development Inc.)

*Engineering Judgment* (And *see, Non-Restrictive Specifications*)

1. Turlock, California (IX, 3–6–78) (Rega Inc.) ("or equal" judgment).

*2. Chester, South Caroina (IV, 3–29–78) (Carolina Concrete Pipe Co.) (single pipe material selection)

3. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (noncomplying preapproved supplier).

4. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf)

5. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.) (project design issue-oxygenation sludge treatment system)

6. Cleveland Regional Sewer District (Westerly Plant) Ohio (V, 6–14–78) (McLaughlin & Associates)

*7. Prince William County, Virginia (III, 8–4–78) (Spencer Turbine Company)("or equal" determination reveiwed on rational basis standard)

8. Winchester, New Hampshire (I, 9–1–78) (Enviro Development Co. Inc.)

9. Indianapolis, Indiana (V, 10–6–78)(Allis-Chalmers) ("or equal" decision)

*10. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (Rational basis standard)

11. Fairfield, New Jersey (II, 10–20–78) (Loc Pump)

12. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers) ("or equal" decision)

13. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear)

14. Urbana-Champaign, Illinois (V, 11–9–78) (Norton Co.) (rational basis standard)

15. Waterford, Connecticut (I, 11–17–78) (Purcell Pump)

*Equal Employment Opportunity* (40 C.F.R. Part 8) (*Notice:* the President, through Executive Order 12086 (October 5, 1978), transferred all primary contract compliance responsibilities and functions from previously designated contract compliance agencies (e.g. EPA) to the Department of Labor. EPA contract compliance activities are being integrated into the Department of Labor. Accordingly, Part 8 no longer reflects the obligations and responsibilities of EPA as a primary contract compliance agency for contract compliance functions under the construction grants program) (*see also, Responsiveness; Minority Business Enterprise*).

1. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corp.) (certification)

*2. West Goshen, Pennsylvania (III, 3–2–78) (Philips Bros. Electrical Contractors) (EO 11246—Philadelphia Imposed Plan)

*3. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co. Inc., joint venture) (minority business enterprise-local requirements)

*Evaluation of Bids (but see Responsibility; Responsiveness; Formal Advertising; Negotiation; Mistake; Rejection of All Bids; Award Prime Contracts).*

1. New York City, New York (II, 1–12–78) (Schiavone Construction Co.) (mistake; bidder intent test)

2. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corp.) (subtier selection by grantee; price)

3. Kitsap County, Washington (X, 2–3–78) (Will Construction Co., Inc.) (equipment listing—matter of responsibility)

4. Effingham, Illinois (V, 3–6–78) (Mautz & Oren, Inc.)

*5. Chicago (Metropolitan Sanitary District of Greater Chicago) Illinois (V, 3–12–78) (Howard Martin Construction) (waiver under local procedures)

6. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co., Inc.) (subcontractor listing)

7. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.) (base bidding)

8. Miami-Dade Water and Sewer Authority, Florida (IV, 5–18–78) (Enviro Development Co. and Poole & Kent Co.) (equipment listing)

9. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.) (fundamental federal procurement principles)

10. Onondaga County, New York (II, 6–30–78) (Zimpro, Inc.) (offering competitor's system; patent infringement allegation)

11. Miami-Dade Water and Sewer Authority, Florida (IV, 7–13–78) (Ed. L. Nezelek Inc.) (prime's listing of previously unaccepted equipment)

12. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.) (implementing the specification by its terms; award to low bidder)

13. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (base bidding, use of multiple schedule)

14. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co. Inc., joint venture) (minority business enterprise-local requirements)

15. Southern Clinton County, Michigan (V, 8–11–78) (A. Z. Shmina) (subcontractor listing)

16. Bay County, Michigan (V, 9–12–78) (Roese Contracting Co. Inc.) (Contract No. 1–D).

17. Grand Rapids, Michigan (V, 9–26–78) (Infilco Degremont) (life-cycle cost acceptable)

18. Guilderland, New York (II, 10–3–78) (Clevepak Corp.) (base bidding)

19. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (base bidding)

20. Barrington, Illinois (V, 10–20–78) (Utility & Industrial Construction Co.)

21. Lake County, Illinois (V, 11–17–78) (Envirex) (listing nonresponsive equipment in bid)

22. Greenville, Texas (VI, 12–7–78) (R. B. Carter)

*Experience Requirements* (§ 35.936–13(c)) (*See Bonds; Non-Restrictive Specifications*). [Note: Recodification of EPA regulations, at 43 FR 44046, proposed adding the following as a final sentence to § 35.936–13(c): "No experience restriction will be permitted which unjustifiably reduces competition or innovation." This has been the effective rule in EPA protest determinations.].

*1. Effingham, Illinois (V, 3–21–78) (Autotrol) (rotating biological discs—100% performance and 100% process guarantee bonds; specifications waived)

*2. San Francisco, California (IX, 3–22–78) (E & I, Inc.) (bar screen equipment—prior supply of equipment; no provision for bond; no prior justification)

3. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (clarifier and related equipment; performance data prequalification requirement)

4. Miami-Dade Water and Sewer Authority, Florida (IV, 5–18–78) (Enviro Development Co. and Poole & Kent Co.) (sludge dewatering system—bond in lieu of experience requirement; responsiveness)

5. San Francisco, California (IX, 8–17–78) (E & I, Inc.) (bar screen equipment—175% bond in lieu of experience)

6. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.)

7. Silver City, New Mexico (VI, 10–13–78) (Enviro Development Co. Inc.)

8. Fairfield, New Jersey (II, 10–20–78) (Loc Pump) (submersible pumps—list of installations required in lieu of operating data)

9. Concord, North Carolina (IV, 10–24–78) (EDC/Enviro Development Inc.) (sludge dewatering system—5 years; procedures for; written justification requirement)

10. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear) (oxygen generation and oxygenation system—5 years; overlap with warranties; justification)

11. Rivanna Water and Sewer Authority, Charlottesville, Virginia (III, 11–2–78) (National Hydro Systems) (3 year; warranty bonds; justification)

*Formal advertising* (§ 35.938–4) (*see* also *Choice of Law—Fundamental Federal Procurement Principles; but see Mistake; Evaluation of Bids).*

1. Springfield, Missouri (VII, 1–24–78) (Armco Steel Corp.) (local preference rules for supply of materials)

2. Effingham, Illinois (V, 3–6–78) (Mautz & Oren, Inc.) (waiver of bid irregularities)

3. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.) (supplier price and delivery data)

4. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.) (bid evaluation—base vs. alternate bid)

5. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (explanation of method of contract award; award to low bidder)

6. Greenville, Texas (VI, 12–7–78) (R. B. Carter)

7. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Inc.) (reject 8 of 10 contracts)

*Innovative and Alternative Technologies* (§§ 35.908, 35.917–1(d), 35.930–5, 35.935–20, and 35.936–13, and 43 *Fed. Reg.* 44026–29, September 27, 1978) (*see also, Jurisdiction).*

1. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.) (protest design considerations; cost-effectiveness)

2. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries Inc.)

*3. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.) (open tank nitrification system)

**Judicially Directed Review.**

1. Miami-Dade Water and Sewer Authority, Florida—Supplement (IV, 4–28–78) (Intercounty Construction Co. and Morganti-South, Inc.—Wolff & Munier, a joint venture)

2. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.)

*Jurisdiction* (§§ 35.939(a), (j)) (*but see A/E Procurement; Choice of Law* (all categories); *Subcontracts, Award of; System Design).*

1. Mountaintop, Pennsylvania (III, 1–5–78) (National Hydro Systems, Inc.) (antitrust issues; subcontract—business judgment rule)

2. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corp.) (subtier—grantee involvement)

*3. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (A/E procurement; local requirements)

4. East Bay Discharges Authority, California (IX, 2–15–78) (R. D. Smith) (A/E subagreements)

5. Turlock, California (IX, 3–6–78) (Riga Inc.) (subtier protest)

6. Antigo, Wisconsin (V, 3–24–78) (General Filter Co.) (award of subcontract conforming to specifications)

7. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.) (by or for the grantee)

8. Atwater, California (IX, 4–26–78) (Warren C. T. Wong & Assoc.) (A/E procurement)

9. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Corp.) (by or for grantee)

10. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.) (§ 35.939(j)(5) system design)

11. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 6–14–78) (McLaughlin & Associates) (§ 35.939(j)(5) system design)

*12. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries, Inc.) (§ 35.939(j)(5) system design)

13. Miami-Dade Water and Sewer Authority, Florida (IV, 7–13–78) (Ed. L. Nezelek Inc.) (determination "without merit")

14. Knoxville, Tennessee (IV, 9–25–78) (R. B. Carter) (substitution)

15. Guilderland, New York (II, 10–3–78) (Clevepak Corp.) (state law claim; exclusive sale arrangement; post-bid proposals)

16. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.) (§ 35.939(j)(5) system design)

17. Delaware County, Ohio (V, 11–21–78) (R. B. Carter) (§ 35.939(j)(6); equipment supplier—subcontractor issues)

*Minority Business Enterprise* (§ 35.936–7, *and see* the EPA minority business enterprise policy at 43 *Fed. Reg.* 60220–24, December 26, 1978) *(but see Equal Employment Opportunity).*

*1. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (A/E procurement)

2. East Bay Dischargers Authority, California (IX, 2–15–78) (R. D. Smith)

*3. Chicago (Metropolitan Sanitary District of Greater Chicago), Illinois (V, 3–12–78) (Howard Martin Construction) (local procedures and requirements)

4. Atwater, California (IX, 4–26–78) (Warren C. T. Wong & Assoc.) (A/E procurement)

5. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co., joint venture) (local requirements)

*Mistake (but see Ambiguity; Evaluation of Bids; Formal Advertising).*

*1. New York City, New York (II, 1–12–78) (Schiavone Construction Co. (bidder's intent test)

2. Kitsap County, Washington (X, 2–3–78) (Will Construction Company, Inc.) (patent error in addition of line items; correction)

3. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.) (standard of review; bidder intent test; use of extrinsic evidence)

4. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Co. & John W. Cowper Co. Inc.)

*Negotiated Procurement* (§§ 35.936–18 and 35.937–5) *(and see Enforcement).*

1. Chester, South Caroline (IV, 8–7–78) (Preston Carroll Construction Co.) (use of, on resolicitation)

*Non-Restrictive Specifications* (§ 35.936–13) *(see also Engineering Judgments; Salient Requirements) (but see Experience Requirements; Sole Source Specifications; Specifications).*

1. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)
2. Turlock, California (IX, 3–6–78) (Riga Inc.)
3. Wells, Maine (I, 3–17–78) (Purcell Pump)
4. Effingham, Illinois (V, 3–21–78) (Autotrol) (salient performance requirements)
*5. Chester, South Carolina (IV, 3–29–78) (Carolina Concrete Pipe Co.) (single material pipe selection)
*6. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (post-contract interpretation; ultimately nonconforming preapproved equipment)
7. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.) (prices of subitems)
8. New Smyrna Beach, Florida (IV, 4–18–78) (Carl E. Widell & Son)
9. Clayton County, Georgia (IV, 4–19–78) (National Hydro System Inc., et al.)
10. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (prequalification)
11. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (pipe selection limitation to three materials)
12. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.) (prime protest on rejection of its proposed subcontractor)
*13. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 6–14–78) (McLaughlin & Associates) (salient performance requirements)
14. Marshfield, Wisconsin (V, 6–16–78) (Empire Generator Corporation)
*15. Urbana–Champaign, Illinois (V, 6–30–78) (Paddock Refinite) (state exemption, as creating)
*16. Prince William County, Virginia (III, 8–4–78) (Spencer Turbine Co.) (equivalency determination; salient requirements)
17. Oklahoma City, Oklahoma (VI, 8–25–78) (Automatic Engineering Inc.) (as applied; specifications drafted around single manufacturer)
18. Winchester, New Hampshire (I, 9–1–78) (Enviro Development Co. Inc.)
19. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)
20. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirtech Corp. and Wheatley Corp.)
21. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.)
22. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (base bidding)
23. Frankfort, Kentucky (IV, 10–18–78) (Passavant) (performance-related reuirements as limitation)
24. Fairfield, New Jersey (II, 10–20–78) (Loc Pump) (or equal; specification generally drafted around single manufacturer)
25. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers)
*26. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear) (functional equivalency; experience)
27. Urbana–Champaign, Illinois (V, 11–9–78) (Norton Co.) (performance criteria)
28. Waterford, Connecticut (I, 11–17–78) (Purcell Pump) (as applied)

*Patents* (§§ 30.500 *et seq.*, 35.908, 35.936–3 and 35.936–13).

1. Onondaga County, New York (II, 6–30–78) (Zimpro, Inc.)

*Prequalification* (§§ 35.936–3 and 35.936–13) (*see* EPA Report to Congress, *Waste Water Treatment Contracting and Bid Shopping*, Section IV. D, which discusses certain minimum principles to insure competition, the criterion to any acceptable prequalification system).

1. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.)
2. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)
3. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co. Inc.)
*4. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (procedures; failure to compply with prequalification procedures; failure to be listed as equivalent)
5. Miami-Dade Water and Sewer Authority, Florida (IV, 5–18–78) (Enviro Development Co. and Poole & Kent Co.)
*6. Mt. Olive, North Carolina (IV, 5–18–78) (Lyco-Zf) (time for data presentation must be clear)
7. Rivanna Water and Sewer Authority, Charlottesville, Virginia (III, 11–2–78) (National Hydro Systems) (descriptive literature)

*Procedure* (§§ 35.939(a), (b), (f)) (*see also, Burden of Proof; Jurisdiction; Review—Regional Administrator Authority; Standing; Sua Sponte Summary Dispositions; Time Limitations).*

1. Glenwood Springs, Colorado (VIII, 1–13–78) (Colorado Environmental Equipment, Inc.) (failure to properly plead protest, §§ 35.939(c), (f) (7))
2. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corp.) (no proper protest to EPA without grantee determination)
*3. Gainesville, Georgia (IV, 1–17–78) (National Hydro Systems, Inc. and Tuttle/White Constructors) (bid bond extension; mootness)
4. West Bend, Wisconsin (V, 3–378) (Oliver Construction Co. Inc.) (due process)
5. Turlock, California (IX, 3–6–78) (Riga Inc.) (intervention of competitors)
6. Clayton County, Georgia (IV, 4–19–78) (National Hydro Systems, et al.) (participation of an interested party)
7. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (bid protest process not APA review)
8. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (consultant as proper party)
9. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 6–14–78) (McLaughlin & Associates) (grantee's apparent threat to protestant for protest action)
*10. Contra Costa County Sanitation District No. 15, California—Reconsideration (IX, 7–14–78) (Gladding-McBean Inc. and Pacific Clay Products Co.) (intervention of competitors in bid protest proceeding)
11. Goose Creek, South Carolina (IV, 7–24–78) (Kenney and Assoc.) (notice of grantee determination)
12. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.)
13. Knoxville, Tennessee (IV, 9–25–78) (R. B. Carter) (withdrawal)
14. Grand Rapids, Michigan (V, 9–26–78) (Infilco Degremont) (access to bids)
15. Guilderland, New York (II, 10–3–78) (Clevepak Corp.) (state law claim; exclusive sales arrangement)
16. Shreveport, Louisiana (VI, 10–25–78) (Dumesnil Construction Co. Inc.) (protest withdrawn)
17. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers) (deadlines for written arguments)
18. Fairfield, New Jersey (II, 11–8–78) (Autocon Industries) (failed to plead case as required under EPA regulations)
19. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Inc.) (no proper protest to EPA without grantee determination)

*Rational Basis Test* (*e.g.*, §§ 35.936–2(b), 35.939(e)(4) and (j)(3)).

*1. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (A/E procurement—evaluation of proposals)
2. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)
*3. Chester, South Carolina (IV, 3–29–78) (Carolina Concrete Pipe Co.) (selection of single pipe material)
4. Clayton County, Georgia (IV, 4–19–78) (National Hydro Systems Inc., *et al.*)
5. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (use for analysis of equipment item reviews)
6. Toppenish, Washington (X, 10–20–78) (Ridge Construction Co.) (either federal or state law).
7. Concord, North Carolina (IV, 10–24–78) (EDC/Enviro Development Inc.)

*Reconsideration of Administrative Determinations (but see Finality of Administrative Determinations;* where appropriate *see* subject listing in 43 *Fed. Reg.* 29086–95 (July 5, 1978), for pre-1978 determinations).

1. Corvallis, Oregon—Reconsideration (X, 1–19–78) (request of City of Corvallis) (determination of 12–6–77 affirmed)
2. Chester, South Carolina—Reconsideration (IV, 6–23–78) (request of Carolina Concrete Pipe Co.) (determination of 3–29–78 affirmed)
3. Contra Costa County Sanitation District No. 15, California—Reconsideration (IX, 7–14–78) (request of Gladding—McBean Inc. and Pacific Clay Products Co.) (determination of 10–25–78 affirmed in part, modified in part)
4. Onondaga County, New York—Reconsideration (II, 7–19–78) (request of Zimpro) (determination of 6–30–78 affirmed)
5. Newcastle, Indiana—Reconsideration (V, 8–23–78) (request of City of Newcastle) (determination of 5–18–78 and intervening correspondence clarified as to remedy)

Rejection of All Bids (§ 35.936–4(h)(2), *and see* PRM 78–8, published at 43 FR 14725–26, April 7, 1978) (*see also Enforcement).*

1. Rivanna Water and Sewer Authority, Charlottesville, Virginia (III, 5–25–78) (National Hydro Systems, Inc.) (no good bids at reasonable prices)

*2. Bay City, Michigan (V, 6–28–78) (Greenfield Construction Co.) (contract 10 D)

3. Chester, South Carolina (IV, 8–7–78) (Preston Carroll Construction Co.) (EPA directed)

*4. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Company and John W. Cowper)

5. Bay County, Michigan (V, 9–1–78) (Roese Contracting Co., Inc.) (contract Nos. 3 and 7)

6. Onondaga County, New York—Supplement (ii, 9–7–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.)

7. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Inc.)

Responsibility (§§ 35.936–15 and 30.340.2).

1. Miami-Dade Water and Sewer Authority, Florida (IV, 1–13–78) (Continental Consolidated Corp.) (licensing)

2. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston, Inc.) (A/E procurement; fraud and corrupt practices)

3. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co. Inc.) (subcontractor listing)

*4. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co., joint venture) (vs. responsiveness—compliance with local minority business enterprise requirements)

5. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.) (Contract No. 1) (addendum acknowledgment—minor informality)

6. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)

7. Niagara County, Sewer District (No. 1), New York (II, 10–18–78) (Environment One Corporation) (v. responsiveness; U. L. certification and building codes)

*Responsiveness (see also Equal Employment Opportunity; Waiver).*

1. Gainesville, Georgia (IV, 11–7–78) (National Hydro Systems, Inc. and Tuttle/White Constructors) (subcontractor listing)

2. Kitsap County, Washington (X, 2–3–78) (Will Construction Company, Inc.) (equipment listing—matter of responsibility)

3. Cynthiana, Kentucky (iv, 2–9–78) (James N. Gray Construction Co.) (listing nonapproved equipment manufacturer)

4. West Bend, Wisconsin (V, 3–3–78) (Oliver Construction Co. Inc.) (subcontractor listing; bid bond as material requirement)

5. Fairfax County, Virginia (III, 3–17–78) (John C. Cowper Co. Inc.) (subcontractor listing)

6. Bloomington, Indiana (V, 3–20–78) (Huber, Hunt & Nichols) (subcontractor listing)

7. Antigo, Wisconsin (V, 3–24–78) (General Filter Co.) (concerning equipment selected by prime bidder)

8. Amherst, New York (III, 5–15–78) (Cimato Bros. Inc.) (informality)

9. Miami-Dade Water and Sewer Authority, Florida (IV, 5–18–78) (Enviro Development Co. and Poole & Kent Co.) (listing unapproved equipment)

10. Onondaga County, New York (II, 6–30–78) (Zimpro, Inc.)

11. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries) (alternative system)

12. Miami-Dade Water and Sewer Authority, Florida (IV, 7–13–78) (Ed. L. Nezelek Inc.) (prime's listing of previously unaccepted equipment)

13. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.) (Contract No. 1) (addendum acknowledgement—minor informality)

14. Southern Clinton County, Michigan (V, 8–11–78) (A. Z. Shmina) (subcontractor listing)

15. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Company and John W. Cowper Co. Inc.)

16. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Company and John W. Cowper Co. Inc.)

17. Bay County, Michigan (V, 9–12–78) (Roese Contracting Co. Inc.) (Contract No. 1–D) (conditional/qualified bid)

18. Barrington, Illinois (V, 10–20–78) (Utility & Industrial Construction Co.)

19. Toppenish, Washington (X, 10–20–78) (Ridge Construction Co.) (failure to acknowledge addendum)

*20. West Goshen, Pennsylvania (III, 11–1–78) (Philips Bros. Electrical Contractors) (EO 11246—Philadelphia Imposed Plan)

*Review—Regional Administrator Authority (see also Procedure; but see Sua Sponte Review).*

1. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corp.)

2. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (policy direction)

*Salient Requirements* (§ 35.936–13(a) and 43 FR 44046, September 27, 1978) *(see also Non-Restrictive Specifications).*

1. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)

2. Wells, Maine (I, 3–17–78) (Purcell Pump)

3. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.)

*4. Prince William County, Virginia (III, 8–4–78) (Spencer Turbine Company) (minimum project needs based upon performance)

5. Winchester, New Hampshire (I, 9–1–78) (Enviro Development Co., Inc.)

*6. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance)

7. Frankfort, Kentucky (IV, 10–18–78) (Passavant)

8. Fairfield, New Jersey (II, 10–20–78) (Loc Pump)

9. Urbana-Champaign, Illinois (V, 11–9–78) (Norton Co.) (exclusion on performance basis)

10. Waterford, Connecticut (I, 11–17–78) (Purcell Pump)

**Small Business—Procurement of (§ 35.936–7).**

*1. Mountaintop, Pennsylvania (III, 1–5–78) (National Hydro Systems, Inc.)

2. Marshfield, Wisconsin (V, 6–16–78) (Empire Generator Corporation)

3. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)

*Sole Source Procurement* (§ 35.936–13(b)).

1. Monroe County, Michigan (V, 4–7–78) (Paddock Refinite) (justification based on interchangeability)

2. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.) (procedure)

3. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp., and Wheatley Corp.)

*Specifications (see also Engineering Judgments; but see Non-Restrictive Specifications).*

1. Miami-Dade Water and Sewer Authority, Florida (IV, 4–28–78) (Intercounty Construction Co. and Morganti-South, Inc.—Wolff & Munier, a joint venture) (defective)

*Standing* (§§ 35.939(a) and (j), 35.938–9 and 35.935–2)

1. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corporation) (protest must be decided by grantee before filing with EPA)

2. Springfield, Missouri (VII, 1–24–78) (Armco Steel Corp.) (equipment supplier)

3. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corporation) (limited at subtier levels)

4. Turlock, California (IX, 3–6–78) (Riga, Inc.) (subtier; intervenors)

5. Wells, Maine (I, 3–17–78) (Purcell Pump) (subtier)

6. Effingham, Illinois (V, 3–21–78) (Autotrol)

7. Antigo, Wisconsin (V, 3–24–78) (General Filter Co.) (supplier challenging responsiveness of prime bid)

8. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.) (equipment supplier)

*9. Contra Costa County Sanitation District No. 15, California—Reconsideration (IX, 7–14–78) (Gladding—McBean Inc. and Pacific Clay Products Co. (intervenors)

10. Lebanon, Pennsylvania (III, 8–28–78) (B. F. Goodrich General Products) (subtier protest)

11. Knoxville, Tennessee (IV, 9–25–78) (R. B. Carter) (subcontractor challenge to prime bid)

12. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance)

13. Frankfort, Kentucky (IV, 10–18–78) (Passavant) (subcontractor protest limitation of § 35.939(j)(6))

14. West Goshen, Pennsylvania (III, 11–1–78) (Electric Machine Mfg. Co.) (subtier)

15. Lake County, Illinois (V, 11–17–78) (Envirex)

16. Delaware County, Ohio (V, 11–21–78) (R. B. Carter)

*Sua Sponte Review* (§§ 35.935–2 and 35.939(f)(6)) *(but see Review—Regional Administrator Authority).*

1. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corporation)

2. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.)

3. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.)

4. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries)

5. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)

6. Grand Rapids, Michigan (V, 9–26–78) (Infilco Degremont)

7. Guilderland, New York (II, 10–3–78) (Clevepak Corp.)
8. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp. and Wheatley Corp.)

*Subcontracts, Award of* (§§ 35.937–12, 35.938–9 and 35.939(j)(6)).

1. Mountaintop, Pennsylvania (III, 1–5–78) (National Hydro Systems Inc.) (substitution)
2. Gainesville, Georgia (IV, 1–17–78) (National Hydro Systems Inc. and Tuttle/White Constructors)
3. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corp.) (Fairness; selection by grantee)
4. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.) (prequalification)
5. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co., Inc.)
6. East Bay Dischargers Authority, California (IX, 2–15–78) (R. D. Smith) (A/E subagreements; minority business enterprise)
7. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co. Inc.)
8. Antigo, Wisconsin (V, 3–24–78) (General Filter Co.) (obligation of prime to furnish conforming equipment)
*9. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (restrictive effect of mistaken specification listing as equivalent)
10. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (pipe; alternate materials)
11. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.)
*12. Prince William County, Virginia (III, 8–4–78) (Spencer Turbine Co.) (prequalification; rational basis as standard)
*13. Newcastle, Indiana—Reconsideration (V, 8–23–78) (Newcastle Indiana) (EPA overview)
14. Oklahoma City, Oklahoma (VI, 8–25–78) (Automatic Engineering Inc.)
15. Frankfort, Kentucky (IV, 10–18–78) (Passavant)
16. Urbana-Champaign, Illinois (V, 11–9–78) (Norton Co.)
17. Lake County, Illinois (V, 11–17–78) (Envirex)
18. Delaware County, Ohio (V, 11–21–78) (R. B. Carter)

**Summary Disposition (§ 35.939(k)).**

1. Mountaintop, Pennsylvania (III, 1–5–78) (National Hydro Systems, Inc.)
2. Glenwood Springs, Colorado (VIII, 1–13–78) (Colorado Environmental Equipment, Inc.) (procedures; timeliness)
3. Sandusky, Ohio (V, 11–3–78) (Bay-Con, Corporation) (timeliness)
4. Glen Ellyn, Illinois (V, 4–7–78) (Lyco-Zf) (timeliness)
5. Atwater, California (IX, 4–26–78) (Warren C. T. Wong & Assoc.) (A/E procurement)
6. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.)
*7. Bay City, Michigan (V, 6–28–78) (Greenfield Construction Co.) (contract 10 D) (timeliness)
8. Miami-Dade Water and Sewer Authority, Florida (IV, 7–13–78) (Ed. L. Nezelek Inc.) ("without merit")
9. Goose Creek, South Carolina (IV, 7–24–78) (Kenney and Associates) (timeliness)
10. Pepperell, Massachusetts (I, 7–28–78) (Wescor Associates, Inc.) (timeliness)
11. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.)
12. Penns Grove, New Jersey (II, 8–24–78) (Pandullo Quirk Associates) (timeliness)
13. Bay County, Michigan (V, 9–1–78) (Roese Contracting Co. Inc.) (Contract Nos. 3 and 7) (timeliness)
14. Knoxville, Tennessee (IV, 9–25–78) (R. B. Carter)
15. Niagra County Sewer District (No. 1), New York (II, 10–18–78) (Environment One Corporation) ("without merit")
16. Frankfort, Kentucky (IV, 10–20–78) (Stewart Mechanical Enter./Sigmamotor Inc.)
17. Shreveport, Louisiana (VI, 10–25–78) (Dumesnil Construction Co. Inc.) (procedure; protest withdrawn)
18. Fairfield, New Jersey (II, 11–8–78) (Autocon Industries) (procedural omissions, § 35.939(f)(7))
19. Delaware County, Ohio (V, 11–21–78) (R. B. Carter) (subcontractor selection issues)
20. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Inc.) (procedures)

*System Design, Choice of* (e.g., §§ 35.917 and 35.939(j)(5)) (*see also Engineering Judgments; Jurisdiction; Non-Restrictive Specifications).*

1. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.)
2. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 6–14–78) (McLaughlin & Associates) (v. restrictive specification)
*3. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries, Inc.)

**Time Limitations (§§ 35.939(b), (f)).**

1. Glenwood Springs, Colorado (VIII, 1–13–78) (Colorado Environmental Equipment Inc.)
2. Sandusky, Ohio (V, 1–13–78) (Bay–Con Corporation)
3. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corp.)
4. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.) (Post Office delay; risk of nondelivery)
5. Chicago (Metropolitan Sanitary District of Greater Chicago), Illinois (V, 3–12–78) (Howard Martin Construction)
6. Wells, Maine (I, 3–17–78) (Purcell Pump)
7. Effingham, Illinois (V, 3–21–78) (Autotrol)
8. San Francisco, California (IX, 3–22–78) (E & I, Inc.)
9. Glen Ellyn, Illinois (V, 4–7–78) (Lyco-Zf) (post-contract award)
*10. Mt. Olive, North Carolina (IV, 5–18–78) Lyco-Zf) (pre-qualification)
11. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.)
12. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.)
13. Bay City, Michigan (V, 6–28–78) (Greenfield Construction Co.) (Contract No. 10 D)
14. Urbana-Champaign, Illinois (V, 6–30–78) (Paddock Refinite)
15. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.)
16. Goose Creek, South Carolina (IV, 7–24–78) (Kenney and Associates)
17. Pepperell, Massachusetts (I, 7–28–78) (Wescor Associates, Inc.)
18. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.)
19. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.) (Contract No. 1)
20. Penns Grove, New Jersey (II, 8–24–78) (Pandullo Quirk Association)
21. Oklahoma City, Oklahoma (VI, 8–25–78) (Automatic Engineering Inc. (subcontract award)
22. Lebanon, Pennsylvania (III, 8–28–78) (B. F. Goodrich General Products) (change order as notice event)
23. Bay County, Michigan (V, 9–1–78) (Roese Contracting Co. Inc.) (Contract Nos. 3 and 7)
24. Hinsdale, New Hampshire (I, 9–1–78) (Enviro Development Co. Inc.)
*25. Bay County, Michigan (V, 9–12–78) (Roese Contracting Co. Inc.) (Contract No. 1–D)
26. Grand Rapids, Michigan (V, 9–26–78) (Infilco Degremont) (method of delivery; bearing risk; telegram)
27. Guilderland, New York (II, 10–3–78) Clevepak Corp.)
*28. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp., and Wheatley Corp.) (estoppel)
29. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.)
30. Silver City, New Mexico (VI, 10–13–78) (Enviro Development Co. Inc.)
31. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance)
32. Frankfort, Kentucky (IV, 10–20–78) (Stewart Mechanical Enter./Sigmamotor Inc.) (subtier level protest)
*33. Indianapolis, Indiana (v, 10–31–78) (Allis-Chalmers) (linkage to preceeding contracts; estoppel) [*see Passaic Valley Sewerage Commissioners, New Jersey* (II, 10–5–78) (BSP Division of Envirotech Corp. and Wheatley Corp.)]
34. Urbana-Champaign, Illinois (V, 11–9–78) (Norton Co.)
35. Lake County, Illinois (V, 11–17–78) (Envirex)
36. Delaware County, Ohio (V, 11–21–78) (R. B. Carter)

**Waiver.**

1. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.) (listing nonapproved equipment)
2. Effingham, Illinois (V, 3–6–78) (Mautz & Oren Inc.) (ommissions of line items)
3. Chicago (Metropolitan Sanitary District of Greater Chicago), Illinois (V, 3–12–78) (Howard Martin Construction) (local procedures)
4. Amherst, New York (II, 5–15–78) (Cimato Bros, Inc.)
*5. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.) (Contract No. 1) (addendum acknowledgment—minor informality)

6. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Company and John W. Cowper)

[FRL 1090–2]

[FR Doc. 79–10379 Filed 4–3–79; 8:45 am]

BILLING CODE 6560–01–M

## ENVIRONMENTAL PROTECTION AGENCY

### Science Advisory Board Mobile Sources Subcommittee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the Subcommittee on Mobile Sources of the Science Advisory Board will be held beginning at 9:15 a.m. on April 23 and 24, 1979 at the Oak Hills Motor Inn, 7401 Wurzback Rd., San Antonio, Texas.

This is the second meeting of the Subcommittee on Mobile Sources. The agenda includes a review of the Clean Air Act Section 214 Report due to Congress on the health & welfare effects of particulate emissions, and a review of the Light Duty Diesel Particulate Regulation.

The meeting is open to the public. Anyone wishing to attend, participate, or obtain information should contact either Mr. Terry F. Yosie, Staff Officer (202) 426–0147 or Ms. Janet Steel, Staff Assistant, (703) 557–7720 by close of business April 16, 1979.

Dated: March 28, 1979.

Richard M. Dowd,

*Staff Director, Science Advisory Board.*

[FR Doc. 79–10228 Filed 4–3–79; 8:45 am]

BILLING CODE 6560–01–M

## ENVIRONMENTAL PROTECTION AGENCY

### Toxic Substances Control Act; Sprayed Asbestos in Schools; Denial of Citizens Petition

**AGENCY:** Environmental Protection Agency.

**ACTION:** Denial of Citizens' Petition.

**SUMMARY:** On December 21, 1978, the Environmental Defense Fund (EDF) filed a citizens' petition under section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620. EDF requested that EPA immediately initiate a rulemaking under section 6 of TSCA to control asbestos emissions from spray-on materials which have been applied in public school buildings. The Administrator has denied this Petition. The Administrator's Decision appears below.

**FOR FURTHER INFORMATION CONTACT:** John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 800–424–9065 (in Washington, D.C., call 554–1404).

**SUPPLEMENTARY INFORMATION.** EPA has established a public record for this Decision which is available for inspection in the Office of Toxic Substances Reading Room, 710 East Tower, 401 M Street, SW., Washington, D.C. 20460 from 9:00 a.m. to 5:00 p.m. on working days. This record includes all the comments received from the public pertaining to the Petition and all the documents referred to in the Administrator's Decision.

The Decision of the Administrator appearing below was sent to the Environmental Defense Fund. The Attachments referred to in the Decision have not been reproduced below. They are available for public inspection in the Office of Toxic Substances Reading Room.

Dated: March 28, 1979.

Steven D. Jellinek,

*Assistant Administrator for Toxic Substances.*

**Environmental Protection Agency**

Response To the Petition Of The Environmental Defense Fund To Control Asbestos Emissions From Spray-On Materials Which Have Been Applied In Public Schools.

**Decision of the Administrator**

I have been petitioned to initiate a rulemaking under section 6 of the Toxic Substances Control Act, 15 U.S.C. 2605, to control asbestos emissions from spray-on materials which have been applied in public school buildings. The petition is denied.

*I. Introduction*

On December 21, 1978, the Environmental Defense Fund (EDF) filed a citizens' petition with the Environmental Protection Agency (EPA) under section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620, requesting EPA to control sprayed asbestos containing material [1] in public schools under section 6 of TSCA. The Petition, entitled "Petition to the Environmental Protection Agency to Control Asbestos Emissions from Spray-on Materials Which Have Been Applied in Public School Buildings for Insulation, Fireproofing, Decorative or Other Purposes," is hereinafter referred to as the Petition.[2]

In particular, EDF has petitioned the Agency:

(1) Under the authority of section 6(a)(3), to require school districts to identify those buildings which were sprayed with asbestos-containing material and to mark or label the buildings to provide adequate warnings. EDF asks that the manufacturers and processors of the asbestos fiber be required to reimburse the school districts for the cost of this activity under section 6(a)(7).

(2) Under the authority of sections 6(a)(5) and 6(a)(7), to require manufacturers and processors of the asbestos which went into the construction of the schools to apply sealants where this would be effective; and

(3) Under the authority of section 6(a)(7), to require manufacturers and processors to remove the sprayed asbestos-containing material which has deteriorated beyond the point where sealants could be expected to be effective. EDF suggests that each manufacturer of asbestos should be required to pay a percentage of the total cost of the remedial action based on the approximate share of the fiber market which the company held from 1950–1965. Finally EDF asks that at least some of this regulatory action be made immediately effective upon proposal.

The decisive issue raised by the Petition is whether or not EPA should immediately initiate rulemaking to deal with the risks posed by sprayed asbestos-containing material in public schools. As discussed in detail below, EPA agrees with EDF that a problem exists. But it does not necessarily follow that the existence of this problem should or must lead to immediate federal regulatory activity. It is the Agency's view that to take the action requested by the EDF petition at this time would be unwise. The request that EPA immediately initiate rulemaking proceedings must therefore be denied.

The Agency has been actively investigating the asbestos in schools situation for several months. Most of the information contained in the petition was developed by EPA in the course of this investigation. The investigation included scientific inquiries, analysis of relevant legal and policy considerations, and communication with concerned persons, including representatives of the asbestos industry, state, local and school officials, and representatives of environmental public interest organizations. EPA officials have met

[1] The Petition refers to spray-on materials, which this decision will refer to as sprayed asbestos-containing materials.

[2] The Agency published notice of receipt of the Petition in the **Federal Register** and invited public comments, 44 FR 4009, January 19, 1979. Several comments were received. All of these comments were considered in preparing this response.

with representatives of EDF on several occasions to exchange views. It is on the basis of all of this that EPA has reached its conclusions.

The basic question is what actions EPA should take now to best protect public health. EPA has the same over-all objective as does EDF, to reduce the risk posed by asbestos in public schools. But the Agency believes that the actions requested in the petition are not the best way to achieve that objective. Instead, the non-regulatory program of cooperation with and assistance to state and local (including school) authorities upon which EPA has embarked is more likely to achieve these objectives in the near term.

The cooperative, non-regulatory program (which is described in detail below) has a number of important advantages over an immediate rulemaking. Chief among these is the fact that the program is likely to achieve comparable results in far less time. Furthermore, federal regulation at this time would be counter-productive. There would necessarily be a substantial delay before federal regulation of sprayed asbestos-containing material in public schools under TSCA could be effective. During this period, state and local action already underway could be severely inhibited.

*II. Background*

A. *Introduction.* EPA regards possible exposure to asbestos in schools with great concern. As EDF has stated, there is no doubt that asbestos is a human carcinogen.[3] Exposure to asbestos by inhalation increases the risk of contracting lung cancer, plueral mesothelioma, gastro-intestinal cancer and peritoneal mesothelioma as well as asbestosis. No threshold level (exposure level below which the risk of cancer incidence would not be increased) has been established for asbestos as a carcinogen. Exposure to asbestos for as little as one day has been reported to be responsible for some cases of mesothelioma. Finally, increased cancer risks have been observed among family members of asbestos workers exposed in the home. The studies cited by EDF also form the basis for EPA's evaluation of the risk due to inhalation of asbestos and provide strong evidence to support characterizing asbestos as a potent carcinogen.[4]

Moreover, the combination of cigarette smoking and asbestos inhalation greatly increases the risk of lung cancer in humans. In addition, although the evidence is not conclusive, children may be more susceptible to asbestos than are adults. Certainly their long life expectancy increases the chance that cancer will develop within their lifetimes.

Asbestos has been sprayed or applied onto structural surfaces in many buidlings across the nation. Several hundred thousand tons of asbestos were used for this purpose between 1950 and 1973. The asbestos was applied in various forms, ranging from loosely-bonded fibrous mixes to cementious or plaster mixtures.[5]

EPA agrees with EDF that current information indicates that numerous public schools contain sprayed asbestos-containing materials. But the Agency believes that the data available is preliminary and fragmentary and does not now justify making any firm estimates. EDF cites a very informal telephone survey conducted by the Office of Toxic Substances (OTS) which showed that 16% (approximately 1,000 of 6,000 schools inspected) of the public schools in the survey may contain asbestos.[6] But, as EDF concedes, the survey data are biased because most state and local officials involved did not inspect all schools or utilize a random selection process. Instead, they inspected those schools "suspected" of containing asbestos.[7] In addition, the survey data contained very little information on the condition of the asbestos which was found. Thus, it is impossible to surmise what exposure may be encountered in those schools reported to contain asbestos materials.

EDF cites studies showing that asbestos levels in some buildings, including schools, exceed Occupational Safety and Health Administration worker protection standards and background levels. EPA agrees that exposure to such levels presents a risk to human health because any exposure to a carcinogen may be hazardous. But, as EDF recognizes, one must distinguish between damaged or deteriorating sprayed asbestos-containing material and undamaged material when predicting the levels of asbestos in the air in buildings.[8] EPA believes this is an important distinction which should not be ignored when one considers the possible extent of exposure to asbestos. The presence of sprayed asbestos-containing material in a building does not necessarily constitute a risk to human health. Much of the asbestos sprayed in buildings is cementitious which, if undamaged, is not likely to spontaneously release asbestos so that it can be inhaled. On the other hand, damage to or deterioration of sprayed asbestos-containing materials greatly increases the release of asbestos, increasing the chance that asbestos will be inhaled.

Exposure to asbestos in schools can be reduced or eliminated by removing the asbestos, encapsulating it with a sealant, or enclosing the asbestos behind a barrier. What abatement action, if any, is needed depends on the particular situation in the building, and the most appropriate abatement action is not always readily apparent. EPA believes that a substantial portion of sprayed asbestos-containing materials in schools requires no immediate action. Only if the asbestos material is flaking or damaged is the asbestos an immediate cause for concern.

EPA has taken a number of steps recently in response to concern over the problem of asbestos in buildings. In March of 1978, EPA's Office of Air Quality Planning and Standards (OAQPS) published a document entitled "Sprayed Asbestos-Containing Materials in Buildings: A Guidance Document" coauthored by Dr. Robert Sawyer and Charles Spooner. This document made available to the public information on the hazards of asbestos and sampling and analysis and abatement techniques.[9] EPA also initiated a contract with Battelle Columbus Laboratories to study sealants which could be used to encapsulate asbestos. A preliminary report was received on February 7 of this year. The final report is due in June.

EPA's Office of Toxic Substances (OTS) has actively investigated the need to control sprayed asbestos-containing materials in schools since May 1978. In August 1978, OTS contracted with Dr. Sawyer, a leading expert on asbestos in buildings, to serve as a consultant. Numerous meetings and contacts with federal and state agencies, asbestos researchers, school officials, the

[3] Petition at 18.

[4] Petition at 18–38. While EPA agrees with EDF that the available evidence indicates that asbestos is a potent carcinogen, the Agency does not necessarily agree with everthing EDF says in the Petition concerning the health effects of asbestos. Whatever differences exist are not relevant to the disposition of this Petition.

[5] In 1973 EPA, acting under Section 112 of the Clean Air Act, banned the spray application of material containing one percent or more asbestos where used for the insulating or fireproofing of buildings structures, pipes and conduits. 40 CFR 61.22(e), 38 FR 8826 (April 6, 1973). This ban was extended in 1978 to the spraying of such material on buildings, structures, pipes and conduits for whatever purpose, whether or not related to insulation or fireproofing. 43 FR 26372 (June 19, 1978).

[6] Petition at 31–33.

[7] Petition at 31–32.

[8] Petition at 10–16.

[9] OAQPS had previously, in October 1975, published a study entitled "Asbestos Contamination of the Air in Public Buildings" by Nicholson, Rohl and Weisman of the Mt. Sinai School of Medicine.

asbestos industry, labor, and environmental groups were conducted. They revealed both that there is great concern over asbestos in buildings and that only limited action to identify and correct problems had as yet been undertaken. An informal telephone survey of states, conducted in October 1978, showed that 31 had programs relating to asbestos in schools but that only a few percent of all schools had been inspected for asbestos.

In August 1978, Secretary Joseph Califano of the Department of Health, Education and Welfare (DHEW) wrote to the Governors about asbestos in buildings, identifying persons within DHEW and EPA to contact for further information and assistance. The Secretary's letter placed emphasis on schools and on the need for voluntary action in those schools where hazards exist. EPA and DHEW have continued to work together on the asbestos in schools situation.

In November 1978, OTS began to prepare guidance materials to be used by the layman to supplement the more technical "Guidance Document" which had been published in March. OTS also began to develop a program to distribute these materials and to provide assistance to school districts and states.

B. *EPA's Program.* EPA believes that action is necessary to reduce the risk posed by sprayed asbestos-containing material in schools, particularly where friable, deteriorating, or damaged asbestos is present. Therefore, EPA is conducting a technical guidance and assistance program to encourage action at the state and local level.[10] This program was begun formally on March 16, 1979, although EPA has provided guidance and assistance to schools and has widely publicized the program for the past several months.[11] The purpose of the program is to encourage and instruct state and local officials in inspecting buildings, sampling for asbestos, evaluating the hazard posed by damaged or deteriorating asbestos-containing material, and taking appropriate remedial action. In addition, EPA will collect data from states, school districts and individual schools as to the results of inspections and abatement.

EPA has worked with the Department of Health, Education and Welfare and the Occupational Safety and Health Administration (OSHA) to develop and implement this program. In addition to extensive input to EPA's deliberations and documents preparation, these agencies are providing regional personnel to work with state and local officials in the area of health effects and worker protection.[12]

EPA has developed a four-part asbestos control program relying on the cooperative efforts of states and school districts as the best approach for collecting data on the extent of the problem and getting an effective control program going as soon as possible. The four parts of the asbestos control program are: (1) Preparation and dissemination of a Guidance Package, (2) training of field personnel, (3) development of a quality assurance and technical assistance program, and (4) development of a reporting program. EPA is proceeding with these parts simultaneously.

The Guidance Package[13] consists of two manuals and a reporting form. EPA's informal telephone survey revealed a need by state and local officials for reliable information on how to identify sprayed asbestos-containing materials and what to do to control asbestos emissions. These manuals will satisfy that need. The first manual is a handbook written in nontechnical language. It explains how to look for asbestos in a school, how to take a sample and have it analyzed, how to determine what is the most appropriate abatement action, and how to make certain that a contractor performs an abatement action properly.

The second manual is much more technical in nature. It explains in detail how to perform a laboratory analysis for asbestos and what procedures to follow in taking abatement actions. It also explains what federal regulations must be met when taking corrective actions. This is the "Guidance Document" published last March by EPA's Office of Air Quality Planning and Standards. It will be useful to analytical laboratories and to contractors performing abatement actions. The guidance package is being mailed to Governors, state asbestos program contacts, and school districts across the nation. Although the OAQPS Guidance Document specifically addresses asbestos in schools, the information can be used for other buildings and is available upon request to all interested persons.[14]

As the second part of the program, EPA and DHEW have begun a training program to explain how to use the manuals. The training program is being given to EPA's Regional Toxic Substance Coordinators, to DHEW regional coordinators, and to state and local officials. Training sessions have been scheduled for each EPA Region.[15] EPA has also produced a videotape which will illustrate the material in the nontechnical manual. Copies of this tape will be made available to state and local officials and to the news media and will be a valuable aid to the training effort.

The third part of the asbestos control program is the quality assurance and technical assistance program. EPA has prepared information (more detailed than that contained in the Guidance Document) specifying a procedure for performing bulk analyses for asbestos. State and local officials will be able to use this information to make certain that the samples that they collect are properly analyzed for asbestos. EPA has also established a toll-free number[16] at which the public can receive additional information on asbestos sampling and analysis from one of the nation's leading laboratories, Research Triangle Institutes.

The regional offices of EPA and DHEW have the principal responsibility under the program for assisting states and school districts. An EPA Regional Asbestos Coordinator has been named in each Region.[17] Assistance will include interpretation and updating of all the guidance materials and consultation and training to help establish effective state or local programs. EPA has also entered into a contract with a civil engineer in each Region to provide assistance on such matters as building codes, fire laws and labor relations. And, EPA has provided a team of experts to aid the Regions. This team, consisting of Dr. Robert Sawyer and other experts in the areas of asbestos health hazards and abatement techniques and construction, will also advise EPA on any new developments which can be incorporated into the program. In addition, EPA is working with federal agencies that supervise school facilities for children (e.g. military dependents, Indians) to assist in assessing and

[10] EPA's program includes asbestos pipe insulation and boiler lagging as well as the sprayed asbestos-containing materials that the Petition refers to. In addition, the EPA program covers asbestos materials which have been applied by other methods which may be equally as hazardous, e.g. troweling.

[11] Attached as Attachment A is an article which appeared in the American School Board Journal in November 1978 titled "Asbestos in schools: Walls and halls of trouble." EPA has contributed substantially to this and other news articles and has distributed available guidance materials to encourage action while the program was in the planning stages.

[12] These personnel are listed in the handbook, appendices B, D and E. See note 13, *infra.*

[13] See Attachment B.

[14] EPA's initial printing of the guidance materials will be 250,000 copies, approximately 15,000 of which are being sent directly to school districts.

[15] Attached as Attachment C is EPA's current schedule for training sessions.

[16] The toll-free number is 800-334-8501 ext. 6892.

[17] The Regional Coordinators and other key personnel in the program are listed in the handbook.

correcting potential hazards in these federally supervised facilities.

The final part of the program is the reporting program. A reporting form will be sent to school districts as part of the Guidance Package. School districts will be requested to report to EPA, either directly or by way of a state agency, on the results of their inspection, sampling, and abatement activities. The number of schools inspected, number found to contain damaged or deteriorating sprayed asbestos-containing material (and the area covered by such asbestos), and the amount of asbestos removed, encapsulated, or enclosed will be reported. EPA will use the data from these reports to estimate the amount of asbestos remaining in schools and the effectiveness of the program in reducing exposure to asbestos.

EPA through its regional offices is working directly with states to implement this program. In late January, EPA wrote to all Governors requesting that official state asbestos coordinators be named to work with EPA. Twenty-two state Governors have already responded and all but eight states have an official or unofficial coordinator. In all cases EPA has encouraged states to actively participate by establishing and operating their own programs. EPA recently held a training session in Atlanta which was attended by representatives of seventeen states. Most states were enthusiastic that guidance and assistance would be forthcoming from EPA.

EPA is encouraged by the response during the initial stages of the program. In October 1978, 31 states were identified as having state programs of some type, 21 of which were considered active (that is, were inspecting schools regularly and taking remedial actions where needed). The level of activity and cooperation with EPA has increased in many states since October. Of the ten states which in October had less active programs, at least 3 are now actively inspecting schools or issuing guidelines to school districts. In addition, of the 19 states which did not have programs in October, 12 have since designated official coordinators to work with EPA. All of these states will be providing assistance to schools ranging from analysis of samples to consulting on proper corrective actions. Vermont initiated a School Asbestos Program on February 26, 1979 to provide health protection and asbestos control recommendations to all schools with potential problems.[18] North Carolina has recently formed an interagency asbestos task force to set up a pilot project on abatement techniques. Ten states have announced their intention to send EPA's guidance materials, supplemented by their own guidance, to each school in the state.

Of course, EPA does not claim that these actions are occurring only because of EPA's program. States such as Rhode Island, where virtually every school has been inspected and where remedial action has been taken where required, and New Jersey already had rather comprehensive programs for inspection and abatement.

In states which have not established official coordinators with whom EPA can work, EPA is mailing guidance materials directly to all public school districts. EPA and DHEW, through their regional offices, are ready to assist anyone requiring information or technical assistance. Thus, the program will reach all public schools throughout the nation.

EPA is convinced that the states can and will, given proper encouragement and guidance, inspect their schools and adequately remedy any hazardous conditions which exist. The EPA program will provide just such encouragement and guidance.

*III. Reasons for EPA Decision Not to Immediately Initiate Rulemaking Under TSCA Section 6*

EPA believes that the non-regulatory program described above will lead to broad-scale reduction in exposure to asbestos in schools. State and local authorities have already begun to identify high risk situations and to take action to alleviate or eliminate the danger. EPA is now actively encouraging and assisting this effort. We anticipate that in the very near future, with EPA's assistance, this state and local effort will expand and become very effective.

Under section 21 of TSCA a citizens' petition seeking issuance of a rule under section 6 must must demonstrate that "the issuance of a rule * * * is *necessary* to protect health or the environment against an unreasonable risk of injury to health or the environment." (emphasis added). EDF has failed to show that, even if sprayed asbestos-containing material presents an unreasonable risk, a section 6 rule is "necessary" to protect health or the environment from such a risk.[19]

State and local investigatory and remedial action, with federal assistance, appear to be capable of substantially reducing the risks. Therefore, the Agency finds that immediate initiation of a section 6 rulemaking concerning asbestos in public schools would be unnecessary. If the problem is not fully dealt with nationally, it will at a minimum be reduced to a more limited geographical area or to those situations that present lesser risks of exposure. It is the considered judgment of the Agency that through the current program any need for federal regulatory action will be eliminated in whole or in major part. While such a result is not a certainty, it is sufficiently likely that the Agency should stay its regulatory hand.

The approach which EPA is taking enhances cooperation between the federal government and state and local authorities and encourages responsible action by those governmental units most familiar with the particular circumstances of each school. Remedial action can be more finely tailored than a broad-brush federal regulation would likely allow. The cooperative program is thus a more flexible approach, allowing faster remedial action in the short run. In effect, much of what the Agency would need to do in a rulemaking is being done, but in a much less disruptive fashion.

Federal regulation at this time would be counter-productive. Any regulation will take a considerable period to time [20]

[18] Vermont's Commissioner of the State Health Department wrote EPA that: "Regarding the EDF Petition, we feel that through the * * * program, the State of Vermont is taking appropriate action in this matter, and will not require federal assistance until we have definitely identified the magnitude of the health hazard for both the school children and employees." See Attachment D.

[19] As quoted above, under section 21 of TSCA a citizens' petition must also demonstrate that an *unreasonable* risk exists. As the petition admits, EDF has submitted little if any information concerning the economic consequences of the rules it seeks EPA to promulgate. Without knowledge of such consequences it is not possible to determine if an unreasonable risk exists. Thus, it is difficult to see how EDF can make the demonstration required by section 21. Nevertheless, EPA has independently examined the question. However, current information is incomplete and we cannot as yet make a finding of unreasonable risk. In this connection, while EPA agrees with statements in the petition to the effect that the fact a substance is a carcinogen should weigh heavily in any consideration of costs and benefits, we assume that EDF does not suggest that consideration of economic consequences is thereby rendered unnecessary.

[20] This is particularly true in light of the findings which EPA *must* make before a rule under section 6(a) of TSCA can be effective. Section 6(c) requires a 6(a) rule to be accompanied by findings as to:

(A) the effects of such substance or mixture on health and the magnitude of the exposure of human beings to such substance or mixture,

(B) the effects of such substance or mixture on the environment and the magnitude of the exposure of the environment to such substance or mixture,

(C) the benefits of such substance or mixture for various uses and the availability of substitutes for such uses, and

Footnotes continued on next page

and during this time state and local remedial activity may be inhibited. As noted earlier, current data on exposure is fragmentary and requires substantial supplementation. Evaluating the effects of a rule on the economy, small business, and technological innovation will be especially difficult. This evaluation would have to be made on a nationwide basis. As EDF acknowledges in the petition, the economic consequences of a rule are as yet largely unknown. In our experience, gathering such data is always time consuming. In light of all that is required, and in view of the fact that a rule would inevitably be highly controversial, it can be expected that, at a minimum, a year would be required to conclude administrative proceedings, even if rulemaking commenced immediately and all appropriate available means were used to expedite the proceedings. Subsequent judicial review could add another substantial period of delay.

Of great concern to the Agency is the fact that state and local authorities may be hesitant to take remedial action concerning sprayed asbestos-containing material in public schools so long as the final form of the federal regulations is uncertain. A key element of the kind of rule EDF asks EPA to promulgate would be provisions designed to shift the cost of investigatory and remedial action to asbestos manufacturers. Until such a rule were promugated in final form, state and local governments could not be certain whether by acting quickly they would incur avoidable expenses or somehow forfeit their opportunity for subsequent reimbursement (i.e., by unknowingly violating some condition or limitation on reimbursement). In these days of budget restrictions such concerns would be of great force. Therefore, an EPA rulemaking could operate as a powerful financial disincentive to prompt effective action on the state and local level.[21] Furthermore, under section 18 of TSCA a section 6 rule would be broadly preemptive. Except under very narrow circumstances, once EPA puts a section 6 rule into effect, "no state or political subdivision of a state may * * * establish or continue in effect, any requirement which is applicable to [the same] substance or mixture, or an article containing such substance or mixture, and which is designed to protect against [the same] risk * * *." This too, would operate as a powerful disincentive to state or local statutory or regulatory action.

There is another problem with reliance on a section 6 rulemaking effort at this time. Some of the actions requested in the Petition are not explicitly authorized by TSCA. This is not to say that the authority for the requested action does not exist. However, there are a number of interpretative problems, and substantive challenges to EPA action are a real possibility. Success by opponents of regulatory action could severely undermine the value of a section 6 rule or nullify it entirely. Current efforts by state and local authorities to reduce the asbestos risk would have been hampered to no purpose whatever.

The following is a discussion of some of the legal issues presented by the Petition which would have to be addressed in any rulemaking.[22]

EDF asks EPA to require school districts to mark sprayed asbestos-containing material under section 6(a)(3) of TSCA and to require manufacturers and processors of asbestos fiber to reimburse school districts for these costs under section 6(a)(7). Under section 6(a)(7)(A) EPA may require manufacturers and processors to give notice of unreasonable risks. It would have to be determined whether implementation of section 6(a)(7)(A) could require manufacturers and processors to reimburse school districts which are required to mark sprayed asbestos-containing materials under section 6(a)(3).

EDF asks EPA to require manufacturers and processors to apply sealants to sprayed asbestos-containing materials in public schools under the authority of TSCA section 6(a)(5).[23] Section 6(a)(5) permits EPA to prohibit or otherwise regulate any matter or method of commercial use of a chemical substance or mixture. The issue is whether the manufacturer or processor of the asbestos is continuing to "use" the asbestos after it has been applied to a building not under his control or whether the only "user" of the asbestos for purposes of section 6(a)(5) is the school district.

In addition, under the authority of TSCA section 6(a)(7), EDF asks EPA to require manufacturers and processors to apply sealants to the sprayed asbestos-containing material in public school buildings where this would be effective to avoid exposure and to remove the asbestos where sealants would be ineffective. Under section 6(a)(7)(C) EPA may require a manufacturer or processor to "replace or repurchase" a substance or mixture found to present an unreasonable risk of injury, as elected by the person to whom the requirement is directed. One issue is whether under the replacement and repurchase provisions of section 6(a)(7) EPA has authority to require manufacturers and processors to encapsulate the sprayed asbestos-containing material where this would be effective to avoid exposure. Another issue is whether, assuming encapsulation would be ineffective in certain instances, a person who replaces or repurchases the asbestos has a responsibility to remove the sprayed material as well.[24]

Moreover, under the authority of section 6(a)(7), EDF asks EPA to apportion the costs of the remedial action among the manufacturers of the asbestos fiber. As EDF itself states, it may be extremely difficult if not impossible to trace particular shipments of asbestos fibers to ultimate use in spray materials in individual buildings.[25] While there is authority to require manufacturers and processors to take certain actions under TSCA, the authority to require a specific manufacturer or processor to take action with respect to a substance it might not have sold is not clear. EDF suggests a plan whereby manufacturers would be jointly liable for the costs of regulation and assessed costs based on their approximate share of the asbestos fiber market from 1950–1965. To apply joint liability principles from tort law under TSCA section 6(a)(7) would be a novel approach.[26]

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Footnotes continued from last page

(D) the reasonably ascertainable economic consequences of the rule, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health.

[21] It could be argued that since EPA has not ruled out future rulemaking efforts, the possibility of such future action could itself have the same disincentive effect on state and local efforts as would immediate initiation of a section 6 rulemaking. But, given the fact that such a future federal action is conditioned on failure of state and local action, in fact this possibility should encourage rather than discourage non-federal efforts. In any event, the possibility of a future action could not possibly have the same disincentive effect as the fact of a rulemaking in progress.

[22] EPA expresses no opinion at this time on these issues. The Agency's present view of their resolution is not a necessary part of this response.

[23] The Petition does not ask EPA to impose this requirement (or the requirements under section 6(a)(7) discussed below) on school districts directly.

[24] There appears to be virtually no legislative history as to what Congress had in mind when it created the replacement and repurchase provisions of section 6(a)(7). The little legislative history there is suggests that Congress was concerned about the small businessman who might otherwise be "saddled with large inventories of otherwise unusable products." S. Rep. No. 94-698, 94th Cong., 2d Sess. 12 (1976) (Legislative History at 168).

[25] Petition at 58–59.

[26] The Consumer Product Safety Commission (CPSC) has authority under section 15(d) of the Consumer Product Safety Act (CPSA) and section 15(a) of the Federal Hazardous Substances Act (FHSA) that is similar to that contained in TSCA section 6(a)(7). The CPSA and FHSA establish

Footnotes continued on next page

In summary, there are legal issues raised by the Petition which would have to be settled as part of the rulemaking and could be subsequently litigated. In deciding how to respond to the Petition, we must take into account the possibility of litigation and the delay and uncertainties incumbent therein. Although we do not believe that EPA should refuse to take action whenever there is a threat of litigation, this should be considered as a factor in weighing the alternatives. Where, as here, there is an alternative course of action which promises not only to be more swiftly effective, but also to avoid these legal risks, this alternative deserves to be given preference. The ultimate goal shared by both EPA and EDF is to protect public health in the schools. EPA believes that the approach set forth in this response is the best way to accomplish this goal.[27]

*IV. Conclusion*

For the reasons discussed above, the Petition is denied.[28] The non-regulatory program is likely to achieve comparable results in far less time and without the drawbacks of a regulatory approach.

It should be understood that EPA is denying only the request that it *immediately* commence rulemaking proceedings. Initiation of rulemaking at a later date has by no means been ruled out as a possibility. Should the Agency find that state and local efforts are unsuccessful, we will reevaluate the need for federal regulatory action. It may be that such action will not be found necessary on a national basis, yet may be appropriate for certain geographic areas. EPA will closely monitor the situation and continually scrutinize the efforts made by state and local governments in order to be in a position to make this reappraisal. In the interim the Agency will continue to gather information concerning the risks posed by asbestos and on means to evaluate and alleviate those risks, with special emphasis on public schools. Because an important element of the on-going non-regulatory program involves reporting by states, local governments, and schools to EPA, the cooperative program will itself greatly increase the Agency's ability not only to determine whether to initiate a rulemaking at a later date, but also to make the findings necessary to promulgate regulations should a rulemaking need to be initiated. With this additional information in hand EPA will be able, if necessary, to conduct a rulemaking more quickly than it could now.

Dated: March 21, 1979.

**Douglas M. Costle,**

*Administrator.*

[FRL 1089-4]

[FR Doc. 79-10230 Filed 4-3-79; 8:45 am]

**BILLING CODE 6560-01-M**

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elaborate procedures for administering the replacment and repurchase provisions. There are also detailed CPSC regulations. See, e.g., 16 CFR Part 1115, 43 FR 34988, August 7, 1978. In addition, under section 12 of the CPSA, the Commission may file an action in a district court against an imminently hazardous consumer product. The district court then has jurisdiction to order the recall, repair, replacement of, or refund for such product.

Based on informal contacts with the CPSC, it appears that they have never apportioned costs in the manner suggested in the Petition. They have never applied joint liability theories under section 15 of the CPSA or FHSA. The Commission has filed an action seeking to hold an industry jointly liable under section 12 of the CPSA. This action, however, was settled before a trial on the merits. So, the legal question of whether joint liability principles from tort law apply under the CPSA has not been settled.

Even if tort theories of joint liability could be applied in administrative proceedings, the question remains whether costs could be apportioned as suggested in the Petition. As discussed in the text, in this case, there are a number of different entities which are affected, and the relationship of the person harmed to the person causing the harm may not always be clear.

[27] We recognize that one of the purposes of EDF's Petition is to require the manufacturers of asbestos fiber to pay the cost of remedial action. In our opinion it is more important, in this particular case, to achieve maximum protection of the public health as soon as possible than it is to try to take the actions requested by EDF in this respect, given the complex nature of the questions that would be raised and the litigation that could ensue. Moreover, even in the absence of federal regulations, there may be means available for the school districts to recover their costs from asbestos manufacturers under ordinary theories of tort liability or other state law.

[28] Obviously, given the disposition of the Petition it is not necessary to consider whether to make any regulatory action immediately effective.

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## Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, 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 interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the Offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 26, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

Wells Fargo & Company, San Francisco, California (finance and leasing activities; Western United States): to engage, through its subsidiary, Wells Fargo Business Credit, in making or acquiring loans and other extensions of credit, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets; servicing loans; and making leases of personal property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Los Angeles, California, and the geographic areas to be served are Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, and Colorado.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, March 28, 1979.

**Edward T. Mulrenin,**

*Assistant Secretary of the Board.*

[FR Doc. 79-10273 4-3-79; 8:45 am]

**BILLING CODE 6210-01-M**

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## Citizens Bancshares Corporation; Formation of Bank Holding Company

Citizens Bancshares Corporation, Jonesboro, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83 percent or more of the voting shares of Citizens Bank of Jonesboro, Jonesboro, Arkansas. The factors that are considered in acting on the application

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 28, 1979.

**Edward T. Mulrenin,**

*Assistant Secretary of the Board.*

[FR Doc. 79-10265 Filed 4-3-79; 8:45 am]

**BILLING CODE 6210-01-M**

## East Dubuque Investment Corporation; Formation of Bank Holding Company

East Dubuque Investment Corporation, East Dubuque, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of East Dubuque Savings Bank, East Dubuque, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 27, 1979.

**Edward T. Mulrenin,**

*Assistant Secretary of the Board.*

[FR Doc. 79-10269 Filed 4-3-79; 8:45 am]

**BILLING CODE 6210-01-M**

## Federal Open Market Committee; Domestic Policy Directive of February 6, 1979

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on February 6, 1979.[1]

The information reviewed at this meeting suggests that in the fourth quarter of 1978 growth in real output of goods and services picked up sharply from the reduced rate in the third quarter. In December, as in the preceding two months, the dollar value of total retail sales expanded substantially, and industrial production and nonfarm payroll employment rose considerably further. Employment continued to grow in January, and the unemployment rate, at 5.8 percent, was virtually the same as in the final months of 1978. Over recent months, broad measures of prices and the index of average hourly earnings have continued to rise rapidly.

The trade-weighted value of the dollar against major foreign currencies has tended upward since the turn of the year, returning to about its level in mid-December prior to the OPEC announcement of increased oil prices. The U.S. trade deficit in the fourth quarter of 1978 was at about the same rate as in the second and third quarters.

M-1 increased little in December and appears to have declined in January, in part because of the continuing effects of the introduction of the automatic transfer service (ATS) on November 1, and M-2 and M-3 grew at relatively slow rates. With market interest rates relatively high, inflows to banks of the interest-bearing deposits included in M-2 slowed sharply, and inflows of deposits to nonbank thrift institutions slackened further. Over the year from the fourth quarter of 1977 to the fourth quarter of 1978, M-1, M-2, and M-3 grew about 7¼, 8½, and 9½ percent, respectively. Most market interest rates have declined on balance in recent weeks.

Taking account of past and prospective development in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. The Committee agreed that these objectives would be furthered by growth of M-1, M-2, and M-3 from the fourth quarter of 1978 to the fourth quarter of 1979 within ranges of 1½ to 4½ percent, 5 to 8 percent, and 6 to 9 percent, respectively. The associated range for bank credit is 7½ to 10½ percent. These ranges will be reconsidered in July or at any time as conditions warrant.

In the short run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer-run ranges for monetary aggregates cited above, while giving due regard to the program for supporting the foreign exchange value of the dollar and to developing conditions in domestic financial markets. In the period before the next regular meeting, System open market operations are to be directed at maintaining the weekly average federal funds rate at about the current level, provided that over the February-March period the annual rates of growth of M-1 and M-2, given approximately equal weight, appear to be within ranges of 3 to 7 percent and 5 to 9 percent, respectively. If growth of M-1 and M-2 for the two-month period appears to be outside the indicted limits, the Manager will promptly notify the Chairman, who will then consult with the Committee to determine whether the situation calls for supplementary instructions.

**Note**—On March 2, 1979, the Committee modified the domestic policy directive, adopted at its meeting on February 6, 1979, to call for continuance of open market operations directed toward maintaining the weekly average federal funds rate at about 10 percent or slightly above.

By order of the Federal Open Market Committee, March 23, 1979.

**Murray Altmann,**

*Secretary.*

[FR Doc. 79-10266 Filed 4-3-79; 8:45 am]

**BILLING CODE 6210-01-M**

[1] The Record of Policy Actions of the Committee for the meeting of February 6, 1979 is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

## First Central Corporation; Formation of Bank Holding Company

First Central Corportion, Smithville, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Central Bank, Smithville, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 27, 1979.

Edward T. Mulrenin,

*Assistant Secretary of the Board.*

[FR Doc. 79-10270 Filed 4-3-79; 8:45 am]

BILLING CODE 6210-01-M

## First Seminole Bancshares, Inc.; Formation of Bank Holding Company

First Seminole Bancshares, Inc., Seminole, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of Seminole State Bank, Seminole, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 27, 1979.

Edward T. Mulrenin,

*Assistant Secretary of the Board*

[FR Doc. 79-10271 Filed 4-3-79; 8:45 am]

BILLING CODE 6210-01-M

## National City Corporation; Acquisition of Bank

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of First National Bank, Galion, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 26, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 26, 1979.

Edward T. Mulrenin,

*Assistant Secretary of the Board.*

[FR Doc. 79-10267 Filed 4-3-79; 8:45 am]

BILLING CODE 6210-01-M

## Northwest Ohio Bancshares, Inc.; Acquisition of Bank

Northwest Ohio Bancshares, Inc., Toledo, Ohio, has applied for the Board's approval under section 3(a)(3)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3) to acquire 80 percent or more of the voting shares of The Peoples National Bank of Delphos, Delphos, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 27, 1979.

Edward T. Mulrenin,

*Assistant Secretary of the Board.*

[FR Doc. 79-10268 Filed 4-3-79; 8:45 am]

BILLING CODE 6210-01-M

## Pony Express Bancorp; Formation of Bank Holding Company

Pony Express Bancorp, Elwood, Kansas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.15 percent of the voting shares of The First State Bank of Elwood, Elwood, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 28, 1979.

Edward T. Mulrenin,

*Assistant Secretary of the Board.*

[FR Doc. 79-10264 Filed 4-3-79; 8:45 am]

BILLING CODE 6210-01-M

## Rainier Bancorporation; Proposed Retention of Activities of Rainier Mortgage Company

BILLING CODE 6210-01-M

Rainier Bancorporation, Seattle, Washington, has applied, pursuant to section 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 retain and continue the insurance agency activity of its subsidiary, Rainier Mortgage Company, Seattle, Washington.

Applicant states that the subsidiary would continue to engage in the activities of acting as insurance agent or broker with regard to insurance that is directly related to extensions of credit by Rainier Mortgage Company or its wholly owned subsidiary, Coast Mortgage Company, or directly related to other financial services by Rainier Mortgage Company, including mortgage redemption insurance in the form of credit life and disability insurance; property and casualty insurance on real and personal property; and performance bonds. These activities would be performed from offices of Applicant's subsidiary in Bellevue, Belligham, Bremerton, Everett, Federal Way, Tacoma, Longview, Seattle, Olympia, Renton, Spokane, Tri-Cities, Vancouver and Yakima, Washington; Anchorage, Alaska; Bosie, Idaho; Englewood, Colorado; Portland, Oregon; and Honolulu, Hawaii. The geographic areas to be served are the eight contiguous Washington counties bordering on Puget Sound from Whatcom County to Thurston County, Washington; Clark and Cowlitz Counties, Washington; and the metropolitan areas of Spokane, Longview, Tri-Cities, Vancouver and Yakima, Washington; Anchorage,

Alaska; Boise, Idaho; Denver, Colorado; Portland, Oregon; and Honolulu, Hawaii. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding compaines, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested person 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 proactices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

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 April 27, 1979.

Board of Governors of the Federal Reserve System, March 28, 1979.

Edward T. Mulrenin,

*Assistant Secretary of the Board.*

[FR Doc. 10272 Filed 4-3-79; 8:45]

BILLING CODE 6210-01-M

## Summit Bancorporation; Acquisition of Bank

The Summit Bancorporation, Summit, New Jersey, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Chatham Trust Company, Chatham Township, New Jersey. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 29, 1979.

Edward T. Mulrenin,

*Assistant Secretary of the Board.*

[FR Doc. 79-10274 Filed 4-3-79; 8:45 am]

BILLING CODE 6210-01-M

# GENERAL SERVICES ADMINISTRATION

## Federal Property Management Regulations; Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent in conjunction with the Administrator of General Services the interests of the executive agencies of the Federal Government in a telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Servies Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Pennsylvania Public Utilities Commission involving the application of the Bell Telephone Company of Pennsylvania.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: March 20, 1979.

Jay Solomon,

*Administrator of General Services.*

[Temp. Reg. F-483]

[FR Doc. 79-10288 Filed 4-3-79; 8:45 am]

BILLING CODE 6820-38-M

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education; Statement of Organization, Functions, and Delegations of Authority

Part EE.10 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is amended to reflect the creation of a Bureau of School Improvement. The purpose of this new office is to increase the efficiency, effectiveness, and visibility of the smaller discretionary grant programs in the Office of Education.

The specific changes are as follows:

(1) Insert the following immediately after the title and statement for the Editorial Services Division, Office of Public Affairs:

**Bureau of School Improvement (EEG)**

Administers and coordinates a wide array of discretionary grant programs in the Office of Education. Provides organization, leadership, and central administration for programs designed to provide services contributing to the quality of education. Gives direction to these programs in implementing their goals and objectives and coordinates efforts to maximize individual program impact on school improvement. Existing and newly legislated programs include, but are not limited to: Arts in Education, Women's Educational Equity, Basic Skills, Community Education, Environmental Education, Consumers' Education, Teacher Centers, Metric Education, Ethnic Heritage, Alcohol and Drug Abuse Education, School Finance, Teacher Corps, Health Education, and Biomedical Education.

*Basic Skills Program Office (EEGR).* Represents the Office of Education in an active leadership role supporting the Basic Skills effort with the education community, the private sector, and other units of Government. Administers a program of grants and contracts in a continuing effort to increase functional literacy in the United States.

*Teacher Centers Program Office (EEGT).* Administers programs of financial support to Teacher Centers where elementary and secondary teachers may develop curriculum and receive training to improve their skills. Provides professional advice and developmental assistance to the education community on the reform of training programs for the education profession.

*Office of Consumers' Education (EEGC).* This Office, headed by a

Director of Consumers' Education, is responsible for carrying out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations and institutions (including libraries) to support research, demonstration and pilot projects disigned to provide consumer education to the public.

*Office of Environmental Education (EEGE).* Is responsible for carrying out a program of making grants to and contracts with, institutions of higher education, state and local educational agencies, regional educational research organizations, and other public and private agencies, organizations, and institutions (including libraries and museums) to support research, demonstration, and pilot projects designed to educate the public on the problems of environmental quality and ecological balance. It is also responsible for the assessment of all OE activities to determine which ones impact on the environment and for the development of environmental impact statements when appropriate.

*Teacher Corps (EEGS).* The Teacher Corps administers a program to strengthen the educational opportunities available to children in areas having concentrations of low income families. Encourages colleges and universities to broaden their programs of teacher education by developing systematic processes through which qualified teacher-interns can acquire specified competencies. The Director of the Teacher Corps will report directly to the Commissioner.

*Office of Alcohol and Drug Abuse Education (EEGD).* Administers Public Law 95–336, "The Alcohol and Drug Abuse Education Amendments of 1978." Provides leadership to local and state educational agencies through strategies of training, technical assistance, regional and national conferences, to prevent or reduce alcohol and drug abuse. The Director of the Office of Alcohol and Drug Abuse Education will report directly to the Commissioner.

(2) The title and statement for Right to Read, published at 42 FR 62551 (12/13/77) are deleted in their entirety.

(3) The title and statement for the Office of Consumers' Education, published at 39 FR 25839 (6/19/75), are deleted in their entirety.

(4) The title and statement for the Office of Environmental Education, published at 40 FR 30300 (7/18/75), are deleted in their entirety.

(5) The title and statement for the Teacher Corps, published at 42 FR 62550 (12/13/77), are deleted in their entirety.

(6) The title and statement for the Division of Education Systems Development, published at 43 FR 47290 (10/13/78) are deleted in their entirety.

(7) The last sentence of the functional statement for the Executive Deputy Commissioner for Educational Programs, published at 43 FR 47291 (10/13/78), is deleted. It reads, "Administers the arts in education, energy education, and women's educational equity programs."

Dated: March 24, 1979.

**Frederick M. Bohen,**

*Assistant Secretary for Management and Budget.*

[FR Doc. 79-10284 Filed 4-3-79; 8:45 am]

**BILLING CODE 4110-02-M**

## National Advisory Council on Indian Education; Meeting

**AGENCY:** National Advisory Council on Indian Education.

**ACTION:** Notice.

**SUMMARY:** The notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, Section 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

**DATES:** Full Council Meeting: April 19, 1979, 9:00 a.m. to 5:00 p.m. OPEN; April 20, 1979, 9:00 a.m. to 12:00 p.m. OPEN and 1:00 p.m. to 5:00 p.m. CLOSED; April 21, 1979, 9:00 a.m. to 5:00 p.m. CLOSED; and April 22, 1979, 9:00 a.m. to 12:00 p.m. CLOSED.

**ADDRESS:** Suite 326, 425 13th Street NW., Washington, D.C. 20004.

**FOR FURTHER INFORMATION CONTACT:** Michael P. Doss, Executive Director, National Advisory Council on Indian Education, Suite 326, 425 13th Street NW., Washington, D.C. 20004 (202) 376–8882.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92–318, as amended (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81–874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92–318 and amended by Pub. L. 93–380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81–874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 91–318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81–874) as added by Title IV, Part A, of Pub. L. 92–318;

(7) Submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such program; and

(8) Be consulted by the Commissioner of Education regarding the definition of the term "Indian," as follows:

Sec. 453 (Title IV, Pub. L. 92–318). For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first or second degree of any member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The Full Council meeting of the National Advisory Council on Indian Education will be open to the public beginning at 9:00 a.m. and ending 5:00 p.m. each day, except as otherwise noted in the next paragraph of this notice. The sessions on April 19 and 20, 1979 will be held at the National

Advisory Council on Indian Education office, 425 13th Street NW., Suite 326, Washington, D.C.

The proposed agenda includes:

(1) Swearing in of new Council member appointees

(2) Executive Director's Report

(3) Action on previous meeting minutes

(4) Committee discussions and reports

(5) Review NACIE FY '79 Budget

(6) Special Reports

(7) Plans for future NACIE activities

(8) Regular Council Business

The session on April 20, 1979, from 1:00 p.m. to 5:00 p.m., April 21, 1979, from 9:00 a.m. to 5:00 p.m., and April 22, 1979, from 9:00 a.m. to 12:00 p.m. of the National Advisory Council on Indian Education will be closed to the public, since the Council will be reviewing proposals that must be held in confidence, under the authority of section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix I) and under the exemptions contained in the government in the Sunshine Act, section 552b(c) (4) and (6) of Title 5 U.S.C.

The proposed agenda:

(1) The review of Indian education proposals submitted under Parts B, C, and Part A (non-LEAs) (title IV, Pub. L. 92–318), including those submitted under sections 422(a) and 423(a) of the Act as added by Pub. L. 93–380.

(2) Preparation of recommendations to the Commissioner with respect to their approval.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street NW., Suite 326, Washington, D.C. 20004. A summary of activities at the closed sessions and related matters which are informative to the public and consistent with the policy of 5 U.S. Code 552b will be available to the public within 14 days of the meeting.

For further information call Michael P. Doss, Executive Director, National Advisory Council on Indian Education, (202) 376–8882.

Dated: March 16, 1979, signed at Washington, D.C.

**Michael P. Doss,**

*Executive Director, National Advisory Council on Indian Education.*

[FR Doc. 79-10280 Filed 4-3-79; 8:45 am]

**BILLING CODE 4110-02-M**

## OFFICE OF HUMAN DEVELOPMENT SERVICES

### Rehabilitation Long-Term Training, Program Announcement No. 13629–791

**AGENCY:** Office of Human Development Services, DHEW.

**SUBJECT:** Announcement of Availability of FY 1979 Grant Funds for Rehabilitation Long-Term Training.

**SUMMARY:** The Rehabilitation Services Administration, Office of Human Development Services, announces that applications will be accepted from State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education, wishing to compete for grants in Fiscal Year 1979 under the Rehabilitation Long-Term Training Grant Program authorized by Section 304 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762). Regulations governing the rehabilitation long-term training grant program were published in the **Federal Register** in Subpart A and Subpart E, Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations in 45 CFR Part 1362 on November 25, 1975.

**DATES:** The closing date for receipt of new and competing continuation long-term training applications in the areas of *Rehabilitation Medicine, Rehabilitation Counseling, Prosthetics and Orthotics, Rehabilitation continuing Education,* and *Experimental and Innovative Training projects* is: May 18, 1979.

The closing date for receipt of new and competing continuation applications in all other areas of rehabilitation long-term training is: June 1, 1979

#### Scope of this Program Announcement

This Program Announcement identifies the general program objectives of the Rehabilitation Long-Term Training Program for Fiscal Year 1979.

#### Program Purpose

Long-term training grants in vocational rehabilitation are made for the purpose of paying part of the costs of projects designed for the training of personnel available for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely disabled. Long-term training projects include: Training projects in established rehabilitation disciplines; experimental and innovative training projects; and rehabilitation continuing education programs.

#### Program Goals and Objectives

Grants are made to provide a balanced program of assistance to meet the medical, vocational and other personnel training needs of both public and private rehabilitation programs and institutions. This balanced program of training assistance includes training in the fields of rehabilitation medicine, rehabilitation counseling, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in providing services to deaf and blind individuals, rehabilitation job placement and job development, recreation for ill and handicapped individuals and other fields contributing to the rehabilitation of handicapped individuals including homebound and institutionalized individuals.

Rehabilitation long-term training grants have as their objectives:

1. To increase the supply of personnel available for employment in public and private rehabilitation agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those individuals with the most severe handicaps;

2. To improve the quality of professional practice in service to physically and mentally handicapped, with special emphasis on those who are the most severely handicapped; and

3. To ensure the maintenance of basic skills and knowledge of personnel engaged in programs serving handicapped individuals and simultaneously provide opportunities for such individuals to raise their level of competence and broaden their expertise as providers of vocational, medical social and psychological rehabilitation services and as advocates for the rights of severly handicapped individuals.

#### Eligible Applicants

Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

#### Available Funds

An estimated $25 million will be available for rehabilitation long-term training grants during the 1979–1980 academic year beginning July 1, 1979. Approximately $22 million is expected to be used for the continuation grant support of ongoing projects. Of the 350 rehabilitation long-term training projects funded during the 1978–1979 academic year, 95 new and competing

continuation applications were approved and funded. The size of the individual grants is variable and in the 1978–1979 academic year ranged from approximately $10,000 to approximately $250,000.

**Grantee Share of the Project**

It is expected that grantees will provide some of the total project costs. Grantee contributions must be project-related and allowable under the Department's applicable cost principles in 45 CFR Part 74, Subpart Q. Institutions of higher learning and other nonprofit institutions may consider actual indirect costs in excess of the 8 percent allowed on training grants as part of the grantee contribution to the project. Insofar as possible, the applicant's share of teaching costs in multi-year applications for academic training is expected to increase progressively in each succeeding year so that the personnel costs are fully absorbed by the end of the approved project period.

**The Application Process**

*Availability of Application Forms.* Application kits which contain the prescribed application forms and other appropriate information for the applicant will be mailed to grantees who have been conducting rehabilitation long-term training projects during the 1978–1979 academic year and are eligible to apply for a competing continuation grant. Other eligible applicants may request application materials from the appropriate Regional Office of the Rehabilitation Services Administration as follows:

**Region I**

Regional Program Director, Dept. of Health, Education, and Welfare, John F. Kennedy Federal Building, Room 2011, Government Center, Boston, Massachusetts 02203.

**Region II**

Regional Program Director, Dept. of Health, Education, and Welfare, 26 Federal Plaza, Room 4106, New York, New York 10007.

**Region III**

Regional Program Director, Dept. of Health, Education, and Welfare, 3535 Market Street—P.O. Box 13716, Philadelphia, Pennsylvania 19101.

**Region IV**

Regional Program Director, Dept. of Health, Education, and Welfare, 101 Marietta Street, N.W., Suite 903, Atlanta, Georgia 30323.

**Region V**

Regional Program Director, Dept. of Health, Education, and Welfare, 300 South Wacker Drive, 31st Floor, Chicago, Illinois 60606.

**Region VI**

Regional Program Director, Dept. of Health, Education, and Welfare, 1200 Main Tower Building, Room 2040, Dallas, Texas 75202.

**Region VII**

Regional Program Director, Dept. of Health, Education, and Welfare, 601 East 12th Street, Kansas City, Missouri 64106.

**Region VIII**

Regional Program Director, Dept. of Health, Education, and Welfare, Federal Office Building, Room 7415, 19th and Stout Street, Denver, Colorado 80202.

**Region IX**

Regional Program Director, Dept. of Health, Education, and Welfare, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

**Region X**

Regional Program Director, Dept. of Health, Education, and Welfare, Arcade Building, 1321 Second Avenue (MS 622), Seattle, Washington 98101.

*Application Submission.* In order to be considered for a rehabilitation long-term training grant, all applications must be submitted on standard forms provided for this purpose by the Commissioner, Rehabilitation Services Administration, in accordance with guidelines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the Rehabilitation Long-Term Training Program.

One signed original and two copies of the grant application, including all attachments, are required.

1. Applications for the support of special long-term training projects of national scope, including experimental and innovative training projects, should be addressed as follows: Division of Grants and Contract Management, Office of Human Development Services, Room 1427, 330 C Street SW., Washington, D.C. 20201.

Special long-term training projects of national scope are those projects which are designed to (a) have a direct impact on vocational rehabilitation programs throughout the country; (b) have objectives which, if achieved, could result in an improved delivery system for vocational rehabilitation services, especially as it relates to those with the most severe handicaps, and which could affect national policies or standards established for the rehabilitation training program; (c) encompass participants from all sections of the country; (d) demonstrates new program initiatives in areas of special priority interest; or (e) be conducted by an institution, agency or organization with the capacity to offer training in more than one geographical location.

2. Applications for the support of long-term training projects of Regional scope should be submitted to the Regional Office official designated in the application kit.

*OMB Circular A–95 Notification Process.* Applicants for rehabilitation long-term training grants are not routinely required to notify the State and Areawide A–95 Clearinghouse of the intent to apply for Federal assistance. States are authorized to extend the project notification and review procedures of OMB Circular A–95 to include training grants. If the applicant's State has extended the coverage of OMB Circular A–95 to this program however, the Clearinghouse procedures will be observed.

*Application Consideration.* The Commissioner, Rehabilitation Services Administration determines the final action to be taken with respect to each new and competing continuation grant application.

All new and competing continuation grant applications are subject to a competitive review and evaluation conducted by qualified non-Federal consultants experienced in the training of rehabilitation personnel. The Commissioner takes into account the competitive review by the non-Federal consultants, and the comments of the State vocational rehabilitation agencies, the D/HEW Regional Offices and the Rehabilitation Services Administration Central Office program office, in reaching a decision on each competing application.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified in writing of that decision.

*State Vocational Rehabilitation Agency Review.* Applicants are strongly advised to consult with their State vocational rehabilitation agency in the initial stages of application development. Applications submitted under the rehabilitation long-term training program are not required to have State vocational rehabilitation agency approval before submission to the Rehabilitation Services Administration. A copy of the application may be submitted by the applicant concurrently to the State vocational rehabilitation agency for information purposes. State vocational rehabilitation agencies are requested to review and comment on the application

after formal submission, however, and all applications are expected to reflect relevance to State vocational rehabilitation agency service programs.

*Grant Awards to Successful Applicants.* The Commissioner makes grant awards consistent with the purposes of the Rehabilitation Act, the regulations, and program announcements within the limits of Federal funds available. The official grant award document is the Notice of Grant Awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The initial award also specifies the project period for which support is contemplated.

*Special Consideration for Funding.* In awarding long-term training grants, priority will be given to the support of training projects in those professional fields which directly support and enhance the vocational rehabilitation service delivery activities of the State vocational rehabilitation agencies.

It is unlikely that applications for the support of new projects will be funded in FY 1979 in the fields of rehabilitation counseling, speech pathology and audiology, physical therapy, occupatonal therapy, rehabilitation psychology, rehabilitation social work, and undergraduate education in the rehabilitation services.

**Criteria for Review and Evaluation of Grant Applications**

All new and competing continuation applications received in response to this announcement will be reviewed by qualified experts. Applications are evaluated against the following criteria:

1. The relevance of the purpose and the content of the training project to the administratively established objectives of the State/Federal vocational rehabilitation program and the Rehabilitation Act of 1973, as amended;

2. The methodology to be employed in implementing the project and its feasibility for the achievement of the established educational objectives;

3. The adequacy of the plan for the evaluation of the effectiveñess of project acitivities;

4. The existence of a working relationship with the State vocational rehabilitation agency and other agencies and rehabilitation facilities providing vocational rehabilitation services;

5. The extent to which the training projects holds promise of increasing the supply of personnel or improving the skill competence of personnel trained to deliver vocational rehabilitation services to physically or mentally handicapped persons, especially those with the most severe handicaps, or other groups of handicapped persons, such as handicapped persons from minority groups;

6. The extent to which other training programs in the same field are available in the State or Region;

7. The utilization for clinical, field, or instructional experiences, of a "rehabilitation setting": which means an agency or institution operating an organized program of vocational rehabilitation services designed to help severely physically or mentally handicapped persons function optimally in society within their capacities and limitations;

8. Evidence that the supervised clinical practice will be educationally focused and that standards to assure the competence of those staff persons supervising students have been established and will be maintained by the training institution;

9. Designation of a project director qualified in a professional field which contributes to the vocational rehabilitation of the disabled, who is able to devote sufficient time to the project to ensure its proper direction;

10. The financial resources of the applicant for accomplishing the objectives of the training project, how much the applicant plans to contribute to the total cost of the project, and the extent to which the estimated cost to the government is reasonable and necessary to accomplish the project objectives;

11. The personnel and facility resources available to the applicant for accomplishing the objectives of the training project;

12. The criteria to be used for the selection of students to whom traineeships are to be awarded;

13. Evidence that the training institution and all clinical and field instruction settings are free of architectural, communication and other barriers to the training of handicapped individuals;

14. Where appropriate, evidence of current accreditation by the designated accrediting agency;

15. Information on the employment outlook for graduates of the training program including reports from potential employers, job vacancies in the geographical area served by the educational institution, and records of positions held by students who have completed the training program; and

16. Extent to which application instructions are adequately addressed, including both the narrative statement and budget justification.

**Closing Date for Receipt of Applications**

1. New and competing continuation applications in the areas of *Rehabilitation Medicine, Rehabilitation Psychiatry, Rehabilitation Counseling, Prosthetics and Orthotics, Rehabilitation Continuing Education, and Experimental and Innovative Rehabilitation Long-Term Training Projects* will be accepted until May 18, 1979.

2. New and competing extension applications in all other areas of rehabilitation long-term training will be accepted until June 1, 1979.

3. Applications will be judged on time if:

a. The application was sent by mail not later than the date specified above as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service; or

b. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than close of business on the date specified above in any case.

*Late Applications.* Applications received after the closing date are not accepted and applicants are notified accordingly.

(29 U.S.C. 762)

(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training)

Dated: March 5, 1979.

Robert R. Humphreys,
*Commissioner of Rehabilitation Services.*

Approved: March 29, 1979.

Arabella Martinez,
*Assistant Secretary for Human Development Services.*

[FR Doc. 79-10282 Filed 4-3-79; 8:45 am]
BILLING CODE 4110-92-M

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## Rehabilitation Short-Term Training Projects of National Scope

### Program Announcement No. 13629-792

**AGENCY:** Office of Human Development Services, DHEW.

**SUBJECT: ANNOUNCEMENT OF AVAILABILITY OF FY 1979 GRANT FUNDS FOR REHABILITATION SHORT-TERM TRAINING OF NATIONAL SCOPE.**

**SUMMARY:** The Rehabilitation Services Administration, Office of Human Development Services, announces that applications will be accepted from State vocational rehabilitation agencies and other public or non-profit agencies and organizations, including institutions of

higher education, wishing to compete for grants in Fiscal Year 1979 under the Rehabilitation Short-Term Training Grant Program of National Scope, authorized by Section 304 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762). Regulations governing rehabilitation short-term training were published in the **Federal Register** in Subpart A and Subpart E, Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362) on November 25, 1975.

**DATES:** The closing date for receipt of applications is: June 15, 1979.

**Scope of this Announcement**

This program announcement identifies the general program objectives and funding priorities of the Rehabilitation Short-Term Training Program of National Scope for Fiscal Year 1979.

*Program Purpose*

The purpose of short-term training grants in vocational rehabilitation is to improve the professional practice skills of vocational rehabilitation workers serving physically and mentally disabled individuals, especially those who are the most severely disabled.

*Program Goals and Objectives*

1. Rehabilitation short-term training of national scope includes workshops, institutes, seminars, or other short-term training courses conducted in order to provide special training of national significance at a single training setting, or on a coordinated basis, at a number of different training settings, in content areas of priority interest to the State/Federal vocational rehabilitation program. The training is expected to meet training needs of a non-recurrent nature and training content is expected to be related to (a) the provision of vocational rehabilitation services to specific groups of handicapped individuals or (b) the improved performance of vocational rehabilitation practitioners in carrying out specific functional responsibilities.

There are no geographical restrictions for trainees participating in short-term training courses of national scope and it is expected that trainees will come from throughout the country.

2. Conferences and meetings in which direct training is not the primary focus, even though included by inference or tangentially related to the purpose of the conference or meeting, may not be supported through short-term training grant funds. Projects designed primarily for the development of training materials may similarly not be supported through short-term traning grant funds.

*Eligible Applicants*

Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

*Available Funds*

An estimated $1 million is available for rehabilitation short-term training grants of national scope in FY 1979. All projects to be funded are new and Federal funding is limited to projects which will extend no more than 12 months. It is expected that approximately 20 grants will be awarded and the amount of the grants will range from $15,000 to $75,000.

*Grantee Share of Project*

It is expected that grantees will provide some of the total project costs. Grantee contributions must be project-related and allowable under the Department's applicable cost principles in 45 CFR Part 74, Subpart Q. Institutions of higher learning and other nonprofit institutions may consider actual indirect costs in excess of the 8 percent allowed on training grants as part of the grantee contribution to the project.

*The Application Process*

*Availability of Application Forms.* Application kits which contain the prescribed application forms and other information for the applicant, including the FY 1979 General Plan for Rehabilitation Short-Term Training of National Scope, may be obtained by writing to the Director, Division of Manpower Development, Rehabilitation Services Administration, Room 3321, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

*Application Submission.* In order to be considered for a rehabilitation short-term training grant of national scope, all applications must be submitted on standard froms provided for this purpose by the Commissioner, Rehabilitation Services Administration, in accordance with guidelines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the Rehabilitation Short-Term Training Program.

One signed original and two copies of the grant application, including all attachments, are required. The original and the two copies of all completed applications should be submitted to the Division of Grants and Contract Management, Office of Human Development Services, Room 1427 Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

*OMB Circular A–95 Notification Process.* Applicants for rehabilitation short-term training grants are not routinely required to notify the State and Areawide A–95 Clearinghouse of the intent to apply for Federal assistance. States are authorized to extend the project notification and review procedures of OMB Circular A–95 to include training grants. If the applicant's State has extended the coverage of Circular A–95 to this program, however, the Clearinghouse procedures must be observed.

*Application Consideration.* The Commissioner, Rehabilitation Services Administration determines the final action to be taken with respect to each grant application.

All grant applications are subjected to a competitive review and evaluation conducted by qualified non-Federal consultants experienced in the training of rehabilitation personnel. The Commissioner takes into account the competitive review by the non-Federal consultants, and the comments of the State vocational rehabilitation agencies, the D/HEW Regional Offices and the Rehabilitation Services Administration Central Office program office, in reaching a decision on each competing application.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified in writing of that decision.

*State Vocational Rehabilitation Agency Review.* Applicants are advised to consult with their State vocational rehabilitation agency in the initial stages of application development. Applications submitted under the rehabilitation short-term training program are not required to have State vocational rehabilitation agency approval before submission to the Rehabilitation Services Administration. A copy of the application may be submitted by the applicant concurrently to the State vocational rehabilitation agency for information purposes. State vocational rehabilitation agencies are requested to review and comment on applications after formal submission, however.

*Grant Awards to Successful Applicants.* The Commissioner makes grant awards consistent with the purpose of the Rehabilitation Act, the

regulations, and program announcements within the limit of Federal funds available. The official grant award document is the Notice of Grant Awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The award also specifies the project period for which support is contemplated.

*Special Consideration for Funding.* In FY 1979 the following program priorities, not in order of priority, have been identified for short-term training of national scope:

1. Independent Living Rehabilitation Services.
2. Rehabilitation Education for Independent Living Rehabilitation.
3. The Vocational Rehabilitation of American Indians.
4. The Integration of Vocational Rehabilitation and Developmental Disabilities Programing.
5. Bilingual Rehabilitation Counseling.
6. The Diagnostic Process in Vocational Rehabilitation.
7. The Vocational Rehabilitation of Special Groups of Underserved Severely Disabled Individuals.
8. Advocacy for Handicapped Individuals.
9. The Recruitment, Training and Employment in Vocational Rehabilitation of Handicapped Persons and Persons from Minority Groups.

Applications in areas other than those listed above will also be reviewed and evaluted but will be considered only to the extent that funds are available after applications submitted under priority training areas have been considered.

An application which is submitted primarily for the support of a conference or a meeting, or proposed to provide training which is not national in scope may be considered to be nonconforming and in such case will be returned to the applicant.

*Criteria for Review and Evaluation of Grant Applications*

All applications received in response to this announcement will be reviewed by qualified experts. Applications are evaluated against the following criteria:

1. The relevance of the content of the proposed short-term training to the administratively established objectives of the State/Federal vocational rehabilitation program, the objectives of the Rehabilitation Act of 1973, as amended, the objectives of the rehabilitation short-term training program of national scope, and the FY 1979 priorities for rehabilitation short-term training;
2. The qualifications of the instructional staff and the facilities and resources of the applicant organization;
3. The reasonableness of the budget in relation to the proposed project and the anticipated results;
4. The methodology to be employed in implementing the project and its feasibility for the achievement of the established educational objectives;
5. The financial and other resources of the applicant for accomplishing the objectives of the training project and how much the applicant plans to contribute to the total cost of the project;
6. The criteria to be used for the selection of individuals to whom traineeships are to be awarded;
7. Evidence that the training institution is free of architectural, communication, and other barriers to the training of handicapped individuals;
8. Where appropriate, evidence of current accreditation by the designated accrediting agency;
9. The extent to which application instructions are adequately addressed, including both the narrative statement and budget justification;
10. The extent to which the proposal provides for an evaluation methodology, including the manner in which such methodology will be employed to measure the achievement of the objectives of the training program;
11. The evidence of a working relationship with an appropriate State vocational rehabilitation agency and other agencies providing vocational rehabilitation services; and
12. The extent to which the proposal is of a national scope.

*Closing Date For Receipt of Application*

Applications are due by close of business on June 15, 1979. Applications will be judged on time if: (1) The application was sent by mail not later than June 15, 1979 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service; or (2) the application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than close of business June 15, 1979 in any case.

*Late Applications.* Applications received after the closing date are not accepted and applicants are notified accordingly.

(29 U.S.C. 762)
(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training)

Dated: March 5, 1979.

**Robert R. Humphreys,**
*Commissioner of Rehabilitation Services.*

Approved: March 29, 1979.

**Arabella Martinez,**
*Assistant Secretary for Human Development Services.*

[FR Doc. 79-10283 Filed 4-3-79; 8:45 am]
BILLING CODE 4110-92-M

## Office of the Secretary

### Office of Facilities Engineering; Statement of Organization, Functions, and Delegations of Authority

This notice amends the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare chapter AMF "Office of Facilities Engineering" (OFE) (43 FR 2764, January 19, 1978) and as revised at 44 FR 5207, January 25, 1979. The amendment provides a new chapter AMF which supersedes and replaces in its entirety the current functional statement. The functions of the current offices within OFE are realigned to provide a more effective delivery of technical services and engineering management. The new chapter reads as follows:

*Sec. AMF.00 Mission.* The mission of the Office of Facilities Engineering is to: provide nationwide architectural-engineering management, direction, and services for both direct Federal and federally-assisted construction activities; manage facility engineering services for all HEW-owned or utilized real property throughout the country; administer the Federal surplus real property program and manage the HEW Safety and Occupational Health Program.

*Sec. AMF.10 Organization.* The Office of Facilities Engineering (OFE) is headed by a Director who reports to the Assistant Secretary for Management and Budget and who manages and supervises the activities of the following OFE units:

**Office of the Director**

*Deputy Director for Technical Services*

Office of Project Management
Office of Architecture
Office of Engineering and Plant Operations

*Deputy Director for Engineering Management*

Office of Safety and Occupational Health
Office of Program Liaison
Office of Real Property
Office of Engineering Management Systems

*Sec. AMF.20 Functions.* A. The Office of the Director performs the following functions:

1. Functional management in the areas of facilities engineering and safety, and administers, directs, and supervises all OFE activities, personnel, and other resources.

2. Recommends to the Assistant Secretary policies and regulations affecting Departmentwide facilities engineering and safety operations, and coordinates OFE related activities with counterparts in the Principal Operating Components (POCs), OS offices, and other Federal Departments and agencies.

3. Issues regulatory and guidance materials on Departmentwide operating practices and procedures implementing policy decisions by the Secretary and Assistant Secretary.

4. Coordinates with the Office of General Counsel and Office of the Assistant Secretary for Legislation on facilities engineering and safety matters, including review and recommendations on legislation, and representing the Department before OMB and Congressional Committees.

5. Represents the Secretary and Assistant Secretary for Management and Budget on the President's Economic Adjustment Committee and on other inter-department committees.

6. Develops and manages a work planning system for the 10 Regional Operations for Facilities Engineering and Construction (ROFEC) and recommends to the Principal Regional Officials ROFEC organization and resource allocation.

B. Deputy Director for Technical Services. The Deputy Director for Technical Services is the principal advisory to the Director on technical services, and directs and supervises the activities of the following offices:

1. The Office of Project Management:

a. Develops Technical Procedures/ Guidelines for architectural/engineering and construction contracting operations in HEW. Provides technical and performance evaluations of such operations, and processes contract appeal matters.

b. Manages a program to ensure adequate training for HEW Regional Architects and Engineers, so as to maintain current HEW certification as contracting officers.

c. Manages the development of OFE Technical Standards and Technical Procedures/Guidelines for use in Departmentwide facilities engineering activities.

d. Manages the design and construction process for direct Federal, special-purpose construction projects which are the designated responsibilities of OFE.

e. Manages the Department construction wage rate (Davis-Bacon) and Labor Standards Program, coordinates with the Department of Labor in resolving construction contractor violations.

f. Develops and recommends implementing procedures for OFE/ ROFEC compliance with Department issuances on the National Environmental Policy Act.

2. Office of Architecture:

a. Provides architectural consultant services to the POCs, OS and OFE offices, regional offices, field installations, and project applicants for both direct Federal, special-purpose and federally assisted construction.

b. Develops archiectural OFE Technical Standards and OFE Technical Procedures/Guidelines for use in Departmentwide facilities engineering activities.

c. Assists, consults, and instructs in an HEW program to ensure adequate professional training and career development for all HEW architects.

d. Performs technical and performance evaluation of architectural services rendered in HEW facilities engineering activities. Provides architectural service for direct Federal, special-purpose construction projects which are the designated responsibilities of OFE.

e. Develops, recommends, and implements guidance materials and specific actions to eliminate architectural barriers in HEW occupied facilities, and HEW federally assisted facilities.

3. Office of Engineering and Plant Operations:

a. Provides engineering consultant services to the principal operating components, OS offices, regional offices, field installations, and project applicants with respect to both direct Federal, special-purpose and Federally assisted construction activities.

b. Develops engineering and plant maintenance/operations Technical Standards and Technical Procedures/ Guidelines for use in Departmentwide facilities engineering activities.

c. Assists, consults, and instructs in an HEW program to ensure adequate professional training and career development for all HEW engineers. Develops and manages an HEW program to ensure adequate technical training for all HEW plant maintenance/ operations personnel.

d. Provides technical performance evaluation of engineering and plant maintenance/operations services being rendered in HEW facility engineering activities. Provides engineering services for direct Federal, special-purpose construction projects, which are designated the responsibilities of OFE.

e. Manages, in conjunction with the POCs, a Departmentwide energy conservation program for health and educational facilities, and provides guidance materials for energy conservation in plant operations.

C. Deputy Director for Engineering Management. The Deputy Director for Engineering Management is the principal advisor to the Director on engineering management, and directs and supervises the activities of the following offices:

1. Office of Safety and Occupational Health:

a. Recommends Departmentwide policy and procedures related to the Safety and Occupational Health Program.

b. Provides technical and performance evaluation of safety and occupational health program effectiveness at all organizational levels.

c. Reviews safety and occupational health standards published by organizations outside of HEW, for use within the Department, adapting and implementing those applicable to HEW activities.

d. Provides specialized safety engineering, industrial hygiene, and fire safety technical guidance and consultation services to the POCs, OS and OFE offices, and regional offices.

e. Administers a safety management information system to provide summary data required by Department of Labor; analyzes casual factors of accidents, injuries, and illnesses to determine problem areas and requirements for program emphasis.

2. Office of Program Liaison:

a. Acts as regional affairs coordinator, on day-to-day activities, between OFE and ROFEC in the 10 Regional Offices.

b. Acts as Federally assisted construction coordinator between HEW headquaters program offices and OFE.

c. Manages OFE/ROFEC conferences and schedules, coordinates, and reports on the technical inspection of ROFEC's.

d. Directs and coordinates the HEW nationwide natural disaster engineering activity in support of the Educational Division and the Department of Housing and Urban Development/Federal Disaster Assistance Administration programs.

e. Recommends Departmentwide policies and procedures for the facilities engineering aspects of Federally assisted construction.

3. Office of Real Property:

a. Recommends policy and procedures for planning, programming, budgeting, acquisition, utilization, management, maintenance, and disposal of all real property and space owned or utilized by HEW. Maintains the HEW Facilities Master Plan.

b. Develops in conjunction with the Office of the Deputy Director for Technical Services, Technical Procedures/Guidelines for facilities engineering and real property management services, including environmental activities.

c. Provides performance evaluation of the management effectiveness of the HEW facilities/real property activities.

d. Recommends Departmentwide policy and procedures for the management and operations of the Federal Real Property Assistance Program.

e. Provides staff support to the Director, OFE in the assigned duties to represent the Department on the President's Economic Adjustment Committee.

4. Office of Engineering Management Systems:

a. Performs engineering management analysis studies of HEW facilities engineering activities relating to program management, adequacy of scope of program technical content, headquarters resource allocation, and organizational structure. Advises the Deputy Director for Engineering Management on matters of management analysis/methodology and organizational behavior.

b. Recommends facilities engineering management policies and methods for new or revised programs, particularly where there is need for potential extensive realigment of functions performed by many agencies or where programs have widespread public and special group interest.

c. Manages the OFE/ROFEC Communications System including administrative coordination of the preparation, issuance, and maintenance of all Facilities Engineering Construction Manual issuances, Federal Property Assistance Manual issuances, Safety Manual issuances, Technical Bulletins, Technical Procedures/Guidelines, and Technical Standards. Provides reports management activity for OFE. Manages the OFE Information Processing Center operation.

d. Operates the OFE Work Planning and Zero Base Budgeting System. Ensures sound system design, efficient system administration, and proper system utilization for internal OFE performance evaluation purposes.

e. Develops, implements, and operates automatic data processing systems for OFE/ROFEC management information, project/event progress tracking, facility inventory, and work plan management.

*Sec. AMF, 30 Delegations of Authority.* The Office of Facilities Engineering has been delegated:

1. The authorities vested in the Secretary by law (or delegated to the Secretary from the Administrator of General Services) relating to real property management, engineering, and facility planning and construction, including Federal contracting officer responsibilities required in support of those authorities (exclusive of the financial management authority retained by the Assistant Secretary for Management and Budget).

2. All authorities with respect to direct Federal special purpose construction activities, not inconsistent with the Assistant Secretary for Management and Budget delegation of October 31, 1978 to the PRO.

3. The authority to recommend such general policies and procedures as may be necessary to govern the functions, personnel, funds, and property in order to establish and administer the Office of Facilities Engineering.

4. Authority vested in the Secretary by section 203 (k) and (n) of the Federal Property and Administrative Services Act of 1949, as amended.

5. Authority to recommend and interpret policies, procedures, and regulations for implementing the Uniform Relocation Act, Pub. L. 91–646.

6. Authority as the Department's Safety and Occupational Health Official pursuant to Executive Order 11807.

7. Authority to execute leases with Indian Tribes pursuant to Pub. L. 94–437, Section 704.

8. Authority as Departmentwide functional manager for facilities engineering and safety, pursuant to the Secretary's designation of August 12, 1977.

Dated: March 23, 1979.

**Frederick M. Bohen,**

*Assistant Secretary for Management and Budget.*

[FR Doc. 79-10286 Filed 4-3-79; 8:45 am]

BILLING CODE 4110-12-M

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## Public Health Service

## Health Resources Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HR (Health Resources Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (43 FR 39432, September 5, 1978) is amended to reflect: (1) The establishment of an Office of Graduate Medical Education (HRA15) in the Office of the Administrator, (2) the transfer of the executive secretariat functions in support of the Graduate Medical Education National Advisory Committee from the Office of Program Policy Coordination (HRA14) to the immediate Office of the Administrator, and (3) the correction of an error in two division statements for the Bureau of Health Facilities Financing, Compliance, and Conversion.

Section HR-B *Organization and Functions* is changed as follows:

Under the *Immediate Office of the Administrator (HRA1),* delete the "and" before item (5), change the period to a semicolon and add "and (6) performs executive secretariat and related support functions for the Graduate Medical Education National Advisory Committee."

Under the *Office of Program Policy Coordination (HRA14)* delete from item (3) ", the graduate medical education national advisory council,".

Insert the following statement immediately following the statement for the Office of Program Policy Coordination (HRA14:)

*Office of Graduate Medical Education (HRA15).* Performs the following functions in close coordination with the Division of Manpower Analysis and the Division of Medicine, Bureau of Health Manpower, and with the Executive Secretariat of the Graduate Medical Education National Advisory Committee (GMENAC): (1) Conducts, supports, or obtains analytical studies to determine the present and future supply and requirements of physicians by specialty and geographic location, including the linkages between physicians' training and their practice characteristics; (2) conducts and supports studies to determine potential national goals for the distribution of physicians in graduate training, and develops alternative strategies to accomplish those goals, with particular attention to the linkage of such strategies to national health planning guidelines; (3) maintains liaison with groups and organizations involved in medical education to encourage actions consistent with emerging national goals for physician distribution; (4) assists other HRA components in developing and implementing strategies and approaches to physician training consistent with national health planning guidelines; and (5) provides staff support to GMENAC and its Executive Secretariat, including

the performance of intramural studies and the development and monitoring of extramural studies.

Under the *Bureau of Health Facilities Financing, Compliance, and conversion (HRF),* amend the opening sentence under the *Division of Facilities Conversion and Utilization (HRF3)* by adding a period after "health facilities" and deleting the remainder of the sentence, "health professions facilities, and nurse training facilities."

Under the *Division of Facilities Financing (HRF4),* in the opening statement, add the phrase "including health professions education facilities projects and nurse training facilities projects," after the word "funding," and before the phrase "and provides development,".

Dated: March 24, 1979.

**Frederick M. Bohen,**

*Assistant Secretary for Management and Budget.*

[FR Doc. 79-10285 Filed 4-3-79; 8:45 am]

BILLING CODE 4110-83-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Salmon District Grazing Advisory Board, Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Salmon District Grazing Advisory Board will be held on May 4, 1979. The meeting will begin at 10 a.m. in the Conference Room of the Bureau of Land Management Office on South Highway 93, Salmon, Idaho.

The agenda for the meeting will include: (a) election of officers for calendar year 1979; (b) a discussion of the expenditure of range betterment and Advisory Board funds for range improvements; and (c) a discussion of allotment management plans.

The meeting is open to the public. Interested persons may make oral statements to the board beginning at 3 p.m. on May 4, 1979, or file written statements for the board's consideration. Anyone wishing to make an oral statement msut notify the District Manager, Bureau of Land Management, South Highway 93, Salmon, Idaho, 83467 by May 3, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District office and will be available during regular business hours for public inspection and reproduction within 30 days following the meeting.

**Harry R. Finlayson,**

*District Manager.*

March 26, 1979.

[FR Doc. 79-10367 Filed 4-3-79; 8:45 am]

BILLING CODE 4310-84-M

## DEPARTMENT OF ENERGY

### Office of the Secretary

### National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that a task group of the Committee on Unconventional Gas Sources will meet in April and May 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling meetings is the Tight Gas Reservoirs Task Group. The time, location and agenda of the task group's meetings follows:

The fifth meeting of the Tight Gas Reservoirs Task Group will be on Thursday, April 26, 1979, starting at 8:30 a.m. in the Conference Room of the Mobil Corporation's offices, First International Building, 1201 Elm Street, Dallas, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.

2. Discussion of the overall progress of the Tight Gas Reservoirs Task Group.

3. Review status of separate assignments of the Tight Gas Reservoirs Task Group.

4. Discussion of any other matters pertinent to the overall assignment of the Tight Gas Reservoirs Task Group.

The sixth meeting of the Tight Gas Reservoirs Task Group will be on Wednesday, May 23, 1979, starting at 8:30 a.m. in the Conference Room of the Mobil Oil Corporation's offices, Prudential Plaza Building, 1645 Curtis Street, Denver, Colorado.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.

2. Discussion of overall progress of the Tight Gas Reservoirs Task Group.

3. Review status of separate assignments of the Tight Gas Reservoirs Task Group.

4. Discussion of any other matters pertinent to the overall assignment of the Tight Gas Reservoirs Task Group.

The meetings are open to the public. The chairman of the task group is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633-9482, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on March 28, 1979.

**George S. McIsaac,**

*Assistant Secretary for Resource Applications.*

March 28, 1979.

[FR Doc. 79-10239 Filed 4-3-79; 8:45 am]

BILLING CODE 6450-01-M

## INTERNATIONAL TRADE COMMISSION

### Certain Pump Top Insulated Containers; Amendment to the Supplemented Complaint and Notice of Investigation

Upon consideration of Motion Docket No. 59-1, as certified to the Commission by the administrative law judge (ALJ) on January 24, 1979, together with the supporting documents filed by the complaint and the Commission investigative attorney, and the ALJ's recommendation of January 24, 1979, that the supplemented complaint and notice of investigation be amended, the Commission is ordering:

(1) The deletion of W. P. Hemenway Co. as a respondent in the supplemented complaint and the notice of investigation which was filed in the **Federal Register** on November 9, 1978 (43 FR 52297);

(2) The deletion of the New York Merchandise Co. as a respondent in the supplemented complaint; and

(3) The addition of the following new respondents to the supplemented complaint and the notice of investigation: The Warren Co., 3104 West Lake Street, Minneapolis, Minnesota 55416. The Rollin Corp., P.O. Box 3774, Taipei, Taiwan. Apollo Limited, 459–22 Karibong-Dong, Seoul, Lorea.

The Commission is also ordering that complainant's motion for removal of the request for a temporary exclusion order from the supplemented complaint is denied.

Copies of the "Commission Action, Order, and Opinion" are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523–0161.

Issued: March 30, 1979.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[Investigation No. 337–TA–59]

[FR Doc. 79–10364 Filed 4–3–79; 8:45 am]

BILLING CODE 7020–02–M

## Certain Cigarette Holders; Commission Determination

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the U.S. International Trade Commission has determined that no violation of section 337 of the Tariff Act of 1930, as amended, exists. Any party wishing to petition for reconsideration must do so within fourteen (14) days of service of the Commission determination. Such petitions must be in accord with § 210.56 of the Commission's rules (19 CFR 210.56). Any person adversely affected by a final Commission determination may appeal such determination to the U.S. Court of Customs and Patent Appeals.

Copies of the Commission determination, order, and opinions (USITC Publication 959, March 1979) are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523–0161. Notice of the institution of the Commission's investigation was published in the **Federal Register** of March 29, 1978 (43 FR 13104).

Issued: March 29, 1979.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[Investigation No. 337–TA–51]

[FR Doc. 79–10385 Filed 4–3–79; 8:45 am]

BILLING CODE 7020–02–M

## Bicycle Tires and Tubes From the Republic of Korea; Determination of Injury

On the basis of its investigation, the United States International Trade Commission unanimously determines that an industry in the United States is being or is likely to be injured [1] by reason of the importation of bicycle tires and tubes from the Republic of Korea that are being, or are likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On December 26, 1978, the United States International Trade Commission received advice from the Department of the Treasury that bicycle tires and tubes from the Republic of Korea, are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 9, 1979, the Commission instituted investigation No. AA1921–193 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the **Federal Register** of January 15, 1979 (44 FR 3101). On February 8, 1979, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

**Statement of Reasons of Chairman Joseph O. Parker and Commissioners George M. Moore, Catherine Bedell, and Paula Stern**

On December 26, 1978, the United States International Trade Commission received advice from the Department of the Treasury that bicycle tires and tubes from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 9, 1979, the Commission instituted investigation No. AA1921–193 under section 201(a) of the act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established,[2] by reason of the importation of such merchandise into the United States.

*Determination*

On the basis of information obtained in this investigation, we determine that an industry in the United States is being or is likely to be injured by reason of the importation of bicycle tires and tubes from Korea which the Secretary of Treasury has determined are being, or are likely to be, sold at LTFV.

*The Imported Articles and the Domestic Industry*

The imported articles of concern in this investigation are pneumatic bicycle tires and tubes. We consider the relevant domestic industry to consist of the facilities in the United States devoted to the production of such articles. The Carlisle Tire & Rubber Co., Carlisle, Pa., has been the only U.S. producer of bicycle tires and tubes since 1976, when Goodyear Tire & Rubber Co. discontinued production of these articles in the United States. As a result, much of the information concerning the domestic industry is confidential, thereby limiting our discussion in this opinion.

*LTFV Sales*

The Department of the Treasury found that all imports of bicycle tires and tubes from Korea during the period of its investigation—September 1, 1977, to February 28, 1978—were porduced by three Korean firms, Dae Yung, Hung A, and Korea Inoue Kasei. Fair-value comparisons were made on 54 percent of the sales to the United States by these three companies, and LTFV margins ranging from 0.2 percent to 65.2 percent were found on 43 percent of the sales compared. The weighted average margin on all sales compared was 4.83 percent, and the weighted average margin on those sales found to be at LTFV was 11.56 percent.

*Injury by Reason of LTFV Sales*

The information obtained in the investigation clearly shows that the domestic producer of bicycle tires and tubes is being injured by reason of LTFV sales. A comparison of varous indicators of the industry's economic health prior to 1977—the year established by

[1] Chairman Parker and Commissioners Moore, Bedell, and Stern determine that an industry is being or is likely to be injured; Vice Chairman Alberger determines that an industry is being injured.

[2] Prevention of the establishment of an industry is not an issue in this investigation and will not be considered further.

Treasury as encompassing the onset of LTFV sales—with conditions in 1977 and 1978 shows a decrease in production and shipments, a declining rate of capacity utilization, an increase in inventories, a drop in employment, and a substantial decline in profitability.

U.S. production of bicycle tires and tubes fell by 12 percent between 1976 and 1977 and again in 1978 to 23 percent below the 1976 level and to slightly below the level during the recession year of 1975. U.S. producers' shipments declined without interruption from 1976 to 1978, when, in the latter year, they were approximately one third less than shipments in 1976.

Although there was a slight increase in the utilization of U.S. capacity to produce bicycle tires and tubes in 1977 compared with that in 1976, it was attributable to a sharp decline in production capacity owing to the exit of Goodyear from the industry in 1976, rather than to an increase in production. Carlisle, the only remaining U.S. producer of bicycle tires and tubes, reported a significant decline in capacity utilization in 1977 and 1978.

U.S. producer's inventories trended upward during 1976–1978. Expressed as a share of production, yearend inventories increased from 14 percent in 1976 to 15 percent in 1977 and 22 percent in 1978

There were 43 percent fewer workers engaged in the production of bicycle tires and tubes in 1978 than in 1976. The total number of hours worked on such production declined by 42 percent.

Profit in the bicycle tire and tube industry has seriously eroded in recent years. The ratio of net earnings before taxes to net sales declined by 47 percent between 1976 and 1978. In 1977, Carlisle's profit ratio for its bicycle tire and tube operations was substantially below that for all manufacturing, and it declined even further in 1978.

There is a direct casual relationship between the injury to the domestic indusy and LTFV imports from Korea. Although apparent U.S. consumption of both bicycle tires and tubes was relatively stable during 1976–78, U.S. producers' share of apparent consumption of these articles declined by about 35 percent from 1976 to 1978. In the same period the ratio of imports of bicycle tires and tubes from Korea to U.S. production almost doubled. Imports of these articles from Korea as a share of total imports increased from 35 percent in 1976 to 43 percent in 1978.

The Commission was able to verify actual cases of sales lost by the domestic industry to bicycle tires and tubes imported from Korea. Two bicycle manufacturing firms confirmed that they reduced purchases from Carlisle and increased purchases from Korea in 1977–78 principally because of the lower price of the imported articles.

Price data obtained by the Commission also indicated a causal link between LTFV imports from Korea and the injury suffered by the domestic industry. Extreme price sensitivity, particularly in the segment of the market represented by the bicycle manufacturers, characterizes the U.S. market for bicycle tires and tubes. Throughout a substantial portion of 1977 and 1978 when imports of tires, tubes, and sets to the United States from Korea were at LTFV, such imports generally undersold comparable domestically produced articles. The data show that the dumping margins, which ranged from 0.2 percent to 65.2 percent and which averaged 11.56 percent on LTFV sales, were large enough to enable imports to be priced below the domestically produced article in many instances. The underselling resulted in loss of sales to both the sole domestic producer of bicycle tires and tubes and to imports of these articles from other sources.

*Likelihood of Future Injury by LTFV Sales*

As a result of declining production, capacity utilization, sales, employment, profit, and growing inventories, the domestic industry is in a weakened condition and is particularly vulnerable to LTFV sales of imports from Korea. Two of the three Korean manufacturers of bicycle tires and tubes operated their production facilities at reduced levels in 1978 compared with levels in 1977. These two firms also reduced their exports to the United States in 1978, the year in which Treasury began to withhold appraisement for these articles. Thus the Korean industry is in a position to increase its exports of bicycle tires and tubes to the United States at LTFV in the event of a negative determination by this Commission. In view of these considerations, we find that an industry in the United States is being or is likely to be injured by reason of the importation of bicycle tires and tubes which the Secretary of the Treasury has determined are being, or are likely to be, sold at LTFV.

**Statement of Reasons of Commissioner Bill Alberger**

In order for the Commission to find in the affirmative in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] *and* the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV). I find that in the case of bicycle tires and tubes from the Republic of Korea (Korea), the domestic industry is being injured by reason of such imports which the Secretary of the Treasury has determined are being, or are likely to be sold at LTFV.

*The Imported Articles and the Domestic Industry*

The relevant imported articles in this investigation are pneumatic bicycle tires and tubes. The domestic industry consists of the facilities in the United States devoted to the production of such articles. At present, the domestic industry is the Carlisle Tire and Rubber Company of Carlisle, Pa., the only firm currently producing bicycle tires and tubes in the United States.

*LTFV Sales*

From September 1, 1977 to February 28, 1978, the period of the Department of Treasury's examination, it was found that 100 percent of bicycle tire and tube imports entered from Korea were produced by three Korean firms—Dae Yung, Hung A, and Korean Inoue Kasei. Treasury made fair value comparisons on 54 percent of the sales to the United States by these three firms and found LTFV margins ranging from 0.2 percent to 65.2 percent on 43 percent of the sales compared. For all sales compared, the weighted average margin was 4.83 percent. However, on only those sales found at LTFV, the margin was 11.56 percent.

*The Question of Injury or Likelihood Thereof by Reason of LTFV Sales*

*Imports and market share*—Imports of bicycle tires and tubes from all sources dropped slightly from 1974 through 1978. At the same time, however, imports from Korea jumped 40 percent and, as a share of all imports, grew by 14 percentage points. Between 1976 and 1978, when domestic shipments of bicycle tires and tubes dropped by about 35 percent, Korean imports of tires and tubes increased their share of U.S. consumption by approximately the same amount.

*Consumption*—Consumption of bicycle tires and tubes closely tracks that of bicycles. Bicycle consumption was at its zenith in 1973 and 1974, but dropped precipitously in the recession of 1975. Although consumption in the U.S. has recovered somewhat since 1975, bicycle consumption figures for 1977

[1] Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

were well below peak levels. Similarly, bicycle tire and tube consumption hit a low in 1975 and then showed slight recovery in 1976 and 1977. However in 1978, consumption once again dropped and was at a level near that of 1976.

*Capacity utilization*—At the high point of bicycle consumption in the U.S. in 1973–74, capacity utilization for domestic producers of bicycle tires and tubes was slightly over the 50 percent mark. Capacity utilization dropped sharply during the recession of 1975 and into 1976. During this period of falling demand, Carlisle expanded its capacity, thus aggravating the declining utilization rate. That rate dropped by more than half by 1976 and, after recovering somewhat in 1977, dropped again in 1978 to a level more than 40 percent off from 1974.

*Production and shipments*—U.S. production in 1978 was at a level below the recession year of 1975. This, in effect, is more than 60 percent off from the level attained in 1974 and is nearly 25 percent below the 1976 level, when U.S. producers had made a limited recovery from the recession.

Shipments, likewise, evidenced a dramatic decline from 1974 to 1975 and, after a slight upturn in 1976, dropped to even lower levels in 1977 and 1978.

*Employment*—The number of production and related workers in the domestic industry dropped by over 40 percent from 1974 through 1976, the year Goodyear Tire and Rubber Co. ceased its bicycle tire and tube operations. This drop in employment continued and by 1978, the number of workers was off more than 40 percent from the 1976 level.

*Inventories*—After peaking in 1975, end of year inventories held by U.S. producers declined by 40 to 50 percent in 1976 and 1977. However, by the end of 1978, inventories had reversed this trend and were nearly 30 percent greater than the 1977 level.

*Profits*—Although the domestic producer has shown a good level of profit in its overall operations, the drop in profits for the bicycle tire and tube portion of its operations has been rather sharp from 1974 through 1978. While both registered steep declines in recession-year 1975, the bicycle tire and tube portion has in no way shown the recovery since then that has been evident in Carlisle's overall operations. In fact, other than a slight upswing in 1976, profits for its bicycle tire and tube operations have continued to drop and for both 1977 and 1978 were at levels below that recorded during the 1975 recession. Carlisle's net earnings before taxes on its bicycle tire and tube operations in 1978 were about one-seventh of its 1974 earnings.

*Prices*—The pricing data obtained by the Commission confirmed that the imported Korean bicycle tires and tubes undersold comparable U.S. produced articles from 1976 through 1978. In particular, during a good part of 1977 and 1978 when Korean exports to the United States were found to be at LTFV, the dumping margins on many of those sales at LTFV were sufficiently large (as much as 65 percent) to enable Korean producers to take sales from the U.S. producers and other importing countries as well.

*Lost sales*—The domestic producers cited various instances of sales lost to bicycle tire and tube imports from Korea. Although some of the U.S. businesses cited did shift to the Korean product because of price, other firms indicated they purchased imports from countries other than Korea or they purchased imports from Korea because of the reliability of delivery from that source.

*Likelihood of injury*— Having found present injury in this case, it is unnecessary to address the issue of likelihood of injury.

*Summary*—Having considered the aforementioned economic factors, I believe it is clear that the domestic industry producing bicycle tires and tubes is being injured by imports from Korea sold at LTFV. Korean imports have made significant increases in their share of the U.S. market at the expense of both the U.S. industry and imports from other sources. At the same time, the domestic industry has experienced declines in capacity utilization, production, shipments, and profits to levels, in some categories, below those experienced in the recession of 1975. In addition, inventories jumped by 30 percent in 1978.

In a previous investigation (TA–201–33; USITC Pub. 910, September 1, 1978) under Section 201 of the Trade Act of 1974, I found that increased imports of bicycle tires and tubes were *not* causing serious injury to the domestic industry. While obviously the modifier "serious" signifies that a greater degree of injury must be found in this type of investigation than is required in investigations under the Antidumping Act, there are other significant factors which lead me to the apparently contradictory result in this case. In the 201 case, the Commission had data through the first quarter of 1978 only. The first quarter of 1978 was much better for the domestic industry than the last three, and the trends that were apparent last year did not hold up. Carlisle has also revised its profit data to indicate a decline in 1977 and 1978 which was not apparent last year when I concluded that profits were consistent with levels of all U.S. manufacturers. It is my view that my decision in the earlier case was the correct one at the time, and that my decision in this case is also correct and consistent with my previous decision.

Issued: March 28, 1979.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[AA1921–193]

[FR Doc. 79–10386 Filed 4–3–79; 8:45 am]

BILLING CODE 7020–02–M

## Certain Apparatus for the Continuous Production of Copper Rod

Upon consideration of (1) Motion Docket No. 52–41, as certified to the Commission by the administrative law judge (ALJ) on November 16, 1978, together with all exhibits and responses thereto; (2) the ALJ's decision of November 16, 1978, granting the motion of the American Telephone and Telegraph Company, Nassau Recycle Corporation, and Western Electric Company, Inc., (hereinafter referred to collectively as the Bell respondents) for summary determination; and (3) those portions of the documents filed late by complainant (Southwire Company) and the Bell respondents that discuss the issue of the alleged illegality of the licenses claimed by the Bell respondents under the 1962 joint development contract and the 1963 license agreement, the Commission is ordering the termination of that portion of investigation No. 337–TA–52, Certain Apparatus for the Continuous Production of Copper Rod, which involves—

(a) The alleged infringement of U.S. Letters Patent 3,317,994, U.S. Letters Patent 3,672,430, and U.S. Letters Patent 3,716,423 with respect to the Bell respondents.

(b) The alleged infringement of U.S. Letters Patent 3,317,994, U.S. Letters Patent 3,672,430, and U.S. Letters Patent 3,716,423 by virtue of the manufacture and importation of the system for the continuous production of copper rod now located at Nassau Recycle Corporation's Gaston, South Carolina, facility with resepect to Fried. Krupp GmbH and Krupp International, Inc. This termination covers the importation of any future parts to be used in the maintenance and operation of the system relating to the above-named patents, for so long as the Gaston facility is operated by one of the Bell respondents.

Chairman Parker concurs with the result, but is not considering any of the supplemental issues raised by the

parties subsequent to the filing of the recommended determination of the ALJ.

The Commission is also ordering that complainant's petition to the Commission, filed November 24, 1978, is denied except where inconsistent with the Commission's opinion. This includes a denial of complainant's request for an extension of time for filing exceptions to the ALJ's recommended determination.

In voting to terminate the above issues the Commission has determined that there is no violation of section 337 of the Tariff Act of 1930, as amended, with respect to those issues.

Any party wishing to petition for reconsideration of the Commission's determination must do so within 14 days of service of the Commission Order and Commission Opinion. Such petitions must be in accord with § 210.56 of the Commission's rules of practice and procedure (19 CFR 210.56). Any person adversely affected by a final Commission determination may appeal such determination to the United States Court of Customs and Patent Appeals.

Copies of the Commission Order and Commission Opinion are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523–0161. Notice of the institution of the Commission's investigation was published in the **Federal Register** of May 22, 1978 (43 FR 21951).

Issued: March 29, 1979.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[Investigation No. 337–TA–52]

[FR Doc. 79–10387 Filed 4–3–79; 8:45 am]

BILLING CODE 7020–02–M

## President's List of Articles Which May Be Designated as Eligible Articles for Purposes of the Generalized System of Preferences

**AGENCY:** United States International Trade Commission.

**ACTION:** In accordance with the provisions of section 503(a) and 131(b) of the Trade Act of 1974 (hereinafter referred to as "the Act") and section 332(g) of the Tariff Act of 1930, as amended, the Commission has instituted investigation TA–503(a)–5 and 332–104 for the purpose of obtaining, to the extent practicable, information of the kind described in section 131(d) of the Act. This information is for use in connection with the preparation of advice requested by the Special Representative for Trade negotiations with respect to certain listed articles as to the probable economic effects on U.S. industries and on consumers of the elimination of U.S. import duties under the Generalized System of Preferences (GSP).

**EFFECTIVE DATE:** March 27, 1979.

**FOR FURTHER INFORMATION CONTACT:** (1) General information, Mr. Aaron Chesser (202–523–0171); (2) Agricultural products, Mr. Ed Furlow (202–523–0234); (3) Textile products, Mr. Reuben Schwartz (202–523–0114): Office of Industries, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436; (4) Legal aspects, Rhond R. Roth, Esquire, (202–523–0480): Office of General Counsel, at the same address.

**SUPPLEMENTARY INFORMATION:** On March 9, 1979, in accordance with section 503(a) and 131(a) of the Trade Act of 1974 (hereinafter referred to as "the Act") and pursuant to the authority of the President delegated to him by Executive Order 11846, as amended by Executive Order 11947, the Special Representative for Trade Negotiations furnished the United States International Trade Commission the attached list of articles which are being considered for designation as eligible articles for purposes of the United States Generalized System of preferences set forth in Title V of the Act.

Specifically, the Special Representative for Trade Negotiations (STR) has requested that the Commission provide its advice, with respect to each listed article, as to the probable economic effects on United States industries producing like or directly competitive articles and on consumers of the elimination of the United States import duties under the Generalized System of Preferences.

In providing its advice, the STR requested the Commission to assume that benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the "competitive-need" limitations specified in section 504(c) of the Act.

Section 504(d) of the Act exempts from one of the competitive-need limits in section 504(c) articles for which no like or directly competitive article was being produced in the United States on the date of enactment of the Trade Act of 1974. Accordingly, pursuant to the authority of section 332(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(g)), and in conformity with the delegation of authority from the President to him of Executive Order 11846 as amended by Executive Order 11947, the STR requested that the Commission also provide advice with respect to whether products like or directly competitive with any products described in the attached tariff categories were being produced in the United States on January 3, 1975. In addition, it was requested that the Commission also provide such advice with respect to processed ramie (item 304.44 of the Tariff Schedules of the United States), which was designated as an article eligible for duty-free treatment under the GSP effective January 1, 1976.

### Public hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t. on June 26, 1979. All persons shall have the right to appear by counsel or in person, to produce evidence, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, June 21, 1979.

### Written submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than July 13, 1979. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: March 28, 1979.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

**Articles being considered for designation as eligible acticles for purposes of the Generalized System of Preferences**

| TSUS or TSUSA item | Articles |
|---|---|
| | [The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.] |
| | Vegetable, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved): |
| | [Articles provided for in TSUS items 135.10 thru 137.80] |
| | Other: |
| | Fresh or chilled: |
| 137.8660 | Jicamas and yams (genus *Dioscorea*) |
| | Vegetables, fresh, chilled, or frozen, and cut, sliced or otherwise reduced in size (but not otherwise prepared or preserved): |
| | [Broccoli, Cauliflower, and orka] |
| | Other: |
| | Frozen: |
| | [Asparagus] |
| 138.5060 | Other |
| or | or |
| 138.5060 pt | Yucca |
| | Vegetables, dried, desiccated, or dehydrated, whether or not reduced in size or reduced to flour (but not otherwise prepared or preserved): |
| | Dried, desiccated, or dehydrated: |
| | [Beans, chickpeas or garbanzos, cowpeas, garlic, lentils, lupines, and onions] |
| | Peas: |
| 140.45 | Split |
| | Papayas, fresh, or prepared or preserved: |
| 148.65 | Prepared or preserved |
| | Brandy: |
| | [Pisco an singani] |
| | Other |
| | In containers each holding not over 1 gallon: |
| 168.27 pt | Slivovitz, valued not over $9 per gallon |
| 168.28 pt | Slivovitz, valued over $9 per gallon |
| | In containers each holding over 1 gallon: |
| 168.29 pt | Slivovitz, valued not over $9 per gallon |
| 168.90 | Imitations of brandy and other spirituous beverages |
| 176.17 | Coconut oil |
| | Olive oil: |
| | [Rendered unfit for use as food] |
| | Other: |
| 176.29 | Weighing with the immediate container under 40 pounds |
| | Edible preparations not specially provided for (including prepared meals individually packaged): |
| | [Of gelatin] |
| | Other: |
| | [Containing over 5.5 percent by weight of butterfat and not packaged for retail sale] |
| | Other: |
| | [Wheat gluten] |
| | Other: |
| | [Provided for in TSUS items 950.16 or 950.23; pancake flour and other flour mixes; refrigerated (including frozen) doughs] |
| 182.9888 | Other |
| or | or |
| 182.9888 pt | Bioprotein of fish origin for human use |
| | Animal feeds, and ingredients therefor, not specially provided for: |
| | [Meat, including meat offal, not fit for human consumption] |
| | [Byproducts obtained from the milling of grains, mixed feeds, and mixed-feed ingredients] |
| | Other: |
| | [Animal feeds provided for in TSUS item 950.17] |
| 184.7540 | Other |
| or | or |
| 184.7540 pt | Hydrolized fish protein for livestock |
| 192.20 | Cut flowers, fresh; bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts |
| or | or |
| 192.20 pt | Cut orchids, fresh |
| | Cordage: |
| | Of vegetable fibers: |
| | Of hard (leaf) fibers: |
| | Not of stranded construction: |
| | [Binder twine and baler twine] |

**Articles being considered for designation as eligible acticles for purposes of the Generalized System of Preferences**—Continued

| TSUS or TSUSA item | Articles |
|---|---|
| | Other |
| | Of stranded construction: |
| 315.30 | Measuring under 3/16 inch in diameter |
| | Measuring 3/16 or over but under 3/4 inch in diameter: |
| 315.40 | Of sisal, of henequen, or of sisal and henequen |
| | Measuring 3/4 inch or over in diameter: |
| | [Of abaca] |
| 315.55 | Of sisal, of henequen, or of sisal and henequen |
| | Woven fabrics of silk: |
| | In chief value, but not wholly of silk: |
| | [Containing over 17 percent of wool by weight] |
| | Other: |
| | Not jacquard-figured: |
| | Degummed, bleached, or colored: |
| | [Subject to man-made fiber restraints] |
| 337.7035 | Other |
| | Woven or knit fabrics (except pile or tufted fabrics), of textile materials, coated or filled, not specially provided for: |
| | [Oilcloths; tracing cloth; window hollands of cotton] |
| | Other: |
| 356.25 | Of vegetable fibers |
| 356.40 | Of man-made fibers |
| | Lace or net bedding, whether or not ornamented, and other bedding, ornamented: |
| | Of vegetable fibers: |
| | Sheets and pillowcases (including bolster cases): |
| | [Of cotton] |
| 363.02 | Other |
| | Lace or net furnishings, whether or not ornamented, and other furnishings, ornamented: |
| | Handmade-lace furnishings: |
| 365.15 | Valued over $50 per pound |
| | Machine-made-lace furnishings: |
| | Made on a Leavers (including go-through) machine: |
| | 12 points of finer: |
| | [Of man-made fibers] |
| 365.25 | Other |
| | Not 12 points or finer: |
| 365.29 | Of vegetable fibers (except cotton), or of wool |
| | Burnt-out-lace furnishings: |
| | [Of man-made fibers] |
| 365.7095 | Other |
| | Of lace, of netting, or of lace and netting, and made in designs or patterns formed wholly or in substantial part by joining (by applique or otherwise) machine-made, or handmade and machine-made, materials by handwork: |
| | [Of cotton] |
| | [Of man-made fibers] |
| 365.7595 | Other |
| | Mufflers, scarves, shawls, and veils, all the foregoing of textile materials: |
| | [Lace or net acticles, whether or not ornamented, and other articles, ornamented] |
| | Other articles, not ornamented: |
| | Of silk: |
| | Not knit: |
| | Weighing over 1 ounce per square yard and rectangular in shape: |
| 372.60 | Valued over $5 per dozen |
| 372.65 | Other |
| | Men's and boys' neckties, of textile materials: |
| | Not ornamented: |
| | Of silk: |
| 373.22 | Not knit |
| | Other women's, girls', or infants' wearing apparel, not ornamented: |
| | Of silk: |
| | Not knit: |
| | [Subject to cotton restraints; subject to wool restraints; subject to man-made fiber restraints] |
| 382.72 pt.[1] | Other |
| | Fluorspar: |
| 522.21 | Containing over 97% by weight of calcium fluoride |
| | Gloves of rubber or plastics: |
| | Seamless: |
| 705.82 | Surgical and medical |

[1] TSUSA items 382.7264 through 382.7282.

[TA-503(a)-5 and 332-104]

[FR Doc. 79-10393 Filed 4-3-79; 8:45 am]

BILLING CODE 7020-02-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Proposed Consent Decree in Action To Enjoin Discharge of Air Pollutants by ARCO/Polymers, Inc.

In accordance with Department Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on March 19, 1979, a proposed consent decree in *United States of America* v. *ARCO/Polymers, Inc.*, Civil Action No. 79–73, was lodged with the United States District Court for the Eastern District of Pennsylvania. The proposed consent decree establishes a schedule for compliance with the sulfur dioxide emission limitation in the Pennsylvania implementation plan. The schedule applies to ARCO/Polymers' plant in Potter Township, Beaver County, Pennsylvania. That plant produces styrene based derivatives.

The schedule requires ARCO/Polymers, Inc. to complete construction of a new flue gas desulfurization system at the Potter Township plant by August 1, 1980. The schedule also requires the defendant to be in compliance with the Pennsylvania implementation plan, including the sulfur dioxide regulation, on and after November, 1980. ARCO/Polymers will pay the United States a stipulated fine if it fails to meet the terms of the compliance schedule unless the delay is caused by circumstances beyond its control. The stipulated fine is $2,500 for each day of delayed compliance so long as the delay does not extend more than 60 days beyond the final compliance date. If the delay does extend more than 60 days beyond the final compliance date, the stipulated fine is $5000 per day. The agreement on a stipulated fine does not affect potential application of penalties under section 120 of the Clean Air Act, 42 U.S.C. § 7420.

The proposed consent decree may be examined at the office of the United States Attorney for the Eastern District of Pennsylvania, 3310 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106; at the Region III office of the Environmental Protection Agency, Enforcement Division, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2634, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree on or before May 4, 1979. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *ARCO/Polymers, Inc.*, E.D. Pennsylvania, Civil Action No. 79–73, D.J. 90–5–2–1–164.

**Sanford Sagalkin,**

*Acting Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 79–10351 Filed 4–3–79; 8:45 am]

**BILLING CODE 4410–01–M**

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### Proposed Consent Judgment in Action to Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 Fed. 19029, notice is hereby given that a proposed consent decree in *United States* v. *Jessop Steel Company,* Civil Action No. 76–694–CIV, has been lodged with the District Court for the Western District of Pennsylvania. The proposed decree requires the defendant to complete installation of the necessary control equipment to meet BPT effluent limitations. With respect to penalties the decree requires the defendant either to pay $150,000 in penalties or to achieve compliance with a more stringent set of effluent limitations after September 30, 1979. In addition the decree imposes certain stipulated penalties for any future violations of its provisions.

The Department of Justice will receive written comments relating to the proposed judgment on or before May 4, 1979. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to *"United States* v. *Jessop Steel Corporation,"* D.J. Ref. No. 90–5–2–1–151.

The proposed decree may be examined at the office of the United States Attorney, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219; at the Region III Office of the Environmental Protection Agency, Enforcement Division, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106 and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail

from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Sandford Sagalkin,

*Acting Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 79-10350 Filed 4-3-79; 8:45 am]

BILLING CODE 4410-01-M

## Proposed Consent Decree in Action in Which the United States Seeks To Enjoin the Emission of Air Pollutants by the Ironton Coke Corp.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on March 19, 1979, a proposed consent decree in *United States of America* v. *Ironton Coke Corporation,* was lodged with the United States District Court for the Southern District of Ohio. The proposed decree provides for compliance with the Clean Air Act and with the federally approved Ohio State Implementation Plan for opacity and emission of particulate matter at three coke batteries by the company at its Ironton, Ohio plant. The proposed decree sets forth a schedule for installation of pollution control equipment and for final achievement of opacity and particulate standards for batteries No. 1 & 2 no later than January 1, 1980. The proposed decree gives the company the option of closing down battery No. 3 or rebuilding or replacing battery No. 3 with a rebuilt or new coke battery which will have pollution control equipment which consitutes the best available control technology for the coke battery. The company must shut down, rebuild or replace battery No. 3 no later than December 31, 1980.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Courthouse, Room 200, Columbus, Ohio 43215; at the Region V office of the environmental Protection agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice. The Department of Justice will receive written comments relating to the proposed consent decree on or before May 4, 1979. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States of America* v. *Ironton Coke Corporation,* D.J. Reference No. 90-5-2-1-135.

James W. Moorman,

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 79-10348 Filed 4-3-79; 8:45 am]

BILLING CODE 4410-01-M

## Stipulation and Consent Decree in Action To Enforce Compliance With South Carolina Air Pollution Regulations

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed stipulation and consent decree in *The South Carolina Department of Health and Environmental Control* v. *United States Department of the Navy, et al.* has been lodged with the United States District Court for the District of South Carolina. The decree imposes on defendant certain requirements and compliance dates with respect to the operation of its coal-fired boilers at the Charleston Naval Shipyard in Charleston, South Carolina.

The Department of Justice will receive on or before May 4, 1979, written comments relating to the proposed stipulation and consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *The South Carolina Department of Health and Environmental Control* v. *United States Department of the Navy, et al.,* D.J. Ref. 90-5-2-3-1138.

The stipulation may be examined at the office of the United States Attorney, District of South Carolina, 151 United States Courthouse, 1100 Laurel Street, Columbia, South Carolina 29201, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed stipulation and consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Sandford Sagalkin,

*Acting Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 79-10349 Filed 4-3-79; 8:45 am]

BILLING CODE 4410-01-M

## Proposed Consent Judgment in *United States* v. *ARA Services, Inc.* and Competitive Impact Statement Therein

Notice is hereby given pursuant to the *Antitrust Procedures and Penalties Act,* 15 U.S.C. section 16(b)-(h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Eastern District of Missouri in No. 77-1165-C(1), *United States* v. *ARA Services, Inc.* The complaint seeks monetary civil penalties and other relief against ARA for alleged violations of a Consent Order which ARA entered with the Federal Trade Commission in 1973. The Order prohibits ARA, which is engaged in the business of distributing periodicals on the wholesale level, from acquiring any other periodical wholesalers without prior approval from the FTC. The complaint charges that in violation of this Order, ARA in 1976 acquired the business of four periodical wholesale agencies without seeking or receiving FTC approval.

The proposed judgment orders ARA to divest a portion of the assets which were used by the former agencies, and to cease doing business with thirty five percent of the customers which went to ARA from the acquired agencies. It also requires ARA to pay to the United States two civil penalties: one penalty in the amount of $300,000 and a second penalty to be paid by ARA if its profit from the mandated divestiture exceeds $205,000.

The details of the divestiture and penalties are set forth in the proposed Judgment and Competitive Impact Statement. Public comment is invited within the statutory 60 day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to the United States Department of Justice, Attention Charles R. McConachie, Chief, Consumer Affairs Section, Antitrust Division, Washington, D.C. 20530.

Dated: March 26, 1979.

Charles F. B. McAleer,

*Special Assistant for Judgment Negotiations.*

**In the U.S. District Court for the Eastern District of Missouri Eastern Division**

*United States of America,* Plaintiff, v. *ARA Services, Inc.,* Defendant.

**Stipulation**

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgement in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's

own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b) *et seq.*, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Filed: March 26, 1979.

For the Plaintiff:

John H. Shenefield,
*Assistant Attorney General, Antitrust Division.*
Robert D. Kingsland,
*United States Attorney.*
Wesley D. Wedemeyer,
*Assistant United States Attorney.*
Charles R. McConachie,
*Chief, Consumer Affairs Section, Antitrust Division, U.S. Department of Justice.*
John R. Pleder,
*Antitrust Division, U.S. Department of Justice.*
Michael F. Rahill,
*Antitrust Division, U.S. Department of Justice.*

For the Defendant:

Lee F. Driscoll, Jr.,
*Sr. Vice-President and General Counsel, ARA Services, Inc., Independence Square West, Philadelphia, Pennsylvania 1 9106.*
Arnold M. Lerman.
James S. Campbell.
William J. Kolasky, Jr.,
*Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006.*

Of Counsel:

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Veryl L. Riddle,
Daniel R. O'Neill,
Lee H. Wagman,
*Bryan, Cave, McPheeters & McRoberts, 500 North Broadway, St. Louis, Missouri 63102.*

**In the U.S. District Court for the Eastern District of Missouri**

*United States of America*, Plaintiff, v. *ARA Services, Inc.*, Defendant.

Filed: March 26, 1979.

**Final Judgment**

Plaintiff, United States of America, having filed its Complaint herein in November 2, 1977, and Defendant, ARA Services, Inc., having appeared by its attorney and filed its Answer denying the substantive allegations of the Complaint; and the Plaintiff and Defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue;

Now, Therefore, before the taking of any testimony and upon the consent of the parties hereto, it is hereby

*Ordered, adjudged and decreed:*

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states a claim upon which relief may be granted against the Defendant under Section 16(a)(1) of the Federal Trade Commission Act, as amended, 15 U.S.C. § 56(a)(1) (1976); Section 11(*l*) of the Clayton Act, as amended, 15 U.S.C. § 21(*l*) (1976); and Section 5(*l*) of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45(*l*) (1976).

II

As used in this Final Judgment:

(A) "Person" means any individual, corporation, partnership, firm, association, or other business or legal entity;

(B) "Periodicals" means paper cover magazines and comic books, and excludes newspapers and hard cover materials;

(C) "Paperbacks" means paperbound books and excludes hard cover pubications;

(D) "Wholesaler" means any person, including any city operation and reship operation wholesaler, engaged in the business of purchasing and reselling periodicals or paperbacks to newstands, bookstores, variety stores and other retail outlets;

(E) "Molasky company" means SLF News Distributors, Inc.; River City News, Inc.; K. C. News Distributors, Inc.; or New Orleans Distribution Associates;

(F) "Molasky service area" means any of the following three geographical areas in which a Molasky company distributed periodicals or paperbacks on or after June 1, 1976: (i) the St. Louis, Missouri metropolitan area and parts of the States of Missouri, Illinois, Kentucky and Tennessee; (ii) the Kansas City, Missouri metropolitan area and parts of the States of Missouri and Kansas; and (iii) the New Orleans, Louisiana metropolitan area and parts of the States of Louisiana, Mississippi and Alabama;

(G) "Molasky customer" means a retailer or retail outlet that is identified in Defendant's Divestiture Report, that is located in a Molasky service area and that, as of June 1, 1976, or thereafter, obtained its supply of periodicals or paperbacks from a Molasky company;

(H) "Chain retailer" means a retailer of periodicals or paperbacks with three or more retail outlets or locations in Molasky service areas;

(I) "Molasky distribution facility" means any warehouse, office, or other building used by any Molasky company for the distribution of periodicals and paperbacks as of June 1, 1976 or thereafter, but does not include assets not permanently affixed to such warehouse, office, or other building. These facilities include, without limitation, the warehouses and offices located at 3809 McKelvey Road, Bridgeton, Missouri; at 9930 Chef menteur Highway, New Orleans, Louisiana; and at 1114 Wilkes Boulevard, Columbia, Missouri;

(J) "Molasky vehicle" means any truck or other delivery vehicle, other than a vehicle acquired by Defendant from Manchester Leasing Company, owned or used by a Molasky company in a Molasky service area on June 1, 1976 or thereafter to deliver periodicals or paperbacks to Molasky customers;

(K) The "annual volume of sales" accounted for by any Molasky customer with whom Defendant ceases doing business shall be determined by Defendant's dollar volume of sales of periodicals and paperbacks, net of returns, to that customer in Defendant's fiscal year 1978; or in the case of a customer with whom Defendant did not do business for all of fiscal 1978, by multiplying by four (4) Defendant's dollar volume of sales of periodicals and paperbacks, net of returns, to that customer in the fiscal quarter preceding the quarter in which Defendant ceased doing business with that customer; or, in the case of a customer with whom Defendant did not do business for more than a full fiscal quarter, by multiplying by fifty-two (52) Defendant's average weekly dollar volume of sales, net of returns, to that customer, excluding the week in which Defendant ceased doing business with that customer; and

(L) "Divestiture Report" means the report, to be filed with the Court and served on Plaintiff within one year from the date of entry of this Final Judgment, Identifying the Molasky customers with which Defendant has ceased doing business in satisfaction of its obligations under Section V of this Final Judgment and the Molasky distribution facilities, Molasky vehicles and other assets, if any, which Defendant has divested pursuant to Section IV of this Final Judgment.

III

The provisions of this Final Judgment shall apply to Defendant, to its subsidiaries, divisions, and affiliates, to the officers, directors, agents, employees, successors and assigns of each, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Within one year from the date of entry of this Final Judgment, Defendant shall divest itself of any ownership interest in, and shall cease using, all Molasky distribution facilities and Molasky vehicles. Defendant shall not subsequently purchase or use any such Molasky distribution facility or Molasky vehicle, without the prior approval of the Federal Trade Commission, until the expiration of the Order of the Commission dated March 8, 1973, in the matter of ARA Services, Inc., Docket No. C–2360.

(B) For a period of one year from the date of entry of this Final Judgment, Defendant shall upon written request make available for sale, at Defendant's cost, to any wholesaler commencing to serve a Molasky customer theretofore served by Defendant any rack or other physical equipment which is used by such customer to display periodicals or paperbacks in his place of business.

(C) For a period of thirty (30) days from the date of entry of this Final Judgment, Defendant shall, upon written request of any wholesaler or other person intending to

engage in the business of purchasing and reselling periodicals and paperbacks to retail outlets in a Molasky service area, promptly divest to such person any asset, other than distribution facilities, vehicles or racks, formerly used by any Molasky company and, at the time of such request, used by Defendant. Divestiture of any such asset that is owned by Defendant shall be by sale at a price equal to the cost of such asset to Defendant. Divestiture of any such asset not owned by Defendant, but used by it, shall be by relinquishment of any and all rights to such use upon notification to Defendant by the owner that it has sold, leased or otherwise transferred the asset to the requesting wholesaler or other person.

V

(A) Within one year from the date of entry of this Final Judgment, Defendant shall have ceased doing business with Molasky customers accounting for a total annual volume of sales of $5.2 million. ($5.2 million in sales volume is agreed by the Plaintiff and Defendant to represent at least thirty-five percent (35%) of the annual volume of sales that moved from the Molasky companies to Defendant between June 1, 1976 and December 31, 1976.) This total annual volume of sales of $5.2 million accounted for by Molasky customers with which Defendant shall have ceased doing business shall meet two further requirements: (i) a minimum of $2.5 million shall be accounted for by sales to chain retailers; and (ii) a minimum of $1 million shall be in each one of the three Molasky service areas.

(B) For purposes of this Section V, the sales to a Molasky customer with whom Defendant shall have ceased doing business shall be included in computing the amounts set forth in subsection (A) above, only if—

(1) Such Molasky customer was one with whom Defendant ceased doing business after December 6, 1976, but before the entry of this Final Judgment, and to whom Defendant did not make sales of periodicals or paperbacks for a period of one year after cessation, and such customer is so identified in Defendant's Divestiture Report; *or*

(2) Such Molasky customer is one with whom Defendant does business in a Molasky service area on the date of entry of this Final Judgment and with whom Defendant ceases to do business subsequent to the date of entry of this Final Judgment, and such customer is so identified in the Divestiture Report. Defendant shall be enjoined for a period of one year subsequent to the filing of its Divestiture Report from selling periodicals or paperbacks in Molasky service areas to, or soliciting the business of, customers identified in the Divestiture Report as ones with whom Defendant ceased doing business subsequent to the date of entry of this Final Judgment.

(C) For purposes of this Section V, Defendant may have "ceased doing business" with any Molasky customer by any means or for any reason including, without limitation, sale of all or any part of Defendant's periodicals and paperbacks wholesaling business in any Molasky service area to a purchaser approved by Plaintiff or, in the event of disagreement, by the Court; *provided,* however, that in no event shall Defendant make any such sale to any person who at the time of such sale owns more than one percent (1%) of the outstanding capital stock of Defendant. Defendant shall promptly notify Plaintiff of any such proposed sale, identifying the proposed purchaser, the business or part thereof to be sold, and the terms of such sale, and Plaintiff shall have 30 days from such notification to approve or disapprove the proposed purchaser by written notice to Defendant. If Plaintiff disapproves the proposed purchaser, the proposed sale shall not be consummated until Defendant obtains approval by the Court of the proposed purchaser or until Plaintiff withdraws its objection. If Plaintiff disapproves any proposed purchaser, Defendant may request the Court to suspend the running of the time periods set forth in subsections (A) and (B) of this Section V until the Plaintiff withdraws its objection or the Court approves or disapproves the proposed purchaser.

(D) Any cessation of business with Molasky customers in compliance with this Section V shall not qualify as "sales or divestitures" within the meaning of Paragraph VI of the Order of the Federal Trade Commission dated March 8, 1973 in the matter of ARA Services, Inc., Docket No. C–2360.

VI

For a period of five (5) years from the date of entry of this Final Judgment, Defendant shall not directly or indirectly acquire, without Plaintiff's prior approval, any physical assets sold or otherwise divested under Sections IV or V hereof; *provided,* however, that Defendant may acquire and enforce any valid security interest in any business or property sold, for the purpose of securing to Defendant payment of any unpaid portion of the purchase price thereof or performance of the sale transaction, and may also enforce any other terms and conditions of the sale transaction as therein provided or as provided by law; *provided further,* however, that Defendant shall promptly redivest any assets divested under Sections IV or V that it reacquires or repossesses by enforcement of such security interest.

VII

Defendant shall pay to Plaintiff a civil penalty in the amount of $300,000.00 within sixty (60) days from the date of entry of this Final Judgment. Any payments made to Plaintiff under this Final Judgment shall be by certified check payable to the Treasurer of the United States.

VIII

In the event that Defendant identifies on its Divestiture Report Molasky customers with which, as authorized by Section V(C) hereof, it has ceased doing business as a result of a sale or sales of all or any part of Defendant's periodicals and paperbacks wholesaling business, and the proceeds of such sale or sales exceed $205,000.00, Defendant shall, within sixty (60) days from the filing of its Divestiture Report, pay to Plaintiff, as an additional civil penalty, one-half of such excess. For purposes of this Section VIII, the "proceeds" of such sales shall mean (A) the gross proceeds of such sales, (B) less (i) costs of sale actually paid, (ii) the net book value of any assets sold, and (iii) a credit for federal and state taxes paid (computed at the applicable rates paid by Defendant in its most recently-filed annual returns as of the date of the filing of its Divestiture Report), (C) multiplied by a fraction whose numerator is the annual sales volume of Molasky customers which Defendant has listed on its Divestiture Report as customers with which Defendant has ceased doing business as a result of the sales, and whose denominator is the annual sales volume of all customers with which Defendant has ceased doing business as a result of the sales. In the event of a sale of a specific asset under Section IV, the gross proceeds therefrom, less the deductions specified in step (B) above, shall also be included within the term "divestiture proceeds."

IX

Nothing contained in this Final Judgment shall be deemed to modify the Order of the Federal Trade Commission, dated March 8, 1973, in the matter of ARA Services, Inc., Docket No. C–2360.

X

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative of the Department of Justice shall be permitted, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the Defendant made to its principal office, subject to any legally recognized privilege:

(1) Access during Defendant's office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Defendant relating to any of the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of Defendant, who may have counsel present, regarding any of the matters contained in this Final Judgment.

(B) Defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings in which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by Defendant to Plaintiff,

Defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by Plaintiff to Defendant prior to divulging such material in any legal proceedings (other than a Grand Jury proceeding) to which the Defendant is not a party.

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or implementation, for the modification of any of the provisions, for the enforcement of compliance, and for the punishment of violations of this Final Judgment.

XII

Plaintiff shall recover its costs of action from Defendant; *provided*, however, that Plaintiff shall bear all costs of transcribing any Molasky tape recordings.

XIII

Entry of this Final Judgment is in the public interest.

Dated:————

————,

*United States District Judge.*

**In the U.S. District Court for the Eastern District of Missouri, Eastern Division**

*United States of America, Plaintiff,* v. *ARA Services, Inc., Defendant.*

Filed: March 26, 1979.

**Competitive Impact Statement**

This Competitive Impact Statement, relating to the proposed Final Judgment submitted for entry in this case, is filed by the United States pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

*1. The Nature and Purpose of the Proceedings*

The complaint in this action, filed on November 2, 1977, seeks monetary civil penalties and equitable relief against Defendant, ARA Services, Inc., for actions which the United States would have contended at trial constitute violations of a Consent Order which ARA entered with the Federal Trade Commission in 1973. The line of commerce involved in this case is the distribution, at the wholesale level, of magazines and paperback books. Operating as a wholesaler, ARA acquires magazines and paperback books from various distributors who represent the publishers and resells them to newsstands, supermarkets and other retail outlets, for sale to the consumer.

On March 8, 1973, the Federal Trade Commission issued a complaint under Docket No. C-2360, charging that ARA, the nation's largest wholesaler, had violated Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 by acquiring a number of periodical wholesalers in different parts of the United States between 1968 and 1971. The Federal Trade Commission alleged that the effect of these acquisitions may have been substantially to lessen competition or to tend to create a monopoly in the wholesale distribution of periodicals and paperback books in the United States as a whole and also in various local markets.

On the same day that the FTC complaint was filed, ARA and the Federal Trade Commission entered into a Consent Order. Among other provisions, paragraph V(3) of the Consent Order provides that for a period of ten years, ARA will not acquire, directly or indirectly, any periodical wholesaling business which operates in a service area co-extensive with or adjacent to a market where ARA is already engaged in such business, unless ARA receives prior approval from the Federal Trade Commission. Paragraph VI of the Consent Order operates to prohibit ARA from acquiring *any* wholesaler for a period of ten years without prior FTC approval except that approval is not required if ARA previously divests an equivalent sized portion of its wholesaling operations.

The Consent Order became final on or about May 21, 1973. It has not been modified or set aside.

In late 1972 ARA opened a full scale wholesaling agency in the Kansas City area. In 1974 ARA started complete periodical wholesaling agencies in the markets of St. Louis, Missouri and New Orleans, Louisiana. At the time of ARA's entry, each of the three cities was already being serviced by at least one periodical wholesaling agency. ARA's principal competitors were the Louisiana News Company in New Orleans; K. C. News Distributors, Inc. in Kansas City; and River City News, Inc. and SLF News Distributors, Inc. servicing metropolitan St. Louis.

By late 1975 all four of these agencies were owned or controlled by Mark Molasky. Mr. Molasky's family had been involved in the periodical wholesaling business for decades. During 1975 and 1976, however, the four agencies [hereafter collectively referred to as the Molasky agencies] experienced significant financial difficulties. These difficulties led to disputes between the Molasky agencies and the distributors which supplied magazines and paperbacks to them. The stormy relationship between the Molasky agencies and their suppliers continued to deteriorate throughout 1976. The agencies were cut off by one important supplier in May, 1976; by another in October; and by a third significant supplier on November 30, 1976. On or about December 1, 1976 Mark Molasky announced that these four agencies would cease operations on December 3, 1976.

*2. The Nature of the Alleged Violations*

The pending complaint charges that during 1976—both before and after the actual final collapse of the Molasky agencies in these three cities—ARA acquired the Molasky agencies' business in these markets without seeking prior approval of the Federal Trade Commission. At trial, the United States would have pointed to the following facts, among others, to demonstrate the method of ARA's acquisition:

a. Beginning on or about December 3, 1976, ARA began occupying, with Mark Molasky's consent, four of the Molasky owned warehouses, and also started using Molasky's trucks and other distribution equipment in these markets. None of these assets was offered by Mr. Molasky, on similar terms, to other potential or actual wholesalers.

b. ARA hired approximately one hundred and fifty of the Molasky agencies' employees in these markets. These included numerous key employees, with strong relationships to retail customers, who were the heart of the Molasky agencies' sales force. Many of these persons were hired by ARA with Mark Molasky's approval.

c. The Molasky agencies had been receiving regular systematic shipments of periodical and paperback books from the distributors prior to their demise. Between June, 1976, and early December, 1976, virtually all the important distributors of periodicals and paperbacks shifted, at least temporarily, the Molasky agencies' allotments in bulk to ARA. This bulk transfer gave ARA a significant advantage, in competing for Molasky's customers, over other smaller wholesalers who were not offered Molasky's allotments under the terms offered to ARA.

d. ARA communicated to retailers in the three cities in December, 1976, that it was taking over the Molasky agencies and that some key Molasky employees were going to work for ARA to insure continuity of service. In some cases these communications purported to be from a Molasky agency, thereby fortifying the image that ARA had acquired the Molasky agencies.

e. ARA and its distributors entered into an agreement whereby ARA undertook to collect accounts receivable from retailers who had previously been serviced by the Molasky agencies. This arrangement further strengthened ARA's image as the continuation of the Molasky agencies.

f. ARA received from Molasky confidential information concerning normal retail customer purchases, thereby enabling ARA immediately to begin servicing the Molasky agencies' customers.

g. Certain of the Molasky agencies' customers began receiving periodicals and paperbacks from ARA without specifically authorizing ARA to begin such service.

All of these actions were taken by ARA without either the FTC's approval or knowledge. At trial the United States would have contended that these actions amounted to unlawful acquisitions of the previously mentioned four Molasky agencies, including a substantial amount of the Molasky agencies' retail sales volume. ARA, on the other hand, contended that its use of the Molasky agencies facilities was temporary and designed primarily to insure that the customers suffered no interruption of service. ARA argued that the Molasky agencies simply went out of business, and the suppliers and customers turned to ARA as the most logical company to fill the void.

*3. Explanation of the Proposed Consent Judgment*

The proposed Final Judgment contains two principal types of relief: divestiture by ARA of acquired assets and business volume; and payment of monetary civil penalties.

Paragraph IV of the Judgment requires that within one year ARA shall divest any ownership interest in, and shall cease using, all Molasky distribution facilities and vehicles. During the life of the 1973 Order, it shall not purchase or use any such facilities or vehicles without prior approval by the Federal Trade Commission. ARA shall also make available for purchase other distribution equipment used to service the Molasky agencies' customers.

Paragraph V of the Judgment provides that within one year ARA shall have ceased doing business with the Molasky agencies' customers accounting for a total annual volume of sales of $5.2 million. The United States and ARA have agreed that this $5.2 million figure represents at least 35 percent of the annual volume of sales that moved from the Molasky agencies to ARA between June 1, 1976 and December 31, 1976. This amount was calculated by subtracting ARA's net sales (gross sales less unsold magazines which the wholesaler returns to a distributor [returns]) for June, 1976 from its net sales for January, 1977. However, because ARA's return rate for January, 1977 was abnormally low due to the aftereffects of the Molasky agencies' collapse, the United States used ARA's average monthly return rate for calendar 1977 in deducting returns from gross sales for January, 1977. With an adjustment for inflation, ARA will thus divest $5.2 million in annual sales volume based generally on 1978 sales figures. The Judgment further provides that the $5.2 million annual volume of sales shall meet two further requirements: (1) a minimum of $2.5 million shall be accounted for by sales to chain retailers (3 or more stores); and (2) a minimum of $1 million shall be in each of the three cities.

The Judgment permits ARA to "cease doing business with" such volume of business by any means, including the sale of such business to a competitor. In order to receive credit for divesting an account, ARA cannot resume servicing that account for at least one year. ARA will also receive credit for accounts which it ceased doing business with after December 6, 1976, but before entry of this final Judgment, to whom it did not make sales for a period of one year. In the event a sale is made, the purchaser must be approved by the United States or the Court, and, in no event, can the purchaser be any person who at the time of such sale owns more than one percent of ARA's capital stock.

The provisions dealing with the payment of civil penalties are contained in Paragraphs VII and VIII of the proposed Final Judgment.

Paragraph VII requires that within 60 days of the date of entry of the Judgment, ARA will pay to the United States a civil penalty of $300,000.

Under Section 11(1) of the Clayton Act, 15 U.S.C. § 21(1), each violation of a Federal Trade Commission Order brought under the Clayton Act, subjects the offender to a penalty of no more than $5,000. A continuing failure to obey such an Order can result in a finding by a court that each day of such failure shall be deemed a separate violation. Section 5(1) of the Federal Trade Commission Act, 15 U.S.C. § 45(1) contains similar provisions as to violations of an Order brought under the Federal Trade Commission Act except that each violation can result in a penatly assessment of no more than $10,000. This case is an unusual one in that it was brought pursuant to both statutes.

The Courts have firmly established that the statutory civil penalty provisions establish a maximum assessment per violation. *Floersheim* v. *Engman*, 494 F.2d 949, 952–953 (D.C. Cir. 1973). A district court therefore has much discretion to determine the amount of the penalty to be assessed for each violation. *United States* v. *ITT Continental Baking Co.*, 420 U.S. 223, 229 n.6 (1975), and *United States* v. *J. B. Williams Co., Inc.*, 498 F.2d 414, 438 (2nd Cir. 1974).

Generally, the civil penalty is based on: (1) the good or bad faith of the defendant; (2) the injury to the public resulting from the violations; (3) the defendant's ability to pay substantial penalties and (4) a desire to eliminate the financial benefits derived by the defendant from the violations. See *United States* v. *J. B. Williams Co., Inc., supra*, and *United States* v. *Papercraft Corp.*, 540 F.2d 131, 141 (3rd Cir. 1976). Weighing the above factors in this case, together with the risks of litigation, a penalty of $300,000 and the second penalty discussed below appear fully appropriate.

Paragraph VIII provides that in the event ARA accomplishes any of its required divestiture by means of a sale, ARA will pay a second civil penalty. This penalty was added to insure that ARA does not reap a windfall profit from its violations and yet will permit the company to make some profit in a sale in order that a possibly pro-competitive package can be presented to a potential or actual competitor.

Traditionally, in the periodical wholesaling industry, businesses are sold for a dollar amount which is based in some fashion on the annual volume of sales of the business being sold. In the transfer of the business from Molasky to ARA, no purchase money was apparently paid by ARA to Molasky. The second penalty will be computed as follows: ARA pays no second civil penalty on the initial $205,000 of divestiture proceeds realized from any such sale(s). This figure is an amount which the United States agreed, after examination of internal ARA documents, represents ARA's approximate loss in fiscal years 1977 and 1978 from operating the Molasky business which this Judgment forces ARA to divest. However, ARA pays as a civil penalty 50 percent of any divestiture proceeds realized in excess of $205,000.

In addition to the provisions dealing with divestiture and the payment of civil penalties, the proposed Final Judgment contains a provision stating that nothing in the Judgment shall be deemed to modify the Consent Order entered between ARA and the Federal Trade Commission in 1973. The proposed Judgment also contains provisions allowing the United States access to premises of the defendant to inspect books and interview employees for the purpose of insuring compliance with the terms of the Judgment, and further states that the Court will retain jurisdiction for the purpose of enforcing the Judgment and punishing any violations of it. Lastly, the proposed Judgment provides that ARA shall pay the costs of the action, with the exception of the costs incurred by the United States in transcribing a number of tape recordings made by Mark Molasky.

*4. Competitive Effects of the Proposed Final Judgment*

In deciding to accept partial divestiture as the principal form of equitable relief in this case, the United States sought to account for the economic realities of the marketplace during 1976 when the Molasky agencies in the three cities were in the process of decline. Without question, ARA was the principal competitor of Molasky in each of the three cities. While there is insufficient evidence to warrant the conclusion that ARA acted in concert with Molasky's suppliers to aggravate the problems besetting the agencies, it is clear that a certain percentage of the former Molasky business would have swung to ARA as a result of the Molasky collapse regardless of any actions which could fairly be said to constitute a violation of the FTC's Order. Nevertheless, the United States believes that in taking the series of actions which it took in 1976, including hiring the Molasky agencies' key employees, using their distribution facilities, etc., ARA gained a definite advantage over its other competitors in the three cities. Accordingly, as a result of this advantage, ARA was able to acquire more retail business than it would have if the marketplace had been equally open to competing wholesalers.

The figure of 35 percent of the acquired Molasky agencies' business as the amount of ARA's divestiture is not an exact measurement of the amount of business which ARA illegally acquired. However, such an exact calculation is probably not possible. Nevertheless, the figure is not arbitrary. The United States conducted detailed interviews with suppliers, customers and competitors in each of the three markets and concluded that ARA would probably have picked up a minimum of 50 percent of the Molasky agencies' business in any event. ARA would thus have been able to show that it did not *unlawfully* acquire at least 50 percent of the previous Molasky business it began to service. None of the wholesalers then competing with ARA operated a complete wholesaling agency in any of the three markets prior to 1976. In 1976 some of the competitors increased their operations and solicitation of retail customers, in large part due to the Molasky agencies' financial problems. However, by the fall of 1976 when most of the retail customers shifted from Molasky to ARA, several factors dictated that ARA would eventually be the natural choice of many retail customers if Molasky ceased operations. ARA was thought by some retailers to be more "local" in that its distribution facilities were generally closer to the accounts being solicited by ARA than the facilities of its competitors. Also, ARA was

generally better known than its competitors due to a more extensive sales drive for new accounts. Finally, ARA was thought by many retailers to be more stable financially than its smaller competitors. This factor was significant in light of retailers' desire to avoid a repeat of the Molasky situation where the retailers frequently were caught in the middle of disputes between the Molasky agencies and their suppliers. When such disputes occurred in 1976 the distributors would often put the Molasky agencies on "hold"—a temporary stoppage of the allotment of periodicals and paperback books. Each hold resulted in the retailer being without publications, thereby putting the innocent retailer at a disadvantage in competing with retailers serviced by wholesalers other than the Molasky agencies.

The United States believes that ARA would have thus been able to present ample evidence before the Court that it picked up substantial Molasky retail volume *irrespective* of the actions which the United States claims violated the Consent Order. For purposes of settlement, balancing the costs and risks of litigation against the anticipated divestiture should the government prevail on the merits after a full trial, the United States believes that the figure of 35 percent divestiture is a reasonable settlement in this case.

Additionally, the divestiture itself will be allocated among the three cities, with at least $1 million to occur in each city. Moreover, approximately half of the divestiture is to consist of chainstore business. By allocating the divestiture in these two fashions, the Final Judgment will insure to the maximum extent possible that the business divested be truly representative of the kind of business which ARA illegally acquired.

In addition to requiring divestiture of illegally acquired volume of business, the decree also requires ARA to vacate the warehouses and cease using the vehicles which it acquired from Molasky. Additionally, the Judgment requires ARA to offer for sale other physical equipment used to service retail accounts. Together with the requirement for divestiture of 35 percent of the business formerly done by Molasky, these provisions will remove from ARA the basic illegal advantage which it gained over its competitors by virtue of its actions in 1976.

*5. Alternative Equitable Remedies Considered by the Government*

The United States considered seeking to have ARA divest 100 percent of the business which moved to it from Molasky during the latter half of 1976. For the reasons discussed in the preceding section, such an option was rejected. The United States, in its initial settlement proposal, concluded that divestiture of 35 percent of the volume of business which moved from Molasky to ARA would be an appropriate figure for settlement, and insisted on such a figure throughout the negotiations. After making several unacceptable offers for less divestiture, ARA eventually agreed to the 35 percent figure.

Additionally, the United States considered forcing ARA to divest all physical equipment which had been used by the Molasky agencies including all racks used in retail outlets to display periodicals and paperback books. Eventually the United States rejected this idea on the grounds that it would merely penalize ARA without producing any corresponding competitive benefit. Thus the United States agreed to make ARA divest any of that equipment which potential or actual competitors wish to acquire after the Judgment becomes final. Should any warehouse equipment be thought to be of benefit to another wholesaler, the company can acquire it from ARA at ARA's cost.

*6. Position of the Federal Trade Commission*

Throughout the period during which the proposed Final Judgment was negotiated with ARA, the Department of Justice consulted with the Federal Trade Commission, soliciting its views on appropriate relief and advising it of the progress of negotiations. Prior to the filing of this proposed Final Judgment, the Department of Justice submitted it to the Commission for final comment.

The Commission has concluded that it cannot support the proposed Final Judgment. (See Attached letter from Chairman Pertschuk to John Shenefield, dated March 20, 1979 and reply by John Shenefield dated March 23, 1979.)

The Commission contends that ARA must be required to divest most, if not all, of the volume of business formerly conducted by the various Molasky agencies in question. This divestiture is required, the Commission asserts, without regard to how much volume of business would have moved from the Molasky agencies to ARA absent any conduct which violates the Order. As stated above, the Department of Justice, based on the interviews it conducted in the markets, has concluded that when Molasky closed his agencies in December 1976, ARA stood in each of these markets as the logical alternative supplier for many of Molasky's former customers. This fact distinguishes the present case from *United States* v. *Beatrice Foods Co.*, 351 F.Supp. 969 (D. Minn. 1972), *aff'd*, 493 F.2d 1259 (8th Cir. 1974), *cert. denied*, 420 U.S. 961 (1975); and *United States* v. *ITT Continental Baking Co.*, 420 U.S. 223 (1975), the cases principally relied upon by the Commission in arguing for total divestiture. In neither of those cases did the business of the "acquired company" fail, leaving a commercial vacuum which the "acquiring company" was uniquely situated to fill, at least in part, without violating an Order.

The Commission has also objected to the civil penalty provisions in the proposed Consent Judgment. The Commission asserts, in essence, that ARA must pay civil penalties which would be based upon the total volume of business which moved from the Molasky agencies to ARA. The Department of Justice believes, however, that the appropriate level of a penalty must correspond to the seriousness of the underlying conduct, and therefore must take account of the commercial realities surrounding such conduct. Weighing the conduct involved in ARA's succession to business lost by Molasky when his agencies collapsed in December 1976, the Department concluded that the initial civil penalty of $300,000 is a realistic approximation of what the Court might impose upon ARA after a successful trial on the merits.

The Commission likewise critizes the proposed second penalty because it would permit ARA to keep some of the profit which might be realized from the mandated divestiture. As was stated above, the penalty was drafted in such a fashion as to maximize the possibility that ARA will divest a business package attractive to a competitor, rather than merely abandon a specified percentage of customers—a result which also certainly would do nothing to strengthen competition in these markets.

*7. Remedies Available to Potential Private Plaintiffs*

Any potential private plaintiffs who might have been damaged by the facts constituting the alleged violation will retain the same right under Section 4 of the Clayton Act, 15 U.S.C. § 15, to sue for monetary damages and any other legal and equitable remedies that they would have had were the proposed Consent Judgment not entered. However, pursuant to Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), as amended, this judgment may not be used as *prima facie* evidence in private litigation. The United States also intends that this settlement will not affect private suits which are already in the courts relating to the transactions covered by the instant case.

*8. Procedures Available for Modification of the Proposed Consent Judgment*

The proposed Final Judgment is subject to a stipulation between the Government and ARA which provides that the Government may withdraw its consent to the proposed Judgment any time before the Court has found that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment provides for the Court's retention of jurisdiction of this action in order to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the Final Judgment.

As provided by the Antitrust Procedures and Penalties Act (15 U.S.C. 16), any person wishing to comment upon the proposed Judgment may, for a 60-day period subsequent to publishing of this document in the **Federal Register**, submit written comments to the United States Department of Justice, Attention Charles R. McConachie, Chief, Consumer Affairs Section, Antitrust Division, Washington, D.C. 20530. Such comments and the Government's response to them will be filed with the Court and published in the **Federal Register**. The Government will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Judgment.

*9. Determinative Documents*

The only materials which the United States considered determinitive in formulating the relief portion of this proposed Judgment were materials from which the United States computed the dollar volume of the business which moved from Molasky to ARA in 1976. These documents have been placed in the file with the Clerk, United States District Court, Eastern District of Missouri, and are also available for inspection at the Consumer Affairs Office, Antitrust Division, 521 12th Street, N.W., Washington, D.C. 20530.

Respectfully submitted,

**John R. Fleder,**

**Michael F. Rahill,**

*Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.*

[No. 77-1165-C(1)]

[FR Doc. 79-10347 Filed 4-3-79; 8:45 am]

**BILLING CODE 4410-01-M**

## LEGAL SERVICES CORPORATION

### Grants and Contracts

March 28, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Birmingham Area Legal Services Corporation, Inc. in Birmingham, Alabama to serve Shelby County.

2. Legal Services of North Central Alabama in Huntsville, Alabama to serve Jackson County.

3. Legal Services Corporation of Alabama in Montgomery, Alabama to serve Barbour, Blount, Butler, Calhoun, Cherokee, Choctaw, Cleburne, Coffee, Conecuh, Covington, Crenshaw, Dale, DeKalb, Elmore, Escambia, Franklin, Geneva, Lawrence, Marshall, Monroe, Pike, Russell, St. Clair and Washington Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Georgia 30308.

**Thomas Ehrlich,**

*President.*

[FR Doc. 79-10294 Filed 4-3-79; 8:45 am]

**BILLING CODE 6820-35-M**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Federal-State Partnership Advisory Panel, Notice of Reestablishment

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office of Management and Budget Circular A-63) notice is hereby given that reestablishment of the Federal-State Partnership Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until March 30, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

**John H. Clark,**

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

March 22, 1979.

[FR Doc. 79-10360 Filed 4-3-79; 8:45 am]

**BILLING CODE 7537-01-M**

### Media Arts: Film/Radio/Television Advisory Panel, Notice of Reestablishment

In accordance with the provision of the Federal Advisory Committee Act (Public Law 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that reestablishment of the Media Arts: Film/Radio/Television Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until March 30, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

**John H. Clark,**

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

March 22, 1979.

[FR Doc. 79-10361 Filed 4-3-79; 8:45 am]

**BILLING CODE 75370-1-M**

### Museum Advisory Panel, Notice of Reestablishment

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that reestablishment of the Museum Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until March 30, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having

legislative jurisdiction over the Endowment and to the Library of Congress.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

March 22, 1979.

[FR Doc. 79-10359 Filed 4-3-79; 8:45 am]

BILLING CODE 7537-01-M

## Visual Arts Advisory Panel, Notice of Reestablishment

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that reestablishment of the Visual Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until March 30, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: (a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and (b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

March 22, 1979.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 79-10358 Filed 4-3-79; 8:45 am]

BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

## Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-6, issued to the Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment consists of changes to the description of control rod assemblies, as stated in Technical Specification 5.1.2.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 26, 1979, and (2) Amendment No. 24 to License No. DPR-6, including the Commission's letter of transmittal. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

A copy of item (2) 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, Maryland, this 23rd day of March, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

*Chief, Operating Reactors Branch #2, Division of Operating Reactors.*

[Docket No. 50-155]

[FR Doc. 79-10296 Filed 4-3-79; 8:45 am]

BILLING CODE 7590-01-M

## Omaha Public Power District; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. DPR-40, issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1 (the facility), located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment revises Appendix B of the Technical Specifications to delete requirements that plant operations be controlled such that changes in the river temperature do not exceed 2°F per hour 2,000 ft downstream from the discharge point on the Station side of the river.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) the application for amendment transmitted by letter dated March 20, 1978, (2) Amendment No. 45 to License No. DPR-40 and (3) the Commission's Environmental Impact Appraisal, and the transmittal letter to the licensee dated March 27, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska. 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, Maryland, this 27th day of March 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

*Chief, Operating Reactors Branch #4, Division of Operating Reactors.*

[Docket No. 50-285]

[FR Doc. 79-10295 Filed 4-3-79; 8:45 am]

BILLING CODE 7590-01-M

## Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR–40 issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

This amendment changes the Technical Specifications to reduce requirements for surveillance and testing for Trisodium Phosphate Dodecahydrate located inside containment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated March 22, 1978, (2) Amendment No. 44 to License No. DPR–40, 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, N.W., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska. 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, Maryland, this 22nd day of March 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

*Chief, Operating Reactors Branch #4, Division of Operating Reactors.*

[Docket No. 50–285]

[FR Doc. 79–10298 4–3–79; 8:45 am]

BILLING CODE 7590–01–M

## Mississippi State University; Order Authorizing Disposition of Component Parts

By application dated February 6, 1978, Mississippi State University (the licensee) requested authorization to dispose of the component parts of the 100 watt homogeneous research reactor which is stored on the licensee's campus at Mississippi State, Mississippi. A "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Termination of Provisional Construction Permit" was published in the **Federal Register** on March 6, 1979 (44 FR 12304). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the disposal of component parts will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis for the findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has determined that the issuance of this Order will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

Accordingly, the Mississippi State University is hereby authorized to dispose of the component parts of the reactor covered by Provisional Construction Permit No. CPRR–91 in accordance with their disposal plan, U.S. Department of Transportation shipping requirements and the Commission's rules and regulations.

After completion of disposal of the component parts and on inspection by representatives of the Commission to confirm that there is no residual radioactive contamination above background, consideration will be given to whether a further order should be issued terminating Provisional Construction Permit No. CPRR–91.

For further details with respect to this action see (1) the application for authorization to dispose of component parts dated February 6, 1978, as supplemented March 10, 1978 and (2) 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, N.W., Washington, D.C. A copy of item (2) 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, Maryland, this 23rd day of March 1979.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

*Assistant Director, for Engineering & Projects, Division of Operating Reactors.*

[Docket No. 50–241]

[FR Doc. 79–10297 Filed 4–3–79; 8:45 am]

BILLING CODE 7590–01–M

# POSTAL RATE COMMISSION

## Mr. and Mrs. J. W. Brundrett; Notice and Order of filing of Appeal

In the matter of: Normanna, Texas 78142 (Mr. & Mrs. J. W. Brundrett, Petitioners).

On March 23, 1979, the Commission received a handwritten letter from Mr. & Mrs. J. W. Brundrett, citizens of Normanna, Texas, (hereinafter "Petitioners"), concerning the alleged plans of the United States Postal Service to close the Normanna, Texas post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)]. We do so in order to preserve petitioners' right to appeal, which is subject to a 30-day time limit.[1] The petition apparently was written by laymen, rather than by an attorney, and it does not conform exactly to the Commission's rules of practice, which also require that a petitioner attach to the petition a copy of the Postal Service's final determination.[2] However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community

[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–1311. Our rules of practice governing these cases appear at 39 C.F.R. 3001.110 *et seq.*

[2] 39 C.F.R. 3001.111(a).

[3] 39 C.F.R. 3001.1.

with at least 60 days' notice of a proposed post office closing so as to ". . . insure that such persons will have an opportunity to present their views." [4] In effect, the petition can reasonably be construed as a request that the decision to close the Normanna post office be reversed. From the face of the petition, it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, or whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act speicifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act. The Petitioners assert that the Normanna post office serves about 5 or 6 oil companies, that its closing would impede the growth of the community, that travel distance to the alternative post office would be approximately 6 to 10 miles, involving both inconvenience and expense, and that the institution of a mail route would involve potential vandalism and hazards, as well as increased costs to the Postal Service. In summary, the petition alleges that the closing would cause great hardship to the citizens of the community in availing themselves of postal services. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant a determination whether the Service complied with its own regulations for the closing of post offices.[7]

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.[8]

*The Commission Orders:*

(A) The letter of March 23, 1979, from Mr. & Mrs. J. W. Brundrett, shall be construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before April 9, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

**David F. Harris,**

*Secretary.*

**Appendix**

March 23, 1979—Filing of Petition.

March 29, 1979—Notice and Order of Filing of Appeal.

April 9, 1979—Filing of record by Postal Service [*see* 39 CFR § 3001.113(a)].

April 13, 1979—Last day for filing of petitions to intervene [*see* 39 CFR § 3001.111(b)].

April 23, 1979—Petitioners' initial brief [*see* 39 CFR § 3001.115(a)].

May 8, 1979—Postal Service answering brief [*see* 39 CFR § 3001.115(b)].

May 23, 1979—(1) Petitioners' reply brief, if petitioners choose to file such brief [*see* 39 CFR § 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

July 23, 1979—Expiration of 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5)].

Issued: March 29, 1979.

[Docket No. A79-11; Order No. 252]
[FR Doc. 79-10237 Filed 4-3-79; 8:45 am]
BILLING CODE 7715-01-M

[4] 39 U.S.C. 404(b)(1).

[5] 39 C.F.R. 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] 39 U.S.C. 101(b).

[7] 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[8] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

## SECURITIES AND EXCHANGE COMMISSION

### Bracewell and Patterson Retirement Plan; Notice of Filing of Application Pursuant to Section 3(a)(2) of the Securities Act of 1933 for an Order Exempting From the Provisions of Section 5 of the Act Interests or Participations

In the matter of the Bracewell & Patterson Retirement Plan, 2900 South Tower Pennzoil Place, Houston, TX 77002.

Notice is hereby given that Bracewell & Patterson (the "Applicant" or the "Partnership"), a law firm organized as a general partnership under the laws of the State of Texas, has, on February 5, 1979, filed an application for exemption from the registration requirements of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the Bracewell & Patterson Retirement Plan ("Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

*I. Introduction*

Applicant states that the Partnership has adopted the Plan to provide retirement benefits to its partners and employees. Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), and, therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

*II. Description of the Plan*

Applicant states that the Plan is a profit-sharing plan which was established on September 29, 1972, and amended effective October 1, 1975, and October 1, 1976. Applicant further states that the Plan is qualified under Section 401(a) of the Code. The Plan covers all partners, associate attorneys and other employees who receive compensation for personal services rendered to the Partnership, provided that the participant has first completed three years of service. As of September 30, 1978, there were a total of 79 active participants, of whom 24 were partners, 17 were salaried associate attorneys and 38 were paralegal, secretarial and other support personnel.

The Partnership may, but is not required to, make contributions to the Plan in each year based on a uniform percentage (established by the

Partnership) of the participant's compensation but not exceeding 15% of such compensation or $7,500, whichever is less. Each partner may elect the percentage of his compensation to be contributed by the Partnership provided such percentage does not exceed the uniform rate established by the Partnership for the year in which the election is made. Every participant, partners and otherwise, may make voluntary contributions to the Plan limited to 10% of compensation or $2,500, whichever is less, for each year.

All contributions are paid to a trust fund which holds the assets of the Plan in investments as authorized by the terms of the Plan. At September 30, 1978, the total assets of the Plan were approximately $648,600 of which approximately 32% was invested in treasury bonds or government securities, 31% in prime commercial paper, 30% in corporate bonds, 2% in common stock and the balance is case and cash equivalents. The trustee is Fannin Bank, a State bank in Houston, Texas. The Plan is administered by an Administrative Committee, appointed by the Partnership which presently consists of three partners. The Administrative Committee has overall responsibility for administration of the Plan, including the authority to review and approve the Plan's investment objectives and evaluate the performance of the trustee.

Applicant states that if the partnership were a corporation, interests and participations in the Plan would be exempt under Section 3(a)(2) of the Act. Applicant submits that merely because Applicant is unincorporated is no reason for subjecting such interests and participations to the registration requirements of the Act. Applicant further submits that the intent of Congress in excluding from the exemption plans in which self-employed persons were participants was to prevent the sale without registration of interests in prepackaged plans offered by financial institutions to self-employed persons lacking the sophistication to protect themselves and their employees, and that the provision permitting the Commission to grant exemption upon application was included in Section 3(a)(2) of the Act to make available an exemption for partnership plans where the plan and the entity involved are comparable to corporate plans exempted by Section 3(a)(2).

Applicant states that the Plan covers partners and employees of a single firm and is not a uniform prototype plan of a type designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under ERISA to distribute to participants or to employees) and has not made and does not intend to make any solicitation of voluntary contributions under the Plan. Applicant makes available to Plan participants, upon request and without charge, copies of the Plan and interim financial statements of the Plan.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the Plan maintained by the Partnership, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 23, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following April 23, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.
March 27, 1979.

George A. Fitzsimmons,
*Secretary.*

[Rel. No. 6044; 18-36]
[FR Doc. 79-10280 Filed 4-3-79; 8:45 am]
BILLING CODE 8010-01-M

## Self-Regulatory Organizations; Proposed Rule Change By Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 2, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule change as follows:

*Statement of the Terms of Substance of the proposed rule change*

The Municipal Securities Rulemaking Board (the "Board") is filing herewith the following proposed amendment to rule G-12 on uniform practice (hereafter referred to as the "proposed rule change"):

Rule G-12.[1] Uniform Practice

(a) through (d) No change.

(e) Delivery of Securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:

(i) No change.

(ii) Delivery Ticket. A delivery ticket shall accompany the delivery of securities. Such ticket shall contain the information set forth in subparagraphs (A), (B), (D) through (H), (M) and (N) of paragraph (c)(v) and, to the extent applicable, the information set forth in subparagraphs (A), (B), (D), (E) and (F) of paragraph (c)(vi) and shall have attached to it an extra copy of the ticket which may be used to acknowledge receipt of the securities. *The delivery of securities accompanied by a delivery ticket containing an error relating to the CUSIP number requirement of subparagraph (F) of paragraph (c)(v) shall constitute good delivery if such error is the only error on the delivery ticket.*

(iii) Through (xv) no change.

(f) Through (l) no change.

*statement of basis and purpose*

The basis and purpose of the foregoing proposed rule change is as follows:

[1] Italics indicate additions.

*purpose of proposed rule change*

On January 1, 1979, the provisions of Board rule G–12 requiring the use of CUSIP numbers on inter-dealer confirmations and delivery tickets became effective. As of that date, confirmations of inter-dealer transactions were required to include the "CUSIP number, if any, assigned to the securities," as well as the other items of information currently required by rule G–12. The CUSIP number was also required to be included on inter-dealer delivery tickets.

On December 21, 1978, the Commission approved an amendment to rule G–12(d) which modified the provision to provide that parties to an inter-dealer transaction do not have to follow the comparison and verification procedures of rule G–12(d) if the only discrepancy on a confirmation involves the CUSIP number. The parties are nonetheless required to resolve any such descrepancy promptly in order to assure that the discrepancy is not attributable to a disagreement between the parties as to the terms of the transaction.

In the filing relating to that amendment (File No. SR–MSRB–78–17), the Board noted that it had adopted the amendment to address certain specific problems *(e.g.,* errors in the transcription of alpha-numeric numbers, such as CUSIP numbers). The Board also noted in the filing that it was the Board's position, for the same reasons, that delivery of securities should not be rejected if the only error in the accompanying delivery ticket relates to the CUSIP number. The proposed rule change modifies rule G–12(e)(ii) to address expressly this point.

The amendment to rule G–12(d) previously approved by the Commission requires parties to a transaction to resolve promptly any discrepancy in CUSIP numbers on inter-dealer confirmations. There is no requirement in the proposed rule change for a party to contact the contra-party when the party receives a delivery ticket with an incorrect CUSIP number. In such a case, the party to whom the securities are delivered can verify the securities description and, in many cases, the CUSIP number against the certificates being delivered, and there is therefore no need to contact the contra-party, unless the wrong securities have been delivered.

The Board adopted the CUSIP number requirement because of its belief that the use of a uniform security identification system will promote efficiencies in current procedures for processing and clearance of municipal securities, and will be important in the development of more advanced clearance techniques.

The proposed rule change will not impede the realization of these goals since the change will not affect the use of the CUSIP system in the processing and clearance area. The proposed rule change is intended only to avoid having delivered securities rejected solely because of an error in the CUSIP number on a delivery ticket.

*Basis Under the Act for Proposed Rule Change*

The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which authorizes and directs the Board to adopt rules which are:

designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securites, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest. * * *

*Comments Received From Members, Participants or Others on Proposed Rule Change*

The Board has neither solicited nor received written comment on the proposed rule change. The Board, however, has received oral comments from members of the industry expressing concern regarding the consequences of errors in CUSIP numbers on delivery tickets.

*Burden on Competition*

The Board does not believe that the proposed rule change will impose any burden on competition.

On or before May 4, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April. 25, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

March 9, 1979.

George A. Fitzsimmons,
*Secretary.*

[Release No. 34–15822; File No. SR–MSRB–79–2]

[FR Doc. 79–10281 Filed 4–3–79; 8:45 am]

BILLING CODE 8010–01–M

## Stroock & Stroock & Lavan Retirement Plan and Trust; Notice of Filing of Application Pursuant to Section 3(a)(2) of the Securities Act of 1933 for an Order Exempting From the Provisions of Section 5 of Such Act Interests or Participations Issued in Connection With the Stroock & Stroock & Lavan Retirement Plan and Trust

In the matter of the Stroock & Stroock & Lavan Retirement Plan and Trust, 61 Broadway, New York, NY 10006.

Notice is hereby given that Stroock & Stroock & Lavan ("Applicant"), a law firm organized as a partnership under the laws of the State of New York, has on January 18, 1979, filed an application for exemption from the registration requirements of the Securities Act of 1933 ("Act") of interests or participations issued in connection with the Stroock & Stroock & Lavan Retirement Plan and Trust ("Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein which are summarized below.

**I. Introduction**

Applicant states that the Plan is a profit-sharing plan of the type commonly referred to as a "Keogh" plan, which covers persons, some of whom (in this case, certain partners of the Applicant) are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("Code"), and, therefore, interests or participations issued in connection with the Plan are not included in the express

exemption from Section 5 of the Act provided by Section 3(a)(2) thereof for interests or participations issued in connection with qualified profit-sharing plans maintained by certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interests or participations issued in connection with a profit-sharing plan which covers employees, some or all of whom are employees within the meaing of Section 401(c)(1) of the Code, if, and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions fo the Act.

**II. Description and Administration of the Plan**

Applicant states that the Plan was originally adopted on December 31, 1975, effective January 1, 1975. On December 30, 1976, the Plan was amended and restated in its entirety, effective January 1, 1975, to comply with final regulations issued under the Code and the Employee Retirement Income Security Act of 1974 ("ERISA"). On May 12, 1977, the Internal Revenue Service issued a favorable determination letter as to the qualified status of the restated Plan, and its related trust, under Sections 401(a) and 501(a) of the Code.

Applicant states that the Plan is a profit-sharing plan, the assets of which are administered through a Trust fund by at least three Trustees ("Trustees"), all of whom are appointed by the Applicant and serve at the Applicant's pleasure. The Trust Fund is held in a custodial account by the Morgan Guaranty Trust Company of New York pursuant to a custodial agreement enetered into with the Trustees on June 16, 1977. There are currently three Trustees, all of whom are partners of the Applicant and Plan participants. The Trustees have overall responsibility and authority for the administration of the Plan, including the interpretation of Plan provisions, the establishmend and enforcement of Plan rules and regulations, the determination and authorization of Plan benefits, and the payment of proper expenses of Plan administration. The Applicant is the Plan Administrator and has the responsibilities assigned by ERISA to the administrator of an employee benefit plan.

Applicant states that the Trustess have the authority to control, manage and invest the assets of the Trust Fund. All or a portion of this authority may be, but has not been, delegated to an Investment Manager appointed by the Applicant for this purpose.

Applicant represents that the Plan is operated exclusively for the benefit of Plan participants and their beneficiaries.

Applicant states that the plan year for the Plan is the period January 1—December 31. All common law employees and partners, other than owner-employees as defined in Section 401(c)(3) of the Code, ("Eligible Persons") become eligible to participate in the Plan after reaching age 25 and completing a year of service. Participation in the Plan is voluntary, and an Eligible Person becomes a Plan participant on July 1 or January 1 following his satisfaction of the eligibility requirements by a timely filing with the Trustees of a doucment signifying his acceptance of participation.

Applicant states that participation in the Plan ends upon a participant's death, disability, or retirement, upon his incurring a break in service (*i.e.*, failing to complete more than 500 hours of service in a plan year), or upon his becoming an owner-employee of the Applicant. Additionally, a participant may submit a request to the Trustees to terminate his participation in the Plan. The Trustees may deny such request if they, in their opinion, determine that such termination of participation might cause the Plan to lose its tax qualified status.

Applicant states that as restated on December 30, 1976, all contributions to the Plan were made by the Applicant out of net profits. Contributions by participants were neither permitted not required. However, on November 1, 1978, the Plan was amended, effective September 30, 1978, to permit each participant to make quarterly voluntary contributions to the Plan, which in the aggregate for each plan year do not exceed 10% of his compensation (which includes salary, bonuses, overtime payments, and in the case of a partner, his distributive share of Applicant's net income) for that year. Catch-up voluntary contributions are permitted based upon plan years during which a participant failed to make the maximum allowable voluntary contribution.

Applicant states that an employer account is maintained under the Plan on behalf of each Plan participant, to which the Applicant's contributions to the Trust Fund on his behalf are credited. As of the close of each plan year, Applicant contributes to the Trust Fund, out of its net profits, on behalf of each common law employee who is a Plan participant, has completed at least 1,000 hours of service during the plan year, and who remains employed by the Applicant at the close of such plan year, an amount equal to the lesser of (i) 2% of his compensation for such plan year up to $14,100, plus 8.5% of his compensation in excess of $14,100, but not in excess of $100,000 or (ii) $7,500. As of the close of each plan year, Applicant contributes to the Trust Fund, out of its net profits, on behalf of each partner who is a Plan participant, has completed at least 1,000 hours of service during the plan year, and who remains a partner at the close of such plan year, an amount designated by such partner but not in excess of the amount that would have been contributed by the Applicant on his behalf under the terms of the Plan if he had been a common law employee of the Applicant. Applicant states that its contributions are commingled in the Trust Fund, the earnings and losses of which are allocated proportionally to each employer account.

Applicant states that a participant's account vests according to a vesting schedule based upon his years of service with the Applicant. For example, a participant is 100% vested if his employment with the Applicant terminates on or after he attains age 65, or as a result of disability or death. If a participant's employment terminates before he is 100% vested in his employer account, the non-vested portion of this account will be forfeited at the close of the first plan year during which he incurs a break in service, and will be applied at that time to reduce the Applicant's required contributions to the Trust Fund.

Applicant states that a voluntary account is maintained on behalf of each Plan participant to which his voluntary contributions, if any, to the Trust Fund are credited. Voluntary contributions are commingled with the other assets of the Plan, and a participant's voluntary account shares proportionally in the earnings and losses of the Trust Fund. A participant is at all times 100% vested in his voluntary account. A participant may make quarterly withdrawals from his voluntary account of an amount not exceeding the lesser of (i) the aggregate of his voluntary contributions not previously withdrawn, or (ii) the balance in such account. A participant who has withdrawn the maximum amount permitted by the foregoing may make additional quarterly withdrawals of all or a part of the balance remaining in his voluntary account upon demonstration of financial need to the satisfaction of the Trustees.

Applicant states that it has retained the power to terminate or amend the Plan, provided, however, that no

amendment will cause any of the Plan's assets to be used or diverted for any purpose other than the exclusive benfit of Plan participants or their beneficiaries. A participant will be 100% vested in his employer account upon the termination of the Plan.

Applicant states that the Plan is subject to the reporting, disclosure, participation, vesting, and fiduciary responsibility requirements of Title I of ERISA. As an individual account plan, the Plan is not subject to the plan termination insurance program of Title IV of ERISA summary plan description, describing the Plan as restated on December 30, 1976, has been delivered to each Plan participant and each person currently receiving Plan benefits, as required by law, and Applicant represents that the practice of making timely distributions of relevant Plan materials to appropriate parties will continue. In this regard, Applicant states that a memorandum explaining the amendment of November 1, 1978, permitting voluntary contributions, has been distributed to Plan participants. Applicant states that it has regularly made timely filings of certain forms and reports with the Internal Revenue Service and the Department of Labor, as required by law, and Applicant represents that such forms and reports will continue to be filed on a timely basis in the future.

Applicant represents that it has provided and will continue to provide participants with adequate disclosure of all material facts prior to the making of voluntary contributions. Such disclosure is accomplish by the distribution of summary plan descriptions, summaries of material modifications, if any, to the Plan, and summary annual reports which include a summary of the investment performance of the Trust Fund. In addition, the Applicant makes copies of the Plan instrument, custodial agreement, Plan description and latest Plan annual report available for inspection by Plan participants. Copies of these documents will be provided to Plan participants at a reasonable cost upon written request. Each Participant is provided with an annual statement of his employer account, his vested interest therein, and his voluntary account.

Applicant states that it is currently preparing an application to be submitted to the Internal Revenue Service for a determination that the Plan, and its related trust, as amended by the amendment of November 1, 1978, continue to be qualified under Sections 401(a) and 501(a) of the Code. Applicant states that the amendments of November 1, 1978, are routine amendments that should not adversely affect the qualified status of the Plan and its related trust, and requests that the Commission assume that the Internal Revenue Service will rule favorably on such application.

Applicant states that it is clear that if the Applicant were a corporation, interests or participations issued in connection with the Plan would be exempt from the registration requirements of the Act by reason of Section 3(a)(2) thereof. Applicant submits that Congress excepted interests and participations issued in connection with plans covering self-employed individuals from the express exemption provided by Section 3(a)(2) of the Act primarily out of concern over interests in commingled or collective trust funds which might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in financial matters. Applicant states that the Plan is not a master or prototype plan marketed to the public by a sponsoring financial institution, and the assets of the Plan are not commingled in collective investment media with the assets of the retirement plans of any other employers. Applicant states that it is engaged in furnishing legal services of the type which necessarily involve financially sophisticated and complex matters, and for that reason, as well as the extensive administrative control over the Plan maintained by the Applicant, the interests of the partners of the Applicant who are Plan participants, as well as the interests of all Plan participants, are adequately protected. Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than material required to be distributed by ERISA) and has not solicited and does not intend to solicit voluntary contributions.

Based upon the foregoing, the Applicant concludes that granting the requested exemption order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than April 23, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following April 23, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Managment, pursuant to delegated authority.

March 27, 1979.

George A. Fitzsimmons,
*Secretary.*

[Rel. No. 6046; 18-32]

[FR Doc. 79-10279 Filed 4-3-79; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

### Office of the Secretary

### Shipping Coordinating Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:30 a.m. on Tuesday, May 1, 1979, in Room 1207 of the Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

The purpose of the meeting is to complete preparations for the United Nations Conference on Trade and Development V (UNCTAD V) shipping issues. UNCTAD V will be held in Manila, Philippines, May 6–31, 1979. UNCTAD V will have on its agenda; inter alia, the following topics:

—development pertaining to a convention on a Code of Conduct for Liner Conferences;

—participation of developing countries in world shipping and development of their merchant marines;

Requests for further information should be directed to Mr. Richard K. Bank, Office of Maritime Affairs, Department of State, Room 5826, Washington, D.C. 20520, telephone (202) 632-0704.

The Chairman will entertain comments from the public as time permits.

Richard K. Bank,
*Chairman, Shipping Coordinating Committee.*
March 23, 1979.

[Public Notice CM-8/178]

[FR Doc. 79-10354 Filed 4-3-79; 8:45 am]
BILLING CODE 4710-07-M

## Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 24, 1979, at 10:00 a.m. in Room 511 of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, data transmission and leased channel services in order to develop U.S. positions to be taken at international CCITT meetings to be held in May 1979 in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Richard H. Howarth, State Department, Washington, D.C. 20520, telephone (202) 632-1007.

Dated: March 26, 1979.
Richard H. Howarth,
*Chairman, U.S. CCITT National Committee.*

[Public Notice CM-8/179]

[FR Doc. 79-10355 Filed 4-3-79; 8:45 am]
BILLING CODE 4710-07-M

## Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Meeting

The working group on the carriage of dangerous goods of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Thursday, April 19, 1979 in Room 10330 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting will be to:

Discuss the report of the XXIX Session of the IMCO Subcommittee on the Carriage of Dangerous Goods;

Discuss United States positions on matters to be considered at the XXX Session of the IMCO Subcommittee on the Carriage of Dangerous Goods;

Discuss the progress of IMCO activities of a continuing nature such as implementation of the IMDG Code.

Requests for further information should be directed to Captain William N. Spence, United States Coast Guard, (G-MHM/83), Washington, D.C. 20590, telephone (202) 426-2296.

The Chairman will entertain comments from the public as time permits.

Richard K. Bank,
*Chairman, Shipping Coordinating Committee.*

[Public Notice CM-8/177]
March 23, 1979.

[FR Doc. 79-10353 Filed 4-3-79; 8:45 am]
BILLING CODE 4710-01-M

## DEPARTMENT OF STATE

### Agency for International Development

### Housing Guaranty Program for Banco Interamericano de Ahorro y Prestamo

The Agency for International Development (A.I.D.) has authorized a guaranty of a loan in an amount not to exceed $15 million to enable the Borrower identified below to finance mortgages for low cost housing in Latin American countries. This is the first part of an intended $30 million program. Eligible lenders as defined below are invited to make proposals to the Banco Interamericano de Ahorro y Prestamo (Borrower). The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the Act).

This project is referred to as Project No. 598-HG-006.

Lenders (Investors) eligible to receive an A.I.D. guaranty are those specified in section 238 of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially benefically owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

Selection of an eligible investor and the terms of the loan are subject to approval by A.I.D. The investor and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

To be eligible for guaranty, the loans must be repayable in full no later than the thirtieth anniversary of each disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D. Borrower projects a schedule for disbursements beginning in July 1979 and extending through March 1981. At least $5 million will be disbursed in calendar year 1979 and a total of $13 million through calendar year 1980. There will be a maximum of six disbursements. No disbursement shall be less than $1 million. It is intended that each disbursement will constitute a new loan and there will be no consolidation of disbursement into a single loan.

The Borrower desires to receive proposals from eligible investors as defined above. The proposals should be based on the indicated disbursement schedules. Since investor selection will be made on the basis of the proposals, the proposals should contain the best terms to be offered by investors. The proposals should state:

A. The fixed interest rate per annum for a period not to exceed thirty (30) years from the first disbursement.

B. The grace period for repayment of principal; such period not to exceed ten (10) years.

C. The minimum time during which prepayment of principal will not be accepted.

D. The investor's commitment or service fee, if any, and schedule of payment of such fee.

E. The period during which the proposal may be accepted which shall be at least seventy-two (72) hours after the closing date specified below.

F. The investor's willingness to negotiate and sign the Loan Agreement and A.I.D. Contract of Guaranty at the time and place indicated below.

The proposal may state other terms and conditions which the investor desire to specify. After investor selection by the Borrower and approval by A.I.D., the Borrower and investor shall negotiate all other terms and conditions of the Loan Agreement.

In the event the investor will engage in the reselling of the loan to other persons, the investor must provide for the servicing of his loan, i.e., recordation

and disposition of loan payments received from the Borrower.

The closing date by which prospective investors are requested to submit proposals to the Borrower is the close of business on April 16, 1979. Proposals must be communicated to Borrower by telex. Borrower will notify investors of this selection within seventy-two (72) hours after the closing date. It is desired that negotiation of the Loan Agreement and Contract of Guaranty take place in Washington, D.C. within a week or ten (10) days after the Borrower selects an investor and that signing of the Loan and Guaranty Agreements take place in Rio de Janeiro on May 9, or 10, 1979 during the proceedings of the XVII Annual Interamerican Savings and Loan Conference. However, an investor's ability to meet this schedule for negotiation and signing will not be taken into account in Borrower's evaluation of proposals.

Eligible investors are invited to consult promptly with the Borrower. Telephone numbers in Venezuela are 781.1013, 781.1233, and 781.1468. Those investors interested in extending a loan to the Borrower should communicate with the Borrower at the following address: Banco Interamericano de Ahorro y Prestamo, Caracas, Venezuela, Telex No. 21737 BIAPE VE.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632–9637.

To facilitate A.I.D. approval, copies of proposals made to the Borrower may at the investor's option be sent to A.I.D. at the above address on or after the closing date noted above.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

David McVoy,
*Assistant Director for Operations, Office of Housing.*

March 30, 1979.

[FR Doc. 79-10240 Filed 4-3-79; 8:45 am]
BILLING CODE 4710-02-M

## DEPARTMENT OF THE TREASURY

## CUSTOMS SERVICE

## Tariff Classification—Lasted Leather Footwear Uppers

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

**ACTION:** Decision concerning an American manufacturer's petition.

**SUMMARY:** The Customs Service has reviewed a petition filed by American manufacturers of nonrubber footwear, requesting that leather footwear uppers which have been lasted, i.e., have an insole or midsole and have been formed to fit the foot, be reclassified under the provisions for leather footwear in items 700.05 through 700.45, Tariff Schedules of the United States (TSUS). Before March 1, 1979, merchandise of this type was classifiable under the provisions for leather, cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, in items 791.20 and 791.25, TSUS (the merchandise is now classifiable under items 791.20 and 791.24, TSUS). The Customs Service has reviewed the record and determined that lasted leather footwear uppers constitute substantially complete footwear. Therefore, the merchandise has been reclassified in the manner requested in the petition.

**DATES:** This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after May 4, 1979, in the Customs Bulletin.

**FOR FURTHER INFORMATION CONTACT:** Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8181).

**SUPPLEMENTARY INFORMATION:**

### Background

On September 5, 1978, a notice was published in the **Federal Register** (43 FR 39465) indicating that the Customs Service had received a petition from American manufacturers of nonrubber footwear requesting the reclassification of leather footwear uppers which have been lasted, i.e., have an insole or midsole and have been formed to fit the foot, under the provisions for leather footwear in items 700.05 through 700.45, Tariff Schedules of the United States (TSUS). Lasted leather footwear uppers entered, or withdrawn from warehouse, for consumption before March 1, 1979, were classifiable under the provisions for leather, cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, in items 791.20 and 791.25, (TSUS) (see the explanation under the heading "Executive Order 12124" below). Although comments were to have been received on or before November 6, 1978, a notice extending the period of time for the submission of comments to December 6, 1978, was published in the **Federal Register** on November 9, 1978 (43 FR 52320).

In support of the position that lasted leather footwear uppers are classifiable under the provisions for leather footwear in items 700.05 through 700.45, TSUS, the American manufacturer's petition enunciated the arguments set forth below.

(1) Lasted leather footwear uppers constitute unfinished footwear within the intendment of General Headnote 10(h), TSUS, which provides that, unless the context requires otherwise, a tariff description for an article (e.g., leather footwear) covers such article whether or not assembled and whether or not finished.

(2) Leather footwear uppers which have been lasted are no longer manufactured parts, but rather have become manufactures of leather.

(3) Lasted leather footwear uppers with insoles or midsoles, not being entirely of leather, are not intended to be included within a tariff provision (i.e., item 791.20 or 791.25, TSUS) that is not a chief value provision.

(4) The legislative history and predecessor provisions indicate a congressional intent to include only individual leather components in the tariff classification provisions for leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear.

(5) The failure to classify the lasted uppers as completed footwear undermines congressional intent to protect the footwear industry.

(6) When two tariff provisions apply, an article is properly classifiable under the most specific provision or, if both are equally specific, the provision for which a higher rate of duty is assessed.

### Discussion of Comments

More than fifty comments, including three substantive legal briefs, were received concerning the instant American manufacturer's petition.

Comments in support of the petition allege that classification of the lasted leather footwear uppers under the provisions for leather, cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear, in items 791.20 and 791.25, TSUS, circumvents the Orderly Marketing Agreements concluded with the Republics of China and Korea, thus undermining the effectiveness of the President's import relief program for the domestic footwear industry. It is also argued that the current classification of lasted leather footwear uppers is inconsistent with the current classification of lasted vinyl footwear

uppers which are treated as footwear for tariff purposes. These lasted vinyl footwear uppers require only the addition of outsoles to complete the product.

In opposition to the petition, arguments presented in the legal briefs submitted are summarized below.

(1) The American manufacturer's petition is deficient inasmuch as it does not cite specific footwear provisions allegedly applicable to each lasted leather footwear upper.

(2) Lasted leather footwear uppers are not classifiable as leather footwear inasmuch as they lack substantial and essential elements, i.e., soles and heels. In this regard, the case of *Authentic Furniture Products, Inc.* v. *United States*, 61 C.C.P.A. 5, C.A.D. 1109 (1973), is cited.

(3) The provisions for footwear are "use" provisions and include only those products chiefly used as wearing apparel for the feet. Inasmuch as lasted leather footwear uppers cannot be used as footwear in their condition as imported, they cannot be treated as footwear for tariff purposes.

(4) Lasted leather footwear uppers cannot be identified with a particular tariff provision until the soles and heels are affixed.

(5) The doctrine of relative specificity cannot be applied to the competing provisions in this instance because the tariff provisions involved are mutually exclusive. Items 700.05 through 700.45, TSUS, and items 791.20 and 791.25, TSUS, were enacted by Congress to reflect different stages of manufacture.

(6) Even if the doctrine of relative specificity were applicable, the provisions for leather, cut or wholly or partly manufactured into forms and shapes suitable for conversion into footwear, in items 791.20 and 791.25, TSUS, are more difficult to satisfy and therefore more specific than the various footwear provisions.

(7) The existence or absence of voluntary restraint agreements relating to specific products is not relevant to the interpretation of the statutory language in question.

One commenter opposing the petition states that he cannot produce in the United States a comparable product at the same price at which he can process lasted leather footwear uppers into finished or completed footwear. Furthermore, he adds that the importation of semifinished products requires the addition of American labor to complete the products.

**Determination**

Notwithstanding that a specific tariff provision is not cited for each lasted leather footwear upper, the instant American manufacturer's petition complies with the requirements of 19 U.S.C. 1516(a). The item numbers covering the provisions for leather footwear are specifically listed and classification of the subject merchandise thereunder is readily ascertainable.

The classification of lasted leather footwear uppers is governed by General Headnote 10(h), TSUS, which states that, "unless the context requires otherwise, a tariff description for an article covers such article, whether assembled or not assembled, and whether finished or not finished."

The Customs Service has determined that lasted leather footwear uppers have undergone substantial processing to the extent that they have been advanced beyond the stage of being forms and shapes suitable for conversion into footwear and constitute unfinished footwear.

The absence of a sole and heel does not preclude classification of lasted leather footwear uppers as leather footwear. An unfinished article may be classified as the finished article when completed to the stage at which the fundamental characteristic of the finished article is apparent. *Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.D. 4765 (1978). With respect to lasted leather footwear uppers, the essence or fundamental characteristic of a shoe is readily apparent. A lasted leather footwear upper resembles a shoe and provides a layer or two of protection between the foot and flooring.

Lasted leather footwear uppers which cannot be identified with a particular tariff provision covering a specific type of leather footwear are nonetheless to be considered footwear for tariff purposes and classifiable under items 700.35, 700.43, or 700.45, TSUS, according to gender and/or value per pair.

The Customs Service has determined that lasted leather footwear uppers constitute unfinished leather footwear classifiable under the applicable provisions for leather footwear in items 700.05 through 700.45, TSUS.

The decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this notice in the Customs Bulletin.

**Executive Order 12124**

It is noted that Executive Order 12124 of February 28, 1979, amending the Generalized System of Preferences (GSP), deleted item 791.25, TSUS, and added a new item number, item 791.24, TSUS, which provides for leather footwear uppers, lasted or otherwise fabricated with midsoles or insoles. The applicable rate of duty for item 791.24, TSUS, is 5 percent ad valorem. Merchandise classificable under item 791.24, TSUS, is not entitled to duty-free treatment under GSP.

Inasmuch as Executive Order 12124 was designed solely to eliminate GSP treatment for lasted leather footwear uppers formerly classifiable under item 791.25, TSUS, the change is not determinative as to the classification of the subject lasted leather footwear uppers.

Dated: March 27, 1979.

**R. E. Chasen,**

*Commissioner of Customs.*

[T.D. 79-100]

[FR Doc. 79-10245 4-3-79; 8:45 am]

BILLING CODE 5210-68-M

## VETERANS ADMINISTRATION

### Special Medical Advisory Group; Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Special Medical Advisory Group, authorized by 38 U.S.C. 4112(a), will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on April 19 and 20, 1979. The purpose of the Special Medical Advisory Group is to advise the Administrator and the Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The general sessions will convene at 8:30 a.m. on April 19, and at 9:00 a.m. on April 20. These will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Barbara Pryor, Executive Secretary, Special Medical Advisory Group, Veterans Administration Central Office (Phone 202/389-2298) prior to April 9, 1979.

The Executive Session portion of the meeting is scheduled to take place from approximately 11:15 a.m. to 12:00 noon on April 20, 1979, and will be closed so as to preclude proposed agency Action (including its implementation) from being significantly frustrated which would likely result from discussion by the Group in open session. This action is being taken pursuant to section 10(d), Pub. L. 92–463 of the Federal Advisory Committee Act (5 U.S.C. App. Sec. 10(d)).

Dated: March 29, 1979.

**Max Cleland,**

*Administrator.*

[FR Doc. 79-10261 Filed 4-3-79; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register
Vol. 44, No. 66
Wednesday, April 4, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

**FEDERAL COMMUNICATIONS COMMISSION.**

**TIME AND DATE:** 9:30 a.m., Friday March 30, 1979.

**PLACE:** Room 856, 1919 M Street NW., Washington, D.C.

**STATUS:** Additional item to be considered at closed Commission meeting which is scheduled to follow the open meeting.

**MATTER TO BE CONSIDERED:**

*Agenda, Item No. and Subject*

Complaints and compliance—1—Inquiry into the operation of Station WJAN(TV), Canton, Ohio, licensed to PTL of Heritage Village Church and Missionary Fellowship, Inc.; Petition for Reconsideration of a March 15, 1979 telegram, and Order to Show Cause why the license of Station WJAN(TV) should not be revoked.

Additional information concerning this item may be obtained from the FCC Public Affairs Office, telephone number 202-632-7260.

Issued: March 29, 1979.

[S-644-79 Filed 4-2-79; 9:52 am]

BILLING CODE 6712-01-M

2

**FEDERAL COMMUNICATIONS COMMISSION.**

**TIME AND DATE:** 9:30 a.m., Friday, March 30, 1979.

**PLACE:** Room 856, 1919 M Street NW., Washington, D.C.

**STATUS:** Additional item to be considered at open Commission meeting.

**MATTER TO BE CONSIDERED:**

*Agenda, Item No., and Subject*

Hearing—4—Question certified to the Commission by the presiding Judge as to whether a proposed settlement agreement constitutes a merger as contemplated by Section 311(c)(3) of the Communications Act in the Pasadena, California, comparative proceeding (Docket Nos. 15752-54-55-56-64-65 and 66).

Additional information concerning this item may be obtained from the FCC Public Affairs Office, telephone number 202-632-7260.

Issued: March 29, 1979.

[S-645-79 Filed 4-2-79; 9:52 am]

BILLING CODE 6712-01-M

Federal Register

Wednesday
April 4, 1979

Part II

# Federal Election Commission

## Presidential Election Campaign Fund and Primary Matching Fund

## FEDERAL ELECTION COMMISSION

### 11 CFR Chapter IX

### Presidential Election Campaign Fund and Presidential Primary Matching Fund

**AGENCY:** Federal Election Commission.

**ACTION:** Transmittal of Regulations to Congress and Establishment of Chapter.

**SUMMARY:** FEC Regulations relating to Administration of the Presidential Primary Matching Payment Account have been revised and transmitted to Congress pursuant to 26 U.S.C. 9039(c). The revisions have been renumbered according to the section of the U.S. Code upon which each regulation is based. This renumbering has necessitated their transfer from Chapter I to Chapter IX of Title 11 of the Code of Federal Regulations. The Commission's experiences in administering the Primary Matching Account provisions of Chapter 96 of Title 26, United States Code, as well as comments solicited from the public at hearings held on June 20, 1978, (43 FR 23587, May 31, 1978) indicated the need for greater clarity in the regulations, especially as regards the reporting of particulars of expenditures, documentation requirements for submissions for matching payments, and procedures for suspension of payments for knowing and willful breaches of candidate agreements. Further information on the intended effect of the revised regulations is contained in the supplemental information below.

26 U.S.C. 9039(c) requires that any rule or regulation prescribed by the Commission to implement Chapter 96 of Title 26, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves of the regulations within 30 legislative days of their transmittal, the Commission may finally prescribe the regulations in question. The following requlations were transmitted to Congress on February 16, 1979.

**EFFECTIVE DATE:** Further action, including the announcement of an effective date and deletion of existing regulations in Subchapter C of 11 CFR Chapter I, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 26 U.S.C. 9039(c).

**FOR FURTHER INFORMATION CONTACT:** Ms. Patricia Ann Fiori, Assistant General Counsel, Regulations and Legislation, 1325 K Street, Northwest, Washington, D.C. 20510, (202) 523–4143.

**SUPPLEMENTARY INFORMATION:**

**Explanation and Justification of the Presidential Primary Matching Fund Regulations, Parts 9031 Through 9038**

§ *9032.1 Authorized Committee.*

Except for the language concerning independent expenditures, this definition generally follows 26 U.S.C. 9032(1). The language regarding independent expenditures provides that an expenditure by an authorized committee on behalf of the candidate who authorized that committee cannot qualify as an independent expenditure. With the addition of this language, the definition of authorized committee for Title 26 purposes is the same as the definition of that term for Title 2 purposes (11 CFR 109.1(e)).

§ *9032.2 Candidate.*

This definition generally follows 26 U.S.C. 9032(2), except that the language concerning an individual who is not actively conducting campaigns in more than one State has been transferred to the sections dealing with termination of payments to inactive candidates. (Sections 9033.4(a), 9033.5). In addition, this definition also adds the disavowal language appearing at 11 CFR 100.2(c).

§ *9032.3 Commission.*

This definition follows 26 U.S.C. 9032(3).

§ *9032.4 Contribution.*

The statute contains a definition of the term contribution two provisions—26 U.S.C. 9032(4) and 9034(a). However, these statutory definitions only set forth the criteria for matchable and nonmatchable contributions. The criteria for matchable and nonmatchable contributions will appear at Part 9034 of these regulations.

Because the definition of contribution in Title 2 is applicable to Title 26, this section incorporates the definition of the term "contribution" as it now appears in Title 2 provisions and regulations thereunder.

§ *9032.5 Matching Payment Account.*

This definition follows 26 U.S.C. 9032(5).

§ *9032.6 Matching Payment Period.*

This definition follows 26 U.S.C. 9032(6).

§ *9032.7 Primary Election.*

This definition generally follows 26 U.S.C. 9032(7).

§ *9032.8 Political Committee.*

This definition generally follows 26 U.S.C. 9032(8), except that the word individual is eliminated. With this deletion, the definition of the term "political committee" is the same for Title 26 purposes as it is for Title 2 purposes. (See 2 U.S.C. 431(d).)

§ *9032.9 Qualified Campaign Expense.*

This section adds to the statutory definition of the term qualified campaign expense (26 U.S.C. 9032(9)) by establishing a time frame for making qualified campaign expenses. This time frame begins on the date an individual becomes a candidate. Thus, this section in conjunction with § 9034.4, requires the candidate from the date he or she becomes a candidate to make expenditures *only* for the purpose of defraying qualified campaign expenses. This requirement in effect prohibits a candidate who accepts public funding from using private contributions received after becoming a candidate, including those received prior to establishing eligibility, for expenses which are not qualified campaign expenses. Where a candidate uses such contributions for nonqualified campaign expenses, repayment is required under § 9038.

If a candidate spends private campaign contributions received prior to establishing eligibility for public funding on nonqualified campaign expenses, those private funds would obviously not be available to defray the candidate's qualified campaign expenses. The net result would be that the candidate would subsequently require more public funding to meet his or her qualified campaign expenses. In essence, this additional public funding would restore private campaign funds diverted by the candidate to nonqualified campaign purposes. Such an outcome would be equivalent to permitting a candidate to use matching funds to defray nonqualified campaign expenses.

In this regard, statutory provisions require candidates to repay matching funds used to restore amounts spent on nonqualified campaign expenses. 26 U.S.C. 9038(b)(2)(B) states in part as follows:

> If the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than * * * (B) * * * to restore funds * * * which were used to defray qualified campaign expenses * * * the candidate shall pay to the Treasury an amount equal to such amount.

This section also establishes the close of the time frame for making qualified campaign expenses as the last day of the candidate's eligibility. Since an individual's candidacy for presidential nomination in essence ends on the date of ineligibility, any expenditures made

after that date, except for winding down costs under § 9034.4(c), cannot be considered to be incurred by the candidate "in connection with" his or her campaign for nomination.

Subsection (b) incorporates language from 2 U.S.C. 441a(b)(2) and 11 CFR 110.8(g).

*§ 9032.10 State.*

This definition adds Puerto Rico, Guam, the Virgin Islands, and the Canal Zone to the language of 26 U.S.C. 9032(10). Because primary elections are held in these areas, they should be included in the definition of State.

**PART 9033 Eligibility for Payments**

The statute delineates three provisions which must be included in the agreement between the Commission and an eligible candidate. The candidate must agree: To furnish any evidence the Commission requests concerning qualified campaign expenses; to furnish any records, books or other information the Commission requests; and to submit to a Commission audit under 26 U.S.C. 9038, as well as pay any amounts required to be paid under that provision.

With regard to the candidate agreement concerning evidence of qualified campaign expenses, subsection (a)(1) provides that the candidate has the burden of proving that his or her expenditures are qualified campaign expenses. While the statute does not explicitly state that this burden of proof rests with the candidate, the statutory requirement that the candidate "agree to obtain and furnish to the Commission any evidence it may request of qualified campaign expenses" clearly indicates that the candidate who accepts public funding has the burden of proving that his or her expenditures were made to defray qualified campaign expenses.

The candidate's burden of proof with regard to qualified campaign expenses consists of two elements—the candidate must show (1) that the expenditure was made, and (2) that the goods or services purchased were in connection with the campaign. These two elements are derived from the statutory definition of the term qualified campaign expense. Section 9032(9)(A) of Title 26 states in part that a qualified campaign expense is one which is

> *incurred* by a candidate, or his authorized committee, *in connection with* his campaign for nomination for election * * * (Emphasis added).

Thus, the first element of the candidate's burden of proof—showing that the expenditure was made—is directed at providing that the expenditure was actually *incurred;* while the second element—that the goods or services purchased were in connection with the campaign—is directed at showing that the expenditure was *in connection with* the candidate's campaign.

Subsections (a) (1) and (2) set forth the minimum documentation necessary for a candidate to discharge his or her burden of proof concerning qualified campaign expenses. With regard to showing that the expenditure was incurred, all expenditures, except for petty cash fund expenditures, must be documented by a cancelled check to the payee who provides the goods or services to the campaign. Except in the case of certain travel advances, an expenditure may not be documented by a cancelled check to a campaign staffer who in turn pays for goods or services used by the campaign. A cancelled check to a campaign staffer would not suffice to meet the candidate's burden of proof because at the time an advance is made to a staffer, the expenditure is not yet incurred for a campaign purpose.

With regard to showing that an expenditure was made in connection with the candidate's campaign, the purpose of the expenditure must be documented. For expenditures exceeding $100, or to a payee who receives more than $100 per year, the candidate must present written documentation disclosing a description of the goods or services purchased if this written documentation is not available, certain collateral evidence may be used to show the purpose of the expenditure. Finally, if a description of the goods or services does not suffice to show that the expenditure is campaign related, the Commission may request the candidate to state the connection between the expenditure and the campaign.

Subsections (a) (3) and (4) deal with the statutorily prescribed area of the candidate agreement concerning books and records. The candidate is required to furnish to the Commission bank records for all accounts as well as supporting documentation for contributions submitted for matching. These records relate to the basic issues of whether candidate expenditures are qualified and of the matchability of contributions.

Subsection (a)(5) deals with the candidate agreement concerning audit and examination. This subsection is intended to enable the Commission to conduct its audit and examination expeditiously.

In addition to the specific areas of candidate agreement mentioned in the statute, this section sets forth additional requirements.

Subsections (a) (6) and (7) relate to matching fund submissions and payments. These requirements will insure a standard format for making payments and determining matchability of contributions. This standard format will enable the Commission to provide funds to candidates on a prompt basis.

Under subsection (a)(8), candidates must agree to comply with the Title 2 Recordkeeping and Disclosure Requirements. Such a condition is desirable in order to encourage prompt disclosure as well as adequate recordkeeping.

Finally, subsection (a)(9) requires the candidate and principal campaign committee to agree to pay any civil penalties included in a conciliation agreement with or imposed by a court against the candidate, the principal campaign committee or any authorized committee. This agreement is designed to deal with a situation in which such a penalty is imposed against an authorized committee after it has transferred all of its campaign funds to the principal campaign committee. Thus, the principal campaign committee would be liable for those penalties.

Subsection (c) provides that the Commission may suspend payments to a candidate if he or she knowingly, willfully, and substantially fails to comply with Title 2 disclosure requirements. While the statute does not specifically authorize such a suspension, the Commission's power to suspend is implied from its express authority to initially determine candidate eligibility. It is clear that the statute empowers the Commission to determine whether a candidate has established eligibility by meeting the conditions set forth at 26 U.S.C. Section 9033 and regulations prescribed thereunder. Since eligibility is a continuing requirement, the power to initially determine whether eligibility has been established necessarily implies the authority to monitor and, where the candidate is no longer fulfilling the conditions of eligibility, revoke eligibility.

*§ 9033.2 Candidate certifications; threshold amount.*

Subsection (a) concerns the statutory provision at 26 U.S.C. 9033(b)(2), which requires the candidate to certify that he is seeking nomination by a political party for election to the office of President. Subsection (a) provides that in order to meet this certification requirement, the party whose nomination the candidate seeks must have a procedure for holding a primary election for nomination to the office of President. Because Chapter 96 of Title 26

provides public funding for presidential *primary* candidates, it is obvious that the party whose nomination the candidate seeks must hold a primary election as defined at section 9032.7.

Subsection (a) also defines the term political party to mean an association, committee or organization which nominates an individual for election to the office of President. This definition is derived from 2 U.S.C. Section 431(m).

Subsections (b) and (c) basically follow 26 U.S.C. 9033(b)(1), (2), and (3). Subsection (c) establishes an orderly procedure for submitting information and documentation concerning threshold contributions. This information and documentation is necessary for the Commission to determine whether the candidate has in fact established eligibility. The verification process under this section may consist of such activity as contacting contributors to verify residential addresses stated by the candidate under § 9033.2(c)(2)(A) or contacting contributors to determine if a contribution was in fact made, etc. Such verifications and audits are directed at determining whether the conditions of eligibility have in fact been met by a candidate.

Subsection (f) provides that the Commission may suspend payments to a candidate who knowingly and willfully exceeds the expenditure limitations set forth at 2 U.S.C. 441a(b). As with suspension for failure to comply with reporting requirements, suspension for expenditures is within the implied authority of the Commission to determine, monitor and revoke eligibility.

*§ 9033.3 Matching Payment Threshold Requirements.*

This section deals with a Commission determination that a candidate has failed to meet the minimum contribution requirement. Where the Commission makes such a determination, the candidate is afforded an opportunity to either satisfy the threshold requirement or to demonstrate that he has satisfied that requirement. This opportunity to demonstrate that the Commission's determination is in error takes the form of submitting written materials to the Commission. (See Explanation and Justification of § 9033.8.)

*§ 9033.4 Ineligibility dates defined.*

This section sets forth the several possible dates on which a candidate may become ineligible for matching funds.

Subsection (a) basically follows the language of 26 U.S.C. 9032(2), which states that the term candidate shall not include an individual who is not actively conducting campaigns in more than one State.

Subsection (b) follows the language of 26 U.S.C. 9033(c)(1)(B), which provides for the termination of payments to a candidate who fails to receive a requisite percentage of votes in two consecutive primaries.

Subsection (c) establishes the last day of the matching payment period as one of the possible dates of ineligibility for candidates. Since the last day of the matching payment period will be the ineligibility date for candidates who remain active until their party choses a nominee, the date of ineligibility for all candidates is covered under this section.

*§ 9033.5 Determination of Inactive Candidacy.*

This section sets forth a procedure for terminating payments to a candidate who is no longer actively seeking nomination for election in more than one State. Prior to termination, the candidate is given an opportunity to present written material to demonstrate that he or she is an active candidate in more than one State. (See Explanation and Justification of § 9033.8.)

This section also provides that the Commission will not make a determination of inactive candidacy at any time before March 1 or after July 1 of the presidential election year. Because most States hold their presidential preference primaries or caucuses during the period from March 1 through July 1, it would be unreasonable to require the candidate to remain active in more than one State either before or after that period.

Subsection (e) sets forth the factors which the Commission will consider in determining whether a candidate is inactive. These factors are designed to indicate minimal campaign activity in at least two States.

*§ 9033.6 Determination of Active Candidacy.*

Statutory provisions require that payments terminate to a candidate who fails to receive at least 10% of the votes cast for all candidates of his or her party in two consecutive primaries unless the candidate certifies to the Commission that he or she will not be an active candidate in the primary involved (26 U.S.C. 9033(c)(1)(B)). This section sets forth a procedure through which the Commission may refuse to accept the candidate's certification by determining that he or she is an active candidate in the primary involved. This procedure is intended to deal with a situation where a candidate who is active in a particular State primary nevertheless certifies to the Commission that he or she is not active in that primary in order to escape the operation of 26 U.S.C. 9033(c)(1)(B).

*§ 9033.7 Reestablishment of Eligibility.*

This section establishes a procedure for a candidate whose eligibility has terminated through inactivity to reestablish eligibility for matching payments upon becoming an active candidate again.

*§ 9033.8 Suspension of Payments.*

This section sets forth the procedure for suspending payments under § 9033.1(c) and § 9033.2(f). The Federal Election Campaign Act does not provide that Administrative Procedure Act (APA) requirements for adjudicative hearings (5 U.S.C. 554–557) apply to determinations by the Commission. While APA requirements for a full trial type hearing may not be applicable, procedural due process requirements mandate that prior to suspension the candidate be afforded some type of opportunity to demonstrate to the Commission that suspension is not warranted. (see K. Davis, Administrative Law of the Seventies, § 7.00–1–3 (Supp. 1977); *Mathews* v. *Eldridge*, 424 U.S. 319 (1976).)

The procedure set forth in this section fulfills due process requirements. It includes the following elements: Notice of the legal and factual matters upon which the Commission is relying; and opportunity to present in writing evidence and reasons why suspension should not occur; a final determination by the Commission on the basis of all evidence presented; and a statement of reasons underlying the Commission's determination. (It should be noted that even if the APA requirements were applicable to determinations by the Commission, the APA itself contains a significant exception to the requirement for a full trial type hearing by providing for the submission of evidence in written form under 5 U.S.C. 556(d).)

**PART 9034 Entitlements.**

*§ 9034.1 Candidate Entitlements.*

Subsection (a) deals with entitlement to matching fund payments prior to the date of ineligibility. It provides that a candidate is entitled to receive payments in an amount equal to each matchable campaign contribution received by the candidate. However, once a candidate reaches the date of ineligibility under § 9033.4, that candidate receives no further matching payments unless he or she has met outstanding campaign obligations.

For example, assume that candidate X is in the following financial status on the date of ineligibility:

| | |
|---|---|
| Obligations for qualified campaign expenses | $120,000 |
| Cash on hand | 20,000 |
| Candidate's X net outstanding campaign obligation | 100,000 |
| Matchable contributions not submitted for matching | 15,000 |

Since candidate X has net outstanding campaign obligations of $100,000, he is entitled to $15,000 in matching funds on the basis of matchable contributions that had not been submitted for matching prior to the date of ineligibility. On the other hand, assume candidate Y in the following financial status on the date of ineligibility.

| | |
|---|---|
| Obligations for qualified campaign expenses | $10,000 |
| Cash on hand | $20,000 |
| Net outstanding campaign obligations | 0 |
| Matchable contributions not submitted for matching | $15,000 |

Because candidate Y has no net outstanding campaign obligations on the date of ineligibility, he is entitled to no matching funds.

Subsection (a) thus bases entitlement to matching fund payments on or after the date of ineligibility on the existence of net outstanding campaign obligations on that date. In essence this approach requires the candidate to apply private funds whenever possible to discharge obligations for qualified campaign expenses.

Subsection (a) follows the legislative intent of 26 U.S.C. 9033(c)(1) which provides that payments are cut off to a candidate who become inactive, except where those payments are used to defray expenses incurred before the date of ineligibility. Therefore, if a campaign has no debts for qualified campaign expenses on the date of ineligibility, no further matching funds are forthcoming. While 26 U.S.C. 9033(c)(1) specifically applies only to an individual whose candidacy terminates through inactivity, the same legislative intent would be appropriate for application to a candidate whose date of ineligibility occurs at the end of the matching payment period. Finally, inasmuch as the statutory language of 26 U.S.C. 9034 entitles a candidate to matching funds for contributions received *after* a certain date without any specific mention of a final date for matching contributions, subsection (a) accords with statutory requirements.

Subsection (b) sets forth the entitlement formula for candidates who have net outstanding campaign obligations on the date of ineligibility. Basically, these candidates are entitled to payments only if the private contributions received between the date of ineligibility and the date of submission are not sufficient to discharge the net debt.

For example, assume that candiate A is in the following financial status on the date of ineligibility.

| | |
|---|---|
| Net debt at date of ineligibility | $100,000 |
| Matchable contributions received after the date of ineligibility but before the date of submission | $30,000* |

Because on the date of submission, the difference between: (1) The amount of private contributions received by candidate A after the date of ineligibility; and (2) candidate A's remaining net debt is $70,000, he is entitled to receive $30,000—an amount equal to the amount of matchable contributions received after the date of ineligibility.

As with subsection (a), subsection (b) accords with statutory requirements. In addition, subsection (b) also furthers the policy that the candidate should use private contributions to discharge campaign obligations wherever possible.

Subsection (c) deals with candidates whose eligibility has been reestablished after having fallen into inactive status.

Subsection (d) follows the language of 26 U.S.C. 9034(b).

*§ 9034.2 Matchable Campaign Contributions.*

This section sets forth the rules for determining which contributions are matchable. The language of 26 U.S.C. 9034 makes it clear that not all contributions are matchable. The major statutory restrictions reflected in this section are that contributions must be a gift of money made by written instrument and that only $250 from each individual contributor is considered matchable.

Statutory restrictions also require that the contribution be "received" by the candidate on or after January 1 of the calendar year immediately preceding the presidential election year (26 U.S.C. 9034). This section specifies that the candidate must *physically* receive the contribution after the January 1 date. This requirement specifically precludes a candidate from collecting post-dated checks before January 1 of the year preceeding the presidential general election year and then submitting those checks for matching on the basis that they weren't received until the date written on the check. The legislative history of the public financing provisions clearly indicates congressional intent to bar candidates from receiving matching funds for contributions solicited and received prior to the year preceeding the presidental general election year. (See 120 Cong. Rec. 54438, daily ed., March 26, 1974).

This section defines a written instrument to mean a check, money order, or any other negotiable instrument payable on demand to the candidate or his or her committee. The contributor's full name, signature, and mailing address, as well as the amount and date of the gift, must appear on the instrument or in an accompanying written document.

*§ 9034.3 Nonmatchable contributions.*

This section reflects statutory restrictions found in 26 U.S.C. § 9034(a), which excludes certain categories of contributions from being matched.

Subsections (g) through (i) reflect the Commission's view that amounts paid in the form of a purchase price for certain items or tickets are not matchable since the intent necessary to make a gift is lacking on the part of the purchaser. Particularly, subsections (h) through (i) follow Internal Revenue Service rulings 72–411 and 72–412 which exclude certain contributions from the category of political contributions that are deductible for income tax purposes.

*§ 9034.4 Use of Contributions and Matching Payments.*

Subsection (a) specifies that the candidate must spend both private contributions and matching fund payments only on expenditures which are qualified campaign expenses. As was stated earlier, if a candidate were permitted to spend private campaign funds on campaign expenses which were not qualified, those private funds would not be available to defray the candidates qualified campaign expenses. The candidate would then require more public funding to defray qualified campaign expenses. This additional public funding would in essence restore private campaign funds spent on nonqualified campaign expenses. Such a restoration of funds would violate 26 U.S.C. 9038 (b)(2)(B). (See Explanation and Justification of § 9032.9.)

Subsection (b) establishes the candidate's date of ineligibility as the cut off date for making qualified campaign expenses. Since a candidate's campaign for nomination essentially terminates on the date of ineligibility, any expenditures made after that date, except for winding down costs, can not possibly be made in connection with the candidate's campaign for nomination. The statutory definition of the term

*Example assumes all contributions are 100% matchable.

qualified campaign expense provides that such an expense is one which is "in connection with" a candidate's campaign for nomination. Expenditures made after the termination of that campaign can not meet such a requirement.

Subsection (c) deals with winding down costs. Such costs, although perhaps incurred after a candidate's date of ineligibility may nevertheless be considered qualified campaign expenses if they are associated with the termination of the candidate's campaign (Re: A.O.R 1976–54). Examples of such costs include expenses incurred for transportation by campaign staff to return from National nominating convention, for employment of personnel necessary for Commission audit pursuant to PART 9038, etc.

Under subsection (d), an expenditure which is in excess of expenditure limitations is not considered a qualified campaign expense. The statutory definition of the term qualified campaign expense specifically excludes any expenditure which consititutes a violation of any Federal law. Since both 2 U.S.C. 441(a)(b) and 26 U.S.C. 9035(a) prohibit an eligibile candidate from making expenditures in excess of certain limitations, any expenditure which exceeds those limitations is by definition not a qualified campaign expense.

Subsection (e) provides that civil or criminal penalties which must be paid pursuant to the Act are not considered qualified campaign expenses. If such amounts were considered qualified campaign expenses, a portion of the money used to pay those penalties would consist of Federal funds. In order to permit candidates to pay such penalties, subsection (e) provides that amounts received or expended to defray those penalties will not be considered contributions or expenditures. Such amounts will thus not be subject to contribution and expenditure limitations, but such amounts are subject to disclosure requirements.

Subsection (f) relates to payments for the purpose of determining whether an individual should become a candidate. These expenditures for "testing the waters" will be considered qualified campaign expenses despite the fact that they are usally made prior to the date an individual becomes a candidate. (See also 11 CRF 100.4(b)(1), 100.7(b)(1).)

Subsection (g) deals with statutory provisions at 2 U.S.C. 441a(a)(5)(c)(iii).

Subsection (h) deals with a candidate who has reestablished eligibility after falling into inactive status. Expenditures made by such candidates while in inactive status are considered qualified campaign expenses as are those made after eligibility is reestablished.

*§ 9034.5 Net Outstanding Campaign Obligations.*

This section sets forth a formula for computing a candidate's financial status at the date of ineligibility. Under this formula, the campaign's obligations for qualified campaign expenses including winding down costs are balanced against total of the campaign's cash on hand, the value of capital assets, and amounts owed to the campaign.

**PART 9035**

This part follows the statutory language at 26 U.S.C. 9035.

**PART 9036—Certification by the Commission**

*§ 9036.1 Initial Certification.*

This section sets out a procedure for the first certification of contributions to a candidate who has satisfied eligibility requirements. As is required by 26 U.S.C. § 9036(a), the Commission shall certify for payment amounts to which the candidate is entitled within ten days after the Commission notification to the candidate that he or she has established eligibility.

*§ 9036.2 Additional certifications.*

This section sets forth the format in which contributions submitted for matching must be presented to the Commission after the initial certification. These contributions must be presented in the same way except that contributions need not be segregated by State and the occupation and principal place of business of contributors whose aggregate contributions exceed $100 during a calendar year need not be included. Since this information is important only for determining eligibility, it need not be included in subsequent certifications.

*§ 9036.3 Insufficient Documentation.*

This section sets forth the rules under which a contribution will be rejected for matching purposes because sufficient documentation is lacking to insure that it meets the criteria for a matchable contribution.

*§ 9036.4 Certification Review and Notice.*

This section establishes a procedure for determining whether a candidate's submission meets acceptable standards of good order as prescribed at §§ 9036.2 and 9036.3.

*§ 9036.5 Resubmissions and hearing opportunity.*

This section sets forth a mechanism for the settlement of disagreements over which contributions are matchable and which are not matchable. The candidate who disputes a Commission conclusion that a contribution is not matchable will be given an opportunity to present written materials to demonstrate that the contribution is matchable. After consideration of materials submitted by the candidate, the Commission will render a final determination on the issue. This procedure meets due process requirements. (See Explanation and Justification of § 9033.8.)

*§ 9036.6 Continuation of certification.*

This section permits a candidate to submit contributions for matching until January 21 of the year following the presidential election year. In essence, this means that the candidate will have 21 days after the December 21 deposit date to submit those contributions to the Commission for matching. Thus, January 21 is the last day on which contributions may be submitted to the Commission for matching. This deadline allows the candidate sufficient time to submit contributions for matching, while avoiding unnecessarily delayed submissions which would burden the Commission in the efficient performance of its certification duties.

**PART 9037 Payments**

This part follows the statutory language of 26 U.S.C. 9037.

**PART 9038 Examination and Audits.**

*§ 9038.1 Audit.*

This section basically follows the statutory language at 26 U.S.C. 9038(a), the Commission is authorized to conduct its audit before the close of the matching payment period for candidates who become inactive prior to that date. Since these candidates have terminated campaign activity, no purpose is served by waiting until the end of the matching payment period to conduct an audit.

*§ 9038.2 Repayments.*

This section is based on statutory provisions at 26 U.S.C. 9038(b). It requires a candidate to repay any amounts spent from private contributions or matching funds if the expenditures were not documented in accordance with § 9033.1(a)(1). The candidate has the burden of proving that expenditures are qualified campaign expenses. Where required documentation is lacking, the candidate has not met that burden of proof. Therefore, the Commission has the authority to require repayment.

This section also requires repayment where the candidate spends private contributions as well as public funds on expenditures on which are not qualified campaign expenses. For an explanation of this approach, see the Explanation and Justification of § 9032(9).

This section also sets forth a procedure for determining disputes concerning the amount of a repayment. This procedure meets due process requirements. (See Explanation and Justification of § 9033.8.)

*§ 9038.3 Liquidation of Obligations; Repayment.*

This section generally follows the statutory provisions at 26 U.S.C. 9038. It sets forth a formula for recapturing from the candidate's accounts that portion of the account which represents Federal funds.

Chapter IX is added to 11 CFR to read as follows:

## CHAPTER IX—FEDERAL ELECTION COMMISSION

## SUBCHAPTER C—PRESIDENTIAL ELECTION CAMPAIGN FUND, PRESIDENTIAL PRIMARY MATCHING FUND

## PART 9031—SCOPE

### § 9031.1 Scope.

The restrictions, liabilities and obligations imposed by this subchapter are in addition to those imposed by sections 431–455 of Title 2 and regulations prescribed thereunder. Unless expressly stated to the contrary, this subchapter does not affect the restrictions, obligations and liabilities imposed by sections 431–455 of Title 2 and regulations prescribed thereunder.

(Sec. 310(8), Pub. L. 92–225, added by sec. 208, Pub. L. 93–443, 88 Stat. 1297, and amended by secs. 105 and 107(a)(1), Pub. L. 94–283, 90 Stat. 481 (2 U.S.C. 437d(a)(8), and sec. 408(c), Pub. L. 93–443, 88 Stat. 1297 (26 U.S.C. 9039(b))).

## PART 9032—DEFINITIONS

Sec.

9032.1 Authorized Committee.
9032.2 Candidate.
9032.3 Commission.
9032.4 Contribution.
9032.5 Matching Payment Account.
9032.6 Matching Payment Period.
9032.7 Primary Election.
9032.8 Political Committee.
9032.9 Qualified Campaign Expense.
9032.10 State.

Authority: Sec. 408(c), Pub. L. 93–443, 88 Stat. 1297, as amended by sec. 115(c)(2), Pub. L. 94–283, 90 Stat. 495, 500 (26 U.S.C. 9032).

### § 9032.1 Authorized Committee.

(a) "Authorized committee" means any political committee which is authorized by a candidate to solicit or receive contributions or to make expenditures on behalf of the candidate. This authorization shall be in writing and addressed to the unauthorized political committee. A copy of the authorization shall be filed by the candidate with the Commission. A withdrawal of authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(b) An expenditure by an authorized committee on behalf of the candidate who authorized the committee cannot qualify as an independent expenditure.

### § 9032.2 Candidate.

"Candidate" means an individual who seeks nomination for election to the office of President of the United States. An individual is considered to seek nomination for election if he or she—

(a) Takes the action necessary under the law of a State to qualify for a caucus, convention, primary election or run off election;

(b) Receives contributions or incurs qualified campaign expenses;

(c) Gives consent to any other person to receive contributions or to incur qualified campaign expenses on his or her behalf; or

(d) Receives written notification from the Commission that any other person is receiving contributions or making expenditures on the individual's behalf and fails to disavow that activity by letter to the Commission within 30 days of notification.

### § 9032.3 Commission.

"Commission" means the Federal Election Commission, 1325 "K" Street, Northwest, Washington, D.C. 20463.

### § 9032.4 Contribution.

For purposes of Subchapter C, "contribution" has the same meaning given the term under 2 U.S.C. 431(e) and 11 CFR 100.4, except as provided at 11 CFR 9034.4(e).

### § 9032.5 Matching payment account.

"Matching payment account" means the Presidential Primary Matching Payment Account established by the Secretary of the Treasury under 26 U.S.C. 9037(a).

### § 9032.6 Matching payment period.

"Matching payment period" means the period beginning January 1 of the year in which a Presidential general election is held and ending on one of the following dates:

(a) For a candidate seeking the nomination of a party which nominates its Presidential candidate at a national convention, the date on which the party nominates its candidate.

(b) For a candidate seeking the nomination of a party which does not make its nomination at a national convention, the earlier of—

(1) The date the party nominates its Presidential candidate, or

(2) The last day of the last national convention held by a major party in the calendar year.

### § 9032.7 Primary election.

"Primary election" means an election, including a runoff election, or a nominating convention or a caucus held by a political party—

(a) For the selection of delegates to a national nominating convention of a political party;

(b) For the expression of a preference for the nomination of Presidential candidates;

(c) For the purposes stated in both paragraphs (a) and (b) of this section; or

(d) To nominate a Presidential candidate.

### § 9032.8 Political committee.

"Political committee" means any committee, club, association, organization or other group of persons (whether or not incorporated) which accepts contributions or incurs qualified campaign expenses for the purposes of influencing, or attempting to influence, the nomination of any individual for election to the office of President of the United States.

### § 9032.9 Qualified campaign expense.

(a) "Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(1) Incurred by a candidate or his or her authorized committees from the date the individual becomes a candidate through the last day of the candidate's eligibility as determined under § 9033.4.

(2) Made in connection with his or her campaign for nomination; and

(3) Neither the incurrence nor payment of which constitutes a violation of any law of the United States or of any State in which the expense is incurred or paid, except that any State law which has been preempted by the Federal Election Campaign Act of 1971, as amended shall not be considered a State law for purposes of this Subchapter.

(b) An expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

(1) An authorized committee or any other agent of the candidate for purposes of making an expenditure

(2) Any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or

(3) A committee which has been requested by the candidate, by an authorized committee of the candidate, or by an agent of the candidate to make the expenditure, even though such committee is not authorized in writing.

**§ 9032.10 State.**

"State" means each State of the United States, Puerto Rico, the Canal Zone, the Virgin Islands, the District of Columbia, and Guam.

## PART 9033—ELIGIBILITY

Sec.

9033.1 Candidate agreements.
9033.2 Candidate certifications; threshold amounts.
9033.3 Matching payment threshold requirements.
9033.4 Ineligibility dates defined.
9033.5 Determination of Inactive Candidacy.
9033.6 Determination of Active Candidacy.
9033.7 Reestablishment of Eligibility.
9033.8 Suspension of Payments.

**Authority:** Sec. 408(c), Pub. L. 93–443, 88 Stat. 1297, as amended by sec. 305(c) and 306(b)(2), Pub. L. 94–283, 90 Stat. 499–500 (26 U.S.C. 9033).

**§ 9033.1 Candidate agreements.**

(a) A candidate seeking to become eligible to receive Presidential primary matching fund payments shall agree in a letter signed by the candidate to the Commission that the candidate and his or her principal campaign committee will comply with the conditions set forth below.

(1) The candidate has the burden of proving that expenditures by the candidate, the principal campaign committee or any authorized committee are qualified campaign expenses. The candidate shall agree to obtain and furnish to the Commission at its request any evidence regarding qualified campaign expenses by the candidate, the principal campaign committee and all authorized committees. The candidate must include as part of this evidence the following documentation:

(i) For expenditures exceeding $100 or for expenditures of less than $100 to a payee who receives expenditures aggregating more than $100 per year, either:

(A) A receipted bill which is from the payee and states the particulars of the expenditure; or

(B) If such a receipted bill is not available, the following documents, which must state the particulars of the expenditure:

(*1*) A cancelled check negotiated by the payee; plus

(*2*) One of the following documents generated by the payee—a bill, invoice, voucher or contemporaneous memorandum;

(*3*) Where the documents specified in Subsection (*2*) (11 CFR 9033.1(a)(1)(i)(B)(*2*)) are not available, a voucher or contemporaneous memorandum from the candidate or the committee; or

(C) If neither a receipted bill nor the documentation specified in subsection (ii) is available, a cancelled check stating the particulars of the expenditure.

(D) Where the supporting documentation required above (11 CFR 9033.1(a)(1)(i) (A), (B), (C)) is not available, the candidate or committee may present a cancelled check and collateral evidence to document the qualified campaign expense. Such collateral evidence may include but is not limited to:

(*1*) Evidence demonstrating that the expenditure is part of an identifiable program or project which is otherwise sufficiently documented, such as where the expenditure is one of a number of documented expenditures relating to a campaign mailing or to the operation of a campaign office;

(*2*) Evidence that the expenditure is covered by a preestablished written campaign committee policy, such as a per diem policy; etc.

(ii) For all other expenditures:

(A) If from the petty cash fund, a record disclosing the identification of the payee, the amount and the date of the expenditure; or

(B) A cancelled check which has been negotiated by the payee and states the identification of the payee, and the amount and date of the expenditure.

(C) For purposes of subparagraph (1), (11 CFR 9033.1(a)(1)) "payee" means the person who provides the goods or services to the candidate or committee in return for the expenditure except for an advance of $500 or less for travel and/or subsistence to an individual who will be the recipient of the goods or services purchased.

(D) For purposes of subparagraph (1) (11 CFR 9033.1(a)(1)), the term "particulars" means the identification of the payee, the date and amount of the expenditure, and a description of the goods or services purchased.

(2) Upon the request of the Commission the candidate shall supply an explanation of the connection between the expenditure and the campaign;

(3) The candidate shall keep and furnish to the Commission any books, records, including bank records for all accounts and supporting documentation for matching fund submissions, or other information that the Commission may request, as well as copies of books and records maintained by all authorized committees of the candidate.

(4) For purposes of audit and examination pursuant to Part 9038, of this chapter, and at the Commission's request, the candidate shall gather the books and records specified in subsection 3 in one centralized location.

(5) The candidate shall permit an audit and examination pursuant to Part 9038 of this chapter of all campaign expenditures, including those made by all authorized committees; facilitate such audit by making available office space, records, and such personnel as is necessary to the conduct of the audit and examination; and pay any amounts required to be paid under Part 9038 of this chapter.

(6) The candidate shall submit the name and mailing address of the person who is entitled to receive matching fund payments on behalf of the candidate and the name and address of the national or State bank designated by the candidate as a campaign depository as required at 11 CFR Part 103 of this chapter and § 9037.3.

(7) The candidate shall prepare matching fund submissions in accordance with Federal Election Commission Guideline for Presentation in Good Order.

(8) The candidate shall comply with applicable requirements of Sections 431–434; 437b Title 2, U.S. Code and Parts 100–108 of these Regulations.

(9) The candidate shall pay any civil penalties included in a conciliation agreement with or imposed under 2 U.S.C. 437g against the candidate, the principal campaign committee or any authorized committee of the candidate.

(b) The candidate may submit the letter containing the agreements required under § 9033.1 at any time after January 1 of the year immediately preceding the Presidential election year.

(c) Payments may be suspended to a candidate if he or she knowingly, willfully and substantially fails to comply with this disclosure requirements of 2 U.S.C. 434 and 11 CFR Part 104 as specified in the candidate agreement. Any determination to suspend payments shall be made in accordance with the procedure set forth at § 9033.8.

**§ 9033.2 Candidate certifications; threshold amount.**

A candidate seeking to become eligible to receive Presidential primary matching fund payments shall make the following certifications to the Commission in a written statement signed by the candidate:

(a) The candidate shall certify that he or she is seeking nomination by a political party to the office of President in more than one State. For purposes of this section in order for a candidate to be deemed to be seeking nomination by a political party to the office of President, the party whose nomination the candidate seeks must have a procedure for holding a primary election, as defined in 11 CFR 9032.7, for nomination to that office.

(1) For purposes of this section (11 CFR 9033.2) the term political party means an association, committee or organization which nominates an individual for election to the office of President. The fact that an association, committee or organization qualifies as a political party under this section does not affect the party's status as a national political party for purposes of 2 U.S.C. 441a(a)(1)(B) and 441a(a)(2)(B).

(b) The candidate and his or her authorized committee(s) shall certify that they will not incur qualified campaign expenses in excess of the limitations under 11 CFR Part 9035.

(c)(1)(i) The candidate and his or her authorized committees shall certify that they have received matchable contributions which, in the aggregate, exceed $5,000 in contributions from individuals who are residents of each of at least 20 States, and which with respect to any individual do not exceed $250.

(ii) In order to be considered a resident for threshold purposes, the individual need not meet the qualifications of voting residence, but a candidate may not submit contributions from one individual as a resident of more than one State.

(2) For each State in which the candidate certifies he or she has met this requirement, the candidate shall—

(i) Submit an alphabetical list of contributors showing: each contributor's full name and residential address; the date of the deposit into the designated campaign depository; the dollar amount of each contribution submitted for matching purposes; the matchable portion thereof; the total amount of all matchable contributions submitted; an indication of which contributions were received as a result of entertainment activity; and for individuals whose aggregate contributions exceed $100 per calendar year, the occupation and principal place of business;

(ii) Submit a photocopy of each check or other written instrument for each contribution which the candidate submits to establish eligibility for matching funds. The photocopies shall be segregated alphabetically by State, and shall be accompanied by and referenced to copies of the relevant deposit slip.

(3) Contributions which are not submitted in compliance with this subsection shall not count toward the threshold amount.

(d) The Commission may conduct audits of candidate records and make verifications of contributions submitted under this section to determine eligibility and shall notify candidates if it chooses to conduct such audits or verifications. In that case, the Commission may, at its own discretion waive the submission requirement under subsection (c)(2)(11 CFR 9033.2(c)(2)).

(e) The candidate may submit the certifications required under 11 CFR 9033.2 at any time after January 1 of the year immediately preceding the Presidential election year.

(f) Payments may be suspended to a candidate if he or she knowingly and willfully exceeds the expenditure limitations at 2 U.S.C. 441a(b). Any determination to suspend payments shall be made in accordance with the procedure set forth at 11 CFR 9033.8.

**§ 9033.3 Matching payment threshold requirements.**

The Commission shall, as soon as practicable and, during the Presidential election year, generally within 5 working days, examine the submission under 11 CFR 9033.1 and 9033.2 and shall either—

(a) Make a determination that the candidate has satisfied the minimum contribution threshold requirement under 11 CFR 9033.2(c); or

(b) Make an initial determination that the candidate has failed to satisfy the matching payment threshold requirements. The Commission shall notify the candidate of its initial determination, giving the legal and factual reasons for the determination and advising the candidate of the evidence upon which its initial determination is based. The candidate will be given an opportunity to satisfy the threshold requirements or to submit within 30 days of the receipt of the Commission's notice written legal or factual materials to demonstrate that he or she has satisfied those requirements. The Commission will consider any written legal or factual materials submitted by the candidate before making its final determination. Such materials may be submitted by counsel if the candidate so desires. A final determination that the candidate has failed to satisfy threshold requirements shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the legal and factual reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the determination is based.

**§ 9033.4 Ineligibility dates defined.**

The ineligibility date of a candidate is determined by paragraph (a), (b), or (c) (11 CFR 9033.4 (a), (b), (c)) whichever occurs first.

(a) The ineligibility date shall be the day on which an individual ceases to be a candidate because he or she is not actively conducting campaigns in more than one State in connection with seeking the Presidental nomination. This date shall be the earlier of—

(1) The date the candidate publicly announces that he or she will not be actively conducting campaigns in more than one State; or

(2) The date the candidate notifies the Commission by letter that he or she is not actively conducting campaigns in more than one state; or

(3) The date which the Commission determines under § 9033.5 to be the date that the candidate is not actively seeking election in more than one State.

(b) The ineligibility date shall be the 30th day following the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of popular votes cast for all candidates of the same party for the same office in that primary election, if the candidate permitted or authorized his or her name to appear on the ballot, unless the candidate certifies to the Commission at least 25 business days prior to the primary that he or she will not be an active candidate in the primary involved.

(1) The Commission may refuse to accept the candidate's certification if it determines under 11 CFR 9033.6 that the candidate is an active candidate in the primary involved.

(2) For purposes of this paragraph, if the candidate is running in two primary elections in different States on the same date, the highest percentage of votes a candidate receives in any one State will govern. Separate primary elections held in more than one State on the same date are not deemed to be consecutive primaries. If two primary elections are held on the same date in the same State (e.g., a primary to select delegates to a

national nominating convention and a primary for the expression of preference for the nomination of candidates for election to the office of President), the highest percentage of votes a candidate receives in either election will govern.

(c) The ineligibility date shall be the last day of the matching payment period for the candidate as specified in 11 CFR 9032.6.

**§ 9033.5 Determination of Inactive Candidacy.**

(a) The Commission may on the basis of the factors listed in subsection (e) (11 CFR 9033.5(e)) make an initial determination that a candidate is no longer actively seeking nomination for election in more than one State at any time after March 1 but before July 1 of the Presidential election year.

(b) The Commission shall notify the candidate in writing of its initial determination, giving the legal and factual reasons for the determination and advising the candidate of the evidence upon which its initial determination is based and of the date on which active campaigning in more than one State ceased. The candidate will be given an opportunity to submit within 15 business days of receipt of the Commission's notice, written legal or factual materials to demonstrate that he or she is actively campaigning in more than one State.

(c) The Commission will consider any written legal or factual materials submitted by the candidate in making its final determination. Such materials may be submitted by counsel if the candidate so desires. In addition prior to making a final determination, the Commission will consider the factors listed in paragraph (e) of this section.

(d) A final determination of inactive candidacy shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the determination is based.

(e) In making its final determination, the Commission shall consider, but is not limited to considering, the following factors:

(1) The frequency and type of public appearances, speeches, and advertisements;

(2) Campaign activity with respect to soliciting contributions or making expenditures for campaign purposes;

(3) Continued employment of campaign personnel or the use of volunteers; and

(4) The release of committed delegates.

(f) Upon a final determination by the Commission that the candidate is inactive, that candidate's eligibility for matching payments will terminate.

**§ 9033.6 Determination of active candidacy.**

(a) Where a candidate certifies to the Commission under § 9033.4(b) that he will not be an active candidate in an upcoming primary, the Commission may within 10 business days of receiving such certification notify the candidate in writing that it has made an initial determination that the candidate is an active candidate in the primary involved. This initial determination shall be based on the factors listed in 11 CFR 9033.5(e).

(b) The Commission's notice shall set forth the legal and factual reasons for the initial determination and advise the candidate of the evidence upon which its initial determination is based. The candidate will be given an opportunity to submit within 10 business days of receipt of the Commission's notice written legal or factual materials to demonstrate that he or she is not an active candidate in the primary involved.

(c) The Commission will consider any written legal or factual materials submitted by the candidate in making its final determination. Such materials may be submitted by counsel if the candidate so desires. In addition, prior to making a final determination, the Commisssion will consider the factors listed in 11 CFR 9033.5(e).

(d) A final determination by the Commission under this section (11 CFR 9033.6) shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the determination is based.

**§ 9033.7 Reestablishment of Eligibility.**

(a) A candidate who has become ineligible under § 9033.4(a) on the basis that he or she is not actively campaigning in more than one state may reestablish eligibility for matching payments by submitting to the Commission evidence of active campaigning in more than one State. In determining whether the candidate has reestablished eligibility, the Commission will consider, but is not limited to considering, the factors listed in 11 CFR 9033.5(e). The Commission shall make its determination without requiring the individual to reestablish eligibility under 11 CFR 9033.1 and 2. The day the Commission determines to be the day the candidate become active again will be the reestablishment of eligibility date.

(b) A candidate determined to be ineligible under 11 CFR 9033.4(b) by failing to obtain the required percentage of votes in two consecutive primaries may have his or her eligibility reestablished if the candidate receives at least 20 percent of the total number of votes cast for candidates of the same party for the same office in a primary election held subsequent to the date of the election which rendered the candidate ineligible.

**§ 9033.8 Suspension of Payments.**

(a) If the Commission has reason to believe that a candidate has knowingly, willfully and substantially failed to comply with the disclosure requirements of 2 U.S.C. 434 and 11 CFR Part 104, or that a candidate has knowingly and willfully exceeded the expenditure limitations at 2 U.S.C. 441a(b), the Commission may make an initial determination to suspend payments to that candidate.

(b) The Commission shall notify the candidate of its initial determination, giving the legal and factual reasons for the detemination and advising the candidate of the evidence upon which its initial determination is based. The candidate will be given an opportunity within 20 days of the Commission's notice to comply with the above cited provisions or to submit written legal or factual materials to demonstrate that he or she is not in violation of those provisions.

(c) The Commission will consider any written legal or factual materials submitted by the candidate in making its final determination. Such materials may be submitted by counsel if the candidate so desires.

(d) A final determination to suspend payments by the Commission shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the determination is based.

(e) A candidate whose payments have been suspended under this section may become entitled to receive payments if he or she fulfulls the following conditions:

(1) For candidates whose suspension was based on failure to comply with reporting requirements, compliance with reporting requirements and payments or

agreement to pay any civil or criminal penalties resulting from failure to comply; or

(2) For candidates whose payments were suspended for exceeding expenditure limitations, repayment of an amount equal to the amount by which the candidate exceeded the expenditure limitation and payment of or agreement to pay any civil or criminal penalties resulting from violation of limitation.

## PART 9034—ENTITLEMENTS

Sec.

9034.1 Candidate entitlements.
9034.2 Matchable Campaign Contributions.
9034.3 Nonmatchable Campaign Contributions.
9034.4 Use of Contributions and matching payments.
9034.5 Net outstanding campaign obligations.

**Authority:** Sec. 408(c), Pub. L. 93–443, 88 Stat. 1299, as amended by sec. 307(b), Pub. L. 94–283, 90 Stat. 501 (26 U.S.C. 9034).

### § 9034.1 Candidate entitlements.

(a) A candidate who has been notified by the Commission under 11 CFR 9036.1 that he or she has successfully satisfied eligibility and certification requirements is entitled to receive payments in an amount equal to the amount of each matchable campaign contribution received by the candidate, except that a candidate who has become ineligible under 11 CFR 9033.4 may not receive further matching payments regardless of the date of deposit of the underlying contributions if he or she has no net outstanding campaign obligations as defined in 11 CFR 9034.5.

(b) If on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 CFR 9034.5, that candidate may continue to receive matching payments for matchable contributions received and deposited before December 31 of the Presidential election year only if on the date of submission there are remaining net outstanding campaign obligations. The candidate shall be entitled to payment only if at the time of submission the sum of the contributions received on or after the date of ineligibility plus matching funds received on or after the date of ineligibility (on the basis of post ineligibility contributions) is less than the candidate's net outstanding campaign obligations. This entitlement will be equal to the lesser of:

(1) The amount of contributions submitted for matching; or

(2) The remaining net outstanding campaign obligations.

(c) A candidate whose eligibility has been reestablished under § 9033.7 or who after suspension of payments has met the conditions set forth at 11 CFR 9033.8(e) is entitled to receive payments for matchable contributions for which payments were not received during the ineligibility or suspension period.

(d) The total amount of payments to a candidate under this section shall not exceed 50% of the total expenditure limitation applicable under 2 U.S.C. 441a(b)(1)(A) as adjusted by 2 U.S.C. 441a(c).

### § 9034.2 Matchable campaign contributions.

(a) Contributions meeting the following requirements will be considered matchable campaign contributions.

(1) The contribution must be a gift of money made: by an individual; by a written instrument identifying the contributor by full name and mailing address; and for the purpose of influencing the result of a primary election.

(2) The contribution shall be matchable only to the extent of the first $250 contributed by an individual account the contributor is considered to be the owner whose signature appears on the check. To be attributed equally to other joint tenants of the account, the check or other accompanying written document shall contain the signature(s) of the joint tenant(s).

(3) In cases of money orders which do not contain the signature of the contributor, an accompanying written document shall contain the signature of the contributor.

(4) Checks drawn on escrow or trust accounts can only be a contribution from the person who has beneficial ownership of the account and therefore must be signed by that person with the statement that the giving of the contribution does not violate the conditions of the trust or escrow agreement.

(5) Contributions in the form of checks written on partnership accounts or accounts of unincorporated associations or businesses are matchable contributions, so long as—

(i) The checks are accompanied by documentation which specifies that the contribution is made by a specific individual or individuals;

(ii) Such documentation is signed by the individual or individuals; and

(iii) The aggregate amount of the contributions drawn on a partnership or unincorporated association or business account does not exceed $1,000 to any one Presidential candidate seeking nomination.

### § 9034.3 Nonmatchable campaign contributions.

A contribution to a candidate other than one which meets the requirements of 11 CFR 9034.2 is not matchable. Contributions which are not matchable include:

(a) In-kind contributions of real or personal property;

(b) A subscription, loan, advance, or deposit of money, or anything of value;

(c) A contract, promise, or agreement, whether or not legally enforceable, such as a pledge card or credit card transaction, to make a contribution for any such purposes (but a gift of money by written instrument is not rendered unmatchable solely because the contribution was preceded by a promise or pledge);

(d) Funds from a corporation, labor organization, government contractor, political committee as defined in 11 CFR 100.14 or any group of persons other than those under 11 CFR 9034.2(c)(4);

(e) Contributions which are illegally made or accepted, such as contributions in the name of another;

(f) Contributions in the form of a check drawn upon the account of a committee, corporation, union, or government contractor even though the funds represented personal funds earmarked by a contributing individual to a Presidential candidate;

(g) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value, such as a watch;

(h) Contributions in the form of the purchase price paid for a chance to participate in a raffle, lottery, or a similar drawing for valuable prizes;

(i) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor, such as a concert, motion picture, or theatrical performance, in which case the amount of the matchable contribution shall include only the excess of the amount paid for admission over the fair market value of all the benefits available to the purchaser of the ticket, using a good faith reasonable estimate.

(1) The fair market value and any amount in excess of the fair market value of the benefits conferred shall be clearly and separately indicated on the promotional material and the tickets for the event, and a copy of such material and of a ticket shall accompany the submission of documentation under 11 CFR 9033.2 and 9036.2.

(2) A contribution in the form of the purchase price paid for admission to an activity that is essentially political is fully matchable. An "essentially political" program is one the principal purpose of which is political speech or discussion, such as the traditional political dinner or reception.

(j) Contributions which are made by persons without the necessary donative intent to make a gift or made for any purpose other than to influence the result of a primary election; and

(k) Contributions of currency of the United States or currency of any foreign country.

**§ 9034.4 Use of contributions and matching payments.**

(a) Except as provided in paragraph (e) of this section, all contributions received by an individual from the date he or she becomes a candidate and all matching payments received by the candidate shall be used only to defray qualified campaign expenses or to repay loans or otherwise restore funds (other than contributions which were received and expended to defray qualified campaign expenses), which were used to defray qualified campaign expenses.

(b) Any expenses incurred after a candidate reaches the date of ineligibility under 11 CFR 9033.4 are *not* qualified campaign expenses, except as provided in paragraph (c) of this section.

(c) Winding down costs shall be considered a qualified campaign expense if such costs are:

(1) Incurred before the date of ineligibility; or

(2) Associated with the termination of political activity, such as the cost of complying with post election requirements of the Act and other necessary administrative costs, including office space rental, staff salaries, etc.

(3) For purposes of this subsection, winding down costs shall be deemed to have been incurred before the candidate's date of ineligibility if an oral or written arrangement or commitment for the activity was made on or before candidate's date of ineligibility

(d) An expenditure which is in excess of any of the limitations under 2 U.S.C. 441a(b)(1)(A) shall not be considered a qualified campaign expense.

(e) Civil or criminal penalties paid pursuant to the Federal Election Campaign Act are not qualified campaign expenses and can not be defrayed from contributions or matching payments. Any amounts received or expended to pay such penalties shall not be considered contributions or expenditures, but such amounts shall be reported in accordance with 11 CFR Part 104.

(f) Even though incurred prior to the date an individual becomes a candidate, payments made for the purpose of determining whether an individual should become a candidate, such as those incurred in conducting a poll, shall be considered qualified campaign expenses if the individual subsequently becomes a candidate.

(g) Where a candidate has received matching funds and is simultaneously seeking nomination or election to another Federal office, any transfer of funds between his or her principal campaign committees or authorized committees must be in accordance with 2 U.S.C. 441a(a)(5)(C) and 11 CFR 110.3(a)(1)(v).

(h) A candidate whose eligibility has been reestablished under 11 CFR 9033.7 or who after suspension of payments has met the conditions set forth at 11 CFR 9033.8(e) is entitled to receive payments for matchable contributions for which payments were not received during the ineligibility or suspension period.

**§ 9034.5 Net outstanding campaign obligations.**

(a) A candidate's net outstanding campaign obligations equal the difference between paragraph (a) (1) and (2) of this section:

(1) The total of all outstanding obligations for qualified campaign expenses as of the candidate's date of ineligibility under 11 CFR 9033.4, plus estimated necessary winding down costs as defined under 11 CFR 9034.4(c) less

(2) The total of:

(i) Cash on hand as of the close of business on the last day of eligibility (including all contributions received as of that date whether or not submitted for matching);

(ii) The fair market value of capital assets on hand; and

(iii) Amounts owed to the campaign in the form of credits, returns, receivables, or rebates of qualified campaign expenses; or a commercially reasonable amount based on the collectibility of those credits, returns, receivables or rebates.

(b) The candidate shall submit a statement of net outstanding campaign obligations within 15 days of the candidate's date of ineligibility.

(c) For purposes of this section, a capital asset means any property which has remaining useful life exceeding 1 year from the date of the candidate's ineligibility: *Provided,* That the fair market value at the date of ineligibility exceeds $500.

## PART 9035—EXPENDITURE LIMITATION

Sec.

9035.1 Qualified Campaign Expense Limitation.
9035.2 Limitation on Expenditures From Personal or Family Funds.

**Authority:** Sec. 408(c), Pub. L. 93–443, 88 Stat. 1300, as amended by sec. 305(a), 307(c), Pub. L. 94–283, 90 Stat. 494, 501 (26 U.S.C. 9035.)

**§ 9035.1 Qualified Campaign Expense Limitation.**

No candidate who has accepted matching funds shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under 2 U.S.C. 441a(b)(1)(A);

**§ 9035.2 Limitation on Expenditures from Personal or Family Funds.**

(a) No candidate who has accepted matching funds shall knowingly make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the office of President in excess of, in the aggregate $50,000.

(b) For purposes of this section, the term "immediate family" means a candidate, spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

(c) For purposes of this section, "personal funds" has the same meaning as specified in 11 CFR 110.10.

## PART 9036—CERTIFICATION BY THE COMMISSION

Sec.

9036.1 Initial certification.
9036.2 Additional certification.
9036.3 Insufficient documentation.
9036.4 Certification review and notice.
9036.5 Resubmission and hearing opportunity.
9036.6 Continuation of certification.

**Authority:** Sec. 408(c), Pub. L. 93–443, 88 Stat. 1300 (26 U.S.C. 9036).

**§ 9036.1 Initial certification.**

(a) After a determination has been made that the candidate has successfully satisfied the eligibility and certification requirements under 11 CFR 9033.1 and 9033.2 including the threshold requirement, the Commission shall so notify the candidate in writing and shall request the submission in accordance with paragraph (b) of this section of all contributions received and deposited by a date specified by the Commission.

(b) Contributions which are submitted for purposes of meeting the threshold requirements must be submitted in accordance with the Federal Election Commission Guideline for Presentation in Good Order.

(c) Within 10 calendar days after the Commission has sent notification to the candidate under subsection (a) (11 CFR 9036.1(a)), but not before the beginning of the matching payment period, the Commission shall certify to the Secretary of the Treasury for payment of the amount to which such candidate is entitled.

**§ 903.2 Additional certifications.**

(a) To obtain subsequent certifications following the initial certification and payment, a candidate shall file all information required for the initial eligibility under Part 9033, except that:

(1) The alphabetical listing of contributors need not be segregated by State;

(2) The candidate need not resubmit the agreement under 11 CFR 9033.1 and the the certifications under § 9033.2; and

(3) The occupation and principal place of business need not be disclosed for individuals whose aggregate contributions exceed $100 per calendar year, except that such information is subject to recordkeeping and reporting requirements under 2 U.S.C. 432(c)(2), 434(b)(2) and 11 CFR 102.9(a)(2), 104.2(b)(2).

(b) Requests for additional certifications may be submitted on dates to be determined and published by the Commission from time to time.

(c) Except as provided by 11 CFR 9036.4, requests for additional certification shall cover a period beginning the day following the close of the period for the previous submission.

(d) All submissions for matching payments must be in accordance with the Federal Election Commission Guideline for Presentation in Good Order.

(e) The Commission shall certify to the Secretary of the Treasury any additional amount to which a candidate is entitled within 15 calendar days of receipt of information submitted under paragraph (a) (11 CFR 9036.2(a)), but not before the beginning of the matching payment period.

**§ 9036.3 Insufficient documentation.**

Contributions which are otherwise matchable may be rejected for matching purposes because of insufficient supporting documentation. These contributions may become matchable if there is a proper resubmission in accordance with 11 CFR 9036.5 and 9036.6. Insufficient documentation includes:

(a) Discrepancies in the written instrument, such as:

(1) Instruments drawn on other than personal accounts of contributors and not signed by the contributing individual;

(2) Signature discrepancies; and

(3) Lack of the contributor's signature, the amount of the contribution, or the listing of the committee or candidate as payee;

(b) Discrepancies between listed contributions and supporting documentation, such as:

(1) The contributor's name is misspelled;

(2) The listed amount requested for matching exceeds the amount contained on the written instrument; and

(3) A written instrument has not been submitted to support a listed contribution;

(c) Discrepancies within or between contribution lists submitted, such as:

(1) The address of the contributor is missing or incomplete or the contributor's name is alphabetized incorrectly, or more than one contributor is listed per item; and

(2) A discrepancy in aggregation within or between submissions, or a listing of a contributor more than once within the same submission.

**§ 9036.4 Certification review and notice.**

(a) The Commission will review the submission to determine if the submission meets acceptable standards of good order under 11 CFR 9036.2 and 9036.3. Those submissions not meeting the standards will not be certified, and the candidate will be requested to resubmit the documentation. Submissions of a sufficient size will be reviewed using statistical sampling, and the candidate will be given a reduced amount based on the results of the sample. (Note that under 11 CFR 9036.5 contributions which are sumbitted and rejected may be resubmitted for matching.) If the Commission certifies to the Treasury for payment an amount which is less than the amount requested by the candidate, the Commission shall notify the candidate in writing which notice or notices shall include:

(1) The amount less than the full amount requested for certification;

(2) The amount of the contribution and the name of the contributor which the Commission considers not matchable and the reasons therefor, or, if statistical sampling is used, the estimated amount of contributions by type and the reason for rejection;

(3) The amount of contributions which are not in dispute and which the Commission will certify to the Treasury for payment; and

(4) A statement that the candidate has the opportunity to supply the Commission with additional documentation or other explanation in the form of a resubmission under 11 CFR 9036.5 in order as to make the disputed contributions matchable.

(b) In any case where the candidate or his or her committee has knowledge that a contribution which has been submitted for matching purposes does not so qualify, such as a check returned to the committee for insufficient funds, the Commission shall be notified as soon as possible so that a proper adjustment may be made in the amount to be certified.

**§ 9036.5 Resubmissions and hearing opportunity.**

(a) Contributions which were submitted and rejected under 11 CFR 9036.4 may be resubmitted with the necessary information.

(b) In order to be reviewed, the resubmission of disputed contributions shall be made on a separate list identifying the submission in which the contributions were originally submitted.

(c) Resubmissions must be presented to the Commission at a time specified and, to the extent approved, will be certificed to the Secretary of the Treasury within 15 calendar days.

(d) If the candidate chooses to make a resubmission and the Commission determines that the disputed contribution is still unmatchable, the Commission will notify the candidate in writing of its determination. The Commission will advise the candidate of the legal and factual reasons for its determination and of the evidence on which that determination is based. The candidate will be given an opportunity to submit within 30 days of the Commission's notice written legal or factual materials to demonstrate that the contribution is matchable.

(e) The Commission will consider any written legal or factual materials submitted by the candidate in making its final determination. Such materials may be submitted by counsel if the candidate so desires.

(f) A final determination by the Commission that a contribution is not matchable shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the reasons underlying the Commission's determination and shall summarize the results of any

investigation upon which the determination is based.

**§ 9036.6 Continuation of certification.**

(a) Candidates who have received matching funds and who are eligible to continue to receive such funds may continue to submit contributions to the commission to be certified for matching through January 21 of the year following the election.

(b) No contribution will be matched if it is submitted after this period, regardless of the date the contributions were deposited.

## PART 9037—PAYMENTS

Sec.
9037.1 Payments of Presidential Primary Matching Funds.
9037.2 Equitable Distribution of Funds.
9037.3. Deposits of Presidential Primary Matching Funds.

**Authority:** Sec. 408(a), Pub. L. 93-443, 88 Stat. 1300 (26 U.S.C. 9037).

**§ 9037.1 Payments of Presidential Primary Matching Funds.**

Upon receipt of a written certification from the Commission, but not before the beginning of the matching payment period, the Secretary of the Treasury or his or her delegate will promptly transfer the amount certified from the matching payment account to the candidate.

**§ 9037.2 Equitable Distribution of Funds.**

In making such transfers to candidates of the same political party, the Secretary or his or her delegate will seek to achieve an equitable distribution of funds available in the matching payment account, and the Secretary or his or her delegate will take into account, in seeking to achieve an equitable distribution of funds available in the matching payment account, the sequence in which such certifications are received.

**§ 9037.3 Deposits of Presidential Primary Matching Funds.**

Upon receipt of any matching funds, the candidate shall deposit the full amount received into a checking account maintained by the candidate's principal campaign committee in the depository designated by the candidate.

## PART 9038—EXAMINATIONS AND AUDITS

Sec.
9038.1 Audit.
9038.2 Repayments.
9038.3 Liquidation of Obligations; Repayment.

**Authority:** Section 408(c), Pub. L. 93-443, 88 Stat. 1300 (26 U.S.C. 9038).

**§ 9038.1 Audit.**

(a) After the close of a matching payment period, the Commission shall conduct an audit of the qualified campaign expenses of every candidate and his or her authorized committees who received Presidential primary matching funds. For candidates whose date of ineligibility occurs before the end of the matching payment period, the audit may be conducted at any time after the date of ineligibility.

(b) In addition, the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

**§ 9038.2 Repayments.**

(a) If the Commission determines that:

(1) Any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount to which such candidate was entitled; or

(2) Any amount of any payment made to a candidate from the matching payment account or any contributions received by the candidate were used for any purposes other than—

(i) To defray qualified campaign expenses; or

(ii) To repay loans which were used to defray qualified campaign expenses; or

(iii) To restore funds (other than contributions which were received and expended to defray qualified campaign expenses) which were used to defray qualified campaign expenses; or

(3) Any amounts spent by the candidate from matching funds or from private contributions were not documented in accordance with 11 CFR 9033.1(a)(1); the Commission shall notify the candidate as soon as possible, but no later than 3 years after the end of such matching payment period. The candidate shall repay to the Secretary of the Treasury, within 90 days of the notice, an amount equal to the amount improperly paid under § 9038.2(a)(1), an amount equal to the amount improperly expended under 11 CFR 9038.2(a)(2), or an amount equal to the amount of any expenditure which is improperly documented under 11 CFR 9038.2(a)(3). The Commission's notice shall set forth the legal and factual reasons for the determination that a repayment is required and shall also advise the candidate of the evidence upon which that determination is based. Upon application by the candidate, the Commission may grant a 90 day extension of the repayment period.

(b) If the candidate disputes the Commission's determination that a repayment is required, he or she shall be given an opportunity to submit in writing, within 30 days of receipt of the Commission's notice, legal or factual materials to demonstrate that a repayment is not required.

(c) The Commission will consider any written legal or factual materials submitted by the candidate in making its final determination. Such materials may be submitted by counsel if the candidate so desires.

(d) A final determination by the Commission that a candidate must repay a certain amount shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the determination is based.

(e) The Candidate shall repay to the Secretary of the Treasury the amount specified by the Commission in its notice of final determination within 20 days from the date the notice is received by the candidate. Upon application by the candidate, the Commission may grant a 90 day extension of this period.

**§ 9038.3 Liquidation of obligations; repayment.**

(a) Amounts received by the candidate from the matching payment account may be retained for 6 months after the end of the matching payment period and may be used to pay qualified campaign expenses incurred by the candidate.

(b) After all obligations have been liquidated, the candidate shall so inform the Commission in writing.

(c)(1) If on the last day of candidate eligibility the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus, the candidate shall within 30 days of the ineligibility date repay to the Secretary of the Treasury an amount which represents the amount of matching funds contained in the candidate's surplus. The amount shall be an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received by the candidate from the matching payment account bears to the total deposits made to the candidate's accounts.

(2) For purposes of this subsection, total deposits shall be considered all deposits to all candidate accounts minus transfers between accounts, refunds, rebates, reimbursements, checks returned for insufficient funds, proceeds of loans and other similar amounts.

Dated: March 28, 1979.

Joan D. Aikens,
*Chairman, Federal Election Commission.*

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Part III

# Department of Defense

## Corps of Engineers

## Nonstructural Measures for Prevention of Flood Damages; Evaluation Procedures

## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

### [33 CFR Part 343]

### Evaluation of Nonstructural Measures [ER 1105-2-353]; Proposed Evaluation Procedures

**AGENCY:** Corps of Engineers, DOD.

**ACTION:** Proposed rule.

**SUMMARY:** This regulation establishes guidance for evaluation of the economic feasibility of using nonstructural measures for prevention of flood damages. This regulation is consistent with the substantive planning requirements of the U.S. Water Resources Council (WRC), Principles and Standards (P&S). The evaluation procedures will be used by the U.S. Army Corps of Engineers in the Civil Works planning program.

**DATE:** Comments on the proposed evaluation procedures may be sent to the address below on or before May 21, 1979.

**ADDRESS:** Department of the Army Office of the Chief of Engineers ATTN: DAEN-CWP-A, Washington, D.C. 20314.

**FOR FURTHER INFORMATION CONTACT:** Ed Cohn, Chief of Economic Social Section, Plan Formulation and Evaluation Branch Planning Division, Directorate of Civil Works (202) 693-7320.

**SUPPLEMENTARY INFORMATION:** In Section 73 of the Water Resources Development Act of 1974, Congress established a policy that full consideration be given to nonstructural alternatives for Flood Plain Management. Section 73 requires that:

"In the survey, planning, or design by any Federal agency of any project involving flood protection, consideration shall be given to nonstructural alternative to prevent or reduce flood damages including, but not limited to, floodproofing of structures; flood plain regulation; acquisition of flood plain lands for recreational, fish and wildlife, and other public purposes; and relocation with a view of formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages."

In his message to Congress of June 6, 1978 on water policy, the President also emphasized the explicit formulation and consideration of nonstructural alternatives whenever structural alternatives are considered.

This regulation addresses the evaluation of the National Economic Development (NED) benefits and costs resulting from two of the nonstructural measures identified in Section 73, Pub. L. 93-251. Benefit evaluation of other types of flood damage prevention measures is contained in 33 CFR Part 341. The public is invited to participate in the adoption of final rules on the methodologies to evaluate evacuation and relocation alternatives. Of particular concern to the Corps of Engineers is that nonstructural measures be evaluated according to sound economic principles. The proposed evaluation procedures have been determined by the Department of the Army to be the most appropriate application of economic theory to evacuation and relocation for flood damages prevention.

In his water policy message, the President also directed the Water Resources Council to prepare a manual which will ensure that benefits and costs all calculated using the best techniques and will provide for consistent application of the Principles and Standards. This regulation will be revised, as required, to be consistent with the manual.

Note.—The Corps of Engineers has determined that this regulation does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB circular A-107.

Dated: March 27, 1979.

**William E. Lakey,**

*Lieutenant Colonel, Corps of Engineers, Assistant Executive Director, Engineer Staff.*

## PART 343—EVALUATION OF NONSTRUCTURAL MEASURES [ER 1105-2-353]

Sec.

343.1 Purpose.
343.2 Applicability.
343.3 Reference.
343.4 Policy.
343.5 General principles and standards of benefit evaluation.
343.6 Analysis of with and without project conditions.
343.7 Benefit measurement.
343.8 NED costs.
343.9 Presentations.

**APPENDIX A**—Illustrative Presentation Format.

Authority: Sec. 73, Water Resources Development Act of 1974, Pub. L. 93-251, 88 Stat. 32 (U.S.C. 701b-11).

### § 343.1 Purpose.

This regulation provides instructions for the evaluation of National Economic Development (NED) benefits and costs for evacuation and relocation as nonstructural measures for Flood Plain Management.

### § 343.2 Applicability.

This regulation is applicable to all OCE elements all field operating agencies having Civil Works responsibilities.

### § 343.3 Reference.

(a) Section 73, Pub. L. 93-251, Water Resources Development Act of 1974 (88 Stat. 32,) March 7, 1974.

(b) Pub. L. 91-646, Uniform Relocation Assistance and Real Property *Policy Act of 1970,* (42 *U.S.C.* 4601-4651), January 2, 1971, Initial Edition.

(c) Executive Order 11988, Flood Plain Management (43 FR 6030, February 12, 1978)

(d) Part 351 of this Chapter.

### § 343.4 Policy.

Section 73 of the Water Resources Development Act of 1974 (Pub. L. 93-251) indicates congressional intent that full consideration be given to nonstructural alternatives for Flood Plain Management. In a message to Congress of June 6, 1978 on water policy, the President directed the Water Resources Council to improve implementation of the Principles and Standards (P&S) by "requiring the explicit formulation and consideration of a primarily nonstructural plan as one alternative whenever structural water projects or programs are planned." The President also emphasized a commitment to national enconomic development and environmental quality as the basic planning objective of the P&S in his water policy message. Part 341 of this Chapter states the principles, standards and procedures for evaluating NED benefits for all Flood Plain Management plans. This regulation interprets and supplements that regulation for the specific cases of evacuation and relocation.

### § 343.5 General principles and standards of benefit evaluation.

As stated in Section 341.21 of this Chapter, programs affecting water and related land resources may contribute to NED by making adjustments in the manner and mode of flood plain land use in recognition of the flood hazard. In such cases, the proper benefit standard is the willingness of users (benefiting activities) to pay for implementation of the plan, Section 341.22 of this Chapter. In evaluating evacuation and relocation plans, the term "user" must be broadly construed because a key part of the evaluation of these kinds of plans is the evaluation of the economic externalities associated with existing uses of the flood plains. Measurement of these externalities is discussed in paragraph 7.

Relocation or evacuation of existing flood plain activities may be economically justified in situations where:

(a) The use (with the project) of the flood plain in a way compatible with the flood hazard (e.g., recreational) yields a higher net economic return than the current use of the flood plain, or

(b) The current (without project) use of the flood plain has greater costs than benefits from a national perspective and is maintained either because of a lack of information on the part of the flood plain occupants or because part of the cost of flood damages have been externalized.

**§ 343.6 Analysis of with and without project conditions.**

The economic justification of any measure, whether structural or non-structural, which cause a change in the use of the flood plain must be based on an increase in the national income as a result of a more efficient use of water and land resources with versus without the project. Therefore, in accounting for the benefits of relocation or permanent evacuation measures, an evaluation of the use which will be made of the flood plain after such measures are implemented is required. Thus, a careful assessment of the value of the affected flood plain *with* the project as well as *without* the project is an important part of any evaluation of these types of flood damage reduction measures. In projecting the with-project condition, a broad range of alternatives should be considered to insure that the highest and best use of the flood plain is identified. In projecting the without condition, careful consideration of the economic life of structures in the flood plain must be made. Hence, the analyst must determine if, without a project, the existing activities would leave the flood plain. This determination should be based upon a number of factors, including a comparison of the benefits of continued flood plain occupancy in light of flood damages and related expenses actually borne by the individual occupant, the social setting, and recent versus projected flood history. In no event will benefits be claimed for relocating or evacuating new structures which might locate on the flood plain without a project.

**§ 343.7 Benefit measurement.**

The benefit from relocation and evacuation plans is the net income earned by activities occupying the flood plain with the project plus that portion of the flood damages reduced by the project which is not borne by the without-project flood plain occupants. Reduction of flood damages projected to be borne by without-project flood plain occupants are not to be counted as project benefits.

(a) The net income (earned) with the project may be estimated directly based on an analysis of a specific land use with the project. An example of this approach would be where the lands would be developed for receation. The projected recreation benefits would constitute the gross income (earned on the flood plain) and would be shown as a project benefit. Alternatively, in situations where no specific public use is planned and the land could be resold with an encumbered title which assures that future uses would be consistent with Executive Order 11988 on Flood Plain Management, the estimated market value of the land with an encumbered title will be included as a benefit.

(b) An open space use of the flood plain with project may give rise to a positive externality on adjacent lands. This positive externality reflects the amenity of living near park land or open space and may be measured as the projected increase in market value of property adjacent to the encumbered flood plain. Such benefits must meet the test of any NED benefit and, thus must be documented by empirical evidence. Care must also be taken to avoid double counting of benefits, e.g., changes in market value of properties adjacent to a restored flood plain may reflect recreation or open space benefits to occupants of those properties.

(c) Without-project land uses result in flood damages and other costs associated with occupation of the flood plain by activities which are incompatible with the flood hazard. The portion of these costs actually borne by flood plain activities themselves are reflected in the market value of the flood plain lands.[1] The other part of the costs is external to the activities in the flood plain. These external costs of flood plain occupancy are typically borne by taxpayers or firms providing services to flood plain activities. Examples of such costs are subsidized flood insurance, flood emergency costs and flood damages to utility, transportation and communication systems. Reduction of externalized costs of flood plain occupancy, that is, reduction of costs not borne by the flood plain activities can be a major benefit of projects to evacuate or relocate flood plain activities. Reduction of flood damages borne by flood plain activities, because they are already accounted for in the fair market value of flood plain properties, cannot be claimed as a project benefit.

(d) One category of external costs associated with flood plain occupancy that can be avoided by a removal plan is public compensation for private flood damages through the subsidized Federal Flood Insurance Program. Expressing savings in these external costs as project benefits is appropriate for properties in communities which participate in the Federal Flood Insurance Program or are expected to participate in the without-project condition. This benefit is based on reduction of insurable flood damages. Insurable flood damages are to be projected over the life of the project with careful attention being paid to the projected without condition. The projection of insurable flood damages is to be based upon traditional depth-damage-frequency relationships used in projecting total flood damages. However, projected total damages are to be reduced by subtracting (1) losses which are non-insurable either because they are not in insurable loss categories or they exceed the coverage limits of the subsidized program; (2) the deductible portion of each expected flood damage event; and (3) the annual cost of the insurance premium paid by the policyholders. For this benefit calculation, it is to be assumed that all eligible parties purchase subsidized insurance. This assumption is appropriate because the market value of properties which determine project costs reflect the availability of the program, not the extent of its utilization by current flood plain occupants.

(e) A national cost of the flood insurance program is the cost of its administration. For flood insurance policies actually in effect at the time of the study, a benefit equal to the cost for servicing the policies can be claimed. This benefit may be based upon the average cost per policy including agent commission servicing and claims adjusting costs. FIA should be contacted to obtain such costs.

(f) Other public or otherwise externalized costs associated with use of the flood plain costs which can be avoided by evacuation or relocation of these flood plain activities are project benefits. Examples of such costs are emergency evacuation costs, flood

[1] Market values of land also reflect the extent of knowledge of the flood threat, attitudes toward risk, private discount rates and planning horizons, locational advantage, projected land uses, and availability of alternative parcels. While limited awareness of the flood hazard may result in a over-valuation of flood plain lands by the market, there is no basis for either adjusting project costs or benefits to account for this.

fighting costs, and repairs to public facilities and utilities as a result of flood losses. Whenever these costs are not specifically charged to flood plain occupants, they are a proper NED benefit of plans which remove activities from flood plains.

**§ 343.8 NED costs.**

The principle is that the NED costs are those which reflect fair market values. Therefore, increased acquisition costs due to Pub. L. 91–646, Uniform Relocation Assistance and Real Property Policy Act of 1970, will be treated as financial costs only and will be assumed to at least equal the social benefits thus derived. The BCR will exclude such costs and benefits. In the case of physical relocation of structures, a benefit equal to the market value of the relocation sites with the relocated structures should be claimed. In the case of evacuation, a cost offset equal to the market value of salvageable material should be claimed. In estimating annual O&M costs when a specific with project land use is planned, the repair of flood damages to any facilities to be placed on the flood plain must be included as a project cost. Also the costs of cleanup of debris deposited by floods should be included if appropriate to the with-project use of the flood plain.

**§ 343.9 Presentations.**

Illustrative presentation formats are shown in Appendix A.

**Appendix A—Illustrative Presentation Format**

*Accounting for NED Benefits and Costs of Permanent Evaluation and Relocation Measures Which Reduce Flood Damages*

Example I: *Plan Which Permanently Evacuates Current Uses From Flood Plain and Converts Flood Plain to New Use But Does Not Physically Relocate Structures to Flood-Free Sites*

*NED costs*

*First Costs.*—Acquisition of Lands and Structures in Flood Plain at Fair Market Value (Exclude Pub. L. 91–646 Costs from Economic Costs)

Removal of Structures from Flood Plain (Net of Market Value of Salvageable Items)

Conversion of Vacated Flood Plains to New Use

Contingencies

Engineering, Supervision and Administration

*Annual Costs*—Interest and Amortization of First Costs Operations and Maintenance Associated with New Use

*NED benefits*

*Annual Benefits.*—Reduction of Externalized Flood Damages, e.g., Reduction of Insurable Flood Damages, Reduction of Emergency Evacuation Costs and Other Emergency Costs, Reduction of Flood Damages to Utility, Transportation and Communication Systems, and Other Public Savings (e.g., Savings in Insurance Company Administration Costs)

Benefits from Flood Plain's New Use, e.g., Value of Recreation Visitor Day

Other, e.g., Locational advantage Accruing to Off-Flood Plain Properties Adjacent to Open Space

Example II: *Plan Which Permanently Evacuates Current Uses From Flood Plain, Converts Flood Plain to New Use and Relocates Structures to Flood-Free Sites*

*NED costs*

First Costs.—Acquisition of Lands and Structures in Flood Plain at Fair Market Value (Exclude Pub. L. 91–646 Costs from Economic Costs)

Acquisition of Lands for Relocation Sites

Preparation of Relocation Sites

Transfer of Structures to Relocation Sites

Conversion of Vacated Flood Plain Lands to New Use

Contingencies

Engineering, Supervision and Administration

*Annual Costs.*—Interest and Amortization of First Costs, Operations and Maintenance Associated with New Use (If Applicable)

*NED benefits*

*Annual Benefits.*—Reduction of Externalized Flood Damages, e.g., Reduction of Insurable Flood Damages, Reduction of Emergency Evacuation Costs and Other Emergency Costs, Reduction of Flood Damages to Utility, Transportation and Communication Systems, and Other Public Savings (e.g., Savings in Insurance Company Administration Costs)

Annualized Market Value of Relocation Sites with Structures

Benefits from Flood Plains in New Use, e.g., Annualized Market Value of Urban Renewal Lands for Uses Compatible with Flood Hazard

Other, e.g., Locational Advantage Accruing to Off-Flood Plain Properties Adjacent to Open Space

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Part IV

# Securities and Exchange Commission

## Improving Government Regulations; Agenda

## SECURITIES AND EXCHANGE COMMISSION

### Agenda of Certain Regulatory Matters

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Publication of Commission Agenda.

**SUMMARY:** The Securities and Exchange Commission has determined to publish a listing of anticipated major rulemaking and related regulatory matters likely to be considered by the Commission during the balance of 1979.

**FOR FURTHER INFORMATION CONTACT:** Christine Delaney, Office of the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 755–1160.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission has traditionally been sensitive to the need to broaden public participation in the Commission's regulatory processes and to promote public understanding of the Commission's work. Consistent with that policy, the Commission has determined to publish the following agenda of anticipated major rulemaking and related regulatory matters likely to be considered by the Commission during the balance of 1979.*

This agenda is based upon Commission priorities at the time of publication. Because the Commission must respond to developments in the capital markets, changes in economic conditions, new Congressional priorities and similar circumstances not readily predictable, this agenda is not necessarily definitive. Additionally, this agenda does not include matters which, although under consideration, have not yet evolved to a point in the deliberative process where public Commission action may be anticipated. Accordingly, while the Commission believes that the information set forth herein should be of substantial benefit to those with an interest in the Commission's work, persons affected by Commission action should not rely solely upon this agenda for guidance.

* * * * *

* In that regard, Chairman Williams, in a letter dated January 9, 1979, to Douglas M. Costle, Chairman of the U.S. Regulatory Council, stated that the Commission was presently preparing a regulatory agenda and that a copy would be provided to the Regulatory Council. A copy of that letter, along with an accompanying memorandum detailing the Commission's recent efforts to implement regulatory reforms is on file under the title "Commission Regulatory Reform Initiatives," and available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

#### A. Significant Initiatives in the Areas of Capital Formation and Corporate Disclosure

1. *Tender Offer Rule Proposals.* The Commission has recently proposed rules which would provide specific filing and disclosure requirements, and additional substantive regulatory protection for public investors with respect to certain cash tender offers and exchange tender offers. In addition, these proposals embody antifraud provisions which would apply to all tender offers. The Commission intends to consider the proposed rules as soon as possible following completion of the staff's analysis of the public comments. The public comment period expires March 30, 1979. For further information, see Securities Act Release No. 6022. (February 5, 1979) (44 FR 9956).

2. *Proposed Rules Concerning Activities of Public Companies Which Seek to Become Private Corporations.* The staff of the Commission is presently studying certain rule proposals, on which public comment was solicited during 1977, with respect to "going private" transactions. These proposals would create disclosure requirements and other substantive regulations where such transactions involve tender offers, and possible antifraud regulations based, in part, upon the fairness of the transactions to public shareholders. The Commission will consider whether to adopt the proposed rules upon the completion of the staff's study. For further information, see Securities Exchange Act Release No. 14185 (November 17, 1977) (42 FR 60090).

3. *Small Business Capital Formation.* The Commission has recently concluded a series of public hearings, held at various locations throughout the country, which were designed to examine the effects of the Commission's rules and regulations on the ability of small businesses to raise capital. Several important initiatives have already been implemented by the Commission, and the staff is presently studying additional proposals which include simplified registration forms for small issues of securities and the easing of certain restrictions under Regulation A. The Commission will, over the next several months, consider these and other proposals resulting from the staff's comprehensive analysis of the views expressed at the public hearings. For further information, see Securities Exchange Act Release Nos. 14529 and 14530 (March 6, 1978) (43 FR 10876 and 10888).

4. *Corporate Governance.* In April 1977, the Commission announced a comprehensive study of the difficult issues relating to corporate governance and corporate accountability. During 1978, the Commission conducted hearings in four cities concerning ways in which corporate accountability could be strengthened and shareholder participation in corporate governance could be enhanced. The Commission subsequently proposed, and recently adopted in modified form, rules to expand and supplement disclosures made to shareholders in proxy statements. These rules are intended to provide investors with enhanced information on the structure, composition and function of corporate boards of directors.

The Commission anticipates that a staff report on corporate governance issues will be completed prior to the close of 1979. Following publication of this report, the Commission will consider what further action, if any, is appropriate. For further information, see Securities Exchange Act Release No. 15384 (December 6, 1978) (43 FR 58522).

5. *Projections.* The Commission has proposed for public comment a rule which would provide a "safe-harbor" from liability under the Federal securities laws for certain management projections of revenues, income and earnings per share. The Commission will consider the proposed rule after the staff has completed its review of the public comments. For further information, see Securities Act Release No. 5993 (November 7, 1978) (43 FR 53251).

6. *Form 10–K.* In its report to the Commission in November 1977, the Advisory Committee on Corporate Disclosure recommended revisions to the present annual report file pursuant to the Securities Exchange Act on Form 10–K. The Commission subsequently published a release requesting comments on Form 10–K and on the proposed revised format recommended by the Advisory Committee. The Commission will consider appropriate revisions to the Form after the staff has reviewed the public comments. For further information, see Securities Exchange Act Release No. 15068 (August 16, 1978) (43 FR 37460).

#### B. Significant Initiatives Affecting Regulation of the Securities Markets and the Securities Industry

1. *Rule 15c3–1.* The staff is presently studying the possibility of proposing amendments to Rule 15c3–1 under the Securities Exchange Act, the "net-capital rule," and expects to make recommendations for revisions to the Commission during 1979.

2. *National Market System.* In furtherance of its Congressional

mandate to facilitate the establishment of a national market system for securities, the Commission has recently issued a status report assessing the progress made toward this goal during 1978 and setting forth the Commission's views as to those steps which must be pursued during 1979 to comply with this statutory directive. The Commission may also consider other national market system initiatives, such as revisions to rules dealing with the transaction reporting system, quotation information and guidelines for designating securities as qualified for trading in the national market system.

3. *Proposed Rule 13e–4 and Schedule 13E–4.* The Commission will consider, at the conclusion of the staff review of the public comments, whether to adopt a revised version of proposed Rule 13e–4 and related Schedule 13E–4 under the Securities Exchange Act, dealing with tender and exchange offers by issuers for their own equity securities. The proposed rule would require certain issuers and closed-end investment companies to comply with substantive and disclosure rules which, in part, follow those currently required only in connection with tender and exchange offers by persons other than issuers. For further information, see Securities Exchange Act Release No. 14234 (December 14, 1977) (42 FR 63066).

4. *Proposed Rule 13e–2.* The Commission may consider whether to publish for comment a revised version of proposed Rule 13e–2, previously published for comment in 1970 and 1973, which would impose restrictions on issuers repurchasing their own securities in open market transactions.

5. *Proposed Rule 10b–21.* The Commission may consider whether to adopt or republish for comment proposed Rule 10b–21 under the Securities Exchange Act, which would regulate shortselling prior to underwritten offerings. For further information, see Securities Exchange Act Release No. 13092 (December 21, 1976) (41 FR 56542).

6. *Registration Standard for the Regulation of Clearing Agencies.* The Commission may consider the establishment of a permanent registration standard for the regulation of clearing agencies. This standard would specify criteria which the Commission will use to measure clearing agency rules against the statutory standards for registration.

7. *Proposed Rule 17Ad–8.* The Commission may publish for comment a revised version of proposed Rule 17Ad–8 under the Securities Exchange Act. The rule would codify the existing depository practice of transmitting to an issuer, at the issuer's request and upon payment of a reasonable fee to the depository, a listing of persons on whose behalf the depository holds that issuer's securities. For further information, see Securities Exchange Act Release No. 14493 (February 22, 1978) (43 FR 8269).

8. *Rule 19b–4.* The staff is presently working on a proposal to amend Rule 19b–4 under the Securities Exchange Act, in an effort to enhance the efficiency of the Commission's oversight of self-regulatory organizations. This rule specifies the procedures that self-regulatory organizations must follow in filing proposed rule changes with the Commission.

9. *Rules 10b–10 and 15c2–12.* The staff is presently reviewing public comments received concerning proposed amendments to Rules 10b–10 and 15c2–12 under the Securities Exchange Act. These amendments would require brokers, dealers and municipal securities dealers to disclose on customer confirmations the amount of remuneration received by the broker, dealer or municipal securities dealer in certain transactions in debt securities. For further information, see Securities Exchange Act Release Nos. 15219 and 15220 (October 6, 1978) (43 FR 47495 and 47538).

10. *Proposed Rule 3a4–1.* The Commission may consider whether to repropose for comment proposed Rule 3a4–1, which is an interpretative rule providing guidance to companies issuing securities as to the circumstances under which the company's own officers and employees would be brokers under the Securities Exchange Act if they participated in the sale of the company's securities.

11. *Rule 15b9–2.* The Commission may consider a proposal to amend Rule 15b9–2 under the Securities Exchange Act, to require SECO firms to pay their annual assessments to the Commission on or before the 1st of September each year, in order to coordinate the payment of these assessments with the close of the Commission's fiscal year, on the 30th of September.

12. *Rule 15b10–12.* The Commission may consider a proposal to amend Rule 15b10–12 under the Securities Exchange Act, which specifies those rules not applicable to municipal securities brokers and dealers, in an effort to eliminate duplicate regulation of SECO municipal securities brokers and dealers.

13. *Rule 15c3–4.* The Commission staff is presently studying the possibility of proposing a new Rule 15c3–4 under the Securities Exchange Act, which would set forth revised standards regarding the borrowing of securities by brokers or dealers.

14. *Rule 15Bc7–1.* The Commission may consider the proposal of Rule 15Bc7–1, to assure the confidentiality of examination reports supplied to the Municipal Securities Rulemaking Board.

15. *Form MSD.* The Commission may consider the adoption of amendments to Form MSD, the form required to be filed for registration as a municipal securities broker or dealer, to permit the use of schedules prepared for bank regulatory agencies and otherwise to clarify the Form.

16. *Section 12(f) Applications.* The Commission may consider the proposal of rules under the Securities Exchange Act governing the information to be supplied in applications for unlisted trading privileges pursuant to Section 12(f) and enunciating the standard to be applied by the Commission in reviewing such applications.

17. *Options Study Recommendations.* The Commission will consider the steps that the self-regulatory organizations are taking to comply with certain of the recommendations contained in the Special Study of the Options Markets, recently released, and the steps the Commission must take to address certain other recommendations. For further information, see Securities Exchange Act Release No. 15575 (February 22, 1979) (44 FR 11876).

18. *Underwriting Practices.* The National Association of Securities Dealers filed a proposed rule change in June 1978, dealing with underwriting practices. The initial impetus for the proposed rule change was the Federal district court decision in *Papilsky* v. *Berndt* [1976–77 Transfer Binder] CCH Fed. Sec. L. Rep. ¶ 95,627 (S.D.N.Y., 1976). The Commission will consider what action to take with respect to the rule proposal after the staff completes its review of the public comments. For further information, see Securities Exchange Act Release No. 15020 (August 2, 1978) (43 FR 35446).

**C. Significant Initiatives Affecting Investment Companies and Investment Advisers**

1. *"Start-Up" Exemptions for Unit Investment Funds.* The Commission has recently solicited public comment on a proposal, which would provide "start-up" exemptions from the provisions of the Investment Company Act of 1940 for unit investment trusts, to make certain routine applications for exemption unnecessary. The Commission will consider this proposal upon completion of the staff review of the public comments. For further information, see

Investment Company Act Release No. 10545 (January 8, 1979) (44 FR 3376).

2. *Proposed Rule 434(d).* The staff of the Commission is presently studying the public comments received concerning proposed Rule 434(d) under the securities Act of 1933, which would permit investment companies to use "summary prospectuses." The Commission will consider whether to adopt the proposed rule after the staff has completed its review of the public comments. For further information, see Securities Act Release No. 5833 (June 8, 1977) (42 FR 30379).

3. *Bearing of Distribution Expenses by Mutual Funds.* The staff is presently studying public comments received on a concept release which raised the issue of whether it would be appropriate to propose a rule under Section 12(b) of the Investment Company Act dealing with the circumstances under which investment companies could finance the distribution of their own shares. At the conclusion of the staff reveiw, the Commission may consider the proposal of a rule. For further information, see Investment Company Act Release No. 10252 (May 23, 1978) (43 FR 23589).

4. *Rule 17j–1.* The Commission has proposed the adoption of revised Rule 17j–1 under the Investment Company Act, requiring investment companies to develop codes of ethics governing purchases or sales by investment company insiders of the same securities held or to be acquired by the investment company. The Commission will shortly consider whether to adopt the proposed rule. For further information, see Investment Company Act Release Nos. 10162 (March 20, 1978) (43 FR 12721) and 10222 (April 28, 1978) (43 FR 19669).

5. *Rule 10f–3.* The Commission has proposed for public comment amendments to Rule 10f–3 under the Investment Company Act, which would expand the circumstances and streamline the procedures under which investment companies may participate in underwritings in which affiliated persons are participating. After the close of the comment period, on March 30, 1979, the Commission will consider the proposed amendments. For further information, see Investment Company Act release No. 10592 (February 13, 1979) (44 FR 10580).

6. *Proposed Rule 17e–2.* The Commission has recently invited public comment on proposed Rule 17e–2 under the Investment Company Act, which defines what is a "usual and customary" brokerage fee for purposes of Section 17(e)(2)(A). The Commission will consider whether to adopt the proposed rule upon completion of the staff study following the close of the public comment period. The public comment period expires on April 13, 1979. For further information, see Investment Company Act Release Nos. 10605 and 10606 (February 27, 1979) (44 FR 12202 and 102204).

7. *Rule 154.* The staff is presently examining public comments to determine whether the Commission should adopt a revised Rule 154, under the Securities Act, governing the circumstances under which guaranteed investment contracts issued by insurance companies may constitute securities requiring registration. Consideration of this matter is anticipated during the first half of 1979. For further information, see Securities Act Release No. 5933 (May 17, 1978) (43 FR 22053).

**D. Accounting Related Initiatives**

1. *Review of Regulation S–X.* In response to a recommendation in the 1977 Report of the Advisory Committee on Corporate Disclosure, the staff is currently reviewing Regulation S–X, which governs the form and content of financial statements filed with the Commission, to identify requirements which needlessly duplicate generally accepted accounting principles. Following this review, the staff intends to recommend to the Commission amendments to Regulation S–X to eliminate any such duplication.

2. *Management Reports.* In its 1978 Report, the Commission on Auditors' Responsibilities, an independent commission established by the American Institute of Certified Public Accountants, encouraged companies to publish reports acknowledging the responsibility of management for the representations in financial statements and discussed specific areas which might be covered by such a report. Following completion of relevant staff analyses, the Commission may consider proposals to seek public comment on the feasibility and desirability of requiring such reports, as well as on the form and content which should be required.

3. *Reporting on Internal Control.* In 1977, the Foreign Corrupt Practices Act amended the Federal securities laws to require, among other things that certain registrants devise and maintain a system of internal control sufficient to provide certain specified reasonable assurances. This legislation provided added dimensions to registrants' existing responsibilities to assure adequate controls and reliable reports on operations. Prior to passage of the Act, the Report of the Commission on Auditors' Responsibilities had recommended discussion on the internal accounting systems of companies in the proposed management reports discussed above. The staff currently has under consideration proposals to require reports by management on their internal control systems and examination of such reports by independent public accountants.

4. *Presentation in Financial Statements of Preferred and Common Stocks.* In November 1978, the Commission proposed amendments to Regulation S–X to require separate balance sheet presentation of preferred stocks subject to mandatory redemption requirements or the redemption of which is outside the control of the issuer, preferred stocks which are not redeemable or are redeemable solely at the option of the issuer, and common stocks. Following staff review of public comments received, the Commission will determine whether to adopt, withdraw or repropose the proposed rule. For further information, see Securities Act Release No. 6000 and Securities Exchange Act Release No. 15358 (November 28, 1978) (43 FR 57612).

5. *Proposed Oil and Gas Supplemental Earnings Summary.* In August 1978, in conjunction with announced decisions on financial accounting and reporting on oil and gas producing activities, the Commission proposed rules requiring the presentation of a supplemental earnings summary of oil and gas producing activities that would recognize changes in the present value of estimated future revenues from production of proved oil and gas reserves in income and include in expenses all costs of finding and developing additions to proved reserves. The Advisory Committee on Oil and Gas Accounting has been requested to analyze the Commission's proposal in detail, and to consider and propose amendments and modifications which would minimize the burden and maximize the utility of the proposed summary. Following staff consideration of the public comments and the recommendations of the Advisory Committee, the Commission will consider the next appropriate steps to take on its proposal. For further information, see Securities Act Release No. 5969 and Securities Exchange Act Release No. 15111 (August 31, 1978) (43 FR 40726).

6. *Report on the Accounting Profession.* In June 1977, the Chairman of the Commission indicated to Congress that the Commission would report periodically on the response of the accounting profession to the challenges which Congress and others

had placed before it and on the Commission's own initiatives in this area. The Commission submitted its first Report to Congress on the Accounting Profession and the Commission's Oversight Role in July 1978. The Commission intends to submit a second report in July 1979.

**E. Consumer Protection Studies**

1. The staff is continuing its efforts to improve the means by which broker–dealers and public investors can resolve their disputes. Among the matters being studied are the inclusion of predispute arbitration clauses in agreements between brokers-dealers and public investors and the participation of SECO broker-dealers in a uniform investor dispute resolution system which could provide for arbitration on demand by the public customers of all broker-dealers. These studies may result in rule proposals being submitted for Commission consideration during 1979.

2. The Commission has received a preliminary proposal from the Securities Industry Conference on Arbitration dealing with a uniform arbitration code and related administrative procedures which the staff is presently reviewing. It is anticipated that this initial submission will be followed by applications from self-regulatory organizations for proposed rule changes, pursuant to Rule 19b–4 under the Securities Exchange Act, to implement a uniform arbitration code.

By the Commission.

**George A. Fitzsimmons,**

*Secretary*

March 22, 1979.

[Release Nos. 33–6040; 34–15670; Ic–10636; IA–671]

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Part V

# Securities and Exchange Commission

## Development of a National Market System

## SECURITIES AND EXCHANGE COMMISSION

### Development of a National Market System

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Status report.

**SUMMARY:** The Commission assesses the progress made in 1978 toward the establishment of a national market system and sets forth its views as to the next steps which should be taken to achieve that goal.

**DATES:** Not applicable.

**ADDRESSES:** Interested persons are invited to provide written comments regarding this status report and the issues discussed herein. Commentators should file six copies of their submissions with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-735-A and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Brandon Becker, Division of Market Regulation, Securities and Exchange Commission, Room 321, 500 North Capitol Street, Washington, D.C. 20549 (202) 755-8749.

**SUPPLEMENTARY INFORMATION:** On January 26, 1978, the Commission issued a statement on the development of a national market system ("January Statement").[1] In that Statement, the Commission provided a discussion of the objectives of a national market system and set forth its views as to those steps which it believed should be taken during 1978 to facilitate development of a national market system as envisioned by the Congress in the Securities Acts Amendments of 1975 (the "1975 Amendments").[2] This status report assesses the progress made during the past year in pursuing the initiatives described in the January Statement and indicates the Commission's views as to those issues which next should be resolved and those steps which next should be taken to continue progress towards a national market system.

#### Introduction

In order to provide some perspective for the Commission's evaluation of the past year and its expectations for the coming year, it is important to set forth some general comments about the Commission's national market system program. The Commission continues to believe that the development of a national market system should be an evolutionary process. The Commission's role in this process is to monitor and encourage industry progress, to act as a catalyst and, when necessary, to take regulatory action to achieve a particular goal. However, the Congress did not intend that the Commission dictate the ultimate configuration of the national market system or, through regulatory fiat, force all trading into a particular mold.[3] Instead, the Congress (and the Commission) expected that the securities industry would assume primary responsibility for the development of facilities necessary to achieve the objectives set forth by Congress in Section 11A of the Act.

Although some significant steps were taken during the past year, the Commission believes that progress towards a national market system cannot usefully be gauged by reference alone to the number of Commission rules proposed or adopted or the number of facilities initially implemented or improved within a particular time frame. Meaningful progress can be achieved—and unintended and harmful consequences avoided—only through development and modification of facilities and rules which constitute the foundation of a national market system. As new components of the national market system are implemented, there necessarily will be a period of learning and adjustment. Only after an opportunity to monitor actual on-line experience with these components—whether facilities or regulatory initiatives—can the Commission and the industry evaluate whether a particular component achieves its intended goal.

During the past year, the Commission and the industry have made significant progress towards achievement of some of the objectives of a national market system and, more particularly, certain of the initiatives described in the January Statement.[4] In addition, through comments and industry proposals submitted in response to the January Statement,[5] the self-regulatory organizations and the securities industry have increased their collective commitment to enhance and perfect market linkage and information systems and to address unresolved policy and technological concerns.

During 1978, there were two major national market system facilities

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[1] Securities Exchange Act Release No. 14416 (January 26, 1978), 43 FR 4354.

[2] *Id.* at 26, 43 FR at 4358. Section 11A of the Securities Exchange Act of 1934 (the "Act") [15 U.S.C. 78a *et seq.*, as amended by the 1975 Amendments (Pub. L. No. 94-29) (June 4, 1975)], directs the Commission to "facilitate the establishment of a national market system for securities . . . in accordance with the findings and to carry out the objectives set forth in [Section 11A(a)(1) of the Act. 15 U.S.C. 78k-1(a)(1)]". Section 11A(a)(2) [15 U.S.C. 78k-1(a)(2)]. The January Statement contains an abbreviated history of the evolution of the national market system concept. January Statement, *supra* note 1, at 5-18, 43 FR at 4354-6.

[3] In directing to the Commission to facilitate the establishment of a national market system, the Congress articulated the objectives to be sought in a national market system and specified the basic underlying principles which should govern the establishment of that system; however, the Congress neither defined the term "national market system" nor mandated specified minimum components of such a system. As the Senate Committee stated in its *Report to Accompany S. 249* (the legislative proposal that provided the foundation for Section 11A of the Act): "The Committee considered mandating certain minimum components of the national market system but rejected this approach. The nation's securities markets are in dynamic change and in some respects are delicate mechanisms; the sounder approach appeared to the Committee, therefore, to be to establish a statutory scheme clearly granting the Commission broad authority to oversee the implementation, operation, and regulation of the national market system and at the same time to [*sic*] charging [the Commission] with the clear responsibility to assure that the system develops and operates in accordance with Congressionally determined goals and objectives." Senate Comm. on Banking, Housing, and Urban Affairs, *Report to Accompany S. 249*, S. Rep. No. 94-75, 94th Cong., 1st Sess. 8-9 (Comm. Print 1975), *reprinted in*, [1975] U.S. Code Cong. & Ad. News 179, 186-87 ("Senate Report"). *See* January Statement, *supra* note 1, at 12-13, 43 FR at 4355.

[4] The market structure program described in the January Statement consisted of six interrelated initiatives: the development and implementation of three new national market system facilities (a consolidated quotation system a nationwide network of order routing facilities and a central public agency limit order file), the refinement of an existing national market system facility (the consolidated transaction reporting system), the commencement of rulemaking proceedings to consider designation of certain categories of securities as qualified for trading in the national market system, and the continued consideration of off-board trading rules in light of the progress made toward a national market system. The January Statement also indicated that the Commission anticipated consideration of certain corollary issues in conjunction with this program, including institutional trading prohibitions, options market structure, governance and surveillance, the provisions of Section 11(a) of the Act, and clearance and settlement.

[5] The Commission has received responses from the American Stock Exchange, Inc. ("Amex"), Boston Stock Exchange, Inc. ("BSE"), Chicago Board Options Exchange, Inc. ("CBOE"), Cincinnati Stock Exchange, Inc. ("CSE"), Midwest Stock Exchange, Inc. ("MSE"), New York Stock Exchange, Inc. ("NYSE"), Pacific Stock Exchange, Inc. ("PSE"), Philadelphia Stock Exchange, Inc. ("Phlx") and the National Association of Securities Dealers, Inc. ("NASD"). We have also received comments from the Securities industry Association ("SIA") and other trade groups, various brokerage firms, securities information vendors and corporate issuers as well as numerous individuals. All of these comments are publicly available in the Commission's File No. S7-735-A.

developments. The first was implementation of a Commission rule requiring all market centers to collect and make available "firm" quotation information (including size) [6] to securities information vendors for dissemination to market professionals and the investing public.[7] Although the rule contains exceptions to firmness to accommodate certain operational characteristics of current exchange trading and quotation collection procedures,[8] a functioning consolidated quotation system, long considered a cornerstone of a national market system, has become operational, and quotation information for reported securities is now an integral part of the nation's securities market.[9]

Significant steps also have been taken toward implementation of comprehensive market linkage systems. Two experimental programs intended to achieve such linkages commenced operation during 1978. One of these, the Intermarket Trading System ("ITS"), was developed jointly by several exchanges and is designed to permit orders for the purchase and sale of multiply-traded securities to be routed between market centers for execution.[10] The other system, the Cincinnati Stock Exchange multiple-dealer trading facility ("CSE System"), represents an experiment in the use of a fully automated, electronic trading system.[11]

The Commission believes that these systems evidence considerable progress in the application of automation and computer and communications technology to overcome some of the problems associated with market fragmentation. In the Commission's view, the ITS and the CSE System both offer valuable opportunities for increased competition and for the Commission and the brokerage community to assess the ability of differing types of market linkage systems to integrate trading in physically separate locations and to observe the effects of these linkage systems on the operation of the markets. Both types of market linkage systems, separately or in some combination, may become permanent features of a national market system, either because it becomes clear that both systems, notwithstanding their differing operational characteristics, are compatible, or because the different trading characteristics of some securities make use of one type of market linkage system more economical and efficient for those securities than the other.[12]

In addition to this tangible progress towards a national market system the January Statement, by establishing a specific detailed program, focused the attention of the self-regulatory organizations, the securities industry and the investing public on significant unresolved issues relating to the development of a national market system. Through the various comments received, considerable progress has been made in refining the views of the

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[6] Quotations made available pursuant to this rule are required, subject to certain exceptions, to be "firm"; *i.e.*, brokers and dealers are required to execute an order presented to them at their displayed quotation price up to the amount of their displayed quotation size or better.

[7] Rule 11Ac1-1 under the Act [17 CFR 240.11Ac1-1], which became effective August 1, 1978, requires each self-regulatory organization to collect, process and make available to securities information vendors quotations and quotation sizes for all securities ("reported securities") as to which last sale information is included in the consolidated transaction reporting system contemplated by Rule 17a-15 under the Act [17 CFR 240.17a-15]. *See* Securities Exchange Act Release No. 14415 (January 26, 1978) ("Quotation Release"), 43 FR 4342.

[8] These exceptions are for revised quotations and unusual market conditions. Rule 11Ac1-1(b)(3) and (c)(3).

[9] Quotations from all market centers (including third market makers) subject to Rule 11Ac1-1, other than CSE, are being made available in a single consolidated data stream processed by the Securities Industry Automation Corporation ("SIAC"). Although Rule 11Ac1-1, unlike Rule 17a-15, does not require reporting self-regulatory organizations to file plans for the dissemination of quotation information, the Commission, in the release announcing the adoption of Rule 11Ac1-1, encouraged the exchanges and the NASD to consider joint implementation of Rule 11Ac1-1 on a voluntary basis. *See* Quotation Release, *supra* note 7, at 51-52, 43 FR 4349.

In response to this statement, in April 1978, representatives of the Amex, BSE, CSE, MSE, NASD, NYSE, PSE and Phlx met to discuss the possibility of developing a joint plan for the implementation of Rule 11Ac1-1. The neogtiations regarding the proposed plan and technical problems encountered by certain regional exchanges in connection with the installation of automated quotation generation equipment prompted the Commission to defer the effective date of Rule 11Ac1-1 from May 1, 1978 to August 1, 1978. Securities Exchange Act Release No. 14711 (April 27, 1978), 43 FR 18556. On July 25, 1978, a "Plan for the Purpose of Implementing Rule 11Ac1-1 under the Securities Exchange Act of 1934" ("CQ Plan") was filed.

On July 28, 1978, the Commission declared the CQ Plan effective on a temporary basis pursuant to Section 11A(a)(3)(B) of the Act. (Securities Exchange Act Release No. 15009 (July 28, 1978), 43 FR 34851) and on August 1, 1978, pursuant to the CQ Plan, the Amex, BSE, MSE, NYSE, PSE and Phlx commenced disseminating quotations to vendors in a single data stream. On January 24, 1979, the Commission extended its temporary approval of the CQ Plan for an additional 12 months (Securities Exchange Act Release No. 15511 (January 24, 1979), 44 FR 6230), and, on February 20, 1979, quotations of third market makers (collected by the NASD) were added to the consolidated quotation data stream.

During 1978, the Commission published for comment new proposals designed to refine the operation of the consolidated transaction reporting and quotation systems. The first of these proposals, proposed Rule 11Ac1-2 under the Act [17 CFR 240.11Ac1-2], would impose comprehensive minimum requirements regulating the manner in which securities information vendors display transaction and quotation information. Securities Exchange Act Release No. 15251 (October 20, 1978), 43 FR 50615.

The second proposal would amend existing Rule 17a-15 to: (i) redesignate Rule 17a-15 as Rule 11Aa3-1 under the Act; (ii) eliminate (subject to certain conditions) the existing prohibition on retransmission of last sale data for purposes of creating a moving ticker display; and (iii) set forth procedures for amending transaction reporting plans filed pursuant to the Rule. Securities Exchange Act Release No. 15250 (October 20, 1978), 43 FR 50606.

[10] In the January Statement, the Commission called for the prompt development of market linkage systems to permit orders in qualified securities to be promptly and efficiently transmitted from one qualified market center to another. January Statement, *supra* note 1, at 28-33, 43 FR at 4358. On March 9, 1978, the Amex, BSE, NYSE, PSE and Phlx jointly filed with the Commission a "Plan for the Purpose of Creating and Operating an Intermarket Communication Linkage" ("ITS Plan"). On April 14, 1978, the Commission issued a temporary order pursuant to Section 11A(a)(3)(B) of the Act approving the implementation of the ITS for a period of 120 days and, on August 11, 1978, the Commission extended that approval for an additional year. Securities Exchange Act Release Nos. 14661 (April 14, 1978) and 15058 (August 11, 1978), 43 FR 17419 and 36732. As of this date, all self-regulatory organizations other than the CSE and NASD are participating in the ITS and approximately 332 securities are currently traded through the system. The ITS participants expect that 550-600 securities will be traded in the system by July 1, 1979, and discussions are continuing between the ITS participants and the NASD regarding linking "third market" dealers through the ITS.

[11] On April 18, 1978, the Commission approved a proposed CSE rule change permitting the implementation of the CSE System on a nine month pilot basis. Securities Exchange Act Release No. 14674 (April 18, 1978) ("CSE System Approval"), 43 FR 17894. On December 15, 1978, the Commission extended its approval of the CSE System for an additional year. Securities Exchange Act Release No. 15413 (December 15, 1978) ("CSE System Extension"), 44 FR 129. On February 14, 1979, a subsidiary of Control Data Corporation became the facilities manager for the CSE System.

The CSE System, through an electronic communications network maintained by the CSE, enables CSE members, without the necessity of maintaining a presence on the floor of the CSE or any other exchange, to participate in a market conducted in accordance with certain auction-type trading principles by entering bids and offers for securities for their own account and as agents for their customers' accounts. In addition, CSE rules permit a specialist on any national securities exchange, without becoming a member of the CSE, to enter bids and offers in the system as principal or as agent in any security in which that specialist is registered on another exchange. Orders entered into the CSE System are stored in the CSE's computer facilities and queued for execution as follows: priority is governed first by price (*i.e.*, the highest bid and lowest offer) and second, as between orders at the same price, by time of entry. However, public agency orders as defined in the CSE's rules, regardless of time of entry, are granted priority over other orders at the same price.

[12] For example, the type of trading environment which is most appropriate for a particular security may prove to be related to the level of trading activity and multiple trading interest for that security. If so, then some securities may be better suited to a market environment characterized primarily by appropriately linked market centers, while other securities may be better suited to trading through a market linkage facility similar to the CSE System.

Commission and the industry with repect to the appropriate characteristics of order routing and limit order facilities and the role these facilities should play in a national market system.[13] These comments have been carefully considered by the Commission in formulating its views expressed in this status report.

During 1979, the Commission will continue its efforts to identify and reduce to specifics those steps necessary to the achievement of a national market system, taking such regulatory action, from time to time, as appears necessary or appropriate to facilitate the establishment of that system. While the Commission expects further progress in a number of areas, discussion here is limited to those areas in which the Commission believes more direction and immediate attention are especially important.

The Commission's first priority is the achievement of nation-wide price protection for public limit orders against executions at inferior prices. The Commission believes that, although certain technological problems must be resolved—such as the perfection of mechanisms necessary to achieve the efficient intermarket execution of orders and the collection and display of limit order information—realization of this goal and implementation of, at a mimimum, a pilot program providing price protection for a limited number of qualified securities should be achieved within the next 12–18 months.[14] In addition, the Commission believes that progress should be made during 1979 to assure the general availability of neutral order routing facilities linking brokers' and dealers' offices to all market centers trading reported securities.[15] Finally, the Commission intends promptly to initiate rulemaking proceedings to consider redefinition of the trading environment for securities now traded exclusively over-the-counter when those securities become listed or admitted to unlisted trading privileges on an exchange for the first time.[16] The remainder of this status report will describe in detail the Commission's expections for further progress.

**Discussion**

*1. Nation-wide Price Protection*

One of the essential elements of the Commission's program announced in the January Statement was the creation of a mechanism by which nation-wide protection for limit orders would be assured. Specifically, the Commission proposed the development of a central limit order file ("Central File") into which public agency limit orders ("public limit orders")[17] could be entered and queued for execution in accordance with the auction-type principles of price and time priority.[18] The Commission requested each self-regulatory organization to inform the Commission of its willingness to undertake joint implementation of a Central File and urged the self-regulatory organizations to submit a joint plan for its design, construction and operation.

In response to this request, the Commission received several proposals describing alternative means of achieving the goal of nation-wide limit order protection. The NASD submitted a "Technical Plan for the Development of a National Market System" ("Technical Plan") describing an electronic facility (based upon the technology and hardware of the existing NASDAQ system) functionally similar to the Central File proposed by the Commission. The Technical Plan contemplates that any qualified broker could enter limit orders into the facility for execution by qualified market makers based upon price and time priority within the system. The NASD's Board of Governors, however, expressly reserved judment on the policy and regulatory issues associated with implementation of the facility described in the Technical Plan. Specifically, the NASD noted that further study was necessary to determine whether exclusion of non-public limit orders from the Central File and whether protection of orders entered in the file against executions at the same price as well as executions at an inferior price would be appropriate.[19]

Most other self-regulatory organizations opposed creation of a Central File as described in January Statement. These commentators argued that the absolute time priority proposed to be afforded public limits orders entered in the Central File[20] would have significant deleterious effects on the exchange trading process. In essence, these commentators asserted that such a preference for public limit orders would provide a major trading advantage to these orders, thereby creating a disincentive to the commitment of market making capital by dealers,[21] and would eventually lead to the elimination of exchange trading floors by inexorably forcing all trading into a fully automated trading system. In addition, several self-regulatory organizations suggested that, in lieu of the immediate implementation of a Central File, the Commission should permit the ITS participants sufficient time to attempt to provide limit order protection through the ITS. Specifically, the NYSE and MSE submitted proposals which envision the electronic dissemination and display of limit order information from each market center and use of the ITS to assure intermarket price protection of displayed limit orders in any market.[22] The MSE also suggested that the Commission adopt a rule requiring protection of all such displayed limit orders against executions at an inferior price.[23]

While the Commission cannot predict accurately the consequences of implementing a limit order protection system based on affording orders entered in a Central File priority over all other buying and selling interest, the Commission recognizes the possibility that introduction of a system based upon the absolute time priority concept could have a radical and potentially disruptive impact on the trading process as it exists today. Therefore, industry and Commission efforts should be concentrated on the achievement of nation-wide protection for all public limit orders based on the principle of price priority.

The Commission believes that nation-wide price protection—whereby any appropriately displayed public limit order[24] for a qualified security[25] is assured of receiving an execution prior

[13] *See* text *infra* at notes 16–35 and 40–52.

[14] *See* text *infra* at note 29.

[15] *See* text *infra* at notes 46–52.

[16] *See* text *infra* at notes 52–54.

[17] The Commission defined "public limit order" as "any limit order not for the proprietary account of a broker or dealer." January Statement, *supra* note 1, at 34 n. 52, 43 FR at 4359 n. 52.

[18] *See* January Statement, *supra* note 1, at 34–35, 43 FR at 4359.

[19] *See* letter from Gordon S. Macklin, President, NASD, to George A. Fitzsimmons, Secretary, SEC, May 30, 1978, contained in File No. S7–735–A.

[20] In the January Statement, the Commission proposed that public limit orders entered in the Central File would have absolute priority over all other orders at the same price. *See* January Statement, *supra* note 1, at 35–36, 43 FR at 4359.

[21] *See* letter from Richard B. Walbert, President, MSE, to George A. Fitzsimmons, Secretary, SEC, November 24, 1978 ("MSE Letter"), contained in File No. S7–735–A, at 34–38.

[22] *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, May 31, 1978, ("NYSE Letter"), contained in File No. S7–735–A, and MSE Letter, *supra* note 21.

[23] *See* MSE Letter, *supra* note 21 at 42–43.

[24] For purposes of this discussion, the term "public limit order" should be construed as any limit order to purchase or sell a qualified security not for the proprietary account of a broker or dealer or any person associated with a broker or dealer which is entered into a market center's limit order repository (whether that be a specialist's book or some other similar mechanism) and displayed in other market centers. *Cf.* note 17, *supra*.

[25] Section 11A(a)(2) of the Act empowers the Commission to designate as "qualified securities" those securities or classes of securities qualified for trading in the national market system. *See* text *infra* at notes 54–55.

to any execution by a broker or dealer at an inferior price—should be a basic characteristic of a national market system.[26] As an initial step towards this end, the Commission believes that the proponents of the ITS should be afforded time to experiment with and further enhance that system as a means of providing intermarket price protection for public limit orders. The commentary submitted by most self-regulatory organizations evidences a common commitment to achievement of this type of protection and a willingness to take all technical steps necessary to reach this goal.

In the Commission's view, two types of initiatives are necessary to achieve nation-wide price protection for displayed public limit orders by means of the ITS. First, the self-regulatory organizations and the securities industry must determine to resolve collectively the various practical and technical problems associated with disseminating and displaying public limit order information from each market center and with promptly enhancing the ITS so that it may serve as a means by which price protection for public limit orders can be afforded on an intermarket basis. Thus, each self-regulatory organization must develop a means of storing public limit order information[27] and disseminating that information for electronic display in all other market centers.

In addition, if the ITS is to provide a mechanism for the routing of orders easily and efficiently for execution against public limit orders in other markets, certain of its operating characteristics must be substantially improved. Foremost among the necessary changes is a reduction in the length of time required to enter commitments to trade and receive execution or rejection reports. Currently, the complexity of order entry procedures and the two-minute time interval provided for execution or rejection appears to discourage brokers from using the system, particularly during periods of active trading. Although the ITS participants are experimenting with a one-minute time period, this enhancement would appear to be insufficient if ITS is to be used for the purpose of ensuring nation-wide public limit order protection. Ultimately, the exigencies of active trading in multiple locations probably will require systems enhancements which reduce response times to significantly less than one minute.[28]

In furtherance of this necessary collective effort, the Commission is requesting each self-regulatory organization to inform the Commission in writing, by May 1, 1979, of its commitment to work actively with other such organizations to develop in concert and submit to the Commission by September 1, 1979, a joint plan specifying a series of planned steps by which the mechanisms to provide price protection for all public limit orders will be developed and implemented, at least on a pilot basis, not later than the end of calendar year 1980.[29]

The second initiative necessary for the achievement of nation-wide price protection for public limit orders is the proposal of a Commission rule prohibiting any broker or dealer from executing any order to buy or sell a qualified security at a price inferior to the price of any displayed public limit order unless the broker or dealer assures that, simultaneously with or immediately after execution, those limit orders displayed at the time of execution are satisfied at the limit price or such better price as may be required by the principles of gap print pricing.[30] Within the next few months, the Commission expects to propose such a rule, contemplating an effective date sufficiently distant to afford time for the industry to design and put in place procedures and facilities needed to assure price protection for all public limits orders in qualified securities.

Because the Commission views the development and implementation of the facilities component of the national market system as primarily a self-regulatory organization and industry responsibility, the Commission believes that an appropriate opportunity should be provided the self-regulatory organizations to achieve the goal of nation-wide price protection for public limit order in the manner contemplated in the MSE and NYSE[31] submissions—namely, through a multiple-market display of limit orders and an enhanced ITS. However, if it appears that the ITS, even with enhancements, cannot adequately meet the needs of market

[26] Policy considerations relating to so-called "gap print pricing": *i.e.*, the execution of limit orders at the "cleanup" price of a block transaction (*see, e.g.*, NYSE Rule 127), while necessary to resolve prior to the implementation of a rule requiring intermarket price protection for block orders, would not appear to affect the system design of the facilities used to achieve that result. As a preliminary matter, the Commission believes that, unless compelling arguments are presented to the contrary, gap print pricing for displayed public limit orders away from the market should be a characteristic of price protection in the national market system.

[27] The Commission does not believe that it is necessary for every market to create facilities permitting the electronic storage of limit orders. The option to develop such a mechanism should be left to each self-regulatory organization, provided that an effective means of disseminating that information to other market centers for electronic display purposes is achieved. The Commission notes, however, that the NYSE has proposed to develop its own electronic repository for limit orders routed to the NYSE and the Commission encourages the NYSE to proceed with the implementation of this facility.

[28] Delays in the transmission and execution of orders between markets may disrupt trading on both sending and receiving markets. Those delays may prevent the completion of transactions on the sending market pending receipt of execution reports and may create sequencing difficulties on the receiving market. For example, if a broker desires to execute a block on a regional exchange at 19¾ (a price away from the current market), nation-wide price protection for public limit orders would require the broker to delay execution of that part of the block which might be off-set by displayed public limit orders at a better price pending receipt of an execution or rejection with respect to those orders. Thus, if another market is then displaying a public limit order to buy 200 shares at 19⅞, the broker handling the block would be required to send a 200 share order for execution on the other market. If execution of the 200 share order were delayed, due to the inefficiency of the sending and execution mechanism, there would be an increased likelihood that additional public limit orders (for example, an order to buy 100 shares at 20) would be placed on the specialist's book prior to execution of the 200 share order. In this event, presumably the 200 share order at 19⅞ would be executed, notwithstanding the normal priority of the 100 share order at 20, since only those orders displayed at the moment of transmission would be entitled to protection. *See* text *infra* at notes 33–34. The incidence of such anomalies, however, will be reduced as mechanisms for transmitting and executing orders between markets are refined to reduce response times.

[29] If the self-regulatory organizations are unable to agree on an appropriate plan to achieve nation-wide price protection for public limit orders, the Commission will consider whether to use its authority under Section 17(d) of the Act to allocate to a single entity the self-regulatory responsibility for providing a framework for achieving the goal or for carrying out a Commission design of a menas to that end.

[30] *See* note 26 *supra*. Of course, the creation of this explicit obligation would in no way limit a broker's existing duty to seek to obtain best execution of his customers' orders. *See* Restatement (Second) of Agency § 424 (1957). *Cf.* Newman v. Smith, [1974–75 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 95,078 at 97,782, 97,784–85 (S.D.N.Y., No. 70, Civ. 1987 WCC, Apr. 24, 1975); *In re* Wittow, 44 S.E.C. 668, 689 (1971); *In re* Thomson & McKinnon, 43 S.E.C. 785, 788–89 (1968). *See also* Horst v. W. T. Cabe & Co., [1977–78 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 96,213 at 92,461, 92,464 (S.D.N.Y., No. 76, Civ. 1782, Oct. 31, 1977).

[31] Unlike the MSE, the NYSE suggested that intermarket price protection should be provided on a voluntary basis, rather than by imposition of a rule requiring such price protection. The NYSE stated: "Undoubtedly competitive pressures will force each market center's participants to reach out through ITS for better prices, rather than to effect executions in their own market centers at inferior prices. The [NYSE], for its part, will also strongly encourage its members to reach through ITS any time a better price is available anywhere in the system. These pressures, consistent with an agent's responsibilities to his customer, will protect limit orders throughout the system against transactions at inferior prices." NYSE Letter, *supra* not 22, at 25. Although the Commission has determined to propose a rule requiring that such intermarket price protection be provided, we solicit comment on whether the voluntary procedures suggested by the NYSE would provide the same degree of price protection.

professionals in an environment characterized by an affirmative obligation to provide inter-market price protection for public limit orders, the Commission is prepared to explore alternative mechanisms for reaching this goal. For example, as an alternative to the MSE and NYSE proposal, limit orders from varying locations could be entered into an electronic trading facility modelled after the CSE System, and executed against those orders directly by market makers in any market center. Similarly, a Central File of the type described in the January Statement, modified to remove priority for orders stored in the File over other orders at the same price in the various market centers, could provide an efficient and effective means for assuring system-wide price protection.

Notwithstanding the Commission's commitment to achieve nation-wide price protection for public limit orders, the Commission seek comment on whether there are any regulatory, policy of practical reasons to limit the application of the price protection concept to orders of this particular type. It may be that, in addition to protection for public limit orders, price protection can easily be afforded to all displayed orders at the market,[32] whether public or professional, such that any displayed quotation would be entitled to price protection up to the amount of its associated quotation size. Indeed, it may be that providing price protection to all buying and selling interest collected by a particular market center and disseminated by that market center as part of its current bid or offer will not only improve liquidity but also avoid a number of practical problems and trading anomalies which seem certain to arise from restricting price protection to public limit orders.

For example, in order to provide price protection for public limit orders at the market, but not for other buying and selling interest displayed as part of the current quotation, it will be necessary to develop a separate composite display of prices and sizes reflecting that portion of each market center's current quotation represented by public limit orders.[33] Second, confinement of nation-wide price protection to public limit orders could result in buying and selling interest at the market in a given market center (*e.g.*, representing dealer interest) being bypassed as public limit orders in that market at inferior prices are required to be filled by orders transmitted from the another market. The following hypothetical example illustrates this possibility. Assume that a broker desired to effect the sale of a block of stock *X* in a particular market center at a price of 19¾—a price below a bid for stock *X* at 20 displayed by another market center. Further, assume that the bid at 20 represents either a public order in the crowd or a specialist's bid for his own account rather than a public limit order. Finally, assume that, in the market whose published bid was 20, there public limit orders to buy stock *X* on the specialist's book at 19⅞. Under a rule requiring nation-wide price protection only for public limit orders, the broker effecting a trade at 19¾ would have to satisfy the displayed limit orders at 19⅞ but not the buying interest at 20. Such an execution sequence would yield a result significantly different from that secured under the rules of priority, parity and precedence now in effect on national securities exchanges.[34]

For these reasons, it would appear that, if nationwide price protection is to be accomplished in a fair manner consistent with the purposes of the Act, it ultimately should encompass protection for all buying and selling interest displayed by a particular market center as part of its current bid or offer—regardless of whether or not that interest is comprised of public limit orders—as well as all displayed public limit orders away from the market at prices superior to the price of a proposed trade. In this context, nation-wide price protection for public limit orders should be viewed as an interim step toward, and experiment in, the achievement of price protection for all displayed orders. The techniques developed to implement this interim goal should provide valuable experience in assessing the practicability of requiring price protection for all displayed orders in the future.

The Commission is interested in receiving the views of the self-regulatory organizations, the securities industry and the investing public as to (i) whether the goal of price protection for all orders at the market is desirable and feasible, and, if so, (ii) whether it would be appropriate to bypass the interim step of providing price protection for public limit orders and proceed directly to the enhanced goal. Persons favoring proceeding directly to price protection for all orders at the market, as well as limit orders away from the market, should discuss any technical or practical problems not present in achieving such protection only for public limit orders and whether achievement of the enhanced goal directly would require a greater lead time than achievement of the interim goal.

*2. Use of Market Linkage Facilities*

Apart from the usefulness of experimental market linkage facilities such as the ITS and the CSE System in providing a means to assure inter-market price protection for public limit orders, the Commission believes that certain aspects of the ITS and the CSE System deserve further attention. With respect to the operation of the ITS, The Commission understands that sometimes (particularly during periods of active trading) transactions are being effected in certain of the linked markets at prices inferior to the quotations disseminated by other linked exchanges. To some extent, this behavior may result from unfamiliarity of some brokers and exchange market makers with the use of ITS terminals; however, the continuation of this activity may also indicate that ITS procedures (particularly the length of time needed to enter a commitment to trade) are too slow to respond adequately to the needs of its users, or that additional self-regulatory organization or Commission rules may be required to ensure that better markets which are firm and readily accessible are not ignored.[35]

With respect to the CSE System, limited use of that System thus far has made it difficult for the Commission to evaluate the effects of trading in an electronic facility of this type. Although CSE System terminals are installed on the floors of the BSE, MSE and PSE, specialists have made little or no use of the System and virtually no agency orders have been entered through terminals on those exchanges except through a temporary arrangement

[32] Thus, price protection would be provided for all published bids and offers made available pursuant to Rule 11Acl–1 under the Act.

[33] Of course, even if price protection were provided for all displayed orders, it would be necessary to develop and implement a means of recalling and displaying electronically all limit orders away from the displayed quotation.

[34] Furthermore, this practice would result in the execution of a portion of an order at a price less favorable to the seller than he could otherwise have achieved unless the broker effecting the trade at 19¾, in addition to satisfying the public limit order at 19⅞, obtained an execution against the displayed bid of 20 by separately sending a commitment to trade through the ITS. *See* note 30 *supra*. Similar trading anomalies are possible in any limit order protection system which does not permit virtually instantaneous execution of limit orders between markets. *See* note 28 *supra*.

[35] Whatever reasons a member of a participating market center may have for failing to use the ITS to executie trades in a better market, the Commission believes that such behavior is unacceptable in an evolving national market system. *See also* note 30 *supra*. The causes for these failures should be identified by the appropriate self-regulatory organization and the reasons for not seeking better prices displayed by other market centers should be reported to the Commission by each ITS participant on a periodic basis.

between a single retail firm and one regional exchange specialist. In addition, although CSE rules permit retail firms to participate in the CSE System from their upstairs offices by becoming CSE approved dealers, only a few firms have thus far joined the System.

The Commission has indicated that the CSE System might provide the Commission with valuable insights into the benefits and difficulties of trading in an automated facility.[36] However, the data derived from the experience cannot be meaningful without significantly increased use of the facility. The Commission continues to believe that the CSE System offers a unique opportunity to study whether an automated trading facility can link various types of exchange based and upstairs broker-dealers in differing geographic locations. The Commission therefore urges those exchanges and broker-dealers not currently participating to consider doing so and if they consider that their analysis of the factors bearing on this decision useful to the Commission, to inform us, in writing, of their decision and the basis therefore.

*3. Improvement of Quotation Information*

Although there has been considerable effort on the part of the self-regulatory organizations and vendors to improve the quality of quotation information disseminated to broker-dealers and investors pursuant to Rule 11Ac1–1, further improvement in the timeliness and reliability of this information is necessary, especially if the concept of nation-wide price protection is to be extended to all displayed quotations.[37] Despite the steps taken by certain vendors to eliminate or reduce delays in the display of quotation information, the Commission remains concerned that general delays in the currency of quotation information will persist unless the vendors continue to upgrade their facilities to accommodate projected increases in the amount of trading volume and quotation information.[38] The Commission believes that each of the principal vendors of market information should commit themselves to the goal of displaying transaction and quotation information within a very few seconds after receipt.[39]

The Commission also is concerned that, during periods of active trading, revised quotations from certain exchanges (principally the NYSE) are not disseminated to vendors in a timely fashion. Whether these delays result from a failure on the part of specialists to promptly update their quotations or inefficiencies in exchange mechanisms and procedures for collecting and disseminating those quotations, the Commission expects the exchanges to take prompt action to correct this situation.[40]

Another improvement in the operation of the consolidated quotation system which the Commission expects to occur during the coming year is greater availability of quotation sizes which are identical to the quotation sizes available upon direct inquiry. Rule 11Ac1–1 does not currently require responsible brokers and dealers to communicate quotation sizes greater than a minimum unit of trading to their exchanges or association for dissemination to vendors. Instead, the Rule permits a responsible broker or dealer to communicate a quotation size greater than a minimum unit of trading and, in such event, that responsible broker or dealer must be firm up to the amount specified. The Commission understands that under this voluntary procedure there is often a disparity between the quotation size displayed by vendors and the size available upon inquiry. The Commission trusts that, as brokers and dealers gain familiarity with machine-displayed quotations, there will be less hesitancy and greater economic incentive to communicate actual quotation sizes, particularly if price protection is extended to all displayed quotations.

*4. Broker to Market Center Order Routing Facilities*

In the January Statement, the Commission called for the development of a

> Universally available message switch, permitting any broker or dealer to route orders for the purchase or sale of qualified securities from its offices to any qualified market trading in that security.[41]

In response to this request, the Commission received two somewhat inconsistent proposals.[42] Because of the varying scope of these principal proposals, particularly in terms of estimated implementation costs,[43] the Commission, in June 1978, solicited further comment on the basic policy question of whether order-by-order routing of retail orders to the market center disseminating the best quotation accompanied by a quotation size

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[36] *See* CSE System Approval, *supra* note 11, at 5, 43 FR at 17895; CSE System Extension, *supra* note 11, at 5, 44 FR at 130.

[37] Of course, improvement of the quality and timeliness of quotation information is necessary in order to refine that system whether or not price protection of all orders is determined to be an appropriate near term extension of that concept.

[38] Although the long delays previously experienced from August through mid-December 1978, have not continued, it is unclear to the Commission whether this results from the facilities enhancements made by vendors or the reduced volume in recent months.

[39] The Commission urges vendors to comment on the costs of achieving this goal and the technical problems, if any, inherent in its implementation.

[40] The NYSE has announced a program, to be completed during 1979, for the comprehensive upgrading of its floor trading facilities, including the replacement of the existing trading post with a completely redesigned structure containing certain communications enhancements. The Commission understands that the NYSE has not finally determined what facilities will be provided for the collection of last sale and quotation information as part of that upgrading program. The Commission believes that, whatever collection mechanism is ultimately selected, the NYSE program must provide facilities sufficient to assure that quotation and last sale information is made available to vendors within a very few seconds of their communication on the floor, even during periods of active trading.

[41] January Statement, *supra* note 1, at 29, 43 FR at 4358.

[42] The NYSE submitted a letter generally expressing support for enhancing order switching mechanisms but noting that a variety of such facilities, including its own common message switch, were currently available. The NYSE further noted that those switches commercially available from brokerage service firms currently permit brokers to route orders directly to the market of their choice. Notwithstanding its belief that a universal message switch is now functionally available, the NYSE expressed its willingness, later concurred in by the Amex, to provide other exchanges linkage to its message switch. However, the NYSE and Amex reserved judgment on the question of computer-to-computer interfaces with automated pricing and execution facilities such as PSE's COMEX and Phlx's PACE. *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, April 17, 1978, ("NYSE Order Routing Letter") and letter from Robert Birnbaum, President, Amex, to George A. Fitzsimmons, Secretary, SEC, April 24, 1978, ("Amex Letter") contained in File No. S7–735–A.

In contrast to this proposal, the NASD's Technical Plan described a national order routing system ("NORS") as a part of the overall national market system configuration. NORS would be designed to link all exchanes and third market makers with any broker-dealer desiring to send or receive messages through the system and would permit the routing of designated orders to a specific market center or undesignated orders on the basis of the best machine displayed quotation.

[43] The NYSE proposal appears premised upon the continued existence of multiple order routing mechanisms, so that the modified NYSE/Amex message switch would handle only a portion of message traffic. The NASD proposed NORS is based on the assumption that all orders would be routed through that facility, thus requiring significantly greater computer capacity.

equalling or exceeding the order in question (*i.e.*, the best market in size) should be a characteristic of the national market system.[44]

In response to its request, the Commission received comments from five self-regulatory organizations, the SIA, nine retail brokerage firms and one individual.[45] These commentators argued that order routing decisions should be made by the broker responsible for executing an order. Therefore, they opposed any Commission mandate to establish a single order routing facility which would eliminate broker discretion by forcing automatic routing of all orders on the basis of machine-displayed quotations. The commentators noted that such a system would virtually eliminate differences in execution services and competitive opportunities created by those differences. It was also argued that, in routing orders, brokers must consider many factors other than price, including the size of the order, execution and clearing costs,[46] perceptions as to the reliability of the displayed quotation (in terms of firmness and timeliness), and the likelihood of obtaining an execution at a price more favorable than that indicated by the displayed quotation.

The Commission continues to believe that a broker routing retail orders in a particular security to a single market (whether by automated or other means) must at least make periodic assessments of the quality of competing markets to assure that it is taking all reasonable steps under the circumstances to seek out best execution of customers' orders. For most brokers, the availability of a neutral order routing mechanism which would permit a firm easily to shift its order flow from one market center to another would facilitate compliance with this obligation.[47] The need for development of neutral order routing facilities is not, however, premised solely on the contribution such facilities would make to the ability of a broker to achieve "best execution" of his customers' orders. Development of order routing facilities which facilitate the routing of orders to any market center also will contribute to establishment of an environment satisfying the statutory objective of assuring fair competition among brokers and dealers and among markets.[48] If market makers in a particular market center have reasonable expectations that they will receive a greater amount of order flow if they make markets which are consistently better in terms of price, depth, or ease of execution, the Commission believes they will be more likely to compete aggressively—thereby providing a better and more efficient market. Order routing facilities currently offered to brokers by independent service firms do not appear to be inconsistent with the objective of assuring availability of neutral order routing facilities because brokers can contract for linkage through these facilities to any exchange of which they are a member or to any third market maker. The NYSE/Amex message switch, however, which currently only provides access to these exchanges, does not afford brokers a means of routing their orders to other market centers.

In its initial comment letter regarding the implementation of a universally available order routing mechanism, the NYSE stated that

> The [NYSE] agrees that there may be at least some demand for the message switch facility called for in the [January Statement]. In order to emphasize both its willingness to participate in the development of the national market system and its agreement that market share should be a function of market quality, the [NYSE] is prepared to undertake voluntarily the development of the called for message switch facility. The [NYSE] believes that this development can be most expeditiously achieved by adopting the present NYSE/AMEX switch so that it will have the capacity to perform "message routing" to and from broker-dealers and appropriate market centers. . . . The [NYSE] believes that modification of the NSYE/AMEX message switch facility as described above could be completed in three to six months following agreement on specifications and economic terms. . . .[49]

Modification of the NYSE/Amex message switch in the fashion contemplated by the NYSE will help assure achievement of the objectives underlying the commission's proposal to develop a universally available neutral order routing facility of the kind described in the January Statement. This modification will make it possible for participting members of the NYSE and Amex and other linked markets to choose among these markets, on a stock by stock basis, in determining where to route orders. The Commission understands that the NYSE, Amex and MSE currently are having discussions contemplating a change in the NYSE/Amex message switch that would permit that facility to be used for routing orders to and from the MSE. The Commission expects that the parties will continue these discussions and that a satisfactory agreement will be promptly reached. The Commission is requesting the NYSE, Amex and MSE to submit in the near future a status report to the Commission on these discussions specifying a timetable for inclusion of the MSE in the NYSE/Amex message switch. The Commission is also requesting that each other self-regulatory organization promptly advise the Commission (and the NYSE and Amex) whether it intends to seek linkage to the NYSE/Amex message switch. If any of these other self-regulatory organizations does not intend to seek this linkage, the Commission requests that it be promptly advised of the factors which influenced this decision.

On the basis of the NYSE/Amex offer to modify their message switch to permit all market centers desiring such linkage to send and receive messages through the system and the prospect of meaningful progress in the discussions with the MSE (and other market centers desiring linkage), the Commission is deferring consideration of such issues as whether order by order routing of retail orders to the best market in size should be required in a national market system. In the current trading environment, in which quotations are not firm under all circumstances, and there are practical limitations on access for execution purposes and differences in clearing costs,[50] it is questionable whether individualized routing of all orders on the basis of machine-displayed quotations should be required. Indeed, enhanced market linkage systems may diminish the need to develop a system capable of order by order routing from upstairs offices to all market centers at least from the standpoint of assuring satisfaction of a broker's best execution responsibility.[51] The Commission, however, will continue to consider the feasibility and necessity of requiring the implementation of a more comprehensive facility in the light of

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[44] *See* Securities Exchange Act Release No. 14885 (June 23, 1978), 15 S.E.C. Doc. 138.

[45] All of these comments are contained in File NO. S7–735–A.

[46] *See* text *infra* at notes 55–56.

[47] The legislative history of the 1975 Amendments specifically notes that the use of routing systems which are designed to route orders to only one market center is "inconsistent with the development and operation of a national market system. It may also be inconsistent with a broker's obligation to obtain 'best execution' for his customers. The subsection would accordingly give the SEC the responsibility to require brokers to utilize order 'switching' services which are 'neutral' as to market centers, giving preference to one execution facility over another only to insure best execution." Senate Report, *supra* note 3, at 104–05, [1975] U.S. Code Cong. & Ad. News at 282.

[48] *See* Section 11A(a)(1)(C)(ii) of the Act and text *infra* following note 64.

[49] NYSE Order Routing Letter, *supra* note 42, at 15–17. The Amex concurred in this statement in its comment letter. *See* Amex Letter, *supra* note 42, at 3.

[50] *See* text *infra* at notes 55–56.

[51] *See* text *supra* at notes 18–36.

subsequent developments in the structure of the securities markets.

*4. Off-Board Trading Restrictions*

In its January Statement, the Commission announced that it was deferring its consideration of the need to remove all remaining exchange offboard trading restrictions in order to evaluate industry and self-regulatory organization responses to the national market system initiatives announced in that Statement.[52] Notwithstanding that determination to defer consideration of removal of off-board trading restrictions as they apply to securities which are now listed, the Commission believes that many of the arguments raised by commentators in support of retaining these restrictions, even if accurate as to securities which are currently traded primarily in an exchange environment, may not be applicable to or warrant extension of these rules to securities which are currently traded exclusively over-the-counter.[53] Thus, the Commission is concerned that future extension of off-board trading restrictions to securities now traded exclusively over-the-counter upon their initial exchange listing may not be justified under the Act. Therefore, the Commission will commence a rulemaking proceeding to consider whether to preclude the application of off-board trading restrictions to securities not previously subject to those restrictions.

The Commission continues to believe that, in areas involving potentially profound market structure change, such as the elimination of remaining off-board trading restrictions, use of controlled, limited experiments may be both prudent and instructive. In addition, a proposal of this type could permit over-the-counter market makers to experience a trading environment in which last sale and quotation information is made available on a real time basis.

**Additional Issues**

In addition to the foregoing initiatives, the Commission also expects to explore certain related market structure issues during 1979.

*1. Qualified Securities*

In the January Statement, the Commission stated that it proposed to initiate a proceeding for the purpose of designating certain categories of securities as qualified for trading in the national market system.[54] In response to this announcement, the Commission received proposals and comments from the NASD, the National Securities Traders Association and the National Association of OTC Companies which generally cautioned the Commission that premature inclusion of unlisted securities into certain national market system facilities would have undesirable effects on the existing markets for those securities. The Commission is still in the process of formulating a regulatory proposal regarding the designation of qualified securities. Among the issues which the Commission is considering are the particular standards to be used to designate securities and the timing of inclusion of those securities in national market system facilities. The Commission must resolve (i) whether those standards should be uniform for listed and over-the-counter securities; (ii) whether financial criteria concerning the issuer and data with respect to the number of shareholders or trading characteristics, such as volume and the extent of multiple trading, are relevant criteria for designing standards; (iii) whether such standards should be completely objective or whether they should be subject to administrative discretion and, if so, who should be responsible for applying these standards; and (iv) whether the issuer should have a role in the selection process. The Commission shares the concerns expressed by commentators regarding the effects of premature incorporation of qualified securities into national market system facilities. In this regard, the Commission will consider whether designation should result in immediate inclusion in one or more facilities (such as the consolidated transaction reporting and quotation systems) prior to inclusion in other facilities or whether designation should require inclusion in all national market system facilities, but should await more complete evolution of the system.

*2. National System for Clearance and Settlement*

During the coming year, the Commission will continue to work toward full implementation of a national clearance and settlement system having as its foundation the minimum capabilities proposed by the Commission in January 1977.[55] Perhaps the most important of those characteristics, in terms of its effect on the Commission's initiatives to facilitate the establishment of the national market system, is "one-account processing." One-account processing enables a participant to compare, clear and settle, through single accounts with a clearing agency and with a depository, all trades in securities included in the system regardless of the location of the other party to the trade or the market in which the trade is executed. That capability, in addition to its impact on the efficiency of clearing procedures, is essential to enable a broker-dealer to seek the best price available without concern that his choice of market of execution will result in materially increased clearance and settlement costs.

The development and expansion of interfaces during the past year, particularly the establishment of regional interfaces for the processing of over-the-counter transactions, has made one-account processing almost universally available. The Commission will seek during the coming year to complete that process so that all broker-dealers and financial institutions participating in the national clearance and settlement system have one-account processing.

In addition, the Commission intends to direct its attention to three other areas which will substantially affect the national market system.[56]

i. Branch Offices amd Remote Terminals. Clearing agency branch offices or remote terminal provide broker-dealers throughout the country with access to the national clearance and settlement system without the necessity of physical presence in the

[52] January Statement, *supra* note 1, at 38–39, 43 FR at 4360. *See* Securities Exchange Act Release No. 13662 (June 23, 1977), 42 FR 33510. The Commission did, however, state: " [T] he Commission does not wish its determination to defer consideration of proposed rule 19c–2 at this time to be perceived as indicating that the Commission is willing to postpone removal of offboard trading restrictions indefinitely or until further progress has been made toward implementation of any particular additional element of a national market system. To the contrary, the Commission has repeatedly expressed the view that the present restrictions must ultimately be eliminated, and remains concerned that retention of those restrictions, in addition to impeding competition, may retard achievement of a national market system." January Statement, *supra* note 1, at 39–40, 43 FR at 4360. *See also* Securities Exchange Act Release No. 15378 (December 1, 1978) ("Amex Order"), at 9–10, 43 FR 58684, 58686.

[53] Although this issue was raised collaterally in connection with the Commission's recent approval of revised Amex listing standards, the Commission determined, in that limited context, not to address the general question of application of off-board trading restrictions to securities now traded exclusively in the over-the-counter market. *See* Amex Order, *Supra* note 52.

[54] January Statement, *supra* note 1, at 45–46, 43 FR at 4360–61.

[55] The Commission has set forth six standards which, in its view, the national clearance and settlement system should meet in order "to satisfy the requirements of Section 17A of the Act and other concerns affected by the operation of [the system]." Securities Exchange Act Release No. 13163 (January 13, 1977), at 21, 42 FR 3916, 3920.

[56] Although the Commission will be undertaking other initiatives in developing the national clearance and settlement system, the following developments are viewed as having the most direct effect on the national market system.

principal clearing centers. The establishment of regional centers will permit each participant broker-dealer or financial institution to clear through the entity of its choice without regard to its own physical location or that of the clearing agency. Thus, in conjunction with one-account processing, a participant in the national clearance and settlement system may select any clearing agency and may clear and settle transactions with that entity effected from any market center.

ii. Pricing of Services. As previously announced, the Commission intends to initiate a proceeding to consider issues associated with interface fees or charges which function as interface fees. These charges make it more expensive for a broker-dealer to clear and settle a transaction executed in a market other than the market affiliated with his clearing agency. In the context of this proceeding, the Commission must explore whether these charges would in fact affect the participant's choice of markets. In addition, the United States Court of Appeals for the District of Columbia Circuit has remanded to the Commission for further consideration the use of geographic price mutualization by the National Securities Clearing Corporation ("NSCC").[57] This pricing mechanism, which enables NSCC to provide services to all its participants at an equal price regardless of geographic location, was deemed by the Commission to have an important impact on competition among broker-dealers and, pursuant to the discussion of the Court of Appeals, must be reconsidered during the coming year.[58]

iii. Expansion of the System. During the next year the Commission will continue to encourage clearing agencies and depositories to include in their processing activities all securities which are suitable for inclusion in the system. In addition, we will continue to encourage all broker-dealers and financial institutions to participate directly or indirectly in the national clearance and settlement system in order to reduce the physical movement of securities, increase the efficiency of the national clearance and settlement system, and otherwise advance the Congressional objectives set forth in the Act.

*3. Options*

The Commission has recently released a staff report on its Special Study on the Options Markets ("Options Study")[59] and issued a release setting forth the Commission's views regarding the recommendations contained in the Options Study as well as a proposed timetable for ending the so-called options moratorium.[60] The Options Study addresses a number of important market structure issues and contains a detailed discussion of certain questions arising from the mulitiple trading of standardized options and the steps that the Commission might consider to assure that options markets evolve in a manner which is consistent with the Act, particularly the Congressional mandate to facilitate the establishment of a national market system for securities. More specifically, the Options Study suggests an analytical framework for evaluation of options market structure questions, such as (i) the necessity of implementing market linkage and centralized limit order facilities, (ii) the effects of current brokerage firm option order routing procedures, (iii) the feasibility and desirability of collecting and disseminating "firm" quotations for standardized options and (iv) the effects of off-board trading restrictions on the options markets. During the next year the Commission and the industry must explore and hopefully resolve many of these questions. The Commission urges the self-regulatory organizations to begin a joint effort to develop a national market subsystem for options which is compatible with and complementary to the national market system for stocks.[61]

*4. Surveillance*

One potential benefit to be derived from the increased use of technology in the national market system and other contexts is the enhanced ability of computer systems to assist in establishing and maintaining proper audit trails and in surveilling trading in the nation's securities markets. Because the Act imposes primary surveillance responsibility on the various self-regulatory organizations, the Commission believes that these entities must begin to employ today's enhanced technology, including that used in national market system facilities, to ensure improvement of their surveillance capabilities in accordance with the Act. As trading in multiple physical locations becomes increasingly integrated, and as the existence of derivative securities such as put and call options creates novel forms of trading activity, surveillance systems must be designed to detect improprieties in a significantly more complex environment. The exchanges and the NASD must take these factors into account in meeting their statutory surveillance responsibilities and must find ways of sharing necessary data and jointly formulating surveillance mechanisms in order to accomplish these ends.[62] The Commission continues to believe that all aspects of the national market system, including surveillance, must be planned and developed in tandem to assure that new types of trading facilities do not present the opportunity for undersirable or manipulative activities which may not be adequately monitored.[63]

**Conclusion**

The past fourteen months have been a period of significant accomplishment in the development of a national market system. The consolidated quotation system, long considered an essential part of the national market system, has been implemented and the ITS and CSE System pilot programs are permitting experimentation with actual market linkage and electronically assisted trading mechanisms which have been advocated as possible means of achieving the somewhat conflicting objectives set forth in Section 11A of the Act.[64] Although each of these facilities needs refinement and continued assessment in the light of operating experience and changing economic and regulatory concerns, their intitial implementation must be seen as a significant first step. Additionally, through the January Statement and the responsive commentary, during the past year the Commission and industry have had an opportunity to consider a variety

[57] Bradford Nat'l Clearing Corp. v. SEC, [1978 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶96,553, at 94,281 (D.C. Cir., Nos. 77-1199 & 77-1547, Sept. 1978).

[58] *See* Securities Exchange Act Release No. 13163, (January 13, 1977), *supra* note 55, at 76-79, 42 FR at 3930-31.

[59] SEC, Report of the Special Study of the Options Markets (1979). The Options Study was made publicly available on February 15, 1979. *See* Securities Exchange Act Release No. 15569 (February 15, 1979), SEC News Digest No. 79-33, at 3.

[60] *See* Securities Exchange Act Release No. 15575 (February 22, 1979), 44 FR 11867.

[61] *See generally*, Options Study, *supra* note 59, Chapter VIII, Issues of Structure in the Standardized Options Markets at 257-72.

[62] In this regard, the Commission believes that the recent efforts of the Amex, BSE, CBOE, MSE, NYSE, NASD, PSE, Phlx and the Options Clearing Corporation to integrate surveillance and regulatory systems and data, particularly with respect to options trading, reflects the proper direction and that such efforts should continue.

[63] In fulfillment of its responsibility to assure proper self-regulatory organization surveillance and to better enforce those aspects of the securities laws under its direct regulation, the Commission has engaged consultants to review the adequacy of existing surveillance systems, and make recommendations for enhancing Commission surveillance capability to complement that of the self-regulatory organizations. *See* SEC News Release No. 78-23 (July 28, 1978).

[64] *See* Securities Exchange Act Release Nos. 13662 (June 23, 1977), at 22-23, 42 FR 33510, 33512-14, and 11942 (December 19, 1975), at 10-11, 41 FR 4507, 4510.

of alternative national market system configurations.

In this release the Commission has set forth an updated national market system program which attempts to be responsive to the progress made and the commentary it has received during the past year while remaining consistent with objectives set forth in Section 11A(a) of the Act. We believe that the consolidated transaction reporting and quotation systems, comprehensive market linkage systems and nation-wide price protection for public limit orders will achieve certain of these Congressional objectives. However, we remain concerned that, while addressing the disclosure and market fragmentation issues raised by the Congress, the implementation of these facilities alone may not fully address the need for providing a fair field of competition among brokers and dealers and among markets [65] and thereby ultimately fail to assure that customers receive the best execution of their orders. For example, continuation of the practice of most large brokerage firms of automatically routing retail size orders to purchase or sell multiply-traded securities to the "primary" market for the security may preclude effective competition among markets despite the existence and enhancement of market linkage systems. Since it may not be possible to realize all of the objectives set forth in Section 11A of the Act at the same time or to envision a point in time after which the Commission and the securities industry will be able to state that all of these objectives have been permanently secured, the Commission believes that it must guard against a course of action which sacrifices one or more of these objectives in order to achieve others. In this light, the Commission intends to reassess its efforts and those of the industry on a continuing basis in order to assure that there is an opportunity for fair competition in the securities markets and specifically requests comment on the effectiveness of the proposals contained in this release in achieving this goal.

While the initiatives proposed in this status report represent the Commission's views after consideration of the progress made during 1978 and the many comments received in response to the January Statement, the Commission remains receptive to alternative suggestions, particularly alternative ways of achieving the goals articulated herein and encourages interested persons to submit commentary on any of the Commission's views expressed in this release. Comments should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. S–735–A and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

By the Commission.

**George A. Fitzsimmons**

*Secretary.*

March 22, 1979.

[Release No. 34–15871; File No. S7–735–A]

[FR Doc. 79–10104 Filed 4–3–79; 8:45 am]

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[65] Section 11A(a)(1)(C)(ii) states that one objective of the national market system is "fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets."

federal register

Wednesday
April 4, 1979

Part VI:

# Environmental Protection Agency

General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas

## ENVIRONMENTAL PROTECTION AGENCY

## [40 CFR Part 52]

# State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas

**AGENCY:** Environmental Protection Agency.

**ACTION:** General preamble for proposed rulemaking.

**SUMMARY:** Provisions of the Clean Air Act enacted in 1977 require states to revise their State Implementation Plans for all areas that have not attained National Ambient Air Quality Standards. States are to have submitted the necessary plan revisions to EPA by January 1, 1979. During the next several months, EPA will be publishing proposals inviting public comment on whether each of the submittals should be approved. This General Preamble supplements these proposals by identifying the major considerations that will guide EPA's evaluation of the submittals.

**COMMENTS:** As State plan submittals are received, EPA Regional Administrators will publish **Federal Register** proposals inviting comment on whether the submittals should be approved. Even before the formal EPA proposal is published, in some instances Regional Administrators are publishing notices announcing receipt of SIP submittals, and availability of the submittals for public inspection. Each proposal or other notice inviting comment will state the address and closing date for submittal of comments to the appropriate EPA Regional Office.

**For Further Information Contact the Appropriate EPA Regional or Headquarters Office**

Betsy Horne, Air Branch, EPA Region I, JFK Federal Building, Boston, Mass. 02203, (617) 223–4448 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont).

William S. Baker, Chief, Air Programs Branch, EPA Region II, 26 Federal Plaza, New York, N.Y. 10007, (212) 264–2517 (New York, New Jersey, Puerto Rico, Virgin Islands).

Howard Heim, Chief, Air Programs Branch, EPA Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, (215) 597–8175 (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia).

Walter H. Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Ga. 30308, (404) 881–3286 (Alabama, Georgia, Florida, Kentucky, Mississippi, North Carolina, Tennessee, South Carolina).

Debra Costello, Air Programs Branch, EPA Region V, 230 South Dearborn Street, Chicago, Ill. 60604, (312) 353–2205 (Indiana, Illinois, Michigan, Minnesota, Ohio, Wisconsin).

Jerry Stubberfield, Chief, SIP Section, Air Programs Branch, EPA Region VI, 1201 Elm Street, Dallas, Tex. 75270, (214) 767–2742 (Arkansas, Louisiana, Oklahoma, New Mexico, Texas).

William Spratlin, Chief, Air Support Branch, EPA Region VII, 324 East 11th Street, Kansas City, Mo. 64106, (816) 374–3791 (Nebraska, Iowa, Kansas, Missouri).

Robert DeSpain, Chief, Air Branch, EPA Region VIII, 1860 Lincoln Street, Denver, Colo. 80295, (303) 837–3471 (Montana, Utah, North Dakota, South Dakota, Wyoming, Colorado).

Douglas Grano, Chief, Regulatory Section, Air Technical Branch, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105, (415) 556–2938 (California, Nevada, Arizona, Hawaii, American Samoa, Guam, Northern Mariana Islands).

Clark Gaulding, Chief, Air Programs Branch, EPA Region X, 1200 Sixth Avenue, Seattle, Wash. 98101, (206) 442–1230 (Alaska, Washington, Oregon, Idaho).

G. T. Helms, Chief, Control Programs Operations Branch, Control Programs Development Division, EPA Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, North Carolina 27711, (919) 541–5365 or 541–5226 (Headquarters).

**SUPPLEMENTARY INFORMATION:**

*Outline*

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II. *Approval of Individual SIP Elements*
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11. Changes in Designation
IV. *Approval of revised SIP as Satisfying Non-Part D Requirements*

## I. Background

In the 1970 amendments to the Clean Air Act,[1] Congress directed EPA to establish primary National Ambient Air Quality Standards (NAAQS) to protect the public health, and secondary NAAQS to protect the public welfare, and directed the states to develop and adopt State Implementation Plans (SIPs) to attain and maintain the standards. EPA was given responsibility for reviewing SIPs and either approving them, or disapproving them and promulgating substitutes.

In 1971 EPA promulgated NAAQS for sulfur oxides, particulate matter, carbon monoxide, ozone (originally called photochemical oxidants), and nitrogen dioxide.[2] SIPs were developed and placed into effect. To meet statutory deadlines, the NAAQS were to have been attained in most regions by 1975, with some extensions until 1977.

By 1976 it became apparent that, despite significant progress, SIPs were inadequate to achieve the NAAQS in many areas of the country. EPA therefore issued numerous calls for states to revise their SIPs to provide for attainment. Questions also arose as to whether, and under what circumstances, new stationary sources might legally be permitted to construct in areas where the NAAQS were not being met. In response to these questions, EPA published its Emission Offset Interpretative Ruling,[3] which allowed new construction in areas where NAAQS were violated as long as stringent conditions were met that would assure further progress toward attainment of the standards.

In August 1977 Congress amended the Act to (among other things) establish a statutory approach to permit growth in polluted areas, while requiring attainment of the NAAQS by specific deadlines.[4] Congress first instructed

[1] The Clean Air Act, as amended, is codified at 42 U.S.C. 7401 *et seq.*

[2] 40 CFR Part 50. EPA also promulgated a hydrocarbons standard "for use as a guide in devising implementation plans to achieve oxidant standards." 40 CFR 50.10. On October 5, 1978, EPA published an NAAQS for lead. 40 CFR 50.12, as added 43 FR 46258. However, Part D of the Act (discussed in the text below) does not require SIP submittals now due to implement the lead standard. The requirements that now govern lead SIPs were promulgated along with the standard. 40 CFR Part 51, as amended 43 FR 46269.

[3] Originally promulgated on December 21, 1976, the Ruling was recently revised. 40 CFR Part 51, Appendix S, as revised 44 FR 3274 (January 16, 1979).

[4] Sections 107(d) and 172 of the Act (42 U.S.C. 7407(d) and 7502); sections 129 (a) and (c) of the

Footnotes continued on next page

each state to list those areas where NAAQS were still not attained as of August 7, 1977 (nonattainment areas), and instructed EPA to promulgate the list with any necessary changes. Each state then had to submit a SIP revision by January 1, 1979, providing for attainment of the NAAQS as expeditiously as practicable, and for primary standards no later than the end of 1982 (or the end of 1987 for areas with particularly difficult ozone or carbon monoxide problems). Congress also provided that EPA's Offset Ruling would govern new source construction until July 1, 1979, after which date proposed major sources are to be reviewed under the provisions of a revised SIP that meets the requirements of Part D.[5]

A list of nonattainment areas was promulgated on March 3, 1978, with some subsequent modification, and for these areas states are now in the process of submitting adopted SIP revisions to EPA for approval.[6] During the next several months, EPA will be publishing proposals soliciting public comment on whether each of the submittals should be approved. This General Preamble supplements these proposals, by identifying the major considerations that are guiding EPA's evaluation of the submittals.

The fundmental requirements for approval of SIPs are set out in Title I of the Clean Air Act, and in EPA's regulations at 40 CFR Part 51. On February 24, 1978, the Administrator of EPA issued a memorandum summarizing the elements that an approved SIP must contain by July 1, 1979, to satisfy the Act's requirements for nonattainment areas. The Agency has also prepared guidance on how to satisfy these basic requirements, and clarifying the requirements where necessary.[7]

Footnotes continued from last page
1977 Amendments, Pub. L. No. 95-95 (notes under 42 U.S.C. 7502).

[5] There are some circumstances under which the Offset Ruling will still apply. *See* note 36 below.

[6] EPA promulgated intitial designations and invited public comment. 43 FR 8962 (March 3, 1978). In response to the comment received, EPA modified the designations in certain areas of the country, and is in the process of modifying designations in some additional areas. 43 FR 40412 (September 11, 1978) (EPA Regions I, IV, VI, VIII, X); 43 FR 40502 (September 12, 1978) (EPA Region III); 43 FR 45993 (October 5, 1978) (EPA Region V); 44 FR 5119 (January 25, 1979) (EPA Region II).

[7] Title I of the Act is codified at 42 U.S.C. Chap. 85, Subchap. I. The sections most relevant to this General Preamble, sections 107 through 128 and 171 through 176 of the Act, are codified at sections 7407 through 7428 and 7501 through 7506, respectively, of 42 U.S.C. The Administrator's memorandum on criteria for approval was reproduced in the **Federal Register** at 43 FR 21673 (May 19, 1978). The guidance material has been collected together for public inspection, and a notice of availability was published at 44 FR 8311 (February 9, 1979).

The purpose of this General Preamble is to summarize the principal requirements, in order to assist the public in preparing comments on the approvability of the submittals. However, there are additional, more detailed requirements and explanations in the statute, regulations, and guidance, which interested parties may consult in preparing comments.

For each nonattainment SIP submittal EPA must make two decisions: whether each individual element of the submittal should be approved as a revision to the SIP; and whether the revised SIP, as a whole, satisfies the requirements of Part D of Title I of the Clean Air Act. In addition, EPA must review the revised SIP as soon as possible to determine whether it satisfies all other pertinent, non-Part D requirements of the Act.

## II. Approval of Individual SIP Elements

The effect of approving each element of a submittal as a SIP revision is to add to or alter the "applicable implementation plan"—that is, the collection of SIP provisions approved or promulgated by EPA and enforceable under federal law (*see* sections 110(d) and 113(a) of the Act). Even if EPA accepts the entire SIP submittal, EPA may find that the overall revised SIP is inadequate because it did not go far enough. If a submittal does not accomplish enough, EPA will ordinarily approve the submitted SIP elements that are acceptable, but will disapprove the SIP in part, to the extent that more provisions are needed.

### A. *Basic Requirements*

The 1977 Amendments to the Act did not alter the principles governing revisions to the applicable implementation plan. The basic criteria for approving any individual element of a submitted plan revision, under section 110(a)(3)(A) of the Act, are that it must—

- Be legally adopted by the state.
- Be adopted after reasonable notice and public hearing by the state.[8]
- Be enforceable.
- Not interfere with assuring attainment and maintenance of the NAAQS by the required deadline, or with satisfying the Act's other requirements.

### B. *Further Guidance*

1. *Enforceability.* In determining whether a SIP provision is enforceable, emission limitations and other requirements will be reviewed for clarity and specificity. Emission limitations and other controlling terms must be well defined, and must clearly state which sources and processes are being regulated, when the required actions are to be taken and by whom, and what specifically is to be done. In addition, the provision must specify any necessary test method by which compliance is to be assessed, and, if the provision requires compliance at a future date, it must contain an adequate schedule for compliance.

2. *Stringency.* It is EPA's policy to encourage and assist states in adopting economically efficient pollution control methods.[9] However, the Agency has no authority under the Act to reject a requirement adopted by a state because it is too costly or too stringent.[10] ("Stringency" refers to both the controls required and how quickly they must be implemented.) However, EPA must reject any individual requirement that would interfere with attaining and maintaining the NAAQS by the required deadline or with achieving the other requirements of the Act.[11]

3. *Relaxation or Revocation.* Even when a new requirement is being added to a SIP, the existing requirement may not ordinarily be relaxed or revoked. The new requirement does not

[8] Notice and hearing are required for all SIP revisions except non-regulatory revisions that are so insignificant that they will not affect the program for attainment or maintenance of the NAAQS. *See* 40 FR 28629 col. 2, 28631 col. 2 (July 8, 1975).

[9] For example, EPA encourages states to consider allowing plants to place less control on processes where the marginal cost of control is high, in return for placing greater control where cost is low, so that the total control satisfies SIP requirements. *See* note 16 below on alternative emission reduction ("bubble") options; Preamble to Emissions Offset Interpretative Ruling, 44 Fed. Reg. 3274, 3276 col. 3 (January 16, 1979); discussion in section III.B.1 of the text below, on *Need for All RACM.*

[10] Therefore, EPA may not disapprove a requirement on the ground that it is costly or even economically or technologically infeasible, or on the ground that the overall plan is more stringent than federal law requires. *See* Union Electric Company v. EPA, 427 U.S. 246, 265 (1976). Of course, to the extent even full efforts to implement and enforce a measure cannot bring about the emission reductions called for, EPA may deny credit for those reductions in demonstrations of reasonable further progress and attainment, or may reject the measure as unenforceable. For example, a submitted provision calling for an alteration of transportation patterns that simply cannot be achieved may be denied credit or rejected.

[11] For example, a submitted emission limitation would have to be rejected if a more stringent emission limitation is needed under the Act and if application of technology *to meet the submitted emission limitation would make application of technology to meet the needed emission limitation more difficult.* Likewise, a relatively slow schedule for implementation of inspection/maintenance must be rejected to the extent that a more expeditious schedule is required under the Act (*see* section III.B.4 in the text below, on *Inspection/Maintenance).* As discussed in section III.B.1 of the text below, on *Need for All RACM,* states often have flexibility to obtain more or less emission reduction from any one measure, as long as a group of measures in the plan is adequate. Therefore, review of an individual requirement to determine whether it will interfere with attainment of the NAAQS and other Act requirements must often be conducted together with review of the entire SIP to determine whether it is adequate overall.

supersede or replace the old requirement until the source comes into compliance with the new requirement. Instead, the existing requirement must remain an enforceable provision of the SIP, and must co-exist with the new requirement in the applicable implementation plan. The present emission control requirement must be retained because the source must be prevented from operating without controls (or with less stringent controls) while it is moving toward compliance with (or challenging) the new requirement.[12]

There are some exceptions, however. A state may submit a relaxation or revocation of an existing requirement (or, for an existing requirement promulgated by EPA, have EPA relax or revoke it), if the requirement is in one or more of the following categories:

(a) Any existing requirement that conflicts with a new, more stringent requirement, making it highly impratical for a source to comply with the old requirement.[13] Any exemption granted must be drawn as narrowly as possible.

(b) Any indirect source review program revocable under section 110(a)(5)(A)(iii) of the Act,[14] and any bridge toll requirement revocable under section 110(c)(5)(A) of the Act.

(c) Any existing inspection/maintenance or transportation control measure, to the extent the measure is demonstrated not to be reasonably available, if the revised SIP satisfies all Part D requirements (Part D requirements are discussed in section III below).[15]

(d) Any new requirement in a 1979 SIP submittal designed for the 0.08 ozone level, as long as the control measures in the revised SIP satisfy all requirements for the 0.12 level (as discussed in section III.B.6 below, on *Ozone Standard*).

A relaxation or revocation is also premissible if it will not contribute to concentrations of pollution where there is a violation of a NAAQS or of a Prevention of Significant Air Quality Deterioration (PSD) increment.[16] Where relaxation of a requirement is allowed, but where the deadline for compliance is not relaxed, the new requirement must call for compliance no later than the existing deadline for compliance, so that there is no gap in enforceability.

Any submitted relaxation or elimination of an existing requirement that does not fall within one of these permissible categories may be disapproved by EPA. A disapproved submittal will not affect the federal enforceability of the existing requirement in the applicable implementation plan.

## III. Approval of Revised SIP as Satisfying Part D Requirements

The second major question that EPA must address is whether the revised applicable implementation plan satisfies the requirements of Part D of Title I of the Act. This is a critical determination under the Act, because, for nonattainment areas, there is to be major source construction under permits applied for after June 30 , 1979, unless the approved SIP satisfies Part D requirements. Furthermore, certain federal highway and air pollution control program grants are to be withheld if EPA finds after July 1, 1979 that the SIP submittal does not consider all Part D requirements or reasonable efforts toward submitting such a SIP submittal are not being made.[17]

A. *Basic Requirements.*

The following are, in general terms, the requirements a plan must meet to satisfy Part D. After each item is a citation to the applicable section of the Act and the applicable paragraphs of the Administrator's February 24, 1978

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[12] If existing requirements could be relaxed or superseded, recalcitrant sources could be relieved of obligations established under the Act preceding the 1977 Amendments. However, the 1977 Amendments were intended to provide additional time for additional controls to be applied, not to permit relaxation of existing requirements. Therefore, failure of a source to meet applicable existing requirements is subject to appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new requirements, because of a court order or for any other reason, the existing requirements will be applicable and enforceable.

[13] For example, equipment needed to satisfy existing requirements may have to be disconnected before more efficient equipment needed to satisfy new requirements under the 1977 Amendments can be installed. In such a situation, the existing requirement may be suspended insofar as necessary to permit installation of the more efficient equipment.

[14] EPA's interpretation of this provision is published at 44 FR 5427 (January 26, 1979).

[15] "Inspection/maintenance" programs are measures providing for emission-control inspection and maintenance of motor vehicles. "Transportation control" measures are measures directed toward reducing emissions of air pollutants from transportation sources. Although some early transportation control plans included various stationary source control measures (such as vapor recovery from filling of vehicular tanks or other storage containers, control of degreasing and surface coating activities, and others (*see, e.g.*, 38 Fed. Reg. 31232 (November 12, 1973)), these stationary source control measures are not transportation control measures.

*See* the discussion in section III.B.5 of the text below, on reasonable availability. To the extent deadlines for compliance are not practicable, they may be relaxed. The fact that a measure has actually been implemented will ordinarily indicate that the measure is reasonably available and the deadlines are practicable. As explained in section III.B.4 of the text below (on *Inspection/Maintenance* ) a revised SIP with an attainment date after 1982 must meet certain minimum requirements for inspection/maintenance.

In 1973 EPA promulgated inspection/maintenance and transportation control measures for numerous areas of the country, including requirements that states implement the measures. Several states sought judicial review of EPA's authority to promulgate these requirements. The courts of appeals reached inconsistent decisions, and the Supreme Court has not resolved the issue. Pennsylvania v. EPA, 500 F.2d 246, 257, 261 (3d Cir. 1974); Maryland v. EPA, 530 F.2d 215, 226–27 (4th Cir. 1975); Brown v. EPA, 521 F.2d 827, 831 (9th Cir. 1975); District of Columbia v. Train, 521 F.2d 971, 986 (D.C. Cir. 1975). All except the *Pennsylvania* case were *vacated and remanded sub nom.* EPA v. Brown, 431 U.S. 99 (1977). *On remand,* Brown v. EPA, 566 F.2d 665 (9th Cir. 1977); Maryland v. EPA, Nos. 74–1007 et al. (4th Cir., filed October 13, 1977); District of Columbia v. Costle, 567 F.2d 1091 (D.C. Cir. 1977).

Under the most recent D.C. Circuit decision, EPA must conduct substantial additional rulemaking proceedings before the regulations will be ready for further judicial consideration. However, rulemaking over the past year and a half after D.C. Circuit decision would have distracted the states, EPA, and interested members of the public from devoting their full efforts and attention to development of the plan revisions now due, including any necessary inspection/maintenance and transportation control measures. The Agency therefore decided not to proceed for the time being with the litigation and related administrative proceedings involving the 1973 regulations.

However, EPA still believes that the Clean Air Act provides a basis for promulgating enforceable transportation control measures requiring state implementation. The Agency has therefore not altered its enforcement policy for the 1973 regulations that are not subject to judicial review. After the 1979 SIP revisions have been submitted and evaluated, EPA will reconsider what further proceedings on the 1973 regulations are necessary, if any.

[16] PSD increments are the amounts of deterioration of air quality better than the NAAQS that is permitted under section 163 of the Act (42 U.S.C. 7473) and 40 CFR 51.24, 52.21, as revised 43 FR 26380, 26388 (June 19, 1978).

Under EPA's Alternative Emission Reduction ("Bubble") proposal, controls for individual processes within a plant may be relaxed if alternative control requirements are applied so that total plant emissions do not increase and other requirements are met. *See* Memorandum from the Administrator of EPA to Directors of State Air Programs, on "Implementing The Alternative Emission Reduction ('Bubble') Approach" (December 21, 1978); Proposed Policy Statement on Alternative Emission Reduction Options Within State Implementation Plans, 44 FR 3740 (January 18, 1979).

[17] The "requirements of Part D" are the requirements of sections 110(a)(3)(D), 110(c)(5)(B), and 171–174 of the Act. (The requirements of sections 110(a)(3)(D) and 110(c)(5)(B) are to be treated as requirements of Part D, even though these sections are not physically within Part D of Title I of the Act.) These restrictions on construction, grants, and funds where SIPs are inadequate are found in sections 110(a)(2)(I), 113(a)(5), and 176(a) of the Act. Even if the SIP itself is adequate, failure to implement and carry out the SIP will result in withholding of new source permits and air pollution control program grants, under sections 173(4), 113(a)(5), and 176(b) of the Act. In addition, section 316 of the Act (42 U.S.C. 7616) provides that the Administrator may withhold, condition or restrict sewage treatment plant construction grants if he determines that the air emissions reasonably anticipated to result from the growth associated with the expanded sewage treatment capacity is not being adequately anticipated and compensated for under the SIP.

memorandum on Criteria for Approval of 1979 SIP Revisions:[18]

1. *Requirements for All Part D SIPs:*

● Demonstrate that both primary and secondary NAAQS will be attained within the nonattainment area as expeditiously as practicable, but for primary NAAQS no late than the following final deadlines: (§ 172(a); ¶¶ 1, 3, 5.)

—For sulfur oxides, particulate matter, and nitrogen dioxide, December 31, 1982.

—For ozone or carbon monoxide, December 31, 1982, except, if the state demonstrates that attainment by December 31, 1982 is impossible despite implementation of all reasonably available measures, December 31, 1987.

● Require reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date. (§ 172(b)(3); ¶ 6.)

● Provide for implementation of all reasonably available control measures (RACM) as expeditiously as practicable, insofar as necessary to assure reasonable further progress and attainment by the required date. This includes reasonably available control technology (RACT) for stationary sources and reasonably available transportation control measures. (§§ 172(b)(2), (8); ¶¶ 4–5.)

● Include an accurate, current inventory of emissions that have an impact on the nonattainment area, and provide for annual updates to indicate emissions growth and progress in reducing emissions from existing sources. (§ 172(b)(4); ¶¶ 2, 7–8.)

● Expressly quantify the emissions growth allowance, if any, that will be allowed to result from new major sources or major modifications of existing sources, which may not be so large as to jeopardize reasonable further progress or attainment by the required date. (§§ 172(b)(3) and (5); ¶ 7.)

● Require preconstruction review permits for new major sources and major modifications of existing sources, to be issued in accordance with section 173 of the Act. (§ 172(b)(6); ¶ 9.)

● Include the following additional SIP elements: (§§ 172(b)(7), (9)–(10); ¶¶ 4, 10–11.)[19]

—Identification and commitment of the necessary resources to carry out the Part D provisions of the plan.

—Evidence of public, local government, and state legislative involvement and consultation in accordance with section 174 of the Act.

—Identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen and the alternatives considered, and a summary of the public comment on the analysis.

—Written evidence that the state and other governmental bodies have adopted the necessary requirements in legally enforceable form.

—Written evidence that the state and other governmental bodies are committed to implement and enforce the appropriate elements of the SIP.

2. *Additional Requirements for Ozone or Carbon Monoxide SIPs with Attainment Dates After 1982:*

● Include an adequate on-going vehicle emission control inspection/maintenance program, or establish a specific schedule endorsed by and committed to by the governor (or the chief executive of the local or regional governmental unit, if it is responsible for implementation) for the development, adoption, and implementation of such a program as expeditiously as practicable. (§ 172(b)(11)(B); ¶ 2.)

● Present a program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reductions target ascribed in the SIP to the package, including adopted schedules for expeditious implementation of currently planned reasonable transportation control measures, and schedules for analysis and adoption of additional transportation control (and other necessary) measures. (§§ 110(a)(3)(D), 172(b)(2) & (11)(C); Oxidant ¶¶ 1–5.)

● Include a commitment to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and state and local funds. (§§ 110(a)(3)(D), 172(b)(2); ¶¶ 3–4.)

● Establish a program that requires, before issuance of a preconstruction review permit, an analysis of alternative sites and other factors which demonstrates that the benefits of the proposed source significantly outweigh any environmental and social costs. (§ 172(b)(11)(A); ¶1.)

B. *Further Guidance.*

1. *Need for All RACM.* Part D requires the SIP to provide for that level of control necessary to assure attainment of the standards as expeditiously as practicable, and no later than the specified deadlines, and reasonable further progress in the interim. It does not require that all sources apply RACM if less than all RACM will suffice for reasonable further progress and attainment. Therefore, if a state adopts less than all RACM and demonstrates (a) that reasonable further progress and attainment of the NAAQS are assured, and (b) that application of all RACM would not result in attainment any faster, then a plan with less than all RACM may be approved. An exception is that most ozone SIPs must include, as a minimum, RACT requirements for certain stationary sources (discussed in subsection 3 below, on *Ozone Control Strategy*).

2. *Schedules.* Ordinarily all necessary measures must be adopted in legally enforceable form. However, for certain classes of measures, EPA interprets the Act to allow approval of plans containing schedules for expeditious development, adoption, submittal, and implementation of these measures. Schedules may be used for the following: (a) Measures to control particulate matter sources that EPA has not traditionally treated as causes of NAAQS violations ("nontraditional" sources—for example, sources of urban fugitive dust, resuspended road dust, and dust from construction, as distinguished from fugitive and stack process emissions from stationary sources); (b) RACT requirements for stationary volatile organic compound (VOC) sources for which EPA has not issued a Control Techniques Guideline

[18] *See* citations in note 7 above. For the items in subsection 1 of the text below, the paragraph numbers refer to paragraphs in the section of the Administrator's memorandum entitled "General Requirements of all 1979 SIP Revisions." For items in subsection 2 of the text below, paragraph numbers refer to paragraphs in the section of the memorandum entitled "Additional Requirements for Carbon Monoxide and Oxidant SIP Revisions Which Provide for Attainment of the Primary Standards Later Than 1982," except that paragraph numbers identified by the word "Oxidant" refer to paragraphs in the section of the memorandum entitled "Carbon Monoxide and Oxidant."

[19] These SIP elements are required for all SIP provisions needed to satisfy Part D, except for provisions that were approved or promulgated, and implemented, prior to enactment of the 1977 Amendments (August 7, 1977). The elements required by section 110(a)(2)(F)(i) (that is, assurances of adequate personnel, funding and authority) are needed for all SIP provisions.

Under sections 172(b)(10) and 174 of the Act, the SIP may provide that local governments or regional agencies, rather than the state itself, is responsible for implementing and enforcing particular plan provisions. Where this is done, (1) the plan provisions must still be adopted by the state and submitted to EPA by the Governor, (2) the state must evidence its determination that the local or regional body has legal authority to implement the provision, and (3) the local or regional body must evidence its commitment of necessary resources, adoption of enforceable requirements, and commitment to implement and enforce the plan elements. For some elements, such as inspection/maintenance provisions, item (3) will also require a certification by the local or regional body that it has adopted necessary ordinances or other legislative authorization. *See* the last paragraph of note 27 below, on inspection/maintenance.

by January 1978; (c) inspection/maintenance programs; and (d) transportation control measures.

Schedules must provide for implementation of measures quickly enough to assure that the SIP will provide for reasonable further progress and attainment by the required date. Schedules for control of stationary VOC sources and for inspection/maintenance programs also must meet, at a minimum, the deadlines and other specific requirements for these kinds of measures established in EPA guidance, which are summarized below (in subsections 3 and 4, on *Ozone Control Strategy* and *Inspection/Maintenance).* For controls of nontraditional particulate matter sources and for transportation controls, where analysis, selection, and adoption cannot be completed in time to be approved by July 1, 1979, schedules may provide for expeditious completion of analysis, selection, and adoption. By the applicable deadline in the schedule, the state must adopt the necessary measures in legally enforceable form, along with any necessary additional schedules for expeditious implementation of the measures.

Each schedule must contain key milestones to be used for evaluating progress in completing the scheduled tasks, including as precise a description as possible of what must be accomplished by each key milestone. In order to contribute to the demonstration of reasonable further progress and attainment, each schedule must include a target of how much emission reduction will result, and when, from each measure or group of related measures.

Each schedule must be adopted as part of the SIP, and each state or other governmental body responsible for implementation must be committed to meet the key milestones.[20] The state and other governmental bodies must therefore be committed to analyze, select, adopt, and implement measures necessary to achieve the emission reductions ascribed to the schedules. There is a partial exception for ozone and carbon monoxide measures that are not reasonably available for implementation before the end of 1982: The state and other governmental bodies must be committed to meeting the key milestones for analyzing and selecting such measures for the post-1982 period, but need not submit the adopted enforceable measures, and schedules and commitments to implement them, until, at the latest, July 1, 1982.[21]

3. *Ozone Control Strategy.* Although an ozone SIP must assure reasonable further progress and attainment in all nonattainment areas, the SIP need not include a specific demonstration of reasonable further progress and attainment in rural areas. (A designated nonattainment area may consist of one or more "urbanized areas" surrounded by "rural areas.")[22] Such a demonstration in all urbanized areas, along with at least the minimum stationary-source requirements described below, should assure reasonable further progress and attainment in the rural areas by minimizing the pollutants transported from urbanized to rural areas.

Because it is often difficult to develop precise ozone control strategies, and because sections 172(a)(2) and (b)(3) require minimum levels of control technology, the minimum acceptable level of stationary source control for ozone SIPs is the following: Ozone SIPs being revised now must include adopted RACT requirements for VOC sources covered by Control Techniques Guidelines (CTGs) that EPA issued by January 1978, and schedules to adopt and submit by each future January additional requirements for the sources covered by CTGs issued by the previous January. For SIPs with attainment dates after 1982, these RACT requirements must apply in urbanized areas to all sources covered by each CTG, and in rural areas to all "major" sources (that is, over 100 tons/year potential emissions)[23] covered by each CTG. (Such SIPs must also provide for the control of additional sources where necessary to achieve reasonable further progress, as discussed below.) For SIPs with attainment dates before the end of 1982 that do not use photochemical dispersion modeling, these RACT requirements must apply to all major sources covered by each CTG, and in urbanized areas to enough additional sources covered by each CTG to provide for reasonable further progress and attainment as expeditiously as practicable. In SIPs with attainment dates before the end of 1982 that do use photochemical dispersion modeling, these RACT requirements must apply to enough sources covered by each CTG to provide for reasonable further progress and attainment as expeditiously as practicable.[24]

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[20] Failure to meet a key milestone to which the state or other governmental body is committed may be treated as a failure to "implement" and "carry out" the SIP under sections 173(4), 176(b), and 316(b)(2) of the Act, and under some circumstances may be treated as a "violation" of a requirement of the SIP under section 113(a)(1). Furthermore, certain milestones in each schedule will be deadlines for submitting additional necessary elements of the SIP, such as certification of adequate legal authority, evidence that the necessary requirements have been adopted in legally enforceable form, or evidence that the state or local government is committed to implement and enforce the appropriate plan elements. Regardless of whether the state or other governmental body is committed to meeting these milestones for submitting additional elements, failure to meet them may render the SIP no longer adequate to satisfy the requirements of Part D under section 110(a)(2)(I) of the Act, and in some circumstances may be treated as a failure to submit a plan that considers an element required by Part D under section 176(a) of the Act.

[21] Section 172(c) of the Act establishes a July 1, 1982 deadline for the SIP to contain all enforceable measures necessary for attainment by the end of 1987. The July 1, 1982 deadline applies only to measures not reasonably available earlier. The state may not delay adoption and implementation of measures that are reasonably available earlier on account of section 172(c). *See* Clean Air Amendments of 1977, Conference Report to accompany H.R. 6161, H.R. Rep. No. 95-564, 95th Cong., 1st Sess. 157 (August 3, 1977).

[22] For purposes of ozone plan development, "urbanized area" means a central city and surrounding closely settled areas with population of 200,00 or more, according to the 1970 Census, plus any adjacent fringe areas of development. Any other area is a "rural area."

Since reasonable further progress and attainment need not be demonstrated in a rural area, ozone SIPs that satisfy all Part D requirements under EPA guidance for a rural area and for the urbanized areas that cause the nonattainment problem in the rural area will provide an inherent emissions growth allowance for new major sources in the rural area. This means that a permit may be issued for major sources of VOC in such rural areas, under section 173 of the Act, without a specific demonstration that the new emissions will be accommodated under section 173(l) (*See* discussion in subsection 10.a below, on *Preconstruction Review.*) If extensive growth changes the demographic character of an area from rural to urbanized, a demonstration of reasonable further progress and attainment may then be called for in the newly urbanized area.

[23] "Potential" to emit means the maximum capacity to emit a pollutant absent air pollution control equipment. *See* sections II.A.1 through 5 of the Offset Ruling, note 3 above.

[24] The above sets forth the minimum level of stationary source control that must be included not only in the SIP, but also in the demonstration that attainment is impossible by the end of 1982 despite implementation of all reasonably available measures, which is necessary under section 172(a)(2) to qualify for an attainment date after the end of 1982.

Linear rollback techniques for determining needed emission reductions are acceptable for use in 1979 SIP submittals. Plans with attainment dates after 1982, however, must be revised by July 1, 1982 to use more rigorous techniques.

[25] That is, the SIP must do the following to the extent necessary to achieve straight-line reductions at the end of 1982: (1) Include *all* RACT, including RACT for source categories in addition to those that will be covered by EPA's CTG series, and, for source categories that will be covered by CTGs, adopt RACT requirements sooner than would be required by EPA's CTG program described in the text above; (2) provide for especially expeditious and ambitious reasonably available transportation control measures; and (3) permit new major sources and major modifications only with case-by-case offsetting emission reductions (*see* discussion on *Preconstruction Review* in subsection 10 below of the text). As a practical matter, a SIP that requires application of all RACT and includes no emissions growth allowance for new major sources should assure straight-line reductions at the end of 1982 for even the most seriously polluted area.

An ozone plan with an attainment date after 1982 will satisfy the requirement for reasonable further progress if the SIP requires at least (1) "straight-line reductions" at the end of 1982, or (2) reductions that reflect application of all RACM as expeditiously as practicable through the end of 1982 with no emissions growth allowance for new major sources.[25] "Straight-line reductions" mean reductions at the end of 1982 at least as great as if equal annual reductions were required between 1979 and the attainment date, which can be represented graphically by a straight line. Until the end of 1982, allowable emissions may remain above the straight line to accommodate the time required for compliance.

4. *Inspection/Maintenance.* An acceptable inspection/maintenance program or schedule is required in urbanized areas for every ozone or carbon monoxide SIP with an attainment date after 1982.[26] In addition, for SIPs with attainment dates by the end of 1982, states may find that inspection/maintenance is helpful to assure reasonable further progress and attainment by the required date, or even to provide an emissions growth allowance for new major sources. For urbanized areas with attainment dates after 1982, the SIP must contain a commitment of the state, local government, or regional agency to implement the program as expeditiously as practicable. EPA has determined that the final deadline for submitting assurances of adequate legal authority to carry out the program is June 30, 1979, with limited exceptions.[27] Final implementation of the program (including adoption and submission to EPA of all necessary requirements for mandatory inspection and repair of failed vehicles) must be scheduled for no later than the end of 1982 for a centralized program, or the end of 1981 for a decentralized program.[28] Failure to submit by the required deadlines the legal authority and all regulatory requirements necessary for mandatory inspection and mandatory repair of failed vehicles will make the SIP no longer adequate to satisfy the requirements of Part D.

5. *Transportation Control Measures.* For urbanized areas, each SIP with an attainment date after 1982 must contain schedules for implementation of currently planned reasonably available transportation control measures, and schedules for analysis, selection and adoption of additional transportation control measures, sufficient to achieve the emission reductions target ascribed to transportation control in the demonstration of reasonable further progress and attainment. As noted above, by the applicable deadlines in the schedules, the state must adopt the necessary measures, along with any necessary additional schedules and commitments for expeditious implementation of the measures. It is EPA's policy that each area will be required to schedule a representative selection of reasonable transportation control measures for implementation at least on a pilot or demonstration basis before the end of 1980.

The determination of what transportation control measures are reasonably available must be made on a case-by-case basis. The measures listed in section 108(f)(1)(A) of the Act are presumed to be reasonably available. If a state or local government believes that in its particular situation any of the measures listed (except inspection/maintenance) is not reasonably available, the burden is on the state or local government to demonstrate the unavailability of the measure, based on the local situation. A demonstration that a measure is not reasonably available must be based on substantial widespread and long-term adverse impact that would result from the measure, and on the time needed to analyze, develop and implement the measure. These factors bear both on whether a measure is reasonable and on whether a schedule calls for implementation as expeditiously as practicable.

6. *Ozone Standard.* EPA recently changed the required level under the primary and secondary NAAQS for ozone from 0.08 to 0.12 parts per million (and changed the designation of the NAAQS from "photochemical oxidants" to "ozone").[29] A SIP is now acceptable if it meets all Part D requirements for the NAAQS at a level of 0.12 or below. A state may, if it wishes, relax new requirements in a 1979 SIP submittal designed for a level below 0.12, so long

[25] That is, the SIP must do the following to the extent necessary to achieve straight-line reductions at the end of 1982: (1) Include *all* RACT, including RACT for source categories in addition to those that will be covered by EPA's CTG series, and, for source categories that will be covered by CTGs, adopt RACT requirements sooner than would be required by EPA's CTG program described in the text above; (2) provide for especially expeditious and ambitious reasonably available transportation control measures; and (3) permit new major sources and major modifications only with case-by-case offsetting emission reductions (*see* discussion on *Preconstruction Review* in subsection 10 below of the text). As a practical matter, a SIP that requires application of all RACT and includes no emissions growth allowance for new major sources should assure straight-line reductions at the end of 1982 for even the most seriously polluted area.

[26] "Urbanized area" is defined in note 22 above. Statewide programs are encouraged, especially for states that are small and highly urbanized. EPA will review the need for inspection/maintenance in non-urbanized areas after the 1979 SIP revisions are submitted and will consider additional requirements at that time. For some carbon monoxide SIPs, regardless of whether attainment will be after 1982, inspection/maintenance for non/urbanized areas may now be necessary to demonstrate reasonable further progress and attainment.

[27] Limited exceptions to the June 30, 1979 deadline for supplying certification of adequate legal authority may be possible if the state (or other governmental body) can demonstrate that the legislature has had no opportunity to consider any necessary enabling legislation between enactment of the 1977 Amendments (August 7, 1977) and June 30, 1979. Extension beyond June 30, 1979 is an exceptional remedy, and EPA will grant no extension if the legislature has had an opportunity to consider enabling legislation but has not given such legislation serious consideration. (EPA had also contemplated extensions for situations where there had been insufficient opportunity to conduct necessary technical analyses; however, as far as EPA is aware, the needed information is now available.) In no case may the assurances of adequate legal authority be supplied later than July 1, 1980. Where legislative action will occur after the SIP has been approved, submittal of assurances of adquate legal authority must be included as a key milestone in the schedule for implementation of the program.

Legal authority by the required deadline is necessary to satisfy the requirements of sections 172(b)(7) and (10) of the Act, which call for evidence that the state or other governmental body has legally adopted the necessary requirements and schedules and timetables for compliance, is committed to implement and enforce the elements of the SIP, and has committed the necessary resources to carry out the SIP. If legal authority is provided but is later withdrawn or found to be inadequate to authorize implementation of the required program, the SIP will then no longer satisfy the requirements of section 172(b)(7) and (10).

*See* note 19 above, on commitments by governmental bodies other than the state. Where a local or regional body will implement the program, the deadline for certification that such a body has necessary legal authority is the same as for a state—that is, June 30, 1979, with limited exceptions.

[28] A "centralized" program is one where inspection testing is conducted at facilities owned and operated by a state, local, or regional governmental agency, or a contractor working for the agency. A "decentralized" program is one where testing is conducted at private garages licensed to conduct the tests by the state, local, or regional agency. The deadlines for implementation apply regardless of when authorizing legislation is obtained. The Administrator's memorandum on criteria for approval (note 7 above) had provided that the deadline for implementation would be earlier for areas that obtain legislation earlier. However, the Agency has modified this policy. EPA believes that the uniform deadlines stated in the text, for obtaining legislative authority and for implementing the necessary programs, will foster equity among states and coordination in administering programs in interstate metropolitan areas, and that compliance with the deadlines will constitute implementation of the programs as expeditiously as practicable. *See also* note 21 above, explaining that the July 1, 1982 deadline under section 172(c) of the Act is irrelevant to inspection/maintenance legislation, which is now reasonably available.

[29] 40 CFR 50.9, as revised 44 FR 8220 (February 8, 1979).

as the revised SIP meets all requirements for the 0.12 level.

Being a relaxation, the revision to the ozone standard does not affect the schedule for submittal of SIP revisions required under Part D. Section 110(a)(1) of the Act requires that SIP revisions be submitted within 9 months after a standard is revised. This refers only to SIP revisions legally required because of the revision to the standard. However, where a standard is relaxed, no SIP revision is required by law, since states may have more stringent controls than necessary if they choose.[30] It is optional with the state whether to relax new requirements back to the 0.12 level, and the state may therefore determine its own schedule for accomplishing this.

The relaxation of the ozone NAAQS may allow some areas now designated nonattainment to have their designations changed, under section 107(d)(5) of the Act. In order to clear up any questions about what is a nonattainment area before the July 1, 1979 deadline for having approved Part D SIPs,[31] states are urged to promptly submit lists of areas that may be redesignated, along with supporting documentation. EPA will then promulgate the revised lists as soon as possible, with any necessary modifications.

7. *Interstate and International Issues.* Pollutants entering a state from sources in neighboring states, countries, or bodies of water, and contributing to the violation of a NAAQS in a nonattainment area, must be included in the demonstration of reasonable further progress and attainment. For purposes of SIP development (although not for purposes of making nonattainment designations under section 107(d) of the Act), states may assume that the NAAQS will be attained by the appropriate deadlines under the Act in neighboring states, countries, and bodies of water, and that all SIP requirements in neighboring states will be met. For interstate (and intrastate) urbanized areas that are nonattainment for ozone, the highest pollutant concentration for the entire area must be used in determining the necessary level of control.

8. *Secondary Standards.* Particulate matter and sulfur oxides are the only pollutants for which secondary NAAQS are more stringent than primary NAAQS. These secondary standards must be attained as expeditiously as practicable, but no later than the end of 1982 where application of all RACT by the end of 1982 will result in attainment.[32] Where application of all RACT will not be sufficient, or where the state shows that good cause exists for postponing its application, then an attainment date later than 1982 may be provided for in the SIP. This date must be as expeditious as practicable considering the amount of emission reductions needed and the problems involved in obtaining them.

The January 1, 1979 deadline for deadline for submittal of the SIP revision and the July 1, 1979 deadline for its approval may be extended up to 18-months for a secondary NAAQS.[33] The state must request an extension, and include a showing that attainment will require emission reductions greater than those that would result from application of all RACT.

9. *Fugitive Dust.* "Rural areas" (as defined according to EPA's Fugitive Dust Policy)[34] experiencing particulate matter violations that can be attributed to fugitive dust (that is, native airborne soil uncontaminated by man-made sources) can under certain conditions be designated as attaining the NAAQS. Areas so designated do not need SIPs that satisfy the requirements of Part D. Non-rural areas that experience particulate matter violations, even if attributed to airborne soil, must be designated as non-attainment and must have SIPs that satisfy the requirements of Part D. "Rural"areas are defined for these purposes as those that have (1) a lack of major industrial development or the absence of significant industrial particulate emissions, and (2) low urbanized population. All other areas are "non-rural" areas.

Where fugitive dust in non-rural areas causes or contributes to particulate matter violations SIPs must include sufficient controls to demonstrate reasonable further progress and attainment of the standard by the required date. SIPs for non-rural urban areas must contain adopted RACT requirements for traditional sources and either adopted requirements or schedules for study and subsequent adoption of requirements for nontraditional sources. *(See* subsection 2 above, on *Schedules.)* Controls of fugitive dust sources in non-rural areas must be included, if controls to be applied to other sources are not sufficient to demonstrate reasonable further progress and attainment.

10. *Preconstruction Review.*

a. *Basic Statutory Requirements.* To satisfy the requirements of Part D,[35] a preconstruction review program must assure that permits for proposed major sources and major modifications may be issued only if the following conditions of sections 172(b)(11)(A) and 173 of the Act are satisfied:

i. *Requirements for all Part D SIPs:*

● The proposed major source or major modification is accommodated by one or both of the following approaches:

(A) There are sufficient case-by-case offsetting emission reductions (offsets) and other emission reductions required under the SIP, so that allowable emissions from all sources when the proposed major source or major modification is to commence operation represent reasonable further progress, or

(B) Emissions resulting from the proposed major source or major modification are accommodated by the emissions growth allowance for major new sources.

● Any emission reductions required under paragraph (A) must be legally binding and enforceable before the permit may be issued. (§ 173(1) and the sentence of § 173 after subsection (4).)

● The proposed major source or major modification must comply with the lowest achievable emission rate (LAER), as that term is defined in section 171(3) of the Act. (§ 173(2).)

● All major sources in the state owned or operated by the owner or operator of the proposed major source or major modification must be in compliance (or on a schedule for compliance) with the Act. (§ 173(3).)

ii. *Additional requirements for ozone and carbon monoxide SIPs with attainment dates after 1982:*

● An analysis must have been conducted of alternative sites, sizes, production processes, and environmental control techniques for the proposed major source or major

[30] An adequate SIP designed for an ozone level below 0.12 will be at least stringent enough to satisfy requirements for the 0.12 level, as required by July 1, 1979.

[31] The revised standard is immediately effective for determining whether a proposed new source would cause or contribute to a violation of the standard, for purposes of preconstruction review, regardless of the designations. However, the requirement to have a revised SIP that satisfies Part D remains in effect for all nonattainment areas until EPA promulgates a different designation. *See* the discussion in subsection 11 of the text below, on *Changes in Designation.*

[32] *See* 40 CFR 51.13(b).

[33] *See* section 110(b) of the Act; 40 CFR 51.31.

[34] *See* memorandum from Edward F. Tuerk, EPA acting Assistant Administrator for Air & Waste Management, to EPA Regional Administrators, on "Guidance on SIP Development and New Source Review in Areas Impacted by Fugitive Dust" (August 16, 1977), and the attachment entitled *Fugitive Dust Policy: SIP's and New Source Review* (August 1, 1977); Preamble to initial designations of attainment status, 43 FR 8963 col. 1, (March 3, 1978); section II.A.8 of the Offset Ruling, note 3 above.

[35] There are several other preconstruction review requirements under the Act that are not Part D requirements. *E.g.*, section 110(a)(2)(D) of the Act and section II.B of the Offset Ruling, note 3 above.

modification which demonstrates that benefits significantly outweigh any environmental and social costs. (§ 172(b)(11)(A).)

The submitted preconstruction review program must be legally enforceable, and may satisfy the requirements of Part D by referring to these requirements of the Act and stating that permits will be issued only in compliance with them, or by restating these requirements (or requirements more stringent).

Aside from the specific requirements discussed above, a state preconstruction review program along with other SIP provisions must impose enough controls on new and existing sources that resonable further progress and attainment will actually occur as required. If this does not happen, major source and major modifications may be unable to obtain permits in the future, existing sources may have to apply even more stringent controls, and the overall SIP may be found not to satisfy Part D requirements. The state preconstruction review program must therefore be adequate, considering the particular circumstances of the overall SIP and the area to which it applies, to assure reasonable further progress and attainment.

b. *Requirements From the Emission Offset Interpretative Ruling.* EPA's recently revised Emission Offset Interpretative Ruling now governs preconstruction review of any major source or major modification that would cause or contribute to a violation of a NAAQS. Under the statute, the Ruling is to be superseded for nonattainment areas after June 30, 1979, by preconstruction review provisions of the revised SIP, if the SIP meets the requirements of Part D. If the SIP does not meet the requirements of Part D, the Ruling is to be superseded by a prohibition on major source construction under the applicable SIP and section 110(a)(2)(I) of the Act (discussed below in subsection f, on *Prohibition on New Construction*. The Ruling will remain in effect to the extent not superseded under the Act. [36]

The revised Ruling and accompanying **Federal Register** preamble set forth EPA's views on several issues that are relevant under Part D. Many of the approaches used by the Agency in revising the Ruling may be used by the states as guidance in developing provisions under Part D. But to establish uniform minimum requirements and consistent statutory definitions, EPA requires that state programs apply certain fundamental policies that EPA adopted in revising the Ruling (or be more stringent): [37]

- The SIP must require permits for the construction and operation of all proposed "major sources" and "major modifications," with those terms given definitions equivalent to those in the Ruling. (Ruling §§ II.A.1 through 5.)
- Permits may be issued without satisfying the requirements under sections 172(b)(11)(A) and 173(1), (2) and (3) of the Act, for proposed major sources and major modifications that do not have allowable emissions exceeding 50 tons per year, 1000 pounds per day, or 100 pounds per hour, whichever is most restrictive. (Ruling § II.C.)
- Permits may be issued without satisfying the requirements under sections 172(b)(11)(A) and 173(1), (2) and (3) of the Act, for proposed major modifications of existing facilities (that is, modifications of identifiable pieces of process equipment) with accompanying offsets within the same source (intra-source offsets) such that there is no net increase in allowable emissions. (As explained in the preamble to the revised Ruling, this requirement is more lenient than that found in the Ruling itself. 44 FR at 3276–3277.)
- In determining the lowest achievable emission rate (LAER), the reviewing authority may consider transfer of technology from one source type to another where such technology is applicable. (44 FR at 3280–3281.)

If a state adopts a regulation in the SIP that is not inconsistent with these mandatory policies, EPA proposes to assume that the state intends to implement its preconstruction review program in accordance with these policies. EPA proposes to conduct its enforcement activities accordingly. Alternatively, the state may adopt regulations that expressly incorporate these mandatory policies (or approaches more stringent).

c. *Geographic Applicability.* At a minimum, the program must apply to any major source [38] in the state that would cause or contribute to a violation of the NAAQS within the designated nonattainment area. [39] The Ruling establishes certain exemptions for a source locating at a site where the NAAQS is not actually violated. Although sections 172(b)(11)(A) and 173 do not expressly allow exemptions from a preconstruction review program, EPA interprets the Act to allow exemptions like those in the Ruling. A state may therefore make the following provision for major sources locating at sites where the NAAQS is not violated (as of the new source start-up date):

- A source whose allowable emissions would not cause or significantly contribute a violation of the NAAQS may be exempted from all requirements under sections 172(b)(11)(A) and 173(1), (2), and (3). (Ruling §§ II.D and E.)
- A source that would cause a new violation of the NAAQS may be exempted from all requirements under sections 172(b)(11)(A) and 173(1), (2), and (3), except that it must have sufficient offsets so that allowable emissions from the new source and existing sources will not, in fact, cause a violation. (Ruling § III.)
- For a source that would contribute significantly to an existing violation, emissions that result from the source must be accommodated under section 173(1) only to the extent that those emissions would actually contribute to the violation. All other applicable requirements (including the requirement under section 173(1)(A) to accommodate certain emissions that do not result from the source) must be satisfied in full. (Ruling §§ II. D and E.)

d. *Exempted Types of Sources.* In addition to the exemptions discussed above involving location of a source, the revised Ruling provides that certain types of major sources may be exempted from the requirement for offsets. In adopting its preconstruction review program, the state may exempt similar types of sources from the requirement of section 173(1) that emissions be accommodated by offsets or by the emission growth allowance, as long as the exemptions established by the state cover classes of sources no

[36] *See* section 129(a)(1) of the 1977 Amendments (note under 42 U.S.C. 7502); section I of the Offset Ruling, note 3 above. The Ruling is therefore to apply after July 1, 1979, in the following situations: (a) To proposed major sources in one state that would contribute to a violation of a NAAQS only in another state, (b) during the time allowed for the development and approval of a revised SIP in an area that is designated as nonattainment after March 3, 1978, and (c) during any extended time allowed under secton 110(B) for development of a SIP revision for an area that violates the secondary NAAQS but not the primary NAAQS for a pollutant. Furthermore, the Ruling applies everwhere in the state, regardless of the applicable designation under section 107(d) of the Act. *See* sections II.D and E of the Ruling. For any areas in the state where neither a Part D preconstruction review program nor a section 110(a)(2)(I) prohibition on issuance of permits applies, the Ruling will not be superseded and will continue to apply to every source that would cause or contribute to a NAAQS violation.

[37] *See* the preamble to the revised Ruling, 44 FR 3276 col. 1. (January 16, 1979). EPA considered comment received before publication of the revised Ruling, and the Agency invited additional comment. As soon as EPA has completed reviewing and responding to these latter comments, it will publish a response.

[38] Except where the context indicates otherwise, reference to any "major source" includes any major modification.

[39] *See* the preamble to the revised Ruling, 44 FR 3275 col. 3 (January 16, 1979).

broader than those exempted under the Ruling. The types of sources exempted under the Ruling are: (i) Resource recovery facilities burning municipal solid wast, (ii) sources that must switch fuels due to lack of adequate fule supplies or where a source is required to be modified as a result of EPA regulations and no exemption from such regulation is available to the source, (iii) temporary emission sources, and (iv) emissions resulting from the construction phase of a new source. (Ruling § IV.B.)

As under the Ruling, exemptions for resource recovery facilities and sources that must switch fuels may be permitted only if (A) the new emissions are charged against the emissions growth increment for major new sources to the extent there is any, (B) the applicant demonstrates that it made its best efforts to obtain sufficient offsets, (C) the applicant applies all offsets that are available, and (D) the applicant will continue to seek the necessary offsets and apply them when they become available. Issuance of a permit under an exemption for resource recovery facilities or sources that must switch fuels will ordinarily cause the inventory of allowable emissions to exceed what is permitted; for reasonable further progress. Therefore, no further permits for major sources may be issued under section 173(1) until the deficit is made up by either additional offsets or a SIP revision, to provide additional control of existing sources.

e. *Banking.* Under the policy expressed in the Offset Ruling (§ IV.C.5), the state may allow emission reductions to be banked for later use under the Ruling and under the state's preconstruction review program under Part D. The SIP should provide procedures for managing banked emission reductions, such as SIP revisions or permit conditions. Banked emission reductions may be used for case-by-case offsets under section 173(1)(A), by contributing part or all of the required offsetting reductions in allowable emissions. To be sufficient under that section, the offsetting reductions in allowable emissions, including any banked emission reductions being used, must be sufficient to represent reasonable further progress. Alternatively, banked emission reductions may be preserved for use under section 173(1)(B), by being added to the emissions growth allowance for new major sources. Adding to the allowance requires a SIP revision, and will be approved by EPA only if the enlarged allowance will not interfere with reasonable further progress and attainment by the required date.

f. *Prohibition on New Construction.* Sections 110(a)(2)(I), 113(a)(5), and 173(4) of the Act and section I of the Ruling provide that new major sources and major modifications that would cause or contribute to a NAAQS violation within the nonattainment area are not to be constructed if either of the following circumstances applies:

i. If there is a period after June 30, 1979 when a SIP does not satisfy the requirements of Part D, no major source or major modification is to be constructed under a permit applied for during that period, until after the approved SIP meets Part D requirements. If the permit was applied for before July 1, 1979, or before the period when the SIP fails to satisfy Part D requirements, construction is not restricted by any failure of the SIP to satisfy Part D requirements (as long as requirements of the Ruling or of an adequate Part D preconstruction review program, whichever is applicable, are satisfied).

ii. If there is a period after June 30, 1979 when a SIP is not being carried out in accordance with the requirements of Part D, no permits are to be issued until the SIP is carried out in accordance with those requirements. To the extent that the state does not carry out these prohibitions against new construction under sections 110(a)(2)(I), 113(a)(5), and 173(4), the Act provides for EPA to do so.

11. *Changes in Designation.* In developing a Part D SIP revision for a designated nonattainment area, the state may determine that the designation is inappropriate. If this occurs, the state may submit to EPA a revised designation with supporting material. Until EPA finds the revised designation acceptable and promulgates it, the July 1 deadline for approval of a SIP revision satisfying Part D will continue to apply. However, the SIP submittal may simply demonstrate that the standard is attained and that no additional emission reductions or preconstruction review requirements need to be included in the SIP.[40]

The July 1 deadline applies only for areas designated as nonattainment in the initial March 3, 1978 promulgation.[41] For any area designated as nonattainment after March 3, 1978, the state will have nine months after the new designation is promulgated to submit a SIP revision satisfying the requirements of Part D. No additional time is available, however, when an area boundary is adjusted but the same air quality problem and sources contributing to the problem are addressed.

### IV. Approval of Revised SIP as Satisfying Non-Part D Requirements

The final question that EPA must determine in reviewing a SIP submittal is whether the revised applicable implementation plan satisfies all requirements in the Act that are not Part D requirements. A state's failure to satisfy non-Part D requirements creates an obligation under Section 110(c) of the Act for EPA to promulgate substitute SIP provisions to satisfy those requirements, but does not require withholding of new source permits and highway and air pollution control program grants.[42]

Many states are submitting SIP provisions to satisfy non-Part D requirements along with their Part D submittals. EPA must review these submittals as soon as possible to determine whether they should be approved, and must review all applicable implementation plans as soon as possible to determine what non-Part D requirements remain unsatisfied. In some cases EPA will consider non-Part D submittals along with Part D submittals, and in other cases EPA will defer consideration of non-Part D submittals until later. The Federal Register proposals referring to individual state plans will identify any non-Part D decisions to be made and the relevant considerations.

(Secs. 110(a), 172, Clean Air Act, as amended (42 U.S.C. 7410(a), 7502))

Dated: March 23, 1979.

**David G. Hawkins,**

*Assistant Administrator for Air, Noise and Radiation.*

[FRL 1090-1]

[FR Doc. 79-10227 Filed 4-3-79; 8:45 am]

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[40] For purposes of preconstruction review, the determination of whether a proposed new source would cause or contribute to a violation of the standard may be made without regard to the applicable designation. *See* subsections 10.c and f of the text above, in the discussion on *Preconstruction Review;* discussion on EFFECT OF DESIGNATIONS ON CLEAN AIR ACT REQUIREMENTS in the general preamble on revised designations of attainment status, 43 FR 40412-13 (September 11, 1978).

[41] *See* note 6 above.

[42] Several SIP revisions are required by the 1977 Amendments to the Act but are not Part D requirements. These include the requirements of sections 128 (state boards), 110(a)(2)(E) and 126 (interstate pollution), 127 (public notification), 160 *et seq.* (PSD), 110 (a)(2)(K) (permit fees), 123 (stack heights in other than nonattainment areas), 121 (consultation), and 110(a)(6) (pay reduction).

federal register

Wednesday,
April 4, 1979

Part VII

# Department of Health, Education, and Welfare

Public Health Service

Protection of Identity—Research Subjects

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Public Health Service

### 42 CFR Part 2a

### Protection of Identity—Research Subjects

**AGENCY:** Public Health Service, HEW.

**ACTION:** Final regulations.

**SUMMARY:** These final regulations set forth procedures under which persons engaged in research on mental health, including research on the use and effect of alcohol and other psychoactive drugs, may apply for an authorization under section 303(a) of the Public Health Service Act, as amended by Public Law 93-282 (42 U.S.C. 242a(a)). Such an authorization affords the person to whom it is given a privilege to protect the privacy of research subjects by withholding the names or other identifying characteristics of such research subjects from all persons not connected with the conduct of the research. Persons so authorized may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

**EFFECTIVE DATE:** April 4, 1979.

**FOR FURTHER INFORMATION CONTACT:** Judith T. Galloway, Legal Assistant, Office of the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, Room 13C-06, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-3200).

**SUPPLEMENTARY INFORMATION:** On December 4, 1975, the Department published in the **Federal Register** (40 FR 56692) a notice of proposed rulemaking setting forth a new Part 2a of Title 42 of the Code of Federal Regulations, entitled "Protection of Indentity—Research Subjects." Interested persons were invited to submit written comments, suggestions, or objections regarding the proposed regulations within 45 days of the date of publication of that notice. All comments so submitted were carefully reviewed and considered.

#### Discussion of Major Comments

*Federal Role Too Elaborate and Restrictive*

Several of the 15 respondents considered the proposed Federal Role in issuing Confidentiality Certificates to be unnecessarily elaborate and cumbersome. Some commenters asserted that the information required of an applicant is supportive of a qualitative review going to the merits of the research, inappropriately casting the Federal Government in the role of censor. Others noted that information requirements duplicated material already submitted by recipients of Federal grant and contract support in the course of applying for that grant or contract support.

Accordingly, the final rules have been amended to simplify the Secretary's criteria for issuing a Confidentiality Certificate. The Secretary will not be required to specifically consider, as required by the proposed rules, the soundness of the purposes and methods of the research project nor the suitability for use in the research project of the proposed subject population and the protections to be afforded to the subjects (§ 2a.6(a)). Nor must the Secretary make a determination that a decision is warranted to allow subjects at risk to accept that risk (§ 2a.4(g)(2)). (Proposed rules required such a determination in the case of a person requesting a Confidentiality Certificate for a research project for which DHEW grant or contract support has not been sought or received.) Rather, final regulations require, among other items which remain as proposed, that the Secretary determine whether the project constitutes bona fide research which is within the scope of these regulations (§ 2a.6(a)).

The process of making application, too, has been made easier (1) by eliminating the requirement for material not germane to the simplified criteria for issuance, e.g., requested information on methodology is less detailed (§ 2a.4(d)), (2) by consolidating into a single provision procedures regarding coordination among the Institutes and with other Federal agencies (§ 2a.3(b)), and (3) by providing for use of previously or concurrently submitted material if the applicant is the recipient of DHEW grant or contract support (§ 2a.3(c)).

*Mandatory Use vs. Disclosure to Subjects*

Some respondents stated that the recipient of a Confidentiality Certificate should be required to provide an assurance that the authorization will be used to protect the identity of research subjects or, in the alternative, that the recipient of a Confidentiality Certificate provide assurance that research subjects will be informed of the extent to which a Confidentiality Certificate will protect their identity. Both of these approaches have been adopted in the final rules.

Any person making application for an authorization of confidentiality must assure the Secretary that he or she will use the authority to refuse to disclose identifying characteristics of research subjects in any proceedings to compel disclosure (§ 2a.4(i)).

Applicants must also assure that detailed information concerning the existence, effect, and limits of a Confidentiality Certificate will be furnished to research subjects who participate during the period a Certificate is in effect (§ 2a.4(j)). Subjects who enter a project after termination of a Certificate must be informed that the authorization has ended and the effect of termination (§ 2a.4(k)).

In addition, the effect of a Confidentiality Certificate has been clarified through a new paragraph (c) of § 2a.1 which distinguishes between the restrictions on voluntary disclosure imposed by 42 CFR Part 2 and these regulations which protect against compulsory disclosure.

*Definitions*

Two respondents discussed the accuracy of the definition of "identifying characteristics". That definition has been revised, in part, to reflect that any item or combination of data is protected by an authorization of confidentiality only if it could lead directly or indirectly to identification of a research subject (§ 2a.2(g)).

The definition of "research" has also been revised (§ 2a.2(c)) to correspond with the definition of that term in proposed regulations entitled, "Scientific Peer Review of Grant Applications and Contract Projects" which appeared in the **Federal Register** on March 29, 1976 (41 FR 12986).

*Medical Welfare Limitation*

Three respondents addressed the issue of who should determine, for the purpose of limiting the effective scope of a Confidentiality Certificate, whether a research subject's medical welfare is threatened (§ 2a.7(b)(2) of the proposed regulations).

The medical welfare limitation on the effect of a Confidentiality Certificate has been eliminated. Initially, a decision was made to leave the determination of when a research subject's medical welfare is threatened to the person holding the Certificate (in lieu of more elaborate alternatives aimed at objectivity). Inasmuch as these regulations do not govern voluntary disclosure of identifying characteristics in any case, including a situation which the person holding the Certificate

determines to be threatening to the medical welfare of research subjects, the medical welfare limitation was deemed to have such limited application as to be unwarranted.

*Federal Food, Drug, and Cosmetic Act Limitation*

Two respondents stated that the citation in § 2a.7(b) to the entire Federal Food, Drug, and Cosmetic Act and implementing regulations is an unnecessarily broad limitation on the scope of a Confidentiality Certificate and it undermines the confidence research subjects may place in the effect of an authorization of confidentiality.

The primary reason for this limitation is to facilitate verification by the Food and Drug Administration of research data on new drugs. (See section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355)). Other sections of the Act also authorize activity which could require access to identifying information. The suggestion that citation to the several pertinent sections of the Act would be more reassuring or informative to research subjects than citation to the whole Act was not supported by persuasive evidence and has not been accepted. Therefore, the recommendation that the Federal Food, Drug, and Cosmetic Act limitation be omitted or made specific to certain sections of the Act has not been adopted.

**Discussion of other Changes**

*Added Limitation*

A provision has been added stating that the Certificate may not be relied upon to refuse to reveal identifying information to authorized personnel of DHEW for the purpose of conducting audits or program evaluation for research assisted by a DHEW grant or contract or for investigating DHEW grantees or contractors and their employees or agents (§ 2a.7(b)(2)). DHEW regulations, 45 CFR 5.71, require that any identifying information so obtained be held strictly confidential.

*Evidence of Approval*

The final regulations (§ 2a.4(a)) retain the requirement in the proposed regulations (§ 2a.4(a)(1)) for identification of the institution (if any) with which the individual primarily responsible for the research is affiliated. In addition, the final regulations (§ 2a.4(a)) require the furnishing of evidence of institutional approval in the event of such an institutional affiliation.

Evidence of institutional approval in a person's application insures that institutional personnel are aware of and supportive of research as described in the application for an authorization of confidentiality. Review and approval of research at the institutional level also provides the Secretary with evidence to be weighed when determining whether a project is, in fact, bona fide research.

Simlilarly, in order to insure the support and approval of the person primarily responsible for the conduct of the research, final regulations require that the specific request for an authorization of confidentiality be signed by the individual primarily responsible for the conduct of the research (§ 2a.4(f)).

*Statutory Language*

That portion of section 303(a) of the Public Health Service Act which authorizes issuance of a Confidentiality Certificate is quoted in its entirety in the first section of the final regulations (§ 2a.1(a)). The proposed regulations quoted only the first sentence, leaving unstated the statutory language describing the privilege to withhold identifying information in proceedings to compel such information which is afforded a person to whom an authorization of confidentiality is granted.

*Federal Assistance Not Required*

Two respondents were uncertain as to whether Federal grant or contract assistance is necessary to apply for an authorization of confidentiality. In a phrase added to § 2a.1(a) it is made clear that Federal assistance is not necessary in order to apply for a Confidentiality Certificate.

*Exceptions*

The word "exceptions" has been omitted from the title of § 2a.7 and paragraph (b) of that section. The section title "Effect of Confidentiality Certificate" accurately describes the content of both paragraphs (a) and (b). Paragraph (b) limits the effect of a Confidentiality Certificate in certain circumstances.

*Start Date*

Paragraph (e) of § 2a.4 has been amended to require that the person making application furnish, in addition to the estimated date for completion, the date on which research will begin or has begun. Paragraph (b)(7) of § 2a.6, relating to the content of Confidentiality Certificates, has been amended so that the Confidentiality Certificate will include the date or event upon which the Certificate becomes effective (which shall not be before the later of the commencement of the research project or the date of issuance of the Certificate), as well as the date or event upon which the Certificate will expire. These changes have been made to clarify that although a Confidentiality Certificate may be applied for and issued either before or after the research begins, the Certificate cannot become effective until the date of its issuance, if the research project is in progress at the date of issuance or until the commencement of the research project if the Certificate is issued prior to that commencement.

*Unfilled Positions*

Paragraph (c) of § 2a.4 has been expanded to require that a person making application not only describe the training and experience of all personnel having major responsibilities in the research project but also that the training and experience requirements for major unfilled positions be furnished.

*Certificate Is Not Endorsement*

The proposed regulations require that a person making application furnish an assurance that if an authorization of confidentiality is given, it will not be represented as an endorsement of the research project by the Secretary (§ 2a.4(a)(7) of the proposed regulations; § 2a.4(h) of the final regulations). This provision has been strengthened by the addition of a similar statement in the Certificate itself (§ 2a.6(b)(5)) and in the information which must be provided to research subjects who participate while a Confidentiality Certificate is in effect (§ 2a.4(j)(5)).

*Consistency*

Wherever the term "researcher", "applicant", or "individual" is used in the proposed regulations to denote the person to whom a certificate is issued, that term has been changed to "person" for consistency. "Person" is deemed to be the most meaningful of the terms previously used because it is defined at § 2a.2(b).

*Reordering*

The sentence in § 2a.1 pertaining to coordination among the National Institute on Drug Abuse, the National Institute of Mental Health and the National Institute on Alcohol Abuse and Alcoholism to insure processing of an application by the most appropriate Institute has been moved to § 2a.3 and is reworded in paragraph (b). Similarly, the paragraph in § 2a.1 which provides for coordination of requests with other authorities which issue authorizations of confidentiality for other types of research has been moved to § 2a.3(b).

*Technical and Editorial*

There are other changes in the final regulations of a technical nature necessitated, for example, by redesignation of a section in the Code of Federal Regulations and a change of address. Changes of an editorial nature have also been made in the interest of simplicity and clarity.

CONCLUSION

Although the final regulations modify the proposed regulations published on December 4, 1975, the changes generally respond to public comment against intrusive review on the merits of research for the purpose of issuing an authorization of confidentiality. Other changes simplify the process of making application. New statements clarify issues raised by respondents. Additional assurances by researchers provide (1) that the protection available to research subjects through an authorization of confidentiality is asserted for the protection of the research subjects in proceedings to compel disclosure of identifying information and (2) that research subjects are informed specifically of the effects and limits of a Confidentiality Certificate.

Accordingly, 42 CFR is revised by adding a new Part 2a to read as set forth below.

Note.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: April 5, 1978.

**Julius B. Richmond,**

*Assistant Secretary for Health.*

Approved: March 27, 1979.

**Joseph A. Califano, Jr.,**

*Secretary.*

Subchapter A of Chapter I, Title 42 CFR, is amended by adding a new Part 2a to read as follows:

## PART 2a—PROTECTION OF IDENTITY—RESEARCH SUBJECTS

Sec.

2a.1 Applicability.
2a.2 Definitions.
2a.3 Application; coordination.
2a.4 Contents of application; in general.
2a.5 Contents of application; research projects in which drugs will be administered.
2a.6 Issuance of Confidentiality Certificates; single project limitation.
2a.7 Effect of Confidentiality Certificate.
2a.8 Termination.

**Authority:** Sec. 3(a), Pub. L. 91–513 as amended by sec. 122(b), Pub. L. 93–282; 84 Stat. 1241 (42 U.S.C. 242a(a)), as amended by 88 Stat. 132.

### § 2a.1 Applicability.

(a) Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)) provides that "[t]he Secretary [of Health, Education, and Welfare] may authorize persons engaged in research on mental health, including research on the use and effect of alcohol and other psychoactive drugs, to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals." The regulations in this part establish procedures under which any person engaged in research on mental health including research on the use and effect of alcohol and other psychoactive drugs (whether or not the research is federally funded) may, subject to the exceptions set forth in paragraph (b) of this section, apply for such an authorization of confidentiality.

(b) These regulations do not apply to:

(1) Authorizations of confidentiality for research requiring an Investigational New Drug exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) or to approved new drugs, such as methadone, requiring continuation of long-term studies, records, and reports. Attention is called to 21 CFR 291.505(g) relating to authorizations of confidentiality for patient records maintained by methadone treatment programs.

(2) Authorizations of confidentiality for research which are related to law enforcement activities or otherwise within the purview of the Attorney General's authority to issue authorizations of confidentiality pursuant to section 502(c) of the Controlled Substances Act (21 U.S.C. 872(c)) and 21 CFR 1316.21.

(c) The Secretary's regulations on confidentiality of alcohol and drug abuse patient records (42 CFR Part 2) and the regulations of this part may, in some instances, concurrently cover the same transaction. As explained in 42 CFR 2.24 and 2.24–1, 42 CFR Part 2 restricts voluntary disclosures of information from applicable patient records while a Confidentiality Certificate issued pursuant to the regulations of this part protects a person engaged in applicable research from being compelled to disclose identifying characteristics of individuals who are the subject of such research.

### § 2a.2 Definitions.

(a) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(b) "Person" means any individual, corporation, government, or governmental subdivision or agency, business trust, partnership, association, or other legal entity.

(c) "Research" means systematic study directed toward new or fuller knowledge and understanding of the subject studied. The term includes, but is not limited to, behavioral science studies, surveys, evaluations, and clinical investigations.

(d) "Drug" has the meaning given that term by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(e) "Controlled drug" means a drug which is included in schedule I, II, III, IV, or V of Part B of the Controlled Substances Act (21 U.S.C. 811–812).

(f) "Administer" refers to the direct application of a drug to the body of a human research subject, whether such application be by injection, inhalation, ingestion, or any other means, by (1) a qualified person engaged in research (or, in his or her presence, by his or her authorized agent), or (2) a research subject in accordance with instructions of a qualified person engaged in research, whether or not in the presence of a qualified person engaged in research.

(g) "Identifying characteristics" refers to the name, address, any identifying number, fingerprints, voiceprints, photographs or any other item or combination of data about a research subject which could reasonably lead directly or indirectly by reference to other information to identification of that research subject.

(h) "Psychoactive drug" means, in addition to alcohol, any drug which has as its principal action an effect on thought, mood, or behavior.

### § 2a.3 Application; coordination.

(a) Any person engaged in (or who intends to engage in) the research to which this part applies, who desires authorization to withhold the names and other identifying characteristics of individuals who are the subject of such research from any person or authority not connected with the conduct of such research may apply to the Office of the Director, National Institute on Drug

Abuse, the Office of the Director, National Institute of Mental Health, or the Office of the Director, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Rockville, Maryland 20857 for an authorization of confidentiality.

(b) If there is uncertainty with regard to which Institute is appropriate or if the research project falls within the purview of more than one Institute, an application need be submitted only to one Institute. Persons who are uncertain with regard to the applicability of these regulations to a particular type of research may apply for an authorization of confidentiality under the regulations of this part to one of the Institutes. Requests which are within the scope of the authorities described in § 2a.1(b) will be forwarded to the appropriate agency for consideration and the person will be advised accordingly.

(c) An application may accompany, precede, or follow the sumission of a request for DHEW grant or contract assistance, though it is not necessary to request DHEW grant or contract assistance in order to apply for a Confidentiality Certificate. If a person has previously submitted any information required in this part in connection with a DHEW grant or contract, he or she may substitute a copy of information thus submitted, if the information is current and accurate. If a person requests a Confidentiality Certificate at the same time he or she submits an application for DHEW grant or contract assistance, the application for a Confidentiality Certificate may refer to the pertinent section(s) of the DHEW grant or contract application which provide(s) the information required to be submitted under this part. (See §§ 2a.4 and 2a.5.)

(d) A separate application is required for each research project for which an authorization of confidentiality is requested.

**§ 2a.4 Contents of application; in general.**

In addition to any other pertinent information which the Secretary may require, each application for an authorization of confidentiality for a research project shall contain:

(a) The name and address of the individual primarily responsible for the conduct of the research and the sponsor or institution with which he or she is affiliated, if any. Any application from a person affiliated with an institution will be considered only if it contains or is accompanied by documentation of institutional approval. This documentation may consist of a written statement signed by a responsible official of the institution or of a copy of or reference to a valid certification submitted in accordance with 45 CFR Part 46.

(b) The location of the research project and a description of the facilities available for conducting the research, including the name and address of any hospital, institution, or clinical laboratory facility to be utilized in connection with the research.

(c) The names, addresses, and summaries of the scientific or other appropriate training and experience of all personnel having major responsibilities in the research project and the training and experience requirements for major positions not yet filled.

(d) An outline of the research protocol for the project including a clear and concise statement of the purpose and rationale of the research project and the general research methods to be used.

(e) The date on which research will begin or has begun and the estimated date for completion of the project.

(f) A specific request, signed by the individual primarily responsible for the conduct of the research, for authority to withhold the names and other identifying characteristics of the research subjects and the reasons supporting such request.

(g) An assurance (1) From persons making application for a Confidentiality Certificate for a research project for which DHEW grant or contract support is received or sought that they will comply with all the requirements of 45 CFR Part 46, "Protection of Human Subjects," or (2) From all other persons making application that they will comply with the informed consent requirements of 45 CFR 46.103(c) and document legally effective informed consent in a manner consistent with the principles stated in 45 CFR 46.110, if it is determined by the Secretary, on the basis of information submitted by the person making application, that subjects will be placed at risk. If a modification of paragraphs (a) or (b) of 45 CFR 46.110 is to be used, as permitted under paragraph (c) of that section, the applicant will describe the proposed modification and submit it for approval by the Secretary.

(h) An assurance that if an authorization of confidentiality is given it will not be represented as an endorsement of the research project by the Secretary or used to coerce individuals to participate in the research project.

(i) An assurance that any person who is authorized by the Secretary to protect the privacy of research subjects will use that authority to refuse to disclose identifying characteristics of research subjects in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to compel disclosure of the identifying characteristics of research subjects.

(j) An assurance that all research subjects who participate in the project during the period the Confidentiality Certificate is in effect will be informed that:

(1) A Confidentiality Certificate has been issued;

(2) The persons authorized by the Confidentiality Certificate to protect the identity of research subjects may not be compelled to identify research subjects in any civil, criminal, administrative, legislative, or other proceedings whether Federal, State, or local;

(3) If any of the following conditions exist the Confidentiality Certificate does not authorize any person to which it applies to refuse to reveal identifying information concerning research subjects: (i) The subject consents in writing to disclosure of identifying information, (ii) Release is required by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301) or regulations promulgated thereunder (Title 21, Code of Federal Regulations), or (iii) Authorized personnel of DHEW request identifying information for audit or program evaluation of a research project funded by DHEW or for investigation of DHEW grantees or contractors and their employees or agents carrying out such a project. (See § 2a.7(b));

(4) The Confidentiality Certificate does not govern the voluntary disclosure of identifying characteristics of research subjects;

(5) The Confidentiality Certificate does not represent an endorsement of the research project by the Secretary.

(k) An assurance that all research subjects who enter the project after the termination of the Confidentiality Certificate will be informed that the authorization of confidentiality has ended and that the persons authorized to protect the identity of research subjects by the Confidentiality Certificate may not rely on the Certificate to refuse to disclose identifying characteristics of research subjects who were not participants in the project during the period the Certificate was in effect. (See § 2a.8(c)).

**§ 2a.5 Contents of application; research projects in which drugs will be administered.**

(a) In addition to the information required by § 2a.4 and any other pertinent information which the

Secretary may require, each application for an authorization of confidentiality for a research project which involves the administering of a drug shall contain:

(1) Identification of the drugs to be administered in the research project and a description of the methods for such administration, which shall include a statement of the dosages to be administered to the research subjects;

(2) Evidence that individuals who administer drugs are authorized to do so under applicable Federal and State law; and

(3) In the case of a controlled drug, a copy of the Drug Enforcement Administration Certificate of Registration (BND Form 223) under which the research project will be conducted.

(b) An application for an authorization of confidentiality with respect to a research project which involves the administering of a controlled drug may include a request for exemption of persons engaged in the research from State or Federal prosecution for possession, distribution, and dispensing of controlled drugs as authorized under section 502(d) of the Controlled Substances Act (21 U.S.C. 872(d)) and 21 CFR 1316.22. If the request is in such form, and is supported by such information, as is required by 21 CFR 1316.22, the Secretary will forward it, together with his or her recommendation that such request be approved or disapproved, for the consideration of the Administrator of the Drug Enforcement Administration.

**§ 2a.6 Issuance of Confidentiality Certificates; single project limitation.**

(a) In reviewing the information provided in the application for a Confidentiality Certificate, the Secretary will take into account:

(1) The scientific or other appropriate training and experience of all personnel having major responsibilities in the research project;

(2) Whether the project constitutes bona fide "research" which is within the scope of the regulations of this part; and

(3) Such other factors as he or she may consider necessary and appropriate. All applications for Confidentiality Certificates shall be evaluated by the Secretary through such officers and employees of the Department and such experts or consultants engaged for this purpose as he or she determines to be appropriate.

(b) After consideration and evaluation of an application for an authorization of confidentiality, the Secretary will either issue a Confidentiality Certificate or a letter denying a Confidentiality Certificate, which will set forth the reasons for such denial, or will request additional information from the person making application. The Confidentiality Certificate will include:

(1) The name and address of the person making application;

(2) The name and address of the individual primarily responsible for conducting the research, if such individual is not the person making application;

(3) The location of the research project;

(4) A brief description of the research project;

(5) A statement that the Certificate does not represent an endorsement of the research project by the Secretary;

(6) The Drug Enforcement Administration registration number for the project, if any; and

(7) The date or event upon which the Confidentiality Certificate becomes effective, which shall not be before the later of either the commencement of the research project or the date of issuance of the Certificate, and the date or event upon which the Certificate will expire.

(c) A Confidentiality Certificate is not transferable and is effective only with respect to the names and other identifying characteristics of those individuals who are the subjects of the single research project specified in the Confidentiality Certificate. The recipient of a Confidentiality Certificate shall, within 15 days of any completion or discontinuance of the research project which occurs prior to the expiration date set forth in the Certificate, provide written notification to the Director of the Institute to which application was made. If the recipient determines that the research project will not be completed by the expiration date set forth in the Confidentiality Certificate he or she may submit a written request for an extension of the expiration date which shall include a justification for such extension and a revised estimate of the date for completion of the project. Upon approval of such a request, the Secretary will issue an amended Confidentiality Certificate.

(d) The protection afforded by a Confidentiality Certificate does not extend to significant changes in the research project as it is described in the application for such Certificate (e.g., changes in the personnel having major responsibilities in the research project, major changes in the scope or direction of the research protocol, or changes in the drugs to be administered and the persons who will administer them). The recipient of a Confidentiality Certificate shall notify the Director of the Institute to which application was made of any proposal for such a significant change by submitting an amended application for a Confidentiality Certificate in the same form and manner as an original application. On the basis of such application and other pertinent information the Secretary will either:

(1) Approve the amended application and issue an amended Confidentiality Certificate together with a Notice of Cancellation terminating original the Confidentiality Certificate in accordance with § 2a.8; or

(2) Disapprove the amended application and notify the applicant in writing that adoption of the proposed significant changes will result in the issuance of a Notice of Cancellation terminating the original Confidentiality Certificate in accordance with § 2a.8.

**§ 2a.7 Effect of Confidentiality Certificate.**

(a) A Confidentiality Certificate authorizes the withholding of the names and other identifying characteristics of individuals who participate as subjects in the research project specified in the Certificate while the Certificate is in effect. The authorization applies to all persons who, in the performance of their duties in connection with the research project, have access to information which would identify the subjects of the research. Persons so authorized may not, at any time, be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify the research subjects encompassed by the Certificate, except in those circumstances specified in paragraph (b) of this section.

(b) A Confidentiality Certificate granted under this part does not authorize any person to refuse to reveal the name or other identifying characteristics of any research subject in the following circumstances: (1) The subject (or, if he or she is legally incompetent, his or her guardian) consents, in writing, to the disclosure of such information, (2) Authorized personnel of DHEW request such information for audit or program evaluation of a research project funded by DHEW or for investigation of DHEW grantees or contractors and their employees or agents carrying out such a project. (See 45 CFR 5.71 for confidentiality standards imposed on such DHEW personnel), or (3) Release of such information is required by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301) or the regulations promulgated thereunder (Title 21, Code of Federal Regulations).

(c) Neither a Confidentiality Certificate nor the regulations of this part govern the voluntary disclosure of identifying characteristics of research subjects.

**§ 2a.8 Termination.**

(a) A Confidentiality Certificate is in effect from the date of its issuance until the effective date of its termination. The effective date of termination shall be the earlier of:

(1) The expiration date set forth in the Confidentiality Certificate; or

(2) Ten days from the date of mailing a Notice of Cancellation to the applicant, pursuant to a determination by the Secretary that the research project has been completed or discontinued or that retention of the Confidentiality Certificate is otherwise no longer necessary or desirable.

(b) A Notice of Cancellation shall include: an identification of the Confidentiality Certificate to which it applies; the effective date of its termination; and the grounds for cancellation. Upon receipt of a Notice of Cancellation the applicant shall return the Confidentiality Certificate to the Secretary.

(c) Any termination of a Confidentiality Certificate pursuant to this section is operative only with respect to the names and other identifying characteristics of individuals who begin their participation as research subjects after the effective date of such termination. (See § 2a.4(k) requiring researchers to notify subjects who enter the project after the termination of the Confidentiality Certificate of termination of the Certificate). The protection afforded by a Confidentiality Certificate is permanent with respect to subjects who participated in research during any time the authorization was in effect.

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Wednesday
April 4, 1979

Part VIII

# Department of the Interior

## Bureau of Land Management

## Utilization of Geothermal Resources

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Utilization of Geothermal Resources—Power Plant Siting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rulemaking.

**SUMMARY:** This final rulemaking provides the basis for the utilization of geothermal resources for the generation of electricity by establishing a procedure for licensing electric power sites on geothermal resource leases under the provisions of the Geothermal Steam Act of 1970.

**DATE:** Effective May 4, 1979.

**ADDRESS:** Director (210), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Bruce, 202–343–8735.

**SUPPLEMENTARY INFORMATION:** Proposed rulemaking was published in the **Federal Register** on March 23, 1978, and provided for a 45 day comment period. Eleven comments were received during that period. Two of the comments came from States, three from industry, four from Federal agencies, one from an environmental group and one from a private citizen interested in the subject.

One comment received on § 3250.5–2 requested language that would recognize the Forest Service as the responsible agency for permitting use of National Forest System lands for a geothermal powerplant. The section was amended to provide that the authorized officer must obtain the agreement of the Forest Service with respect to specific site selection before granting a license on such lands. However, the right of agreement cannot be exercised to the extent that it precludes reasonable utilization of the resource. This, in addition to the requirement that the terms and conditions of the Forest Service must be included in the license, assures that the Forest Service retains adequate control over the lands they administer while recognizing the authority of the Secretary of the Interior to administer leases and licenses.

The comments recognized the need for the rulemaking so that the utilization of developed geothermal resources could proceed and make a contribution to satisfying the Nation's need for energy. Another general comment set out the need for maximum possible conformity between these regulations and those in title 30 of the Federal Code of Regulations so that there would be no jurisdictional conflicts to delay the issuance of licenses. The development of this rulemaking has been closely coordinated with the U.S. Geological Survey so that jurisdictional conflicts will not be a problem.

A comment suggested that the term "power plant site" be amended by including the words "utility service lines, transmission lines" as part of the definition. The suggested change was adopted to make it clear that those facilities are included in the power plant site. However, it should also be made clear that a right-of-way grant under title 5 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.), will be required for those facilities if they are not owned by the builder of the power plant and are not confined solely to the site. Any utility service line or transmission line that comes onto, crosses, or goes off the site for the purpose of supplying power to the site or carrying generated power off the site, even for that part on the power plant site, will require a right-of-way grant from the Bureau of Land Management or the Forest Service for National Forest System Lands.

Several comments were received on the Applications section of the proposed rulemaking. One pointed out that § 3250.1–1 was vague as to the number of wells that must be completed on a lease before an application for a power site could be made. This is a valid point and the rulemaking has been amended to make it clear that completion of one producing well is sufficient for the filing of an application.

The discussion of maps in § 3250.1–1(d)(2) drew two comments. One comment felt that the rulemaking should be modified to make it clear that the maps are for informational purposes only. The section is clear and the maps, which can be updated if the applicant feels it appropriate, can be used for any purpose the authorized officer wants. The second comment on the map section requested that the same words added to the definition of "power plant site" be added to this section so that the utility service and transmission lines would be shown on the maps. It is agreed that this is needed to bring this section into conformity with the change made in the definition section.

One comment objected to the provisions of § 3250.1–1(d)(3) which require the applicant to show whether the power plant is interconnected with other facilities and the end use of the power generated. This provision is being retained because the authorized officer needs as complete a picture of the project as he can obtain so that he can analyze the project's impact, both present and future, on the public lands.

A few comments were directed at § 3250.2, the section dealing with action on the application. A couple of comments suggested that a time limit be imposed on the authorized officer for action on a license application. The importance of development of geothermal steam resources is recognized by the Bureau of Land Management and its managers. Every effort will be made to expedite action on applications for power plant sites, but at the same time, there is no way to predict how complicated the processing of an application for a power plant site, including an environmental analysis, might be. Therefore, it would be impractical to impose a definite time limit for action on an application.

Some of the comments pointed out the fact that paragraphs (b) and (c) of § 3250.2 seem to be out of place and would fit better under other sections of the rulemaking. This analysis has merit and paragraphs (b) and (c) have been rewritten and moved to § 3250.6–2, the section dealing with license provisions.

Section 3250.3, the environmental analysis section, drew a number of comments. A couple of the comments wanted language in the section requiring consultation with other Federal agencies, States and local entities on the environmental analysis effort. This was the intent and a new paragraph (b) has been inserted in the section to make the point clear. Another comment on this section suggested that the section should outline the environmental analysis procedure, including who should supply the environmental data. The Bureau of Land Management manual outlines the procedure to be followed by the authorized officer in the environmental analysis. The rulemaking should not set these procedural matters, since they could vary from case to case. The authorized officer will work with the applicant and all other sources to determine the best method of developing an environmental analysis on each application.

A comment was received on § 3250.4–1 suggesting that the size of an experimental plant be increased to 50 MW and the maximum life be extended to 10 years. This suggestion was not adopted because the intent of this section is to allow the building of a small experimental plant for proving the geothermal resource is sufficient to support a commercial operation. The size and time authorized in the rulemaking are sufficient for that purpose. Another suggested amendment

to this section was inclusion of language making it clear that a license must be obtained for an experimental plant if its life extends beyond its initial five year operation and that an application for a license for a power plant may be filed during the initial five year period of its operation. It is agreed that the suggested amendment would clarify the section and it was adopted.

A comment on § 3250.4–2 recommended that the section be written to make its intent clear. After restudying the section, it was amended to clarify its purpose. A word was added to the title of the section making it clear that the well production is what is being utilized.

A comment on § 3250.5–1 stated that some guidelines should be set for the consent required by the section, so that an agency for whom the lands have been withdrawn could not unreasonably withhold its consent to the license. This provision has been changed in the rulemaking to make it clear that we only consult with other agencies as to the use of the surface of lands under geothermal resource lease. When an agency consents to the leasing of its lands for geothermal resources, it agrees to the use of those lands for all related purposes, including development. The authorized officer will work with all concerned agencies in an effort to overcome any objections they might have by providing special terms and conditions in the license that will meet the agencies' objections.

The one comment received on § 3250.5–2 wanted language inserted in the section that would give the Forest Service authority to issue a separate permit of its own for a power plant on leased Forest Service lands. The section gives the Forest Service adequate protection by providing that the authorized officer shall include in the license the terms and conditions that the Forest Service considers necessary.

Analysis of § 3250.5–4 led to a rewrite of the section. The section as it appeared in the proposed rulemaking was confusing and the rewrite reduces that confusion.

The comments received on § 3250.6 requested that the construction permit required by paragraph (b) be defined with more certainty. This change was adopted and language was added to specify the type of permit that is required.

As stated earlier in our discussion of § 3250.2, our review of § 3250.6–2 resulted in a rewrite of the section. First, the title was changed to include not only the term of the license but other provisions that are part of a license. Included in the retitled section are two paragraphs that were moved from § 3250.2 and rewritten to fit the new section. This newly titled section contains the requirements that will be part of every license and puts those items in one place in the rulemaking, making it more convenient for the using public.

Several comments were received on § 3250.6–3, the section dealing with the annual rental. Most of the comments were directed to the reassessment provided for in the section. The section has been amended to further clarify the responsibility of the authorized officer in carrying out his reassessment responsibility. The reassessment authority is needed to be sure that fair market value is received for use of the lands.

A number of comments were made on the bonding provisions of the proposed rulemaking. For the most part, the comments were directed to the amount of the bond, the authority to reassess the amount and the time frame of any reassessments. There was also some concern about arbitrary action on bonding by the authorized officer. Only editorial changes have been made in this section. The section sets out the bonding authority and how it is to be exercised. On the question of arbitrary action by the authorized officer, not only here, but in other sections, the rulemaking provides administrative remedy through an appeal for any action that a member of the public feels is arbitrary. BLM's managers strive to serve the public in a fair and equitable way, but occasionally, they take action that may seem arbitrary to those falling under the authority of the rulemaking. In those instances, parties feeling that they have been wronged can appeal the action so that a determination can be made.

Section 3250.9, the section on relinquishment, expiration or cancellation of license drew a number of comments. One comment wanted the authority to revoke reserved for the Secretary of the Interior rather than being in the hands of the authorized officer. Another comment wanted the language of the section requiring the removal of property from a license area to be changed so that the removal is at the discretion of the authorized officer. A third comment wanted a time frame set within which the right of revocation could be exercised. A final comment recommended that the rulemaking be amended to contain some definition of what is satisfactory restoration of the license area. All of these comments were carefully considered during the analysis of this section. The section was rewritten as a result of the analysis, including a change in its title. The changes include a number of the suggestions made in the comments.

Editorial changes and corrections have been made as necessary.

The principal author of this final rulemaking is Doris A. Koivula, Chief, Branch of Upland Mineral Leasing, Bureau of Land Management, assisted by the staff of the Division of Mineral Resources and the Division of Legislation and Regulatory Management.

It is determined that the publication of this final rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National Environmental Protection Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044.

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025), it is proposed to amend Group 3200, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations by adding Part 3250 as set forth below.

Gary J. Wicks,
*Acting Assistant, Secretary of the Interior.*
March 28, 1979.

## PART 3250—UTILIZATION OF GEOTHERMAL RESOURCES

### Subpart 3250—Utilization of Geothemal Resources Through Licensing of Power Plant Sites

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3250.9 Relinquishment, expiration or termination.
Authority: Secs. 3 and 24, Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025).

## Subpart 3250—Utilization of Geothermal Resources Through Licensing of Power Plant Sites

### § 3250.0–1 Purpose.

The purpose of this subpart is to establish procedures for the utilization of Federal lands under geothermal lease by persons who have purchased or otherwise acquired the production of geothermal steam and geothermal resources for the purpose of generating electric power.

### § 3250.0–3 Authority.

These regulations are issued pursuant to the Geothermal Stream Act of 1970 (30 U.S.C. 1001–1025) which authorizes the Secretary of the Interior to prescribe rules and regulations for the development, utilization, and conservation of geothermal steam resources, protection of the public interest, prevention of waste, and protection of water quality and other environmental qualities. The right to use land under geothermal lease for the purpose of generating electric power may be exercised only in accordance with these regulations.

### § 3250.0–5 Definitions.

As used in this subpart, the term:

(a) "Licensee" means the individual, partnership, corporation, association, municipality or governmental unit which is authorized to use public lands for the construction of facilities and utilization of geothermal resources pursuant to this subpart.

(b) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(c) "Proper BLM office" means the State office of the Bureau of Land Management which administers the land subject to the geothermal lease.

(d) "Power plant site" means that tract of Federal land under geothermal lease authorized for use for a power plant including but not limited to substations, switch yards, waste disposal and storage facilities, utility service lines, transmission lines and appurtenant structures.

(e) "Joint Utilization Agreement" means the arrangement between the holder of a geothermal resource lease and a third party for utilization of geothermal steam and associated geothermal resources produced from a leasehold, for operation of power generating facilities.

(f) "Federal Geothermal Lease" means a lease issued under the Geothermal Steam Act of 1970 pursuant to the leasing regulations contained in Part 3200 of this Title.

(g) "Producible well" means a well capable of producing geothermal steam or geothermal resources in commercial quantities as defined in 30 CFR 270.2 (m) and (n).

### § 3250.0–6 Policy.

It is the policy of this Department to encourage the development and utilization of geothermal resources leased under the Geothermal Steam Act of 1970 in an environmentally acceptable manner. Granting of a lease carries an implied right to reasonable access and land use for development. The provisions of these regulations shall be applied, however, in order to assure reasonable compatibility of a power plant site with other authorized uses and resource values of the land.

### § 3250.1 Applications.

### § 3250.1–1 Requirements for application.

Any lessee or any party to a joint utilization agreement or a sales contract who has completed a producible well or wells and desires a license to use the surface of lands under Federal geothermal lease for construction of an electric generating plant, other than as provided in 30 CFR 270 and § 3250.4 of this subpart, shall file an application for such license with the authorized officer.

(a) An application for a license shall be filed in duplicate in the proper BLM office.

(b) Each application must be accompanied by a non-refundable fee of $50.

(c) No specific form is required.

(d) Each application shall include:

(1) A description of the land applied for by legal subdivision, section, township and range, or by approved protraction surveys, if applicable. If the lands have not been surveyed, the lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract and connected by courses and distances to an official corner of the public land surveys or a prominent readily identifiable geographic location. The approximate acreage involved shall be included as part of the description.

(2) A map or maps showing the boundaries of the site and the location and dimensions of buildings, cooling towers or ponds, waste disposal or storage sites, switch yards, roads, pipelines, utility service lines, transmission lines, and all other structures or facilities to be used in connection with the utilization of the geothermal steam and associated geothermal resources. In addition, the authorized officer may require maps showing the general location of proposed facilities to be used in connection with the power plant site but outside the license area.

(3) A description of the proposed power plant, including the number and capacity of prime movers and generators proposed to be installed, initially and ultimately, together with similar pertinent information about any substations included in the facility. A prime mover is a machine (turbine) that converts a natural force into productive power. The application shall show whether the proposed power plant is to be interconnected with other generating facilities owned by the applicant or others, and whether the power generated is to be sold to others or used by the applicant for its own commercial or industrial purposes.

(4) A copy of any joint utilization agreement or sales contract entered into with a Federal geothermal lessee or lessees and the applicant for the utilization of geothermal steam and associate geothermal resources.

(5) A statement showing the amount of merchantable timber, if any, to be cut, removed or destroyed in the construction of the proposed plant or facility, and a statement of agreement to deposit with the Bureau of Land Management, in advance of contruction, the dollar amount as determined by the authorized officer to be the full stumpage value of the timber to be cut, removed or destroyed.

### § 3250.1–2 Showing of citizenship.

Licenses shall be issued only to citizens of the United States, associations of such citizens, corporations organized under the laws of the United States, any State or the District of Columbia or governmental units, including, without limitation, municipalities. Applicants shall make showings of citizenship as follows:

(a) Individuals shall furnish a statement of their citizenship.

(b) Associations of individuals, including a partnership, shall furnish a copy of the articles of association, if any. The application must be signed by each member of the association, and be accompanied by a statement of citizenship of each member.

(c) *Corporations.* (1) A private corporation shall furnish a copy of its

charter or articles of incorporation, duly certified by the proper State official of the State where the corporation was organized, and a copy of the resolution or by-laws authorizing the proposed action.

(2) A corporation, other than a private corporation, including a municipality or governmental unit, shall file (i) a statement showing that it is authorized to construct and operate a plant for utilization of geothermal steam or associated geothermal resources; (ii) a statement that the officer executing the application is authorized to act on behalf of the applicant; and (iii) a copy of its governing body's resolution authorizing such action.

(3) When a corporation is operating in a State other than the State in which it was incorporated, it shall submit a certificate of the Secretary of State or other proper official of the State in which it is operating, asserting that the corporation has complied with the laws of that State governing foreign corporations to the extent required to entitle the corporation to operate in such State.

(4) If a corporation has previously filed with the Bureau of Land Management the papers required in this section, the requirements shall be held to be met if, in making a subsequent application, specific reference is made to such previous filing by date, place and case number.

**§ 3250.2 Action on application.**

Where the authorized officer determines that an application is incomplete or not in conformity with the law or regulations, he shall notify the applicant of the deficiencies and provide an opportunity for correction of the deficiency.

**§ 3250.3 Environmental analysis.**

The authorized officer, in cooperation with the U.S. Geological Survey, shall conduct a technical examination/environmental analysis in connection with an application for a license filed under this subpart.

(a) The technical examination shall include an evaluation of the impacts of the operation covered by the license on other land uses, resources or land management programs on or adjacent to the area covered by the license in order to determine the appropriate terms and conditions to be incorporated in such license, as well as consultation with State and local jurisdications as may be appropriate.

(b) The environmental analysis shall be performed in cooperation or consultation with such Federal, State and local authorities as may be appropriate.

(c) The environmental analysis shall include an analysis of the impact of the proposed operations set forth in the application and a determination as to whether an environmental impact statement (EIS) is required.

**§ 3250.4 Action not requiring a license.**

**§ 3250.4-1 Research and demonstration projects.**

A research and demonstration (R. & D.) project sited on a Federal geothermal lease consisting of a power generating facility of not more than 20 MW's electrical capacity and with a maximum life of five years from the date the facility becomes operational will not require a license under the regulations of this subpart. An R. & D. permit for a facility of 20 MW's or less shall be obtained from the Area Geothermal Supervisor under the provisions of 30 CFR Part 270. In the event an R. & D. project is proposed to be retained for commercial operation after the initial five-year period, a license shall be obtained under this subpart. Application for such a license may be submitted prior to construction or at any time during the 5 year permitted life period of the R. & D. project if conversion of the facility to a power plant is contemplated during the permit period. R. & D. permits granted under 30 CFR 270 shall conform to the provisions of § 3200.0-8 of this Title.

**§ 3250.4-2 Individual well production utilization.**

A license shall not be required for the purpose of installing a facility for testing or utilization of the production from an individual well for either electrical power generation or any non-electrical beneficial use. In order to install such facility, a permit shall be obtained from the Area Geothermal Supervisor, U.S. Geological Survey under the provisions of 30 CFR Part 270. Permits granted under 30 CFR Part 270 shall conform to the provisions of § 3200.0-8 of this Title. However, a license shall be required for any substation or facility for transmission or lease of more than 10 MW maximum output.

**§ 3250.5 Action required on designated lands.**

**§ 3250.5-1 Withdrawn or reserved lands.**

(a) Where the land sought for a power plant site utilizing geothermal steam or associated geothermal resources is withdrawn or reserved for the use of a Federal Agency other than Interior, the authorized officer shall consult with such other agency before the license is issued. The license shall include any terms and conditions required by the surface managing agency.

(b) Where the land sought for a power plant site utilizing geothermal resources is withdrawn or reserved for the use of an Interior agency, the authorized officer shall consult with such agency before the license is issued. The license shall include any terms and conditions deemed appropriate by the authorized officer.

**§ 3250.5-2 Lands under the jurisdiction of the Forest Service.**

Where the land sought for a power plant site utilizing geothermal resources is on any National Forest System lands, the authorized officer shall consult with and obtain the agreement of the Forest Service regarding the specific site selection before the license is issued. The license shall include terms and conditions required by the Forest Service for protection of National Forest resources and for multi-use management.

**§ 3250.5-3 Land subject to section 24 of the Federal Power Act.**

Where the land sought for a power plant site utilizing geothermal steam or associated geothermal resources is subject to the provisions of section 24 of the Federal Power Act, as amended (16 U.S.C. 818), the license shall be issued subject to such terms and conditions as the Federal Energy Regulatory Commission, Department of Energy, may prescribe.

**§ 3250.5-4 Lands not subject to application.**

No license shall be issued for lands which are not subject to leasing for development of geothermal resources, including, but not limited to, lands:

(a) Administered as part of the national park system,

(b) Within a national recreation system,

(c) Within a fish hatchery administered by the Secretary, wildlife refuge, wildlife range, game range, wildlife management area, waterfowl production area, or for lands acquired or reserved for the protection and conservation of fish and wildlife that are threatened with extinction, or which are designated as rare and endangered species by the Secretary, or under active consideration for inclusion in such categories as evidenced by the filing of a application for a withdrawal or a proposed withdrawal, or

(d) Held in trust or restricted status for an Indian tribe or individual, within

or without the boundaries of an Indian reservation.

**§ 3250.6 Licenses.**

**§ 3250.6–1 Area covered by license.**

(a) The area approved for the proposed power plant shall be reasonably compact as determined by the authorized officer and shall be limited to as much of the surface of the lands applied for as the authorized officer determines necessary for the adequate utilization of the geothermal resources.

Prior to commencing any surface disturbing activities related to the construction of a power plant facility licensed under provisions of this chapter, a permit to construct and operate a power facility shall be obtained from the Area Geothermal Supervisor. The application for such permit shall be filed in triplicate with the Supervisor, as provided under the regulations set forth in 30 CFR Part 270.

**§ 3250.6–2 License provisions.**

(a) A license for an electical power plant shall be granted for a primary term of 30 years with a preferential right to a renewal of such license under such terms and conditions as the Secretary may deem appropriate.

(b) A license shall include such terms and conditions as the authorized officer determines are necessary to protect the mineral, environmental, fish and wildlife, historical and scenic or other resource values of the public lands.

(c) A license shall require a copy of any utility commission license or other Federal, State or local license or permit that is applicable to the proposed power plant to be furnished prior to commencement of any activity relating to plant operation.

**§ 3250.6–3 Annual rental.**

Rental at a rate to be determined by the authorized officer shall be paid annually, but in no event shall said rental be less than $100 per acre. The first year's rental shall be paid to the authorized officer before issuance of the license and thereafter the rental shall be payable annually on or before the anniversary date of the license. The license shall provide that, beginning with the tenth year, the rental for the lands embraced in the license shall be reassessed, excluding improvements due to development of the geothermal resources, at the discretion of the authorized officer upon notice to the licensee, but not more often than at 10 year intervals thereafter, except in extraordinary circumstances.

**§ 3250.7 Bonds. Bonds shall be either corporate surety bonds or personal bonds.**

(a) *Surety bond.* The licensee shall furnish and maintain a surety bond of not less than $100,000 conditioned upon compliance with all the terms and conditions of the license. The amount of the bond may be increased at any time that it is deemed proper by the authorized officer.

(b) *Personal bond.* In lieu of a surety bond, the licensee may submit a personal bond accompanied by cash in an amount equal to the dollar amount of the bond or negotiable securities of the United States having a market value at the time of the deposit of not less than the required dollar amount of the bond.

(c) *Obligations under bond.* The licensee shall comply with all the terms and conditions of the license under this subpart and shall be (1) liable for all damages to the lands or property of the United States caused by the licensee or his employees or contractors or employees of such contractors, and (2) indemnify the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under license. Where a power plant license is granted under these regulations to a State or other governmental agency which has no legal power to assume such liability with respect to damages caused by it to lands or property, such agency will be responsible for repair of all such damages.

**§ 3250.8 Assignments and transfers.**

(a) Any proposed transfers in whole or in part of any right, title or interest in the plant or facility licensed under this subpart must be filed with the authorized officer. The application for transfer must be accompanied by the same showing of qualifications of the transferee as is required of the applicant under this subpart, and must be supported by a stipulation that the assignee will comply with and be bound by all the terms and conditions of the license. No transfer will be valid unless and until it is approved in writing by the authorized officer.

(b) An application for approval of an assignment or transfer made pursuant to this section shall be accompanied by a non-refundable fee of $50.

**§ 3250.9 Relinquishment, expiration, or termination of license.**

(a) A licensee may surrender a license by filing a written relinquishment, in triplicate, in the proper BLM office. The relinquishment shall include a statement as to whether the land covered by the license has been disturbed and, if so, whether it has been restored as prescribed by the terms and conditions of the license. The relinquishment will not be accepted until the requirements for reclamation of the land have been met.

(b) A license issued under this part may be terminated by written order of the authorized officer for any violation of any applicable regulation or any license term or condition, after 30 days notice. However, the termination shall not take effect if within the 30 day notice period either (1) the violation is corrected or (2) the licensee has commenced in good faith to correct the violation and shall thereafter proceed diligently to correct the violation where the violation is such that it cannot be corrected within the notice period. If a request for appeal is filed within the 30 day notice period, then the licensee shall be entitled to a hearing on the claimed violation and the termination in accordance with part 4 of this title. In the event such appeal is timely filed, the period for commencement to correct such violation shall be extended to 30 days after a final decision is rendered if it is found that a violation exists.

(c) Upon the relinquishment, expiration, or termination of the license, the licensee shall, if directed by the authorized officer, remove all structures, machinery, and other equipment from the land covered by the license. Any structures, machinery, or equipment allowed to remain on the land shall become the property of the United States on the expiration of the period allowed for removal of same. Removal of such property shall be at the licensee's expense.

(d) The licensee shall, for a period of not more than six months, maintain any equipment and facilities needed, as determined by the Area Geothermal Supervisor, for the protection of any wells from which production was being utilized by the licensee.

(e) Where land covered by a license has been disturbed, the licensee shall within one year following the relinquishment, expiration, or termination of a license issued under this part restore the land in accordance with the terms and conditions of the license. Additional time may be granted by the authorized officer upon a showing of good cause by the licensee. The bond required by § 3250.7 of this title shall not be released until the reclamation has been completed to the satisfaction of the authorized officer.

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**50 CFR**

33.....19407, 19408, 20089
230.....19408
**Proposed Rules:**
12.....20228
654.....19444

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday / Thursday or Tuesday / Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| DOT/COAST GUARD | USDA/ASCS | | DOT/COAST GUARD | USDA/ASCS |
| DOT/NHTSA | USDA/APHIS | | DOT/NHTSA | USDA/APHIS |
| DOT/FAA | USDA/FNS | | DOT/FAA | USDA/FNS |
| DOT/OHMO | USDA/FSQS | | DOT/OHMO | USDA/FSQS |
| DOT/OPSO | USDA/REA | | DOT/OPSO | USDA/REA |
| CSA | MSPB*/OPM* | | CSA | MSPB*/OPM* |
| | LABOR | | | LABOR |
| | HEW/FDA | | | HEW/FDA |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday / Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

## 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

12037 3–5–79 / Interior/BLM—Lease of geothermal resources

12029 3–5–79 / Treasury/Customs—Ports of entry and customs stations; changes in the Customs field organization

### Next Week's Deadlines for Comments On Proposed Rules

#### AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

18513 3–28–79 / Hops of domestic production, proposed salable quantity and allotment percentage for the 1979–80 marketing year; comments by 4–12–79

Animal and Plant Health Inspection Service—

8271 2–9–79 / Brucellosis; comments by 4–10–79

Farmers Home Administration—

8898 2–12–79 / Recapture of Section 502 Rural Housing Subsidy; comments by 4–13–79

#### CIVIL AERONAUTICS BOARD

7736 2–7–79 / Aircraft acquisition; comments by 4–9–79

15733 3–15–79 / Grant of authority to Director, Bureau of Pricing and Domestic Aviation and Director, Bureau of International Aviation to grant or deny applications for substitute services; comments by 4–13–79

#### COMMERCE DEPARTMENT

Maritime Administration—

11246 2–28–79 / Construction-differential subsidy, standard contract forms; comments by 4–10–79

National Oceanic and Atmospheric Administration—

7777 2–7–79 / Endangered species exemptions; comments by 4–9–79

17199 3–21–79 / Fishery management plan for northern anchovy; comments by 4–10–79

7708 2–7–79 / Guidelines for development of fishery management plans, interim regulations; comments by 4–9–79

8905 2–12–79 / Implementation of Fisherman's Protective Act; comments by 4–9–79

Patent and Trademark Office—

59401 12–20–78 / Advisory opinions on validity of patents; comments by 4–11–79

#### COMMUNITY SERVICES ADMINISTRATION

12708 3–8–79 / Community food and nutrition program; comments by 4–9–79

#### CONSUMER PRODUCT SAFETY COMMISSION

12872 3–8–79 / Cellulose insulations; interim standard; comments by 4–9–79

12864 3–8–79 / Cellulose insulation; amended interim standard; comments by 4–9–79

#### ENERGY DEPARTMENT

Economic Regulatory Administration—

9372 2–13–79 / Mandatory petroleum price regulations, amendment to allocated crude oil pricing rule effective February 1, 1979; comments by 4–13–79

Federal Energy Regulatory Commission—

12432 3–7–79 / Hydroelectric projects; comments by 4–9–79

#### ENVIRONMENTAL PROTECTION AGENCY

13545 3–12–79 / Air quality implementation plans; various States; Louisiana; comments by 4–11–79

13546 3–12–79 / Air pollution; approval of delayed compliance orders; Maryland; General Refractories Co.; comments by 4–11–79

6650 2–1–79 / Light-duty diesel vehicles; particulate regulations; comments by 4–9–79

13547 3–12–79 / Proposed tolerances and exemptions for pesticide chemical *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyri-midinyl) phosphorothioate; comments by 4–11–79

7718 2–7–79 / Regulations for Model Year 1979 and later $NO_x$ research objective programs conducted by automotive manufacturers; comments by 4–9–79

7780 2–7–79 / Regulations for Model Year 1980 and later $NO_x$ research objective programs conducted by automotive manufacturers; comments by 4–9–79

**FEDERAL COMMUNICATIONS COMMISSION**

4502 1–22–79 / Clear channel broadcasting in the standard broadcast band; comments by 4–9–79

5163 1–25–79 / FM broadcast station, changes in table of assignments; Clinton, Ark.; comments by 4–9–79

10519 2–21–79 / FM broadcast stations, changes in table of assignments; Monroe City, Mo.; comments by 4–13–79

**FEDERAL HOME LOAN BANK BOARD**

15506 3–14–79 / Federal mutual savings banks; comments by 4–13–79

10500 2–21–79 / Operations; amendments relating to change in Savings and Loan Control Act of 1978; comments by 4–10–79

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

14577 3–13–79 / Health care industry collective bargaining disputes; option to Select Board of Inquiry; comments by 4–12–79

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

Food and Drug Administration—

7149 2–6–79 / Electronic products; performance standards; comments by 4–9–79

2932 1–12–79 / Therapeutically equivalent drugs; availability list; comments by 4–12–79

9402 2–13–79 / Sulfamic acid; affirmation of GRAS status as an indirect human food ingredient; comments by 4–13–79

**INTERIOR DEPARTMENT**

Geological Survey—

8302 2–9–79 / Geological and geophysical explorations of the Outer Continental Shelf; comments by 4–10–79

7980 2–8–79 / Oil and gas operations on the Outer Continental Shelf; comments by 4–9–79

National Park Service—

11244 2–28–79 / National Capital Parks regulations, applicability of regulations; comments by 4–9–79

Office of the Secretary—

7777 2–7–79 / Endangered species exemption; comments by 4–9–79

**JUSTICE DEPARTMENT**

Parole Commission—

12692 3–8–79 / Parole, release supervision and recommitment of prisoners, youth offenders and juvenile delinquents; comments by 4–13–79

**LABOR DEPARTMENT**

Employment and Training Administration—

13188 3–9–79 / Provisions for comprehensive employment and training; comments by 4–9–79

Office of the Assistant Secretary for Labor-Management Relations—

8293 2–9–79 / Labor Organizations which may file simplified annual financial reports; comments by 4–10–79

8293 2–9–79 / Responsibility of Labor organizations to make available to members information contained in reports filed with the Department of Labor; comments by 4–10–79

**METRIC BOARD**

12690 3–8–79 / Availability of information under Freedom of Information Act; comments by 4–9–79

**SECURITIES AND EXCHANGE COMMISSION**

12202 3–6–79 / Agency transactions by affiliated persons on a securities exchange; comments by 4–13–79

12204 3–6–79 / Remuneration permitted affiliated persons of registered investment companies acting as brokers in over-the-counter transaction; comments by 4–13–79

**SMALL BUSINESS ADMINISTRATION**

15513 3–14–79 / Small business size standards for coal mining firms; establishment for purposes of federal coal land set-aside leases; comments by 4–13–79

**TRANSPORTATION DEPARTMENT**

Coast Guard—

13543 3–12–79 / Drawbridge operation; Coalbank Slough and Williamette River, Ore.; comments by 4–12–79

Federal Aviation Administration—

15731 3–15–79 / Cambridge, Nebr.; transition area; comments 4–13–79

11557 3–1–79 / Chester, S.C.; alteration of transition area; comments by 4–9–79

Federal Highway Administration—

7979 2–8–79 / Design and construction standards for bikeway construction projects; comments by 4–9–79

**TREASURY DEPARTMENT**

Customs Service—

8276 2–9–79 / General Provisions; change in the field organization of the customs service; comments by 4–10–79

Internal Revenue Service—

7177 2–6–79 / Income tax; refundings of industrial development bonds; comments by 4–9–79

**VETERANS ADMINISTRATION**

7745 2–7–79 / Veterans education, proposed regulatory development; comments by 4–9–79

## Next Weeks Meetings:

**AGRICULTURE DEPARTMENT**

Farmers Home Administration—

18035 3–26–79 / Energy Impacted Area Development Assistance Program, Denver, Colo. (open), 4–11–79

**ARTS AND HUMANITIES, NATIONAL FOUNDATION**

16503 3–19–79 / Humanities Panel, Washington, D.C. (closed), 4–10 and 1–11–79

14652 3–13–79 / Music Advisory Panel (Challenge Grants) Washington, D.C. (closed), 4–10 and 4–11–79

**CIVIL RIGHTS COMMISSION**

17765 3–23–79 / North Dakota Advisory Committee, Bismarck, N. D. (open), 4–11–79

**COMMERCE DEPARTMENT**

National Oceanic and Atmospheric Administration—

17544 3–22–79 / Carribean Fishery Management Council; Scientific and Statistical Committee, Puerto Rico (open), 4–9–79

17544 3–22–79 / Caribbean Fishery Management Council; St. Thomas, Virgin Islands (open), 4–11–79

13059 3–9–79 / Mid-Atlantic Fishery Management Council, Philadelphia, Penn. (open), 4–11–79

15522 3–14–79 / Pacific Fishery Management Council and Scientific and Statistical Committee, Portland, Oregon (partially closed), 4–11 through 4–13–79

**DEFENSE DEPARTMENT**

Air Force Department—

18542 3–28–79 / USAF Scientific Advisory Board, Hanscom Air Force Base, Mass. (closed), 4–12 and 4–13–79

Army Department—

17207 3–21–79 / Board of Visitors, United States Military Academy, West Point, N.Y (open), 4–12 through 4–14–79

18543 3–28–79 / U.S. Army Medical Research and Development Advisory Panel ad hoc Study Group on Medical Entomology, Washington, D.C. (partially open), 4–12 and 4–13–79

Navy Department—

15757 3–15–79 / Academic Advisory Board to the Superintendent, United States Naval Academy, Subcommittee of Secretary of the Navy's Advisory Board on Education and Training, Annapolis, Md., 4–9–79

Office of the Secretary—

15526 3–14–79 / Defense Science Board Task Force on Enduring Strategic Command Control and Communications, Washington, D.C. (closed), 4–10 and 4–11–79

16470 3–19–79 / Defense Science Board Task Force on V/STOL Aircraft, Phase II, Washington, D.C. (closed), 4–10–79

11268 2–28–79 / Department of Defense Wage Committee, Washington, D.C. (closed), 4–10–79

**ENERGY DEPARTMENT**

Economic Regulatory Administration—

17785 3–23–79 / Fuel Oil Marketing Advisory Committee, Washington, D.C. (open), 4–10 and 4–11–79

18258 3–27–79 / National Petroleum Council, Business Environment Task Group, Houston, Tex. (open), 4–11–79

Office of the Secretary—

12486 3–7–79 / Northern Tier Study Report, Chicago, IL, 4–10–79

12486 3–7–79 / Northern Tier Study Report, Washington, D.C., 4–12–79

**GENERAL SERVICES ADMINISTRATION**

17582 3–22–79 / Regional Public Advisory Panel on Architectural and Engineering Services, Atlanta, Ga. (open), 4–10 and 4–11–79

17218 3–21–79 / Regional Public Advisory Panel on Architectural and Engineering Services, Denver, Colo. (open), 4–11–79

**GOVERNMENT PRINTING OFFICE**

11612 3–1–79 / Depository Library Council to the Public Printer, San Francisco, CA. (open), 4–9 through 4–11–79

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

Alcohol, Drug Abuse, and Mental Health Administration—

12506 3–7–79 / Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, Washington, D.C., (open) 4–10–79

Assistant Secretary for Education—

17793 3–23–79 / Federal Education Data Acquisition Council, Washington, D.C. (open), 4–10–79

Education Office—

18114 3–26–79 / National Advisory Council on Vocational Education, Task Force on Special Populations (open), 4–12–79

Food and Drug Administration—

17795 3–23–79 / Consumer participation, Honolulu, Hawaii (open), 4–9–79

16037 3–16–79 / Dermatology Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee, Rockville, Md. (open), 4–10–79

Health Resources Administration—

18114 3–26–79 / National Council on Health Planning and Development, Agenda Planning Subcommittee (open), 4–10–79

Human Development Services Office—

15774 3–15–79 / Model Adoption Legislation and Procedures Advisory Panel, Washington, DC, 4–9 through 4–11–79

National Institutes of Health—

16499 3–19–79 / Clinical Cancer Program Project and Cancer Support Review Committee, Bethesda, Md. (partially open), 4–9 through 4–11–79

16499 3–19–79 / Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Review Subcommittee), Dallas, Tex. (partially open), 4–11–79

12108 3–5–79 / National Arthritis Advisory Board and various working groups, Arlington, Va. (open), 4–11 and 4–12–79

Social Security Administration—

17582 3–22–79 / Advisory Council on Social Security, Washington, DC (open), 4–8 and 4–9–79

**INTERIOR DEPARTMENT**

Land Management Bureau—

12774 3–8–79 / Carson City District Grazing Advisory Board, Reno, Nev. (open), 4–12–79

17597 3–22–79 / Utah wilderness inventory, open house, Green River, Utah (open), 4–10–79

17597 3–22–79 / Utah wilderness inventory, open house, Castle Dale, Utah (open), 4–11–79

17597 3–22–79 / Utah wilderness inventory, open house, East Carbon, Utah (open), 4–11–79

17597 3–22–79 / Utah wilderness inventory, open house, Loa, Utah (open), 4–11–79

17597 3–22–79 / Utah wilderness inventory, open house, Moab, Utah (open), 4–11–79

17597 3–22–79 / Utah wilderness inventory, open house, Monticello, Utah (open), 4–11–79

17597 3–22–79 / Utah wilderness inventory, open house, Blanding, Utah (open), 4–12–79

17597 3–22–79 / Utah wilderness inventory, open house, Price, Utah (open), 4–12–79

17597 3–22–79 / Utah wilderness inventory, open house, Richfield, Utah (open), 4–12–79

**JUSTICE DEPARTMENT**

Office of the Attorney General—

18293 3–27–79 / Puerto Rico District Judicial Nominating Commission, Hato Rey, P.R. (closed), 4–11–79

**MINIMUM WAGE STUDY COMMISSION**

18305 3–27–79 / Washington, D.C., 4–10–79

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

15544 3–14–79 / Space Science Steering Committee, Venus Orbiting Imaging Radar Advisory Subcommittee, Washington, D.C. (closed), 4–9 through 4–12–79

**NATIONAL COMMISSION ON AIR QUALITY**

15545 3–14–79 / Effects and prevention of air pollution, Washington, D.C., 4–9–79

**NATIONAL SCIENCE FOUNDATION**

17600 3–22–79 / DOE/NSF Nuclear Science Advisory Committee, Washington, DC (partially open), 4–9 and 4–10–79

**NUCLEAR REGULATORY COMMISSION**

17838 3–23–79 / Regional State Liaison Officers' Meeting, Dallas, TX (open), 4–11 and 4–12–79

**SMALL BUSINESS ADMINISTRATION**

17249 3–21–79 / Region I Advisory Council Executive Board, Boston, Mass., 4–9–79

16526 3–19–79 / Region III Advisory Council, Washington, D.C. (open), 4–11–79

16525 3–19–79 / Region V Advisory Council, Columbus, Ohio (open), 4–12–79

15553 3–14–79 / Region VIII Advisory Council, Denver, Colorado (open), 4–12–79

16525 3–19–79 / Region VIII Advisory Council Executive Board, Denver, Colo. (open), 4–11–79

15553 3–14–79 / Region X Advisory Council, Boise, Idaho (open), 4–12–79

**STATE DEPARTMENT**

Agency for International Development—

18314 3–27–79 / Joint Research Committee of the Board for International Food and Agricultural development, Arlington, Va. (open), 4–10 and 4–11–79

Office of the Secretary—

16990 3–20–79 / Oceans and International Environmental and Scientific Affairs Bureau, Washington, D.C. (open), 4–10–79

**TRANSPORTATION DEPARTMENT**

Federal Aviation Administration—

16526 3–19–79 / Air Traffic Procedures Advisory Committee, Washington, D.C. (open), 4–9 through 4–12–79

Federal Highway Administration—

12793 3–8–79 / Use of Citizens Band Radio by Commercial Motor Carriers of Passengers for Hire, Washington, DC (open), 4–10–79

National Highway Traffic Safety Administration—

15822 3–15–79 / Symposium on Commercial Truck Exposure Estimates, Washington, DC (open), 4–9 through 4–11–79

**VETERANS ADMINISTRATION**

18131 3–26–79 / Medical Research Service Merit Review Boards (partially open), 4–10, 4–12 and 4–13–79

15828 3–15–79 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 4–10–79

**WORLD HUNGER, PRESIDENTIAL COMMISSION**

17241 3–21–79 / Domestic, Agriculture Policy, Consumer and Nutrition Subcommittee, Washington, D.C. (open), 4–11–79

17241 3–21–79 / Public Participation and Communication Subcommittee, Minneapolis, Minn. (open), 4–9–79

## Next Week's Public Hearings

**COMMERCE DEPARTMENT**

National Oceanic and Atmospheric Administration—

18539 3–28–79 / New England Fishery Management Council, Portland, Maine, 4–12–79

18251 3–27–79 / New England Fishery Management Council; plans for Atlantic herring fishery of the Northwest Atlantic: Rockport, Me., 4–9–79; Gloucester, Mass., 4–10–79; Galilee, R.I., 4–11–79

Patent and Trademark Office—

59401 12–20–78 / Advisory opinions on validity of patents; Arlington, Va., 4–11–79.

[Corrected at 44 FR 4733, 1–23–79]

**ENERGY DEPARTMENT**

16546 3–19–79 / Residential Conservation Service Program, New Orleans, La., 4–9 through 4–11–79

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

Education Officer—

17582 3–22–79 / President's Commission on Foreign Language and International Studies, Raleigh, N.C., 4–12 and 4–13–79

Office of the Secretary—

54698 11–22–78 / Universal Social Security Coverage Study, Washington D.C., 4–13–79

**INTERIOR DEPARTMENT**

Land Management Bureau—

12458 3–7–79 / Land acquisitions Billings, MT, 4–11–79

**INTERNATIONAL TRADE COMMISSION**

12777 3–8–79 / Sugar from Belgium, France, and West Germany, Miami, Fla., 4–10–79

**POSTAL RATE COMMISSION**

12306 3–6–79 / Express mail metro service, 1978, Washington, D.C. 4–10–79

**PRESIDENT'S COMMISSION ON COAL**

18754 3–29–79 / Seminar on Labor Relations organization and Approaches in the Coal Industry, Washington, D.C., 4–12–79

**TREASURY DEPARTMENT**

Internal Revenue Service—

13043 3–9–79 / Application of effective date provisions of generation—skipping transfer tax, Washington, D.C., 4–10–79

## List of Public Laws

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

[Last Listing April 3, 1979]

## 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**

18590 3–28–79 / Commerce/NOAA—Coastal zone management program, development and approval regulations; effective 4–30–79

19128 3–30–79 / HEW/OE—Strengthening Developing Institutions Program; for effective date call 202–245–2418

18958 3–30–79 / USDA/FMHA—Rural Development; Area Development Assistance Planning Grants; effective 3–30–79

**DEADLINES FOR COMMENTS ON PROPOSED RULES**

18448 3–27–79 / DOE/ERA—Grants for Office of Consumer Services; comments by 5–28–79; hearings 5–8 and 5–15–79

**APPLICATIONS DEADLINES**

18626 3–28–79 / HEW/HCFA—Health financing research and demonstration grants; closing dates: 6–4–79, 10–1–79 and 4–7–80

18738 3–29–79 / HEW/HSA—Project grants for hemophilia treatment centers; apply by 6–1–79

19039 3–3–79 / HEW/NIE—National Assessment of Educational Progress; grant competition; apply by 6–29–79 (hand delivery); apply by 6–23–79 (mail)

18738 3–29–79 / HEW/NIH—Research grants on organizational processes in education; apply by 4–16, 8–15, and 12–17–79 and 4–14–80

18914 3–29–79 / HEW/OE—Bilingual education; coordination of technical assistance by State educational agencies; transmittal of applications by 5–4–79

18912 3–29–79 / HEW/OE—Bilingual education—elementary and secondary programs; transmittal of applications by 5–4 and 6–1–79 (2 documents)

18913, 18915 3–29–79 / HEW/OE—Bilingual education; fellowship programs; transmittal of applications by 5–4–79 (2 documents)

18915, 18916 3–29–79 / HEW/OE—Bilingual education; training programs; transmittal of applications by 5–4 and 6–1–79

18913, 18917 3–29–79 / HEW/OE—Bilingual education; support services programs; transmittal of applications by 5–4 and 6–1–79

19143 3–30–79 / HEW/OE—Strengthening Developing Institutions Program; Funds available for fiscal year 1979; apply by 4–30–79

18562 3–28–79 / HEW/OE—Veterans' cost-of-instruction program—payments to institutions of higher education; apply by 5–16–79

18747 3–29–79 / Justice/LEAA—Solicitation of research project proposals on utilization of physical evidence in the initial stages of the criminal process; prelimianry proposals by 5–1–79

**MEETINGS**

18253 3–27–79 / ACUS—Grants, Benefits and Contracts Committee, Washington, D.C., (open), 4–2–79

19077 3–30–79 / NFAH—Museum Advisory Panel, Washington, D.C. (partially open), 4–17 and 4–18–79

19077 3–30–79 / NSF—Advisory Council, Task Group No. 7, Washington, D.C. (open), 4–16 and 4–17–79

19078 3–30–79 / NSF—Integrated Basic Research Advisory Subcommittee of the Advisory Committee for Applied Science and Research Applications Policy, Washington, D.C. (open), 4–17 and 4–18–79

19077 3–30–79 / NSF—Post-International Phase of Ocean Drilling Science Advisory Committee, Washington, D.C. (partially open), 4–19–79

**Other items of interest**

18114 3–26–79 / HEW/ADAMHA—Employees of Evaluation Research Group, Inc., research on mental health, authorization of confidentiality

18054 3–26–79 / HEW/HCFA—Medical assistance, financial assistance and social services programs; research and demonstration grants; withdrawal of proposed rulemaking

18498 3–28–79 / HEW/OE—Indian education, interpretation on how to apply for fiscal year 1979 assistance to operate schools

18748 3–29–79 / Justice/LEAA—Appeal of Nova University from denial of a Law Enforcement Education Program (LEEP) grant, Ft. Lauderdale, Fla., hearing 4–5–79

19075 3–30–79 / LSC—Grants and contracts; Louisiana; comments invited

19076 3–30–79 / LSC—Grants and contracts; Utah; comments invited

18124 3–26–79 / LSC—Grants and contracts applications under consideration; written comments and recommendations invited

18129 3–26–79 / DOT/FAA—Airport Development Aid Program; preapplications; no later than June 5 of the fiscal year

*Just Released*

# CODE OF FEDERAL REGULATIONS

## (Revised as of July 1, 1978)

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*[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]*

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